



GUIDE

**for the identification,
support and guidance
of persons at risk
of statelessness
in France**

Preamble

This document was created with the support of the European Network on Statelessness (ENS) using Comic Relief funding as part of the Stateless Journeys project.

The content of this report represents the author's opinions only and is their sole responsibility.

About the author

Since its foundation in 1982, every day Forum réfugiés-Cosi has been supporting thousands of asylum seekers and refugees in dedicated welcome, accommodation and support facilities in around fifteen departments, as well as within a dedicated mental health centre for victims of torture and violence. This association has also been active in administrative detention centres since 2010, where it provides information and supports detainees in effectively exercising their rights. It also defends the rights of vulnerable persons in certain countries of origin or transit, through project management or local support.

Forum réfugiés-Cosi also aims to safeguard the fundamental rights of asylum seekers, beneficiaries of international protection and detainees using national and European advocacy work.

Forum réfugiés-Cosi has been a member of the European Network on Statelessness (ENS) since 2013, and participates in the network's activities to increase the protection of stateless persons and develop policies to prevent and reduce statelessness. The association partners with the Statelessness Index project, which assesses national legal frameworks and policies and practices relating to international standards and good practices regarding statelessness. Each year, it also organises a series of measures to increase national awareness, capacities and advocacy on statelessness.

www.forumrefugies.org

European Network on Statelessness

The European Network on Statelessness is a civil society alliance of over 170 organisations and individual experts in 41 countries. ENS is committed to ending statelessness and ensuring that everyone living in Europe without a nationality can access the rights they are entitled to under international law.

ENS has developed several awareness-raising and advocacy projects in Europe to protect the rights of stateless persons, prevent childhood statelessness, protect the rights of stateless minorities, address statelessness in the forced migration context, and prevent the arbitrary detention of stateless persons.

www.statelessness.eu

www.statelessjourneys.org

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Introduction

Forum réfugiés-Cosi has worked alongside the European Network on Statelessness since 2013 to prevent statelessness and protect stateless persons. During its awareness-raising, training, research and advocacy activities, the association has observed significant knowledge gaps amongst the professionals brought in to receive the persons at risk of statelessness on the issues of statelessness, its indicators and the status determination procedures in France. The lack of awareness and training amongst these professionals has a direct impact on the persons at risk of statelessness who, already marginalised due to their lack of legal status, slip through all identification and protection opportunities.

Committed to protecting stateless persons since 1952, France is now being called upon to not only strengthen its efforts as part of the United Nations High Commissioner for Refugees' international campaign to identify and protect stateless persons, but to also prevent the appearance of new cases and put an end to this global phenomenon that violates the most fundamental rights. This commitment does not only involve public policies being developed and implemented by the authorities, but also by the civil society professionals and actors committed to defending the rights of these individuals.

This guide intends to address the gap in information, awareness and training for all actors within the administrations and associations brought in to receive the persons at risk of statelessness. This will enhance the identification and support capacities for these persons, whose situations are all too often misunderstood by professionals. Although this guide will not be enough to ensure that all cases in France are identified, it is the first practical tool created alongside professionals.

This guide is also another opportunity to draw attention to the lack of understanding of this phenomenon. The matter of statelessness remains a largely ignored if not unthought of issue in France. The lack of quantitative and qualitative data on persons at risk of statelessness suggests that this phenomenon is minor or even non-existent in France. The legal vacuum in which persons at risk of statelessness find themselves trapped condemns them to being marginalised and ignored by the various host societies that receive them. This is indeed the crux of this legal anomaly: the invisibility of individuals and their rights, and especially the violation of their fundamental rights. The mobilisation of institutions and civil society actors is essential in improving data collection and making this marginalised and off the radar population visible. This guide thus provides areas for reflection to improve the practices within organisations and ensure better acknowledgement of these issues to finally make stateless persons and their rights visible.

User Guide

For whom is it intended?

This guide is intended for anyone working with people at risk of statelessness or stateless people in their everyday work, and especially:

- non-specialist professionals in statelessness (social workers, legal practitioners, support or programme officers, volunteers) who work in the organisations specialised in accommodation or social, legal and medical support for asylum seekers and migrants
- public service agents specialised in the follow-up of migrants and asylum seekers
- legal professionals who may have persons at risk of statelessness and/or stateless persons amongst their clients.

What is its objective?

The guide aims to:

- Raise awareness and improve knowledge about statelessness, its causes and indicators as well as the impact of statelessness on the fundamental rights of stateless persons
- Advise professionals on how to identify persons at risk of statelessness and recommend ways of referring them to specialised organisations and/or the statelessness determination procedure
- Recommend a harmonised approach to statelessness and identifying stateless persons, as well as of meeting their needs
- Recommend guidelines and methods to include statelessness in their organisation's activities
- Promote better cooperation between the stakeholders who may support stateless persons
- Understand the current procedures in other countries.

In which situations can it be used?

This guide will provide you with useful, relevant assistance in cases where:

- You wish to improve your knowledge of statelessness and are looking for key resources
- You wish to improve your ability to identify stateless persons and act when you must advise and support persons at risk of statelessness
- You have identified a stateless person, or the person has identified themselves as stateless, and you wish to know how to support, inform and guide them
- You wish to strengthen statelessness identification practices within your organisation.

The guide also addresses the matter of birth registration as a tool to prevent new cases of statelessness.

Disclaimer and Advice

This guide will not provide the answer to all your questions about statelessness. It will instead provide some preliminary information and advice. This tool cannot replace official training or discussions with experts. It will provide support for your everyday work. In addition to this guide, it is also important to consult professionals who have expertise in statelessness, who can provide additional advice that is tailored to each specific situation.

This guide is current as of January 2022. The information provided must be verified and updated where necessary.

This tool was designed to be easy to use by professionals on a daily basis working in the field. Each section of this guide can either be used separately or jointly as part of the learning process. The checklist at the start of this guide may help you in this process.

Acknowledgements

Forum réfugiés-Cosi wishes to thank the European Network on Statelessness for its support in creating this guide. Thanks to the annual partnership between these two associations, awareness-raising, research and advocacy activities are developed on a regular basis by Forum réfugiés-Cosi on the issue of statelessness to be better known and understood by authorities, civil society organisations and the general public in France. These actions are not only intended to better identify and protect stateless persons, but also to prevent new cases of statelessness.

Forum réfugiés-Cosi also wishes to thank all those who participated in creating this guide, and especially the organisations that answered queries either by interview or questionnaire. This made it possible to better understand the identification and support practices used by professionals, and identify their needs so as to create a guide that is best suited to the on-the-ground realities.

Abbreviations

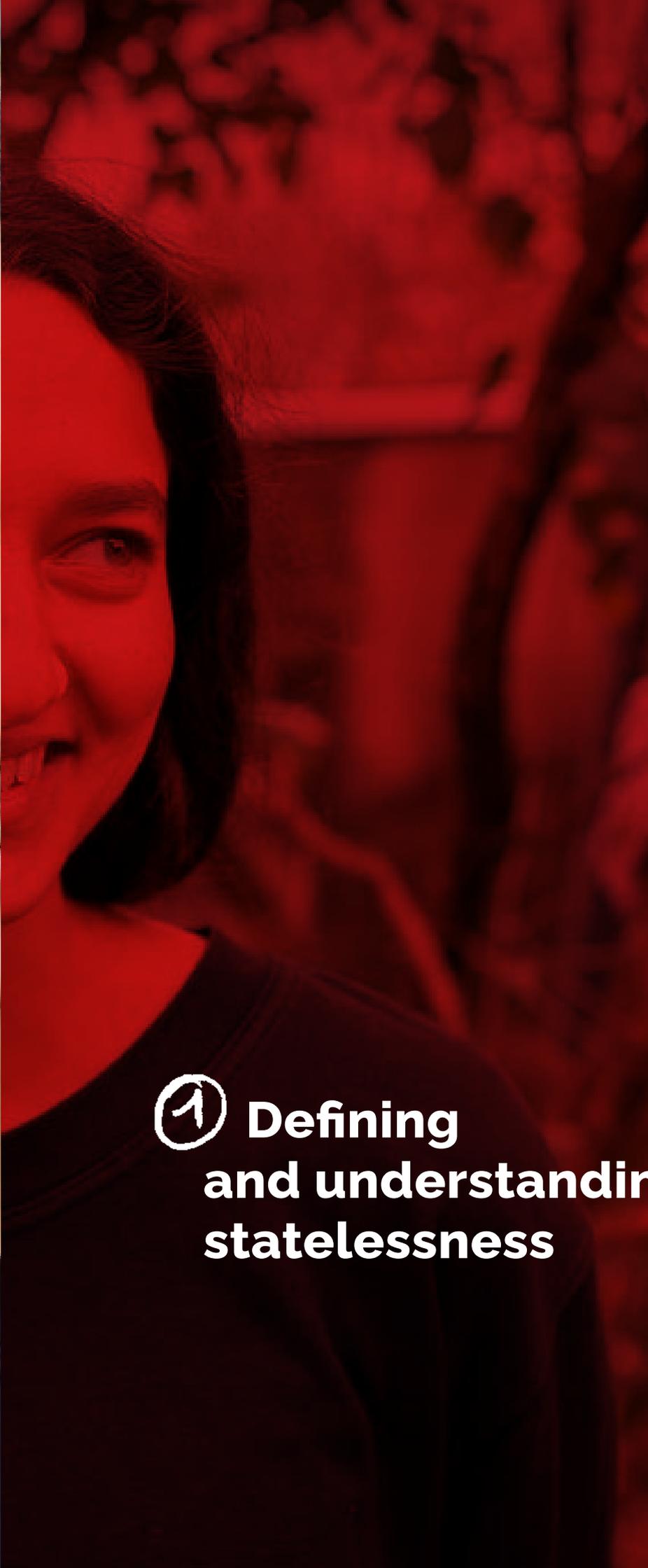
BIP	Beneficiary of International Protection
ECHR	European Court of Human Rights
CESEDA	Code of Entry and Residence of Foreigners and Right of Asylum
ENS	European Network on Statelessness
OFII	French Office for Immigration and Integration
OFPRA	French Office for the Protection of Refugees and Stateless Persons
NGO	Non-governmental organisation
UNHCR	United Nations High Commissioner for Refugees

Checklist: What are you searching for?

