

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

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Practices and Approaches in EU Member States to Prevent and End Statelessness

STUDY FOR THE LIBE COMMITTEE





DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

PRACTICES AND APPROACHES IN EU MEMBER STATES TO PREVENT AND END STATELESSNESS

STUDY

Abstract

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee. It describes the practices and approaches in all EU Member States as regards the prevention and eradication of statelessness. For that purpose the different national practices are assessed in light of the relevant international and European standards. Since proper mechanisms to identify stateless populations are lacking in a majority of Member States, the study addresses the procedures used in determining statelessness and analyses the role of the EU in preventing and reducing statelessness.

This study was commissioned by the Policy Department for Citizen's Rights and Constitutional Affairs at the request of the LIBE Committee

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LIST OF ABBREVIATIONS OF INTERNATIONAL TREATIES, PROTOCOLS AND RECOMMENDATIONS

CEDAW 1979 Convention on the Elimination of All Forms of Discrimination against Women (UNTS 660, 195)

CERD 1966 International Convention on the Elimination of All Forms of Racial Discrimination (UNTS 660, 195)

CIEC 1973 1973 Convention on the Reduction of Cases of Statelessness

CNMW 1957 Convention on the Nationality of Married Women (UNTS 309, 65)

CRC 1989 Convention on the Rights of the Child (UNTS 1577, 3)

CRD 2006 Convention on the Rights of Persons with Disabilities (UNTS 2515, 3)

CRS 1961 Convention on the Reduction of Statelessness (UNTS 989, 175)

CSR 1951 Convention relating to the Status of Refugees (UNTS 189, 137)

CSS 1954 Convention Relating to the Status of Stateless Persons (UNTS 360,130)

ECAC 1967 European Convention on the Adoption of Children (revised in 2008) (UNTS 634, 255)

ECHR European Convention on Human Rights

ECN 1997 European Convention on Nationality (CETS 166)

ECSS 2006 Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (CETS 200)

ICCPR 1966 International Covenant on Civil and Political Rights (UNTS 999, 171)

REC 2009/13 Recommendation CM/Rec (2009)13 of the Committee of Ministers to member states of the Council of Europe on the nationality of children

TEU Treaty on European Union

TFEU Treaty on the Functioning of the European Union

UDHR 1948 Universal Declaration of Human Rights

OTHER ABBREVIATIONS

BNA British Nationality Act

CETS Council of Europe Treaty Series

CoE Council of Europe

EUDO European Union Democracy Observatory on Citizenship

CJEU Court of Justice of the European Union

ECtHR European Court of Human Rights

ETS European Treaty Series

ILEC Involuntary Loss of European Citizenship

LNTS League of Nations Treaty Series

UNHCR United Nations High Commissioner for Refugees

UNTS United Nations Treaty Series

GLOSSARY OF LATIN TERMS

<i>Ad hoc</i>	Literally: for this. Only for a particular purpose or need
<i>De iure</i>	Legally
<i>Erga omnes</i>	Literally: towards all. Decision or obligation binding for all
<i>Ex lege</i>	By operation of the law, automatically
<i>Ex nunc</i>	Without retroactivity
<i>Ex officio</i>	By virtue of office or position
<i>Ex tunc</i>	With retroactivity
<i>Iure sanguinis</i>	By <i>ius sanguinis</i>
<i>Iure soli</i>	By <i>ius soli</i>
<i>Ius sanguinis</i>	Literally: right of the blood. A person acquires the nationality of a parent at birth or by the establishment of a child-parent family relationship
<i>Ius sanguinis a matre</i>	Literally: right of the blood from the mother. A person acquires the nationality of the mother at birth or by the establishment of a child-mother family relationship
<i>Ius sanguinis a patre</i>	Literally: right of the blood from the father. A person acquires the nationality of the father at birth or by the establishment of a child-father family relationship
<i>Ius soli</i>	Literally: right of the soil. A person acquires the nationality of his country of birth

EXECUTIVE SUMMARY

Background

Aim

The aim of the present study is to describe the practices and approaches in all EU Member States concerning the prevention and eradication of statelessness. For that purpose the study analyses the relevant international and European standards (Chapter 2) and assesses the national practices in light of these standards (Chapter 3). Since the prevention and eradication of statelessness depends on proper mechanisms to identify stateless populations, the subject of procedures for determining statelessness is addressed. We also investigate whether installing such a procedure creates a 'pull factor' (Chapter 4). The study ends with a detailed analysis of the possible role of the European Union in preventing and reducing statelessness (Chapter 5).

Key Findings

International and European standards to prevent and end statelessness

1. Important standards on the avoidance and reduction of statelessness can be found in the 1954 United Nations (UN) Convention relating to the status of stateless persons, the 1961 United Nations (UN) Convention on the reduction on statelessness and the 1997 Council of Europe (CoE) Convention on Nationality.
2. The European Union **pledged** at the UN High-level Rule of Law Meeting in New York, which took place in September 2012, to stimulate EU Member States to address the issue of statelessness by ratifying the 1954 UN Convention and considering the ratification of the 1961 UN Convention.
3. For the interpretation and further development of standards following from these conventions, the **UNHCR Guidelines on Statelessness**, published in 2012, and **Recommendation 2009/13 of the Council of Europe** on the position of children in nationality law are of paramount importance.
4. Landmark court decisions are the 2010 decision of the Court of Justice of the European Union in **Janko Rottmann v. Freistaat Bayern** (C-135/08) (concluding that deprivation of nationality, with statelessness as a result, may only happen after applying a proportionality test to such a measure) and the 2011 European Court of Human Rights decision in **Genovese v. Malta** (application no. 53124/09) (concluding that nationality is part of one's personal identity and as such protected by the concept of private life under Article 8 ECHR) as well as the 2014 decision in **Sylvie Mennesson v. France** (application no. 65192/11) and **Francis Labassee v. France** (application no. 65941/11) (stipulating that aspects relating to one's social identity need to have consequences for the nationality position of children born from cross-border surrogacy arrangements).