This checklist may be useful in guiding the new users of this guide. The following list and answers are therefore not exhaustive or binding. Determine what is most appropriate for your situation.

If you tick “No”, click on the arrow to be sent to the relevant section below.

1. Do you know what statelessness is?	Yes	No
2. Are you aware of the drivers of statelessness?	Yes	No
3. Are you aware of the data on statelessness in France, Europe and globally?	Yes	No
4. Are you aware of the impact of statelessness on fundamental rights?	Yes	No
5. Do you think you have sufficient training to identify a person at risk of statelessness?	Yes	No
6. Are you aware of the indicators to identify a stateless person?	Yes	No
7. Are you aware of the groups most at risk of statelessness?	Yes	No
8. Do you have the tools to conduct an interview to identify a stateless person?	Yes	No
9. Are you aware of the statelessness determination procedure in France?	Yes	No
10. Do you know how the asylum procedure and statelessness determination procedure interact?	Yes	No
11. Are you aware of the rights of persons recognised as stateless?	Yes	No
12. Do you have the tools to refer persons at risk of statelessness to the appropriate services?	Yes	No
13. Are you aware of the determination procedures in Europe and globally?	Yes	No
14. Are you aware of the birth registration procedure in France to prevent new cases of statelessness?	Yes	No
15. Are identification and support practices in place at your organisation for persons at risk of statelessness?	Yes	No



**① Defining
and understanding
statelessness**

1.1. Definition

In French law, the definition of a stateless person is governed by CESEDA Article 582-1: “*Statelessness status is granted to all persons who meet the definition of Article 1 of the New York Convention of 28 September 1954 relating to the status of stateless persons. These persons are governed by the provisions applicable to stateless persons by virtue of this Convention.*” Article 1 of the 1954 Convention defines statelessness as «**a person who is not considered as a national by any State under the operation of its law**».

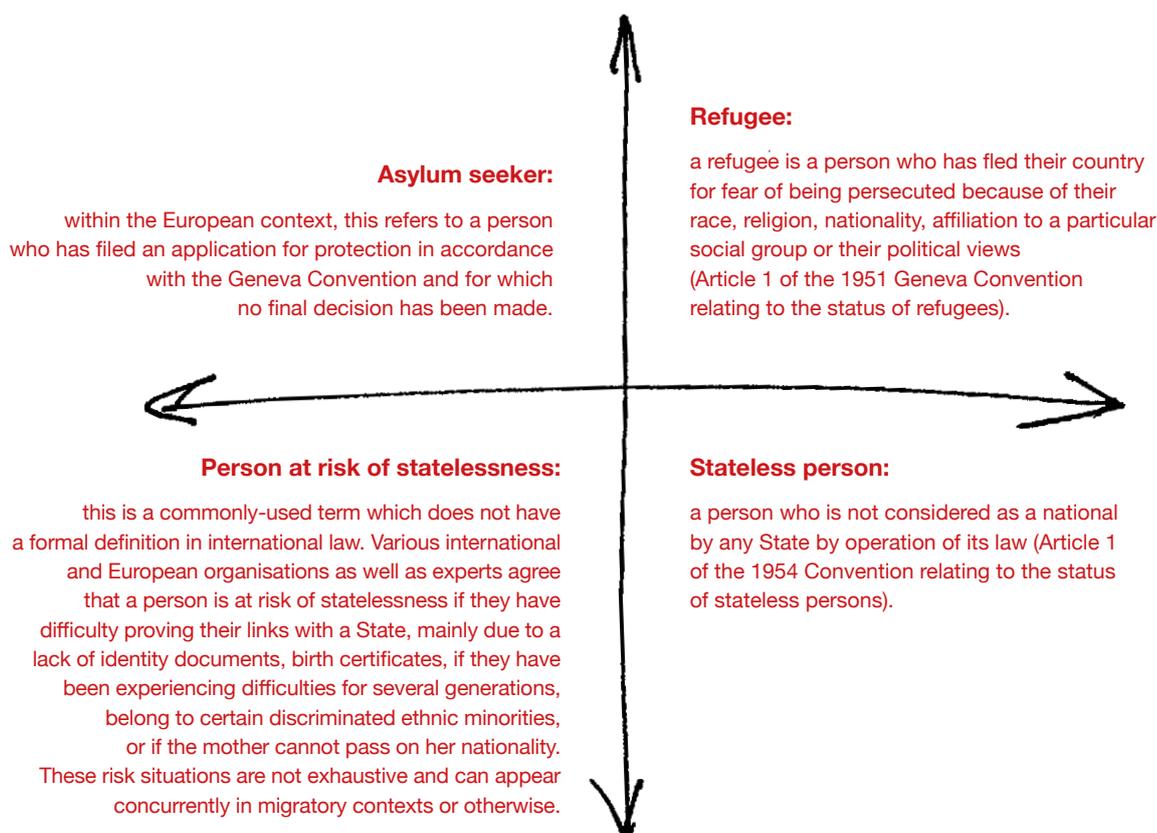
The Convention shall not apply to persons for whom there are serious reasons for considering that:

- They have committed a crime against peace, a war crime or a crime against humanity,
- They have committed a serious non-political crime outside their country of residence prior to their admission to that country,
- They have been guilty of acts contrary to the purpose and principles of the United Nations.

What is a stateless person?

- ➕ **HCR, About statelessness**
- ▶ **HCR, Why don't these 10 million people belong?**

A stateless person is not always a refugee and refugees are not all stateless persons. A person can fall within various categories. For example, they can be at risk of statelessness and an asylum seeker at the same time. Additionally, statelessness can be both the cause and consequence of forced migration.



 **Statelessness must be proven and must also be determined using accurate and credible evidence.** A statelessness determination procedure draws on evidence that the applicant has tried to obtain legal documentation to obtain a nationality and were refused (as well as evidence for the refusal); as well as upon objective evidence that shows the applicant has no right to any nationality.

With reference to the 1954 Convention, a distinction is often made between de jure and de facto statelessness. However, there is no definition of a de facto stateless person in any international legal instrument, nor is it contained in any convention. It is therefore recommended to avoid using this term and instead determine if the person is stateless in terms of the 1954 Convention or show they have a certain nationality and are considered a national of this State.

Similar to refugees, stateless persons have specific rights under international law. The two main relevant international instruments are the **1954 Convention Relating to the Status of Stateless Persons**, and the **1961 Convention on the Reduction of Statelessness**. Both of these conventions are supported by other international texts, including the 1948 Universal Declaration of Human Rights, which states that “every individual has the right to a nationality” (Article 15.1), as well as the 1966 International Convention on the Elimination of All Forms of Racial Discrimination¹, the 1966 International Covenant on Civil and Political Rights, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women² and the 1989 Convention on the Rights of the Child³. However, not all States are party to these two conventions and most do not have stateless determination procedures.

The **European Convention on Nationality** and the **Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession** both reinforce the legal framework concerning statelessness. However, the reality is that this very rarely results in effective legal protection on a national level.

Identification procedures in Europe and the world

23 countries in the world have a statelessness determination procedure, some of which are in the EU. For more information on statelessness determination procedures and the European legal framework, **see section 3.3.**

FOR MORE INFORMATION

-  **UNHCR, United Nations Conventions on Statelessness, including a map of signatory States**
-  **UNHCR, all UNHCR publications on Statelessness as part of the #IBelong campaign to end statelessness by 2024**
-  **Council of Europe, resource page on statelessness**
-  **ENS, all information on statelessness in Europe on the network's website**
-  **ENS, Statelessness Index: all information on the legal frameworks and practices relating to statelessness in Europe**

1/ Article 1 and 5.

2/ Article 9(1)

3/ Article 7(1) and 7(2).

1.2. The main drivers of statelessness

People typically acquire a nationality automatically at birth, either from their parents or the country in which they were born. However, one or several factors may give rise to situations of statelessness. Amongst the main causes of statelessness are:

- Discrimination based on gender, religion or of ethnic minorities
- A lack of safeguards to prevent statelessness in nationality laws
- Practical and administrative obstacles in civil registration, and particularly in birth registration, or the refusal of voluntary civil registration
- Conflicts between the nationality laws of different countries
- Legal vacuums linked to state succession
- Arbitrary deprivation of nationality
- Loss of nationality as a result of fraudulent acquisition

Gender-based discrimination and the risk of statelessness

In 25 countries of the world, laws on nationality prevent women from passing on their nationality to their children in the same way as men. What is more, approximately 50 countries deny equal rights to men and women when it comes to acquiring, changing or retaining their nationality, or passing on their nationality to a foreign partner. This gender-based discrimination significantly increases the risk of statelessness.

For more information and a complete list of the countries affected, [see section 2.2.](#)

1.3. The available data

In 2020, UNHCR counted 4.2 million STL persons globally. However, this figure only includes those who have actually been identified. **UNHCR estimates that there are almost 10 million stateless persons in the world, 600,000 of whom are in Europe.** The populations with the greatest numbers of stateless persons are the Rohingya, Palestinians, Kurds, Bidoons of Kuwait, certain individuals born to foreign nationals in the Ivory Coast, the Sahrawi people as well nationals of the former USSR and Yugoslavia.

Within Europe, out of the 5.5 million persons who sought asylum in the European Economic Area in 2013-2019, more than 145,000 were registered as stateless or as having “unknown nationality”. On average, around 3% of persons seeking asylum for the first time are registered as stateless or “nationality unknown”.

In France, OFPRA is the relevant authority for examining stateless status applications. Its activities reports provide information on the applications recorded and the profile of the applicants. In comparison to 2018 and 2019, In 2020 a decline in applications for statelessness status was recorded for the second year in a row, with just **298 new case files.**

Although applications made by persons from European countries formed the majority until 2019, they now represent 37.6% of applications – around the same number as applications by persons originally from Africa (38%). Applications submitted by persons originally from the Asian continent saw a significant increase, from 13.4% in 2019 to 23.4% in 2020. As for the American continent, only one person born in this region submitted an application.

The percentage of applications submitted by persons originally from Europe, which usually form the majority, declined from 43% to 37% and mainly came from the former USSR, the former Yugoslavia and Italy. The percentage of persons originally from Africa fell from 42% to 38%. However, Asian applications are on the increase, rising from 13% to 23%. Despite a slight decrease (23%), Sahrawi people still represent the primary applicants, most of whom hold a statelessness status in Spain, followed by Palestinians from Lebanon (15%) who tended to submit application in French Guiana after requesting asylum.

The percentage of persons originally from the former USSR still represent 10% of applications followed by persons originally from former Yugoslavia (9%). OFPRA points out that the applications submitted by persons born in Italy, Germany and France mostly come from the Roma community of former Yugoslavia. Finally, OFPRA also highlights the emergence of applications by persons originally from Madagascar, who are members of the Karana community.

In 2020, OFPRA issued 317 decisions, 48 of which were positive. The recognition rate is stable at 15% after a drop recorded in 2019. 74 adults who submitted an application for international protection were granted the status of “stateless-refugee”. 343 persons were invited to an interview and 259 interviews were held, which is an attendance rate of 76% compared to 68% in 2019.

As of 31 December 2020, 1606 stateless persons were protected by OFPRA, 34% of whom were women.

FOR MORE INFORMATION

- + Institute on Statelessness and Inclusion, **Statelessness in numbers: 2020. An overview and analysis of global statistics, August 2020**
- + UNHCR, **Global Trends in Forced Displacement – 2020, June 2021**
- + UNHCR, **Stateless in Europe: Ordinary People in Extraordinary Circumstances, March 2018**
- + ENS, all information on statelessness in Europe on the **network’s website**
- + ENS, all information on the legal frameworks and practices relating to statelessness in Europe on the **Statelessness Index**
- + OFPRA, all activity reports on **the Office’s website**

1.4. The impact of statelessness on fundamental rights

Every stateless person’s journey is different, but many encounter specific problems due to being stateless. Stateless persons are marginalised, victims of discrimination and at risk of international human rights violations. They are denied their fundamental rights, including the right to go to school, work, get married, register a child’s birth and, more broadly, the right to a legal status.



Marginalisation of minorities

Minorities are particularly at risk of statelessness, accounting for two thirds of the world’s stateless populations. In Europe, several thousand Roma are disproportionately impacted by statelessness, exacerbated by deep-rooted anti-Gypsyism. Without a birth certificate or any other identification document to confirm their nationality, people encounter difficulties in accessing their rights such as education, healthcare, employment and housing. Their rights as citizens are also deeply impacted and they face many obstacles in accessing justice.

Complex administrative systems are a major obstacle to obtaining documents. When technical and legal barriers combine with anti-Gypsyism, these systems become almost impossible to navigate without legal assistance, a situation underpinning and reinforcing the risk of statelessness.

Hundreds of thousands of people in the Russian-speaking populations of the Baltic states, particularly in Estonia and Latvia, became stateless after the collapse of the Soviet Union. Excluded from citizenship, they receive certain rights and legal residence, but are not considered as nationals and therefore do not have political rights, cannot work in certain professions and are not accorded EU citizenship.



Access to health

The UN Committee on Economic and Social Rights has affirmed that the right to health is “indispensable to the exercise of other rights” and applies universally to all human beings without distinction of race, religion or other criteria, including legal status. Nevertheless, the ability of stateless people to exercise their right to health varies considerably from one country to another due to the lack of a legal framework to resolve statelessness.

Stateless persons officially recognised as such, or stateless persons benefiting from international protection or permanent residence are generally entitled to access healthcare on the same basis as nationals.

However, people benefiting from a temporary stay, or a form of «tolerated» or irregular stay, often face significant difficulties in accessing healthcare. In addition, in situ populations affected by statelessness, who lack identity documents and/or legal status, also face difficulties in accessing healthcare.

Statelessness and Covid-19

Stateless persons are undoubtedly among those most affected by the global COVID-19 pandemic and will certainly be among the most affected by its consequences. Indeed, they have no State to turn to in times of crisis to guarantee their basic rights. Some are even blamed for spreading the virus and are targeted as part of lockdown measures.

ENS has documented the impact of the pandemic on stateless persons in Europe in a **research report**. (**Report summary**)

UNHCR has also published **a report** on the impact of COVID-19 on stateless populations and on best practices to ensure access to vaccination and civil registration procedures.

The Institute on Statelessness and Inclusion has published **a report** on the impact of COVID-19 on stateless persons as well as an action plan to improve policies and practices.



Statelessness and children's rights

The Convention on the Rights of the Child obliges all European States to respect every child's right to acquire a nationality. Yet, statelessness persists amongst children. In 2017, more than 2,000 children registered as stateless applied for asylum in Europe, four times greater than in 2010.

Not having a nationality can make it difficult for children to access some of the most basic rights such as birth registration, education, healthcare, social security and housing. As they grow up, many struggle to access employment and other livelihood opportunities. Stateless migrant children may also be at particular risk of detention. It is harder to protect children from abuse and exploitation such as trafficking, child labour and child marriage if they are stateless and lack identity documents.

Whatever the circumstances in which childhood statelessness, the vast majority of affected children have been stateless since birth. They have never experienced the protection or sense of belonging that comes with a nationality.



Access to international protection

Access to protection can be difficult for stateless persons due to being marginalised and not having identity documents. On their arrival in Europe, people may be assigned the wrong nationality by the authorities, or registered as having «unknown/undetermined nationality», which can cause processing problems. The lack of accurate data also conceals the extent of the problem. Nationality can determine the type of asylum procedure applied. Doubts about nationality or lack of knowledge about the treatment of stateless persons in their country of origin can also affect decision-making. Low awareness of statelessness among professionals in the field means appropriate support is not ensured for stateless asylum seekers awaiting a decision or while trying to rebuild their lives in a new country.

The lack of evidence of family ties also creates barriers in accessing family reunification and naturalisation, exacerbated by very strict eligibility criteria.



Statelessness and detention

Stateless persons face long periods of repeated and prolonged detention. Without an identity document and with no state recognising them as their nationals, stateless persons are locked in a legal and administrative limbo and cannot be deported by national authorities. The vulnerability associated with statelessness is largely ignored by authorities. Thus, without the development of procedures to identify and protect stateless persons, states fail to prevent the arbitrary detention of these people.

In detention centres in France migrants are informed of their rights, including the right to seek asylum. Persons placed in detention may request a vulnerability assessment after their arrival. This must be carried out by OFII, and possibly by the detention centre doctor. However, this assessment focuses on studying the physical and psychological conditions of the person. Issues concerning statelessness are not taken into account in the vulnerability assessment.

FOR MORE INFORMATION

- + The ENS website provides **detailed and documented information** on the impact of statelessness on basic rights
- + ENS, **Roma Belong. Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine**, October 2017
- + UNHCR, **Stateless Minorities Seeking Citizenship**, November 2017
- + ENS, **No child should be stateless: guaranteeing the right to a nationality for migrant children in Europe**, April 2020
- + UNHCR, **The urgent need to end child statelessness**, November 2015
- + **The Stateless Journeys project** on the reception of refugee populations in Europe and the identification and protection of stateless persons
- + ENS, **Protecting Stateless Persons from Arbitrary Detention**, 2015
- + Forum Réfugiés-Cosi, **Statelessness and administrative detention in France**, September 2021

1.5. Available training

Low awareness of statelessness among professionals means appropriate support is not ensured for stateless asylum seekers awaiting a decision or while trying to rebuild their lives in a new country.