Assessment of Member State rules in light of international and European standards

5. The comparative analysis shows that several Member States **violate international and European standards** regarding protection against statelessness.

6. This is not only true for Member States that are not bound by the relevant international treaties, but also for Member States that have acceded to these conventions.
7. Moreover, the **standards of protection** against statelessness differ considerably between the Member States.
8. This is particularly problematic for the grounds for loss, since the loss of a Member State's nationality, resulting in statelessness, implies the **loss of European citizenship**.
9. Exclusion from both the protection that nationality offers and the benefits of EU citizenship prevent people from accessing **fundamental civil, political, economic, cultural and social rights** and put them at risk of repeated or prolonged **detention and destitution**.
10. There is a need for greater clarity as regards the legal position of **permanent resident non-citizens in Latvia and Estonia**, who formerly held the citizenship of the Soviet Union, in light of international and European law. Indeed, in order to avoid that the activation of statelessness will prevent or reduce provisions, States sometimes deliberately do not classify a person as "stateless", but assign the person involved a different label. This occurred in Latvia and Estonia with the introduction of the special status of "permanent resident non-citizen" in Latvia or a "person of undefined nationality" in Estonia.

Protection of stateless persons in the migratory context and statelessness determination procedures

11. **Dedicated procedures for determining statelessness** are lacking in most EU Member States, apart from France, Italy, Spain, Latvia, Hungary, United Kingdom, Slovakia and Belgium.
12. This entails a serious risk that stateless persons are not properly identified.
13. Without **proper identification**, it is unclear whether stateless persons are accorded appropriate treatment in line with the Member States' international commitments, in particular the 1954 UN Convention, which has reached near-universal ratification among EU Member States.
14. The Member States are therefore encouraged to install determination procedures, drawing on the guidance of UNHCR as laid down in the 2014 **Handbook on Protection of Stateless Persons**.
15. The Handbook allows States to exercise broad discretion in the design and operation of statelessness determination procedures so as to tailor the procedure to their domestic situations.
16. Evidence that the introduction of procedures to determine statelessness would act as a **pull factor** for stateless persons to come to the EU is lacking. However, it is likely that more people will make use of existing determination procedures in the near future due to the growing influx of refugees, some of whom may claim to be stateless.

Possible role of European Union in addressing statelessness

17. Different reasons can be advanced why the objectives related to the **protection and identification of statelessness** can best be achieved at the EU level.
18. First, only a coordinated effort by the EU will avoid the '**race to the bottom**' phenomenon, which would be caused by the fear that stateless persons in the EU

will choose to seek protection in the Member State that offers the easiest access to the recognition of their status as a stateless persons and the best subsequent protection.

19. Second, developing and implementing internal minimum standards on the protection and identification of stateless persons is a prerequisite for **exporting these standards abroad** and a necessary first step towards **fulfilling the pledge** made to the UN.
20. Third and finally, the existence of the status of a stateless person is already acknowledged in the laws within the **Common European Asylum System**. Even though statelessness is not a separate protection ground within the Common European Asylum System, it is argued that the frequent references to this legal status require that stateless persons are identified in a consistent manner across the Member States. The divergence in statelessness determination outcomes can lead to discrepancies in the implementation of some provisions.
21. Different treaty provisions can be identified in the Treaty on the Functioning of the European Union (TFEU) that may serve as a legal basis for EU legislation on the identification and protection of stateless persons.
22. Legislative action of the EU can first of all be based on **Article 21(2) TFEU** (EU citizenship) due to the link between determining statelessness and EU citizenship.
23. Also the wording of **Articles 78** (asylum) and **79** (immigration) **TFEU** provides sufficient flexibility to serve as a basis for EU legislation on the identification and protection of stateless persons.
24. A third and final legal basis for EU legislation on statelessness is **Article 67(2)** (general provisions of an Area of Freedom, Security and Justice) in conjunction with **Article 352 TFEU** ('flexibility clause' of EU competences).
25. Different situations relating to the determination of statelessness can be envisaged where a **preliminary ruling procedure** before the CJEU could clarify the interaction with EU citizenship.
26. An **EU Directive on the determination of statelessness** would prevent Member States offering a (better) protection regime to bear a much larger burden than Member States that offer less beneficial protection, or none at all.
27. Member States are encouraged to **exchange information** on policies regarding the prevention and reduction of statelessness and the treatment of stateless persons, and to **increase awareness** of problems regarding statelessness by improving the availability of statistical data on stateless persons within the EU.
28. Aspects of statelessness that need to be addressed through migration law are the **regularisation of residence** of stateless persons as well as – in exceptional cases – the **regulation of return** to a previous country of residence. The EU has competence to address these issues on the basis of Title V, Chapter 2 TFEU, and has already extensively legislated on such matters in the context of asylum law.