There are nevertheless various resources (educational materials, guides, training programmes, etc.) that can be used to learn about these topics.

- UNHCR, **Handbook on the Protection of Stateless Persons under the 1954 Convention relating to the status of Stateless Persons**, 2014.
- HCR, **Self-study module on statelessness**, 2012.
- HCR, **A Guide to Teaching on Statelessness**, 2010.
- Institute on Statelessness and Inclusion, “The girl who lost her country” – **A set of teaching materials**.
- Forum réfugiés-Cosi, **Customised training**.
- France Terre d’Asile, **Training guides**.



**② Identifying
persons at risk of
statelessness**

2.1. Statelessness risk indicators

There are many indicators that can be used to identify a person at risk of statelessness. A person can be stateless if some of these situations apply to their situation:

- They have never had a valid passport
- They, or their family, have never had identity documents from their country of birth
- The country where they were born is no longer exists
- The country where they were born is not recognised by other countries
- Their country refuses to renew their passport or their identity documents
- They cannot obtain identity documents for themselves or their children
- Members of their family cannot join them because they do not have identity documents
- They cannot go to school, work, get married or register their child in their country of origin because they do not have any identity documents
- They have been detained multiple times for deportation in a host country, but no embassy or consulate has recognised them.



This list is not exhaustive and does not automatically point to statelessness. An in-depth interview is necessary to properly understand the person's journey and to collect evidence to determine whether or not a legal link exists with a country.

Being stateless must be proven and is not the same thing as not having identity documents. But if the person has never had identity documents, or if the country refuses to renew their documents, the person can be at risk of statelessness. Some stateless persons have some documents, such as a birth certificate or a document produced by a United Nations agency (such as UNRWA for Palestinians).

2.2. Groups at risk of statelessness

Below is an indicative list of the main groups at risk of statelessness. It is important to note, however, **that belonging to one of these groups does not mean that the person is stateless. The status of a stateless person must be established by all the factors which determine it, through sufficiently accurate and credible evidence.**

Adults and children originating from a country with large populations of stateless persons or persons at risk of statelessness

- Palestinians from the Occupied Palestinian Territories and from countries in the Middle East and North Africa regions⁴
- Sahrawi from Western Sahara or refugee camps
- Palestinian and Kurdish refugees **from Syria**
- Faili Kurds, Bidoons, some Doms, Palestinian refugees, stateless refugees from Syria and others, including Yazidis, **from Iraq**
- Faili Kurds, Baluchis, Khavaris and Afghans **from Iran**
- Rohingyas and other ethnic minorities **from Myanmar**
- Bidoons **from Kuwait**
- Some people from Ethiopia and **Eritrea**

⁴/ Protection of stateless Palestinians in Belgium: Wout Van Dorenn Julie Lejeune, Marjan Claes, Valérie Klein, The Broadening Protection Gap, 2020. <https://nansen-refugee.be/wp-content/uploads/2021/01/123-Article-Text-715-1-10-20201218.pdf>

- Some people **from Ivory Coast**
- Some people from Russia, Ukraine or other former Soviet or Yugoslav States (as well as their children) who did not acquire nationality since the fall of the former Soviet Union and former Yugoslavia (in particular Roma people and other minority groups)
- Some people **from Bhutan**
- People originating from border regions, long-standing refugees, or those who have lost all links/ have been absent for a long period of time from their national country (in particular minority groups)
- Other people coming from countries where the laws surrounding nationality/civil registry systems pose a problem, pre-existing stateless populations, etc.

KEY TOOL

The **Stateless Journeys initiative** provides information and tools on the ways in which statelessness affects the migratory journey of people, including information on the country of origin, case studies describing the main problems, briefings by country, webinars and information brochures.

- Information and awareness sheets about migrants, asylum seekers and refugees are available in **English, Arabic, Farsi and French**
- **A3 Poster: "What you need to know about statelessness"** – the essentials about statelessness can be posted in your reception and workplaces (in **English**)

See all the Stateless Journeys initiative resources (report, podcast, webinars, etc.) at <https://statelessjourneys.org/resources/>

Children whose mothers are from countries where laws regarding nationality discriminate on the basis of gender

In 25 countries of the world, laws on nationality prevent women from passing on their nationality to their children in the same way as men. These countries are:

	Bahrain		Kuwait		Qatar
	Barbados		Lebanon		Saudi Arabia
	Brunei		Liberia		Somalia
	Burundi		Libya		Sudan
	Eswatini		Malaysia		Syria
	Iran		Mauritania		The Bahamas
	Iraq		Nepal		Togo
	Jordan		Oman		United Arab Emirates
	Kiribati				

Additionally, around 50 countries deny equal rights to men and women when it comes to acquiring, changing or retaining nationality, or passing on their nationality to their foreign partner. If the father's name is not on the birth certificate of the child, or if the father himself is unknown/absent or stateless, the child can be at risk of statelessness depending on the legislation of their country of birth.

KEY TOOL

More information about this issue is available on the website for the **Global Campaign for Equal Nationality Rights**.

UNHCR has also published several analyses and recommendations on **gender equality, nationality laws and statelessness** (2021), as well as **sex discrimination in birth registration** (2021).

Children born to refugee parents and asylum seekers outside their country of origin

Nationality laws in some countries require that the parents register a child born abroad with their embassy so that the child can acquire nationality. Yet, this presents an obvious risk for the children of refugees/asylum seekers who, for clear reasons, cannot make contact with their own embassy (because of persecution)

Even when children automatically acquire nationality from a parent at birth, this only exists in theory because the parents cannot contact their embassy to obtain proof of nationality for their child.

Problems also arise when a country applies a *jus soli* approach when it comes to acquisition of nationality, such as in South American countries like Venezuela and Colombia (children born of foreign citizens do not automatically acquire their nationality)

Problems can also arise when there are gaps in the civil registration systems (for example in refugee camps or conflict situations) and/or when the parents are undocumented, which prevents the children from obtaining a birth certificate that proves their familial links and/or their place of birth, which are essential for determining their nationality.

KEY TOOL

For more information about the rights to nationality of refugee children born in Europe and the risk of statelessness, you can consult **this ECRE** note.

Special cases

- When someone is the subject of a removal order and the country of origin refuses to recognise them as a national citizen and to issue them documents for their removal, this can be an indicator towards statelessness. However, this is a complex situation and it is better to determine statelessness within the framework of an official procedure with safeguards in law.
- Victims of human trafficking, whose documents have been confiscated and/or destroyed, the links with family and/or country of origin have been lost or are unclear or undetermined
- “Rainbow” families, where the embassy refuses to recognise the birth certificate/nationality/parenthood of the child of same-sex parents
- Children born under international agreements of surrogacy, when there are legal questions regarding parenthood
- Orphan children (whose parents are unknown)

- Adopted children and youth, when there are legal loopholes in recognising nationality
- People whose nationality has been deprived (or where the renewal of their passport or proof of nationality has been refused) for national security or political reasons (for example people from Bahrain or Turkey). The rise of measures of the deprivation of nationality for national security and the lack of legal safeguards to prevent statelessness raises the risk of new cases of statelessness.

FOR MORE INFORMATION

- ⊕ **Refworld, « Country and Region Specific Situations »** which lists all the HCR's national and regional reports on statelessness and persons at risk.
- ⊕ **UNHCR, "I am here, I exist" report on children at risk of statelessness, 2015.**
- ⊕ **UNHCR, Report on minorities at risk of statelessness, 2017.**
- ⊕ **UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness, 2021.**
- ⊕ **UNHCR, Stateless Persons in Detention: A tool for their identification and enhanced protection, 2017.**
- ⊕ **ENS, Webinar on the issue of birth registration, 2020.**

2.3. Interview guide to identify persons at risk of statelessness

This section sets out a list of questions to enable the identification of a stateless person. As each situation is unique, it is not always appropriate to ask these questions. However, they can help identify whether or not there is a risk of statelessness.