Recommendations

1. In light of the above-mentioned pledge, Cyprus, Estonia, Malta and Poland should accede to the 1954 UN Convention relating to the status of stateless persons as soon as possible.
2. All Member States should implement the obligations of the 1954 UN Convention properly. In particular, they should facilitate the naturalisation of stateless persons residing on their territory and thus facilitate their access to European citizenship.
3. Member States that have not yet acceded to the 1961 UN Convention on the reduction of Statelessness should be encouraged to consider accession to that Convention.
4. All Member States should be encouraged to implement the obligations of the 1961 UN Convention properly and to take due account of the Guidelines of the UNHCR on the interpretation of the rules of that Convention.
5. The European Commission should initiate a European Union Directive on statelessness determination procedures. Next to procedural issues in the narrow sense, this Directive should include rules on the burden of proof, standard of proof and indicate the application *ratione personae* (i.e. who has access to the procedures). The Directive should follow as far as possible the Guidelines on statelessness determination procedures issued by the UNHCR and reproduced in the UNHCR Handbook on Protection of Stateless Persons.
6. In order to properly identify stateless persons, Member States are strongly encouraged to introduce statelessness determination procedures. While these procedures can be tailored to their domestic situation, the following safeguards are imperative: the procedures must be available for all persons claiming to be stateless and who are present on the territory of the State involved. Decisions must be taken within a reasonable length of time and a right of appeal to an independent body must be guaranteed. The burden of proof must be regulated in a way that, on the one hand, requires the applicant to submit all evidence reasonably available to her or him, and that, on the other, requires the determining authority or court to obtain and present all evidence reasonably available to it. The standard of proof that may be required is that it is established to a reasonable degree that the person involved is not considered as a national by any State, with which he or she has a relevant link, under the operation of its law.
7. Regulation (EC) No 862/2007 of 11 July 2007 on Community statistics on migration and international protection should be amended in order to oblige Member States to collect data on the number of stateless persons born on their territory, the number of stateless persons living on their territory, as well as the number of persons with undetermined nationality living on their territory, and to communicate these data to Eurostat.
8. In order to promote the correct implementation of the obligations following from the 1954 and 1961 UN Conventions, the European Union should develop an effective mechanism for the exchange of information in order to enable Member States to learn of each other's practices. The EU should establish a more effective mechanism for the exchange of information regarding national regulations and policy measures in areas related to nationality, when they affect Union citizenship and their obligations to both other Member States and the Union. The European Commission should relaunch and re-visit Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration.

9. The European Union should take measures in order to ensure that stateless persons living on the territory of a Member State have facilitated access to residence permits.

10. It is necessary to clarify the status of Latvian non-citizens under international and European law, in order to give them and their descendants access to the protection of in particular the rules of the 1961 UN Convention in those Member States that are party to the Convention or have other domestic rules in force that protect (otherwise) stateless persons.

11. In order to enhance the avoidance and reduction of statelessness in the European Union and the treatment of stateless persons, it is advised that the European Parliament asks the European Commission for a biannual State of the Art Report, preferably to be delivered for the first time in 2018.

1. INTRODUCTION: CONTEXT AND CLARIFICATION OF THE MAIN RESEARCH QUESTIONS, EXPLANATION OF THE METHODOLOGY AND STRUCTURE OF THE STUDY

1.1. Context and background

A stateless person is a “*person who is not considered as a national by any State under the operation of its law*”.¹ Many rules under domestic and international law are linked to the possession of a certain nationality or citizenship.² Stateless people are excluded from the protection, rights and benefits offered by a nationality. This often creates a ‘protection gap’, which poses a number of political, legal and human rights challenges. Exclusion from both the protection that nationality offers and the benefits of EU citizenship prevent people from accessing fundamental civil, political, economic, cultural and social rights and put them at risk of repeated or prolonged detention and destitution.

Statelessness is regarded to be an undesirable situation. This is recognised by Art. 15 of the Universal Declaration of Human Rights (UDHR). It has been envisaged and elaborated in several human rights treaties like the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1989 Convention on the Rights of the Child (CRC) and the 2006 Convention on the Rights of Persons with Disabilities (CRPD).³ Two UN treaties deal specifically with the issue of statelessness: the 1954 Convention relating to the status of stateless persons (CSS) and the 1961 Convention on the reduction of statelessness (CRS).

At European level the 1997 European Convention on Nationality (ECN) of the Council of Europe addresses the undesirability of statelessness and contains some specific rules on the prevention and reduction of statelessness. Furthermore, a special Council of Europe treaty elaborates the rules of the European Convention on Nationality regarding statelessness caused in the context of State succession: the 2006 Convention on the avoidance of statelessness in relation to State succession (ECSS).

The UNHCR estimates that there are more than 10 million stateless persons worldwide, of whom over 400,000 live in the European Union, spread across all Member States.⁴ Providing a somewhat broader perspective on numbers, the Institute on Statelessness and Inclusion has calculated that there are more than 15 million stateless persons worldwide.⁵ Several EU institutions and actors have recognised as a priority preventing and reducing the phenomenon of statelessness. Special attention has been paid to its consequences for and effects on citizenship of the Union. The landmark decision by the Court of Justice of the EU (CJEU) of 2 March 2010 in *Janko Rottmann v. Freistaat Bayern* (C-135/08) is of paramount importance in assessing current approaches and attitudes by EU Member States

¹ Art. 1 of the 1954 Convention on the status of stateless persons (UNTS 360, 130), which is considered to reflect a rule of customary international law.

² The terms nationality and citizenship will be used interchangeably in this study.

³ See for more details De Groot (2012a) and (2013b).

⁴ ‘UNHCR announces push to end statelessness worldwide by end-2024’, 4 November 2014, available at <http://www.unhcr-centraleurope.org/en/news/2014/unhcr-announces-push-to-end-statelessness-worldwide-by-end-2024.html>.

⁵ See “The World’s Stateless”, December 2014, pp. 7-11, available at www.institutesi.org/worldsstateless.pdf.

regarding the avoidance of statelessness.⁶ The Luxembourg Court concluded that deprivation of nationality that results in statelessness is only allowed after checking the legality and proportionality of such a measure.

In addition to the increasing role played by the CJEU on EU citizenship-related matters, the EU Member States pledged at the UN High Level Rule of Law Meeting in New York in September 2012 to address the issue of statelessness by ratifying the 1954 UN Convention relating to the status of stateless persons and considering the ratification of the 1961 UN Convention on the reduction of statelessness.⁷ Furthermore, the European Parliament organised a seminar on statelessness issues in 2007⁸ and has addressed the desirability of fighting statelessness in several of its resolutions and reports.⁹ In the context of the UNHCR's 10-year campaign to end statelessness worldwide launched in November last year,¹⁰ it is particularly timely to consider the role that the European Union could be playing in tackling this important issue.

1.2. Objectives and structure of the study

Stateless persons living in the EU do not possess European citizenship, even though several of them may have been born on the territory of a Member State. The central research question which therefore will be raised and answered is: **Under which conditions should stateless persons residing in the EU have access to European citizenship through the nationality of the Member State of their birth, the Member State of a nationality of a parent or the Member State of their residence?**

In order to answer this question the following **sub-questions** call for examination:

What international and European standards exist regarding the prevention and reduction of statelessness of relevance for the EU? How do the different rules and principles influence each other? How should the older standards – in particular the 1954 CSS and 1961 CRS Conventions – be read in light of subsequent human rights treaties?

These questions will be answered in Chapter 2, where a survey/mapping of the most important international and European standards on the prevention and reduction of statelessness will be provided, which will be used in Chapter 3 for the analysis and critical assessment of the practices and approaches of Member States of the European Union. Chapter 2 will examine: a) the 1961 UN Convention on the reduction of statelessness; b) the 1954 UN Convention relating to the Status of Stateless Persons; c) Articles 6 and 7 of the 1997 European Convention on Nationality of the CoE; and d) the 2006 European Convention on avoidance of statelessness in relation to state

⁶ CJEU, Judgment of the Court (Grand Chamber) of 2 March 2010 in Janko Rottmann v. Freistaat Bayern (C-135/08) (<http://curia.europa.eu/juris/liste.jsf?num=C-135/08>)

⁷ Note Verbale from the European Union to the United Nations of 19 September 2012, section A, para 4 (www.unrol.org/files/Pledges%20by%20the%20European%20Union.pdf).

⁸ See European Parliament, Committee on Civil Liberties, Justice and Home Affairs, Seminar on Prevention of Statelessness and Protection of Stateless Persons within the European Union, Tuesday 26 June 2007 (http://www.europarl.europa.eu/hearings/20070626/libe/programme_en.pdf) and European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs (2007), A clarification of the fundamental rights implications of stateless and erased persons, Briefing paper written by de Groot, Gerard-René, PE 393.271.

⁹ See for example European Parliament Resolution of 12 March 2015 on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter (2014/2216(INI)); European Parliament resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010 - 2011) (2011/2069(INI)); European Parliament resolution of 2 April 2009 on problems and prospects concerning European Citizenship (2008/2234(INI)).

¹⁰ UNHCR (2014), A Campaign to End Statelessness: Launched on the 60th Anniversary of the 1954 Convention relating to the status of stateless persons (www.unhcr.org/53174df39.html).

succession of the CoE. In addition, special attention will be given to the need for a fresh interpretation of the 1954 and 1961 UN Conventions in light of later human rights treaties, as reflected in the UNHCR Guidelines on statelessness 1-4 (published 2011-2013 on the basis of Summary Conclusions of Expert Meetings convened by UNHCR in Prato, Geneva and Dakar)¹¹ and the Summary Conclusions of Tunis (2014)¹² on the basis of which UNHCR Guidelines No. 5 are under preparation. Attention will also be paid to Recommendation 2009/13 of the Committee of Ministers of the Council of Europe¹³ on the position of children in nationality law and to case law of the CJEU and the European Court of Human Rights (ECtHR).

Are the practices and legal approaches regarding statelessness the same across EU Member States? Have Member States acceded to relevant international treaties on the avoidance and reduction of statelessness? Are the domestic (nationality) laws of Member States in conformity with the relevant international and European rules? Can we observe any promising practices across EU Member States in this regard?

In order to answer these questions, Chapter 3 will provide a narrative report of the state of art of prevention and reduction of statelessness in the Member States of the European Union. A survey of the difficulties as regards the different grounds for acquisition and loss of nationality will be provided. Special attention will be devoted to the question whether effective remedies exist. Promising practices will be highlighted. The chapter also discusses the specific issue of the so-called non-citizens of Latvia. In Annex 2 the attitudes of EU Member States on avoiding and reducing statelessness are presented in tables.

How do states determine the potential statelessness of a person? Since international and European rules on the prevention and reduction of statelessness can work only if it is established that a person is or would become stateless, practices in determining statelessness are essential for tackling this challenge in the EU. Do Member States have dedicated or specific statelessness determination procedures? If yes, which countries provide for such procedures, what do these procedures look like and how are they applied in practice? Moreover, how do Member States deal with determining statelessness if they lack a special procedure to do so?

In light of these questions, Chapter 4 will, among others, focus on determination procedures by paying attention to: a) the Guidelines of the UNHCR on what a statelessness determination procedure should at a minimum aim to accomplish; b) the state of art in Member States where a specific statelessness determination procedure exists (Hungary and the UK; additional attention will be paid to the Netherlands, which is currently discussing the introduction of a statelessness determination procedure); and c) statelessness determination in Member States without dedicated determination procedures.

¹¹ See the UNHCR Handbook on Protection of Stateless Persons 2014 (www.refworld.org/docid/53b676aa4.html). The Handbook includes "Guidelines on Statelessness No. 1: The definition of "Stateless Person" in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons"; 'Guidelines on Statelessness No. 2: Procedures for Determining whether an Individual is a Stateless Person'; and 'Guidelines on Statelessness No. 3: The Status of Stateless Persons at the National Level'. See, finally, also 'Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness', available at www.refworld.org/docid/50d460c72.html.

¹² UNHCR, 'Expert Meeting – Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, March 2014, available at www.refworld.org/docid/533a754b4.html.

¹³ Council of Europe, 'Recommendation CM/Rec (2009)13 of the Committee of Ministers to member states on the nationality of children, 9 December 2009, available at <https://wcd.coe.int/ViewDoc.jsp?id=1563529>.

Special attention will be paid to such questions as whether the status determination procedure should be centralised in a specialised court or authority; who should have access to the procedure; whether there should be a normal appeal possibility; and which rules on the burden of proof and the standard of proof should be applied.