Questions/information to look for	Points to look for when analysing the answers
Does the person come from a country at high risk of statelessness, affected by state succession or a land dispute?	Bangladesh; Ivory Coast; Burma; Thailand; Syria; Kuwait; Uzbekistan; Russia; Saudi Arabia; Cambodia; Iraq; Ukraine.
Was their birth registered and do they have a birth certificate?	If not, risk of statelessness.
Does the person belong to a specific group which is known to be stateless?	Groups at risk of statelessness (see 2.2)
Does the person come from a country where birth registration is not routine or is complicated?	
Does the person come from a country where women do not have the right to pass their nationality on to their children in the same way as men? If yes, have they inherited their father's nationality?	Saudi Arabia, Bahamas, Bahrain, Barbados, Brunei, Burundi, United Arab Emirates, Swaziland, Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Liberia, Libya, Malaysia, Mauritania, Nepal, Oman, Qatar, Somalia, Sudan, Syria and Togo.
Was the person able to go to school, work or register their marriage or the birth of their children in their country of origin or usual place of residence?	If not, risk of statelessness.
Does the person have, or did they have, one or several nationalities?	If not, risk of statelessness.
What nationality(ies) did the person's parents and grandparents have?	Groups at risk of statelessness.
Does the person have a valid or expired identity document? If not, have they tried to obtain identity documents from another country?	
Has the person started procedures with the embassy/consulate/authorities to obtain identity documents? Do they have evidence of these steps? When did they start these steps? Have they gotten a reply from the authorities? If not, have they tried again? How many times? Are they in fear of persecution if they return? Have they submitted an asylum request?	For applying to OFPRA for stateless status, this information is important because it will be analysed by the protection officers processing the application. It is up to the applicant to prove that they have taken all the steps possible with the authorities to obtain identity documents and acknowledgement of their nationality. For more information on taking into account the fear of persecution and the procedure for determining statelessness, see section 3.1
Which nationality was registered by OFPRA (or other asylum officials) when the person arrived (none/unknown/other)? Does the person contest this nationality?	If the OFPRA recorded none/unknown/other or a nationality contested by the person, risk of statelessness.
Did the person have access to statelessness determination procedure in another country? If yes, what was the relevant authority's decision?	
Risk of statelessness for children of beneficiaries of international protection: does the beneficiary know that it is necessary to register their child with civil authorities and what the conditions for birth registration are? Can the mother legally pass on her nationality in the country of origin? Did she encounter problems registering the child's birth (in France and with the authorities of her country)?	
Has the person been repeatedly detained in a host country, but no embassy acknowledges it?	If yes, risk of statelessness.
For medical associations: In the case of a pregnant woman, is she concerned about the nationality of her unborn child? In the case of a young mother, has she faced problems registering her child? On the child's birth certificate, are both the father and mother included, or just one of them?	
For LGBTQI+ associations: was the child born abroad to same-sex parents? Is there discrimination in the country of origin which would give rise to the withdrawal of nationality?	



**③ Accompany,
inform and guide**

3.1. Statelessness determination procedure in France

In France, there is a specific statelessness determination procedure established by CESEDA (article L.582-1 and following), which can lead to obtaining statelessness (protection) status. Only OFPRA is authorised to receive an application for statelessness status.

Submitting an application

The application for statelessness is made directly to OFPRA and therefore does not require going through the office for asylum seekers (GUDA). A written request in French must be made to OFPRA by registered mail with acknowledgment of receipt, including the surname(s), first name(s) and address/domicile of the person, and the specific reasons for applying. The letter should specify matters linked to parentage, consecutive places of residence and local status. There is no deadline for sending this letter.

Following this letter, OFPRA sends a form (a simple letter) that must be filled out and completed in French and sent back to OFPRA by registered mail with acknowledgement of receipt, enclosing:

- 2 recent passport photos;
- If applicable, travel documents, civil status documents and a copy of the valid residence document (if in possession of these documents);
- All details on the steps taken, and evidence showing how it was not possible to obtain a nationality. If possible, please send original documents to OFPRA (for verification of authenticity) along with their translation.

When the application is complete, the secretariat of the office of stateless persons records it and immediately issues an introduction letter addressed to the applicant, by standard post.



WHERE TO APPLY ?

FRENCH OFFICE FOR THE PROTECTION OF REFUGEES AND STATELESS PERSONS (OFPRA)

201 rue Carnot

94136 Fontenay-sous-Bois Cedex

01 58 68 10 10

<https://www.ofpra.gouv.fr/fr/apatridie/procedure>

Working with the asylum procedure

An asylum application can be lodged at the same time as an application for statelessness status (not to be confused with a concurrent application for a residence permit). In this case, OFPRA will first examine the asylum application, then after a final decision has been made, the application for statelessness status.

If a person holding a refugee status also has formal proof of statelessness, they can be granted the status of "stateless refugee". In this case, their status is governed by the Geneva Convention.

If the asylum application reveals a situation of statelessness but the individual has not initiated a statelessness determination procedure and they find themselves refused the right to asylum, OFPRA will only inform the individual, but will not initiate *ex officio* proceedings.

Review of the application

OFPPRA can ask the individual to attend a personal interview (this is not mandatory) if the situation warrants it. The individual can be interviewed in the language of their choice. The applicant for statelessness status is interviewed at the OFPPRA offices or via an audiovisual method of communication by a protection officer specialised in investigating applications to determine statelessness. If the applicant is a minor, they are interviewed in the presence of their legal representative or, if they are an unaccompanied minor, their ad hoc administrator. OFPPRA can authorise individuals to attend the interview accompanied by a third party: either a lawyer or a representative of an association.

i Find **the organisations** authorised to act as a third party during the interview.

OFPPRA can also gather information from the consulates of the various countries whose nationality the person may have. At the end of the interview and, in order to facilitate the administration process, OFPPRA may contact the authorities of the applicant's country of origin, if it considers it appropriate to do so. The applicant may be asked to sign a document enabling OFPPRA on their behalf to contact authorities of the countries to which they may have ties given their civil status and background. These checks may only be carried out if reasons associated with a fear of persecution were not raised during the interview.

What are the conditions for obtaining statelessness status?

In the procedures guide, OFPPRA recalls that *“the status of statelessness cannot be presumed. It must be established on the basis of all available evidence that is sufficiently accurate and credible. During the investigation, particularly during the interview, OFPPRA collects all the evidence enabling the determination of the different countries to which the applicant may have ties (country of birth, country of origin of their parents, country of habitual residence).”*

The burden of proof lies with the applicant, even if it is, in fact, shared. The determination procedure is based on:

- Evidence that the applicant has taken official steps to claim a nationality, which was subsequently refused (and evidence of this refusal);
- or on objective factors showing that the applicant has no right to a nationality.

The responsible protection officer either accepts or rejects the application by analysing the various elements of the case (declarations, attachments, checks) and the applicable nationality legislation.

When and how is the decision made?

OFPPRA does not have a deadline for issuing its decision. However, a lack of decision by OFPPRA does not equate a negative outcome, so bearing in mind that this can be a long process, do not hesitate to contact the OFPPRA office for stateless persons if the answer is delayed. In practice, checks carried out with consular authorities lead to very long delays in the procedure (up to 2 to 3 years in several reported cases).

Decisions should be well reasoned and in writing. Notification of the written decision should be sent by mail with confirmation of receipt. However, even the method of notification can cause problems for individuals applying for statelessness status if they are not supported by first reception centres (SPADA, etc.) or if they do not have accommodation, as they will not have a mailing address.

Procedure for appealing the OFPPRA decision before the administrative court

If OFPPRA rejects the application for statelessness status, the decision can be challenged before the administrative court of the individual's place of residence. This appeal must be filed within 2 months following the notification of rejection. A contentious appeal is not suspensive, i.e. the individual may be required to leave France and be removed before the judge has made a decision.

i Find **the administrative court for your place of residence here.**

Rights granted to applicants during the procedure

Right to remain in French territory

The procedure does not grant a right to remain in France during the OFPRA procedure itself and the appeal stage, and therefore does not provide protection from removal. The rights and material reception conditions that asylum applicants benefit from are not applicable to applicants for statelessness status.

Prefectures may grant temporary residence to applicants for statelessness status, but are not obliged to do so. There have been cases where people have been forced to leave French territory **during the statelessness determination procedure**. Access to assistance to meet basic needs therefore varies considerably.

Access to Legal Aid

Applicants for statelessness status **do not have the right to free legal aid for this procedure** because the applicable law provides that this right only applies to foreigners legally and habitually resident in the EU. Applicants for statelessness status (contrary to asylum applicants) are not mentioned in the exceptions to this rule. Nevertheless, the law stipulates that legal aid can **exceptionally** be given to applicants who do not fulfil the required criteria when their situation seems to warrant special attention.

Access to Welfare Rights

Access to welfare rights depends on whether the applicant for statelessness status is authorised to remain temporarily in France or not:

When the prefecture grants a temporary residence permit, the applicant can access **Universal Health Protection (PUMA)** after 3 months of stable and regular residence in France and be housed in an emergency accommodation centre or in an Accommodation and Social Reintegration Centre (CHRS) according to the Family and Social Action Code.

If the applicant has also submitted an asylum application, it should be noted that they can access the national reception plan as an asylum applicant. However, since a reform on 30 December 2019, asylum applicants must **prove that they have been a French resident for at least 3 months before accessing PUMA**.

If the prefecture does not grant them temporary residence, applicants for statelessness status are considered to be foreigners in an irregular situation and **can therefore access State Medical Aid (AME) only if they can prove that they have lived in France for three months** (e.g.: transport ticket and/or fine, visit to a Free Medical Centre (PASS), school or volunteer certificate). If the applicant cannot access AME, urgent healthcare needs will always be covered by **the Urgent and Vital Care Facility**. Furthermore, they can be housed by emergency accommodation centres ("social watch" or 115) without having to fulfil resource conditions or regular residence requirements.

3.2. Rights of individuals recognised as stateless in France

Rights relating to the status of statelessness

If an individual is recognised as stateless, they are placed under OFPRA's administrative and legal protection. OFPRA issues civil status documents (birth certificates, marriage certificates, etc.) if it cannot obtain them from the country in which the events in the person's life occurred.

Upon obtaining status, persons recognised as stateless have the right to work and to access education services and universal health protection (PUMA) after three months of regular and continuous residence. They also have access to welfare assistance depending on their income and can benefit from the active solidarity income (RSA). Stateless persons can apply for family reunification under the same conditions as beneficiaries of international protection, and after 5 years of stable legal residence in France, they can become naturalised. Persons recognised as stateless must also sign a Republican Integration Contract (CIR) with OFII.