A point of concern is whether the introduction of a dedicated statelessness determination procedure would act as a ‘pull factor’, in the sense that it would attract people who want to have their statelessness acknowledged in order to fall within the scope of the protection mechanisms against statelessness? Is there any objective evidence showing that these protection mechanisms can act in this fashion? Section 5 of Chapter 4 will critically examine whether the existence of special statelessness determination procedures attracts potentially stateless persons to a country. This difficult question will be answered in light of semi-structured interviews with selected national experts and stakeholders.

Could and should the EU play a role in preventing and reducing statelessness in its Member States and if yes, which kind of role? Is the status and evolving concept of European citizenship of importance in this context, particularly access to European citizenship for stateless persons living in a Member State as well as for European citizens who are at risk of losing their EU Member State nationality? Could and should the European Union play a coordinating and/or harmonising role with respect to the prevention and reduction of statelessness in Member States and addressing the protection gap in the Union? How can it be ensured that any EU action in this field stays within the limits of its competences as prescribed by EU primary laws, does not violate the principle of subsidiarity and does not infringe on the EU Member States’ sovereign powers in the field of nationality?

An attempt to answer these questions is made in sections 1 and 2 of Chapter 5, which will examine the role and contribution that the EU could display in avoiding and reducing statelessness. Special attention will be given to issues related to legal competence and potential/different ways or methods for enhanced EU intervention in this domain, in light of both current Treaty provisions and secondary legislation. These sections will also focus on the potential presented by citizenship of the Union when dealing with the dilemmas and protection gap resulting from statelessness.

The following aspects will be covered in detail:

- *A possible role of European law via enforcing European citizenship.*
- *The role and possible contributions of the European Union.*

Special attention will, among others, be given to the feasibility and desirability of several options:

- Creation of a common legal framework for the treatment of statelessness in EU Member States
- Possible promotion of facilitated naturalisation of stateless persons living on EU territory
- Increasing awareness of problems regarding statelessness by improving the availability of statistical data on stateless persons within the EU
- Stimulating the exchange of information between Member States, in particular on policies regarding the prevention and reduction of statelessness and the treatment of stateless persons

How could the EU contribute at times of providing transitional solutions for those stateless persons, for whom obtaining a nationality immediately is not a

feasible option? The protection gap resulting from statelessness cannot in all cases be resolved by immediately securing a nationality for the individual concerned. In particular where statelessness occurs in a migratory context, transitional solutions might be necessary, such as providing a stateless person with a right of legal residence in the EU. Section 4 of Chapter 5 will address this problem and will pay particular attention to the following two issues:

- 1) EU competence to address statelessness through migration law, i.e. the relevant treaty framework and
- 2) Ensuring compliance with the principle of subsidiarity when addressing statelessness in the migratory and asylum context.

The study concludes in Chapter 6 which will focus in particular on policy options and policy recommendations for the European Union, with special attention to the role and potential input by the European Parliament in this context.

1.3. Methodology

This study adopts a multidisciplinary methodology which builds upon the state of the art in this area and draws upon a wide range of legal and stakeholder sources. The methods used for this study include:

An in-depth study of relevant international treaties and European rules on the prevention and reduction of statelessness, with special attention to the recent international documents clarifying current legal standards.

A comprehensive assessment of the current 'state of the art' debate and findings in the academic literature dealing with the prevention, reduction or even eradication of statelessness (see the References for a **full bibliographical list** of relevant academic sources). This includes taking due account of results of previous EU-funded studies¹⁴ and projects such as ILEC (Involuntary Loss of European Citizenship),¹⁵ in particular the so-called ILEC Guidelines 2015 dealing with involuntary loss of European citizenship,¹⁶ as well as studies conducted in the context of the European Union Democracy Observatory (EUDO) Citizenship project.¹⁷

A comparative study of the practices and approaches in all the Member States of the European Union on the prevention and reduction of statelessness, including an assessment of the relevant rules and legislation in light of international standards and with special attention paid to promising practices. Detailed information on the legal regimes existing in every EU Member State is analysed, compared and assessed in light of the international standards.

Establishing the scope and limits of EU competence to address statelessness through a thorough analysis of relevant primary and secondary EU legislation and relevant case-law of the CJEU.

Semi-structured interviews with a selected group of domestic, European and international stakeholders, experts and practitioners. The list of experts that have been contacted for this study is included in Annex 3.

¹⁴ European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs (2007), A clarification of the fundamental rights implications of stateless and erased persons, Briefing paper written by de Groot, Gerard-René, PE 393.271.

¹⁵ Available at <http://www.ilecproject.eu/>.

¹⁶ See ILEC Guidelines 2015, available at www.ilecproject.eu/sites/default/files/GUIDELINES%20INVOLUNTARY%20LOSS%20OF%20EUROPEAN%20CITIZENSHIP%20.pdf.

¹⁷ Available at www.eudo-citizenship.eu.

2. THE INTERNATIONAL AND EUROPEAN STANDARDS

KEY FINDINGS

- Important standards on avoidance and reduction of statelessness can be found in the 1954 UN Convention relating to the status of stateless persons, the 1961 UN Convention on the reduction on statelessness and in the 1997 CoE European Convention on Nationality.
- The European Union pledged at the UN High Level Rule of Law Meeting, which took place in New York in September 2012, to stimulate EU Member States to address the issue of statelessness by ratifying the 1954 UN Convention and considering the ratification of the 1961 UN Convention.
- For the interpretation and further development of standards following from these conventions, the UNHCR Guidelines on Statelessness, published in 2012, and Recommendation 2009/13 of the Council of Europe on the position of children in nationality law are of paramount importance.
- Landmark court decisions are the 2010 decision of the Court of Justice of the EU in *Janko Rottmann v. Freistaat Bayern* (C-135/08) (concluding that deprivation of nationality with statelessness as a result may only happen after applying a proportionality test to such a measure) and the 2011 European Court of Human Rights decision in *Genovese v. Malta* (application no. 53124/09) (concluding that nationality is part of one's personal identity and as such is protected by the concept of private life under Article 8 ECHR) as well as the 2014 decision in *Sylvie Mennesson v. France* (application no. 65192/11) and *Francis Labassee v. France* (application no. 65941/11) (stipulating that aspects relating to one's social identity need to have consequences for the nationality position of children born from cross-border surrogacy arrangements).