 **Welcome booklet** issued by OFPRA for recognised stateless persons

Applying for a residence permit after obtaining stateless person status

After obtaining statelessness status, an application for a multi-year card must be submitted to the prefecture (or sub-prefecture) of your place of residence.

 It is necessary to find information on the website of the **prefecture or sub-prefecture** where the person lives. The procedure differs depending on whether the person resides in Paris or not. **See here for more information.**

The 4-year «beneficiary of statelessness status» residence permit authorises residence in France and the rights relating to this status. The following family members have the right to benefit from the same card:

- the spouse, partner with whom the person is bound by a civil union, or common-law partner, if they have been authorised to stay in France for family reunification
- the spouse or partner with whom the person is in a civil union, if they are at least 18 years old, if the marriage or civil union took place after the date of application for statelessness status, provided that the marriage or civil union has been celebrated for at least one year and subject to an effective community of life between spouses or partners
- children in the year following their 18th birthday (or from 16 years old if they wish to work)
- the parents (direct ascendants in the first degree) if the person is a minor and unmarried.
- the spouse, partner with whom the person is bound by a civil union, or cohabitant, who is not referred to above (cf. art. L424-19 CESEDA), can apply for CST VPF (on the basis of the L423-23). E.g. if the couple entered French territory together or if the person joined the stateless person outside family reunification.

DOCUMENTS REQUIRED

- ① 3 photos
- ② Copy of the decision recognising statelessness
- ③ Proof of address dated less than 3 months ago
- ④ Sworn statement of non-polygamy if the person is married and a national of State that allows it

If the file is complete, the person receives a receipt pending the response from the prefecture.

They must pay €25 by tax stamps. Proof of payment is requested when the card is issued. The residence permit is issued by the prefecture or sub-prefecture where the application was submitted and is valid for a maximum of 4 years.

The beneficiary card of the stateless person or family member of a stateless person allows application for a full resident card after 4 years of legal residence in France. The multi-year residence permit and the residence permit allow the beneficiary to work in France.

Applying for a travel document after obtaining statelessness status

If the person wishes to travel abroad, they can apply for a biometric travel document for stateless persons. The permit is valid for 4 years and costs €40 for holders of a multi-year residence permit, or 5 years and €45 for a holders of a residence permit.

i Find out where to submit your application for a travel document.

FOR MORE INFORMATION

- + OFPRA, The statelessness determination procedure is explained on the [website](#) and in the [procedural guide](#)
- + OFPRA, [Welcome booklet for recognised stateless persons](#), June 2019
- + Forum Réfugiés-Cosi, Summary information sheet on the statelessness determination procedure and the rights of stateless persons in France, in [French](#) and [English](#).

3.3. Associations to refer people at risk of statelessness to

Legal and social support

ADATE

Info-rights-migrants hotline on 04 76 44 51 85.
Monday to Friday 9:30 – 12:30
96 rue Stalingrad
38100 Grenoble
Tel. 04 58 17 64 86
Fax 04 76 63 80 10
<http://www.adate.org/>

Forum réfugiés-Cosi

Legal telephone hotline: Wednesdays 2 – 5 pm
on 04 78 03 74 45

Legal assistance in Administrative Detention
centres (CRA): Lyon, Marseille, Nice, Nîmes,
Perpignan and Sète.

France Terre d'Asile

Legal hotline on access to rights for persons
under international protection is open to all
professionals, remotely from 28/01/2020,
9:30 am – 1:00 pm **by appointment**

Legal assistance in Administrative Detention
Centres (CRA). Legal services in the Paris office,
Monday to Friday 10 am – 1 pm and 2 – 6 pm;
Sundays and public holidays 9 am – 1 pm
Tel: 01 40 82 74 30
email : saer@france-terre-asile.org
Contact details for other offices are available
[here](#)

Federation of Associations of Solidarity with All Immigrants (FASTI)

Legal and administrative services throughout
the territory:
<http://www.fasti.org/index.php/les-asti27>

National Federation of Information Centres on the Rights of Women and Families (FNCIDFF)

Promotes equality between women and men
and promotes the personal, social and
professional autonomy of women through 103
centrsthroughout the territory.
[http://www.infofemmes.com/v2/p/Contact/
Coordonnees-de-votre-CIDFF/73](http://www.infofemmes.com/v2/p/Contact/Coordonnees-de-votre-CIDFF/73)

GISTI (Information and Support Group for Immigrants)

Legal advice is available on 01 84 60 90 26
Monday to Friday 3 – 6 pm;
Wednesday and Friday 10 am – 12 noon.
<http://www.gisti.org/spip.php?article79>

La Cimade

Welcomes, accompanies, guides and defends
foreigners facing administrative difficulties related
to residence or asylum.
infos@lacimade.org
<http://www.lacimade.org/en-region/>

The Human Rights League (LDH)

Fights against all violations of individual rights,
in all areas of civic, political and social life.
Tel. 01 56 55 51 50
ldh@ldh-france.org
www.ldh-france.org/regions/

Catholic Relief

106 rue du Bac
75341 Paris
Tél: 01 45 49 73 00
Legal advice
[http://www.secours-catholique.org/
implantations](http://www.secours-catholique.org/implantations)

Defender of Rights

You can contact the Defender of Rights through
an online form, by meeting with a delegate
or by postage-free mail.
Pre-paid 71120
75342 Paris CEDEX 07
Tel. 09 69 39 00 00
<https://www.defenseurdesdroits.fr/>

Help for minors

Cofrade (French Council of Associations for the Rights of the Child)

A collective of 52 associations defending the rights of the child in France.

cofrade.contact@gmail.com
www.cofrade.org

Children's Advocate:

The Defender of Rights, an organisation designated to ensure respect for rights, can be contacted when the rights of a child are not respected or when a situation jeopardises their interests.

3 pl. de Fontenoy
75007 Paris
Tel. 09 69 39 00 00

www.defenseurdesdroits.fr

ECPAT France : An association that works for the right of all children to live free from all forms of exploitation.

40 avenue de l'Europe - BP 07
93352 Le Bourget Cedex
Tel. 01 49 34 83 13

contact@ecpat-france.org
www.ecpat-france.fr

Off the Street: Identifies and supports foreign minors in difficulty.

70 rue Douy Delcupe
93100 Montreuil
Tel. 01 41 58 14 65
Fax 01 43 62 94 36

www.horslarue.org

Medical assistance and psycho-social support

MANA Association

The MANA association offers psychotherapeutic care and cross-cultural medical consultations.

86 cours d'Albret
33 000 Bordeaux
Tel. 05 56 79 57 14

webmaster@cliniquetransculturelle-mana.org

Osiris Association

Osiris is a care centre with a psychoanalytic focus, whose therapeutic objective is to relieve post-traumatic suffering.

4 avenue Rostand
13003 Marseille
Tel. 04 91 91 89 73

centre.osiris@free.fr
www.centreosiris.org

COMEDE (Committee for the health of exiled persons):

Created in 1979, its mission is to act in favour of the health of exiles and to defend their rights (Paris, Marseille, Saint-Etienne and Guyana).

Headquarters: Hôpital de Bicêtre
78 rue du Général Leclerc
94270 Le Kremlin-Bicêtre
Tel. 01 45 21 39 32

contact@comede.org

Socio-legal hotline:

Tel. 01 45 21 63 12

Monday, Tuesday, Thursday and Friday, 9:30 am – 12:30 pm

Medical hotline:

Tel. 01 45 21 38 93

Monday to Friday (2:30 pm – 5:30 pm) and
Tuesdays (9:30 am – 12:30 pm)

Mental health hotline:

Tel. 01 45 21 39 31

Tuesday and Thursday, 2:30 pm – 5:30 pm

Centre Française Minkowska – Paris :

transcultural psychiatry consultations focused on migrants and refugees.

12 rue Jacquemont
75017 Paris

Tel. 01 53 06 84 84

Fax 01 53 06 84 85

<http://www.minkowska.com/>

Essor – Villeurbanne et Clermont-Ferrand

centres: The Essor health centre has been treating trauma resulting from persecution and intentional violence within the context of exile and social and legal precariousness since 2007. They offer free individual and family consultations to adults, teenagers and children over 6 years old.

Essor 69 Health Centre

Esplanade de la Perralière
158 ter rue du 4 août 1789
BP 71054

69612 Villeurbanne

Tel. 04 78 03 07 59

centredesante@forumrefugies.org

Essor 63 Health Centre

Croix-Neyrat shopping centre "Auchan Nord"
Rue du Torpilleur Sirocco
1st floor
63000 Clermont-Ferrand
Tel. 04 63 46 89 80

centreessor63@forumrefugies.org

Centre Primo Levi – Paris :

The Primo Levi health centre is open to victims of political torture or violence in their country of origin, whatever their administrative status may be in France.

107 avenue Parmentier
75011 Paris
Tel. 01 43 14 88 50

primolevi@primolevi.org

www.primolevi.org

Gynaecologists Without Borders

2 boulevard de Launay
44100 Nantes
Tel. 09 81 05 52 24 / 09 81 79 31 04

<https://gynsf.org/gsf/contact/>

Doctors of the World: The Doctors of the World teams are also open to victims in their facilities, provide necessary access to prevention material and offer individual medical and social consultations.