It is a well-known fact that each State is autonomous in deciding who its nationals are within the limits set by international law. A considerable corpus of international treaties as well as regional instruments exists that contain norms pertaining to the right to a nationality. This section will briefly address the relevant international framework in light of the 1948 Universal Declaration of Human Rights.¹⁸ Next, an overview will be given of the rules in international and regional treaties pertaining to the avoidance and reduction of statelessness, with a particular focus on the activities of the Council of Europe.

The Universal Declaration of Human Rights¹⁹ (UDHR) of 10 December 1948 codified 'nationality' as a human right in its Article 15, which reads:

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

¹⁸ For an exhaustive overview, see Vonk, Vink and De Groot (2013).

¹⁹ Resolution 217 A (III) of 10 December 1948 adopted by the General Assembly of the United Nations.

The weakness of Article 15 is that it does not indicate which nationality a person may have a right to. Moreover, it is subject to discussion under which circumstances one must conclude that a deprivation is arbitrary.²⁰ Furthermore, the Universal Declaration is not an international treaty and is therefore – in spite of the high moral standard – not directly binding upon the Member States of the United Nations. Nevertheless, international law scholars recognise that a number of provisions of the Universal Declaration have acquired the status of customary international law.

The principles of Article 15 have influenced treaty obligations and the principle that everyone has a right to a nationality is repeated in numerous binding international treaties, including Article 5(d)(iii) of the 1965 International Convention on the Elimination of all Forms of Racial Discrimination (CERD), Article 24(3) of the 1966 International Covenant on Civil and Political Rights (ICCPR), Article 7(1) of the 1989 Convention on the Rights of the Child (CRC) and Article 18 of the Convention on the Rights of Persons with Disabilities (CRPD), as well as in regional treaties such as Article 4(a) of the European Convention on Nationality (ECN).

The rule that arbitrary deprivation of a nationality is forbidden also follows from Article 5(d)(iii) CERD, Article 8(1) of the 1989 CRC (no “unlawful interference”), Article 19(1)(a) and (b) CRPD, as well as in regional treaties such as Article 4(c) of the ECN.

Two UN Conventions are dedicated to the matter of statelessness, namely the 1954 UN Convention relating to the Status of Stateless Persons (CSS; ‘the 1954 Convention’) and the 1961 Convention on the Reduction of Statelessness (CRS; ‘the 1961 Convention’).

The aim of the 1954 Convention, which entered into force on 6 June 1960 and has been ratified by 24 Member States,²¹ is to guarantee minimum rights for stateless persons. It was originally intended as a Protocol to the 1951 Convention relating to the Status of Refugees, but was deferred for independent consideration as a stand-alone treaty given the unique status of stateless persons. 24 EU Member States are party to this Convention.²² As already mentioned in Chapter 1, the EU pledged solemnly to stimulate the ratification of this convention by all Member States.

In addition to creating the status of stateless person under international law, the 1954 Convention’s most significant contribution is the definition of the term ‘stateless person’ in Article 1(1) of this Convention:

For the purpose of this Convention, the term ‘stateless person’ means a person who is not considered as a national by any State under the operation of its law.

This universal definition of who qualifies as a ‘stateless person’ is accepted as customary international law and is also relevant for the scope of application of the 1961 Convention. In 2012, the UNHCR, which has a universal mandate to enhance the prevention and reduction of statelessness and to protect stateless persons, published four Guidelines intended “to provide interpretive legal guidance for governments, NGOs, legal practitioners, decision-makers and the judiciary, as well as for UNHCR staff and other UN agencies involved in addressing statelessness”. The first three Guidelines addressed issues raised by the 1954 Convention and are known under the following names: “Guidelines on Statelessness No. 1: The definition of “stateless person” in Article 1(1) of the 1954

²⁰ For a general overview of these issues, see UN Human Rights Council, *Human rights and arbitrary deprivation of nationality: report of the Secretary-General*, 14 December 2009, A/HRC/13/34, available at www.unhcr.org/refworld/docid/4b83a9cb2.html, as well as the *ILEC Guidelines 2015, in particular part I, 1-10*.

²¹ See Annex 1.

²² Only Cyprus, Estonia, Malta and Poland have not acceded.

Convention relating to the Status of Stateless Persons”;²³ “Guidelines on Statelessness No. 2: Procedures for determining whether an individual is a stateless person”;²⁴ and “Guidelines on Statelessness No. 3: The status of stateless persons at the national level”.²⁵ In 2014, these Guidelines were replaced by the “Handbook on Protection of Stateless Persons under the 1954 Convention relating to the Status of Stateless Persons”, but the UNHCR stresses that “the text of the Handbook replicates their content with only minimal changes”.²⁶

The object and purpose of the 1961 Convention, which entered into force on 13 December 1975 and has been ratified by 14 Member States,²⁷ is not the complete elimination of statelessness but the reduction of cases of statelessness at birth and of the causes of statelessness by the automatic (*ex lege*) loss of nationality later in life or through deprivation of nationality. The EU pledged solemnly to stimulate Member States to consider the ratification of this Convention.

In 2012, the UNHCR published the “Guidelines on Statelessness No. 4: Ensuring every child’s right to acquire a nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness”. In 2013, an expert meeting was held in Tunis to discuss Articles 5-9 (on loss and deprivation of nationality) of the 1961 Convention. The ‘Tunis Conclusions’ resulting from this meeting will result in the fifth and final UNHCR Guidelines.²⁸ The overall goal of these two documents on the 1961 Convention is to provide a dynamic interpretation of the treaty obligations in light of more recent human rights treaties and other developments in international law.

While gender equality in nationality law has been secured in Europe, an overview of relevant international treaties should also pay due regard to the paramount importance for the equal treatment of men and women of the 1979 Convention on the Elimination of all Forms of Discrimination of Women (CEDAW).

CEDAW Article 9 prescribes:

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

In Europe, the Council of Europe has been very active in establishing standards for the field of nationality law. Attention will be paid below to the 1997 European Convention on Nationality (ECN), the 2006 European Convention on the avoidance of statelessness in relation to State succession and Recommendation 2009/13 on the position of children in nationality law.

²³ Available at www.unhcr.org/refworld/pdfid/4f4371b82.pdf.

²⁴ Available at www.unhcr.org/refworld/pdfid/4f7dafb52.pdf.

²⁵ Available at <http://www.unhcr.org/refworld/docid/5005520f2.html>.

²⁶ UNHCR Handbook on the Protection of Stateless Persons 2014, p. 2.

²⁷ See Annex 1.

²⁸ The full name reads: “Expert meeting – Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality”, available at <http://www.refworld.org/docid/533a754b4.html>.

The 1961 Convention had considerable influence on the provisions of the ECN. Several provisions of the European Convention on Nationality address the avoidance or reduction of cases of statelessness. To date, 12 EU Member States are bound by this Convention.²⁹

First of all, Article 4(a)–(c) ECN repeats the message of Article 15 UDHR as follows:

The rules on nationality of each State Party shall be based on the following principles:

- everyone has the right to a nationality;
- statelessness shall be avoided;
- no one shall be arbitrarily deprived of his or her nationality.

Article 5(1) ECN prohibits discrimination in the field of nationality law. Article 5(2) underpins that: “Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.” Article 6 subsequently prescribes the acquisition of nationality to “foundlings found in its territory who would otherwise be stateless” and regulates the access to nationality for otherwise stateless children in general. Article 6(2) ECN in fact has many similarities with the regime of the 1961 Convention, but there are some important differences. The 1961 Convention allows a State to postpone the real access to its nationality to the moment the stateless person involved reaches the age of 18 years, whereas according to the ECN the access has to be given after five years of lawful and habitual residence while a child is still a minor. The 1961 Convention also allows States to reject an application because of a sentence for a crime which constitutes a threat for the national security or because of a sentence to more than five years imprisonment. The ECN does not allow this ground for a rejection of the application. As such, the obligations of the ECN are stricter than those under the 1961 Convention, reflecting developments in the prohibition of statelessness under international law.

However, the 1961 Convention guarantees that a person born stateless has – in principle – after attaining the age of majority at least one year to take a decision on the acquisition of the nationality of his country of birth. Furthermore, the ECN allows States to require a period of lawful and habitual residence, whereas the 1961 Convention only allows States to require habitual residence during the relevant period. The drafters of the 1961 Convention sought to guarantee a right to nationality and were concerned that by interpreting “habitual” residence as lawful residence, a State could avoid the obligations of the Convention by refusing a stateless person a residence permit – a situation which is sought explicitly to avoid through the strict formulation of the permissible requirement of “habitual” residence set forth in Articles 1(2), 1(4), and Article 4. The Committee on the Rights of the Child adopts an identical view.³⁰ Finally, we stress that states parties to the 1961 Convention *and* the ECN have to abide by the highest standard. In other words, the ECN cannot be used as an excuse to restrict the rights set out in the 1961 Convention.

Article 6(4)(g) of the ECN requires the facilitation of the naturalisation of stateless persons living on the territory. This obligation was not new, but a repetition of Article 32 CSS. However, Article 6(3) ECN also establishes that the State may not require a period of residence exceeding ten years before an application for naturalisation may be lodged. As a

²⁹ Austria, Bulgaria, Czech Republic, Denmark, Finland, Germany, Hungary, the Netherlands, Portugal, Romania, Slovakia and Sweden. See www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=166&CM=1&DF=07/02/2012&CL=ENG. See also Annex 1.

³⁰ In the Concluding Observations on the Netherlands from June 2015, for example, the Committee “recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions. In particular, it recommends the State party not to adopt the proposed requirement of parents’ cooperation with the authorities”. See www.dekinderombudsman.nl/ul/cms/fck-uploaded/NetherlandsCOBs.pdf.

result, a key means of facilitating naturalisation for stateless persons would be to require a shorter period of residence.

The ECN also includes rules on the loss of nationality and on procedural issues. Very important is the fact that Articles 7 and 8 of the ECN provide for an exhaustive list of acceptable grounds for loss of nationality. Furthermore, Article 7(3) underpins that grounds of loss may not cause statelessness except in the case of Article 7(1)(b): "Acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant". This restriction considerably reduces cases of statelessness. The grounds mentioned in Article 7(4) and (5) 1961 Convention, which may cause statelessness, cannot do so under the ECN.

The following grounds for loss of nationality are acceptable under Article 7(1) ECN:

- a. voluntary acquisition of another nationality;
- b. acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant;
- c. voluntary service in a foreign military force;
- d. conduct seriously prejudicial to the vital interests of the State Party;
- e. lack of a genuine link between the State Party and a national habitually residing abroad;
- f. where it is established during the minority of a child that the preconditions laid down by internal law which led to the *ex lege* acquisition of the nationality of the State Party are no longer fulfilled;
- g. adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents.

Article 7(2) allows States to provide "for the loss of its nationality by children whose parents lose that nationality except in cases covered by sub-paragraphs c and d of paragraph 1. However, children shall not lose that nationality if one of their parents retains it". Article 7(3) underpins that a State "may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b, of this article". Moreover Article 8 ECN recognises the right to renounce a nationality, provided this does not cause statelessness.

Quite recently, the Council of Europe adopted additional rules that should contribute to an enhanced reduction of cases of statelessness. A Committee of Experts appointed by the Secretary General worked in 2008-2009 on a Recommendation on the Nationality of Children, which was adopted by the Committee of Ministers on 9 December 2009.³¹ The Secretary General asked *inter alia* to pay special attention to statelessness issues.