62 rue Marcadet
75018 Paris
Tel. 01 44 92 15 15
Fax 01 54 87 98 6

www.medecinsdumonde.org

Interpreting

ISM Interpreting

By telephone and in person in Paris.
90 avenue de Flandre
75019 Paris
Tel. 01 53 26 52 50

Tradlibre

By telephone, online or in person.
174 avenue des minimes
31200 Toulouse
Tel. 09 85 60 08 65

accueil@tradlibre.fr

<https://www.tradlibre.fr/>

Parcours d'exil – Paris :

The Parcours d'exil association offers therapeutic support to exiles suffering from psychological trauma.

4 avenue Richerand
75010 Paris

Tel. 01 45 33 31 74

Fax 01 45 33 53 61

contact@parcours-exil.org

www.parcours-exil.org

Paroles sans Frontières

The association offers transcultural psychiatric consultations

2 rue Brûlée
67000 Strasbourg
03 88 14 03 43

parole-sans-frontiere@orange.fr

www.parole-sans-frontiere.org/

Psychotrauma regional centres

Information at:

<http://cn2r.fr/obtenir-de-laide-pour-soi-ou-pour-un-proche/>

3.4. Identification procedures and determination of stateless status in Europe and across the world

What are the identification and determination procedures?

As of September 2020, there are **24 countries in the world that have a statelessness determination procedure** and clear rules and procedures within the legal national framework:

	Albania		Hungary		Panama
	Argentina		Iceland		Paraguay
	Brazil		Italy		The Philippines
	Colombia		Ivory Coast		Spain
	Costa Rica		Kosovo		Turkey
	Ecuador		Latvia		Ukraine
	France		Mexico		The United Kingdom
	Georgia		Moldova		Uruguay

Note that some States have a partial system of protection, without clearly defined protection status or procedural rules, such as

	Belgium		Montenegro		Slovakia
	Bulgaria		Peru		Switzerland
	Luxembourg				

States who are set to implement statelessness determination procedures:

	Greece		and The Netherlands
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As part of the international campaign to end statelessness by 2024,

	Belgium		Portugal		The United States
	Bosnia-Herzegovina		Sierra Leone		Zimbabwe
	Nigeria				

have committed to implementing a statelessness determination procedure.

Thus, in Europe, the process for determining statelessness status varies considerably from one country to another. Only some Member States have implemented specific procedures to determine statelessness. **In most Member States, stateless persons must apply for a residency permit for other motives**, which can pose problems because the stateless person cannot always fill the necessary criteria for a residency permit, leaving them in legal limbo.

The majority of Member States that have a specific procedure for determining statelessness **have not implemented a procedure which takes into account child specific rights**, taking into account the specific vulnerabilities of this group. However, a guardian is generally designated in the case of unaccompanied minors. Nevertheless, most Member States have implemented measures under some conditions to facilitate obtaining nationality for children who were born stateless on their territory. However, **only half of Member States have full guarantees against statelessness at birth**.

KEY TOOL

Statelessness Index: all information about the legal framework and practices concerning statelessness in Europe

The statelessness Index is an online tool that evaluates the policies of states in Europe regarding the protection of stateless persons, prevention and the reduction of statelessness, which was developed by the European Network on Statelessness. It is the main tool to provide a complete, accessible analysis of the 27 European States, including France. It enables users to quickly understand what must be improved in regards to the legal framework, policies and practices in European states. The Index is updated annually.

Statelessness Case Law Database: all the jurisprudence on statelessness in the different European States

The database contains summaries of the national and regional jurisprudence covering Europe, as well as international jurisprudence. The case summaries included in the database either directly concern the rights of stateless persons, or deal with other human rights issues which have an impact on people without a nationality.

How does European law concerning asylum apply to stateless persons?

In the Treaty on the Functioning of the European Union, Article 67(2) explicitly equates stateless persons with third country nationals in the context of defining a common policy of asylum, immigration and external border controls⁵.

However, it appears that in the Common European Asylum System, there is a certain ambiguity in the text concerning the treatment and handling of stateless persons when distinguishing between them and third country nationals.

The texts that make up the Common European Asylum System (Directive 2011/95/EU “Qualification”, Directive 2013/33/EU “Welcome”, Directive 2013/32/EU “Procedures” and Regulation 604/2013/EU “Dublin III”) distinguish third country nationals and stateless persons. They also define an international protection applicant as a “third country national or a stateless person.”

The Dublin III Regulation establishes the criteria and mechanisms to determine the Member States responsible for examining the request for international protection introduced by a third country national or a stateless person in a Member State. This regulation explicitly refers to statelessness in its title and includes stateless persons in its application, just as the Qualification Directive. There is, however, a lack

⁵ / 27 Article 67(2) of the TFEU: “It [The Union] shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.”

of clarity on the treatment of stateless people in European regulations and directives, as not all member states have a statelessness determination procedure⁶. Moreover, there is no mention in these texts of the 1954 Convention which defines a stateless person. Each Member State therefore treats statelessness differently in the context of migration, asylum, the Dublin procedure and removal.

KEY TOOL

Need legal advice in another European country?

ENS cannot provide legal advice to stateless persons directly, but **the members listed on this site** work in different European countries and do provide legal advice (free of charge or for a fee).

FOR MORE INFORMATION

- + ENS, **Note on the statelessness determination procedure in Europe, 2021**
- + EASO, **Statelessness in the asylum context, Asylum Report, 2020**

⁶/ Amsterdam International Law Clinic, *The concept of 'stateless persons' in European Union Law*, August 2017.



**④ Preventing
statelessness: birth
registration**

When launching the 10-year campaign to end statelessness in November 2014, the UNHCR presented a 10 point action plan to resolve statelessness, including birth registration. Informing and raising awareness about these procedures prevents children's statelessness. In hospitals and maternity wards, information brochures about registering births are supplied, but access to information remains limited for those who do not have access to public services.

Procedure for birth registration in France

Registration of birth is mandatory for every child born in France and must be done by someone who attended the birth. It must be reported within 5 days after childbirth (which is not counted in the reporting period).

Public service [infographic](#) on the 7 essential steps after birth

The declaration is done by the father, the doctor, the midwife or another person present at the birth, at the city hall of the place of birth. The birth certificate is immediately created by a civil registrar. In some public hospitals, a civil registrar is on duty to register births in the maternity ward.

The following documents are required to register the birth of a child:

- Doctor's or midwife's certificate
- Declaration of name choice if the parents are doing this
- Birth certificate if it has been established before the birth
- Proof of address (or residence) less than 3 months old if the child has not been recognised
- Parents' identity cards
- Family record book to record the child, if the parents already have one

There is no provision prohibiting people in an irregular situation from declaring the birth of their child. In practice, however, the fact that the parents must prove their identity can be an obstacle for registering birth (even though it is supposed to protect the child and not constitute a discriminatory practice). The identities of the child's mother and father are indicated on the birth certificate, including the date and place of birth, on the basis of civil or other identity documents produced by the declarant. The civil registrar cannot refuse to register the birth in the absence of these documents according to the circular of 28 October 2011, relative to the particular rules for various civil status records relating to birth and filiation (point 59).⁷

If the regulatory time limit of 5 days has passed, the civil registrar cannot resolve the situation on their own. A judicial declaration of birth is necessary. A lawyer is required to obtain a judicial declaration of birth. Furthermore, a person responsible for making the declaration of birth who has not acted within the required time limit can be held responsible and risks a prison sentence of 6 months and a fine of €3,750.

Birth of stateless children in France

Children can be born stateless in France if they are in one of the following situations:

- Born in France to stateless parents.
- Born in France to unknown parents;
- Born in France to parents whose nationality cannot be transferred from birth (if the nationality cannot be passed down to children born abroad, children born in wedlock, adopted children, mothers who cannot transmit their nationality and in case of absence of recognition of paternity, or that the father cannot transmit his nationality either).

^{7/} Circular of 28 October 2011 relative to the particular rules for various civil status records relating to birth and filiation, point 59: <https://www.legifrance.gouv.fr/download/pdf/circ?id=34124> : "The civil registrar indicates the identity of the child's mother and father on the basis of the civil status or identity documents produced by the declarant. They cannot, however, refuse to register the birth in absence of their production."

Articles 19 and 19-1 of the French civil code regulate the acquisition of French nationality by birth in France and prevent the appearance of new cases of statelessness:

Article 19: Any child born in France of unknown parents is French.

Article 19-1: Is French:

1° A child born in France to stateless parents;

2° A child born in France to foreign parents and to whom the transmission of either parent's nationality is prohibited by foreign nationality acts.

A French birth certificate must be provided to prove French nationality before the child reaches 18 years of age. The minor must be represented by a parental authority figure if younger than 16 years old. The certificate is delivered by the courts administration service who rely on the place of birth and residence. The process is free of charge. In the event of refusal, a hierarchical appeal to the Minister of Justice can be initiated. In the event of failure, an appeal of dispute is possible before the court.

Children born stateless in France, whose parents are seeking recognition as stateless persons via the determination process (for example, if the parents have not been informed of Article 19-1 or if the prefecture has not recognised the child's right to French nationality), can acquire French nationality according to the regulations that apply to children born in France to foreign parents.

Furthermore, OFPRA highlights that a stateless person's status is strictly personal and not transmissible. Parents who believe that their children are deprived of nationality must request a statelessness determination procedure form by mail from OFPRA and return it duly completed.

FOR MORE INFORMATION

- ⊕ **ENS, Index Thematic Briefing on Birth Registration, 2020**
- ⊕ **UNHCR, Special report: Ending Statelessness Within 10 Years, 2014**
- ⊕ **UNHCR, #IBELONG campaign**
- ⊕ **Institute on Statelessness and Inclusion, Addressing the Right to a Nationality through the Convention on the Rights of the Child – A Toolkit for Civil Society**
- ⊕ **Institute on Statelessness and Inclusion, A six-part podcast series, «What's Best for Children's Nationality»**
- ⊕ **UNICEF, A passport to protection: a guide to birth registration programming, 2013**
- ⊕ **UNICEF, UNHCR, Ending childhood statelessness in Europe, 2019**
- ⊕ **UNICEF, UNHCR, IBELONG: Coalition on Every Child's Right to a Nationality, 2016**



⑤ How to be more sensitive to statelessness in your organisation's activities

Training

It is essential to provide training so that all professionals working in contact with people at risk of statelessness are able to identify and accompany them. You can find more information about existing training tools in [section 1.5](#).

Register stateless persons in your activities

Establishing identification procedures within your structure will allow you to integrate them better in support activities and to adapt your services to their specific needs. It is important to integrate the «stateless» and «at risk of statelessness» status in your internal processes and databases in order to improve data collection on this marginalised population, improve their identification within groups that are very heterogeneous, identify and understand their needs better and adapt support and guidance accordingly.

The goal is not to prejudge a stateless person's legal status, but rather to identify and support them better. The determination of statelessness takes time and may be complex and difficult. It may require thorough investigations with State authorities in the countries with which a person has pertinent connections, so it should be carried out only by a competent decision-making authority at an appropriate point in the international protection procedures (after the final assessment of an asylum request if fears are expressed or identified) and with procedural safeguards.

Designate a contact person for statelessness within the structure

Whenever possible, it is worthwhile designating a “statelessness” contact person within your structure. This person may already have certain expertise and/or will be able to benefit from training on this subject to develop their skills. They will be able to advise colleagues on persons exposed to a risk of statelessness and refer them to procedures for dealing with them. They will be familiar with the structures and mechanisms that stateless persons can be directed to. Furthermore, this person can be in charge of updating existing resources and managing partnership relations.

Organise awareness and experience sharing sessions

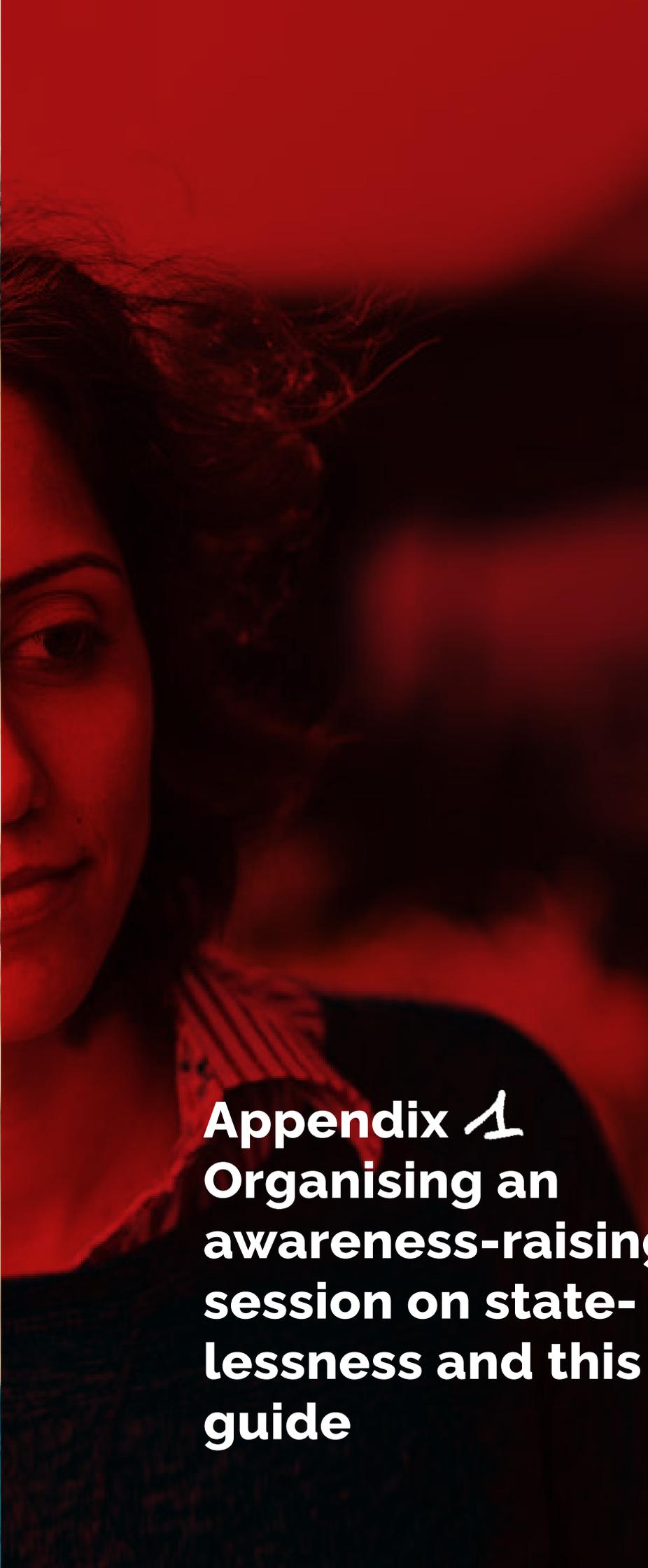
The “stateless person” referent or the department head can organise statelessness awareness sessions for their teams. The goal is for the teams to have essential knowledge of the definition of statelessness, how to identify people at risk of statelessness, the follow-up and support they would need and the procedure for determining statelessness.

In the appendix you will find tips for presenting this guide to your team. It may also be appropriate to organise experience-sharing sessions to review past or current situations and determine what procedures are most appropriate to implement within the structure.

Contact the European Network on Statelessness (ENS)

ENS is a rich network of more than 170 members from 41 European states involved in the protection of stateless persons and the prevention of statelessness. The network has developed several awareness-raising and advocacy projects and campaigns in Europe with regard to protecting the rights of stateless persons, access to the right to a nationality, childhood statelessness, the rights of minorities in terms of statelessness in the context of migration, and the arbitrary detention of stateless persons.

You can [contact ENS](#) if you are looking for more detailed information about statelessness, at-risk groups or information about the European and international policies in this domain; or if you wish to benefit from training. You can also [subscribe to their newsletter](#) or [join the network](#).



Appendix 1
Organising an
awareness-raising
session on state-
lessness and this
guide

If you are a department head or “statelessness referent” of your organisation, you can organise **awareness-raising sessions on statelessness**. The goal is to make this topic known to the members of your teams so that they can identify persons at risk of statelessness, accompany them, inform them about the procedure and guide them to appropriate arrangements.

You can use this guide as a presentation support and you can recommend that your teams refer to it, in particular to the various technical tools. You can organise your awareness-raising session in several stages:

Define statelessness and identify persons at risk of statelessness

Firstly, you can mention :

- The definition of statelessness and its conditions (**section 1.1** and **1.2**)
- Available data on statelessness (**section 1.3**)

You can then work on the list of indicators that may identify a person at risk of statelessness (**section 2.1**) or specific indicators such as groups that are especially at risk of statelessness, for example children of mothers from countries where nationality laws discriminate on grounds of gender (**section 2.2**).

→ **Scenario:** Ask your teams if, considering the indicators mentioned, they think they have already encountered people at risk of statelessness and/or stateless persons. Analyse the situations presented together in terms of the indicators, and introduce the interview guide which can help to better identify a stateless person (**section 2.3**).

Follow-up and referral of people at risk of statelessness

You can then discuss with your teams what possibilities exist for the follow-up and referral of people at risk of statelessness.

Present the statelessness determination procedure in France (**section 3.1**) and the rights of people protected by statelessness status by OFPRA (**section 3.2**) to your teams. Discuss the areas you want to strengthen or develop. Based on the different categories of specific needs, review the different national and local channels available to refer to people at risk of statelessness (**section 3.3**). Show the partnerships that already exist between you and certain local structures, if this is the case, and analyse what collaborations should be created or strengthened.

→ **Scenario:** Analyse how your structure could organise an interview with a potential stateless person and direct them in an optimal way towards the statelessness determination procedure. Based on an actual case (experienced by one of the members of your team) or a fictional example, evaluate whether or not a person meets the conditions to obtain statelessness status.

Prevention of new cases of statelessness

Depending on your field of activity and the people you are required to welcome and support, you can also address the challenges of preventing statelessness in terms of birth registration, by reiterating the French legal framework and the provisions in place to prevent further statelessness in France (**section 4**).

→ **Scenario:** Ask your teams if they have ever had cases where parents/mother/father have expressed fears about the nationality of their children, about difficulties in accessing birth registration due to their unusual situation, or about cases of absence of a birth certificate for a child born during the migratory journey. Based on an actual case, evaluate how to inform and guide the person according to the French legal framework.

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