Recommendation 2009/13 contains 23 principles. Eleven of these principles have as an overall goal the avoidance of statelessness. They give further guidance on which rules could be adopted in order to fight statelessness more efficiently. However, even if all the rules of the recommendation would be implemented, statelessness among children would still not be eliminated completely.

³¹ The complete text of Recommendation 2009/13 can be consulted at <https://wcd.coe.int/ViewDoc.jsp?id=1563529&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>; the text of the Explanatory Memorandum is available at [https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM\(2009\)163&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM(2009)163&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383). See on this Recommendation De Groot (2014b).

A striking difference between the Council of Europe Recommendation 2009/13, on the one hand, and the 1961 United Nations Convention, on the other, has to do with the relationship between Article 1 and Article 4 of the 1961 Convention. The *ius soli* (right of the soil)³² inspired obligations of Article 1 of the 1961 Convention have precedence over the *ius sanguinis* (right of blood) inspired rules of Article 4. In Recommendation 2009/13, the opposite can be observed: the default *ius sanguinis*³³ rule of Principle 1 has precedence above the default *ius soli* rule of Principle 2. This difference may be explained by the fact that within the Council of Europe the *ius sanguinis* tradition is stronger than that of *ius soli*.

In line with the 1961 Convention and the ECN, Recommendation 2009/13 contains several principles that are relevant for grounds for loss of nationality. Principle 10 recommends providing that the revocation or annulment of an adoption will not cause the loss of nationality acquired by this adoption. Principle 15 takes an additional step by recommending that the nationality acquired by the adoption should not be lost in case of revocation or annulment, if the child is lawfully and habitually resident on the territory for a period of more than five years. Principle 18 deals with the nationality position of children who were treated in good faith as nationals. After a specific period of time to be fixed by domestic law, they should not be declared as not having acquired their nationality. Moreover, Principle 22 is relevant: States should provide that children who have lost their nationality have the right to apply for recovery of it before the age of majority, or within at least three years after reaching the age of majority.

Finally, the 2006 European Convention on the avoidance of statelessness in relation to State succession has been ratified by six States at the time of writing. Of the EU Member States, Austria, Hungary, the Netherlands and Norway are bound by this Convention.³⁴ Article 10 is of importance as it establishes that:

A State concerned shall grant its nationality at birth to a child born following State succession on its territory to a parent who, at the time of State succession, had the nationality of the predecessor State if that child would otherwise be stateless.

Article 8(1) on the rules of proof underscores that “[a] successor State should not insist on its standard requirements of proof necessary for granting its nationality in the case of persons who have or would become stateless as a result of State succession and where it is not reasonable for such persons to meet the standard requirements”. The lower standard of proof required in cases of State succession is an important tool for interpreting relevant evidentiary issues in other treaties dealing with the avoidance and reduction of statelessness.

At the end of this chapter, two landmark court decision need to be mentioned. In section 1.1, the 2010 *Rottmann* decision of the Court of Justice of the EU was mentioned.³⁵ The Court concluded that deprivation of nationality with statelessness as a result only may happen after applying a proportionality test to such a measure. It follows from the

³² Right of the soil: a person acquires the nationality of his country of birth.

³³ Right of the blood: a person acquires the nationality of a parent at birth or by the establishment of a child-parent family relationship.

³⁴ CoE, Chart of signatures and ratifications of Treaty 200, Council of Europe Convention on the avoidance of statelessness in relation to State succession (2006), available at www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=200&CM=1&DF=07/02/2012&CL=ENG.

³⁵ Judgement of the Court of Justice of the EU, Case C-135/08 *Janko Rottmann v. Freistaat Bayern* [2010] ECR I-01449, handed down on 2 March 2010, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=75336&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=35798>

Rottmann decision – as expressly mentioned by Advocate General Poiares Maduro in his opinion³⁶ – that general principles of European law influence the autonomy of Member States in regulating the grounds for acquisition and loss of nationality. It also follows from *Rottmann* that nationality-related decisions should be challengeable in court and that they only take effect when the judicial decision can no longer be challenged.

In *Genovese v Malta* the European Court of Human Rights came to the conclusion in 2011 that nationality is a part of one's personal identity and as such is protected by the concept of private life under Article 8 of the European Convention of Human Rights.³⁷ For that reason, the Court decided in its decision that access to nationality has to be regulated in a non-discriminatory fashion. However, it is clear that the ruling of the court will also have consequences for cases concerning loss of nationality.

The core message of *Genovese* was repeated in the cases *Sylvie Mennesson v. France* (Nr. 65192/11) and *Francis Labassee v. France* (Nr. 65941/11), both handed down by the ECtHR on 26 June 2014,³⁸ in which it was decided that aspects relating to one's social identity need to have consequences for the nationality position of children born from cross-border surrogacy arrangements. It was also held that the inability of the genetic father to establish paternity of a child born out of a surrogacy arrangement, which would result in the child acquiring French nationality, was a breach of the child's right to identity.³⁹

³⁶ CJEU, Case C- 135/08 *Janko Rottmann v. Freistaat Bayern*, Opinion of Advocate General Poiares Maduro delivered on 30 September 2009, par. 30, available at:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=72572&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=35798>

³⁷ Judgment of the European Court of Human Rights of 11 October 2011 in *Genovese v. Malta*, Appl. 53124/09, available at: <http://hudoc.echr.coe.int/eng?i=001-106785>.

³⁸ Judgment of the European Court of Human Rights of 26 June 2014 in *Mennesson v. France*, Appl. 65192/11, available at <http://hudoc.echr.coe.int/eng?i=001-145389>; Judgment of the European Court of Human Rights of 26 June 2014 in *Labassee v. France*, Appl. 65941/11, only available in French at <http://hudoc.echr.coe.int/eng?i=001-145180>

³⁹ See extensively Michael Wells-Greco, *The Status of Children arising from Inter-Country Surrogacy Arrangements: The Past, the Present, the Future*. PhD diss. Maastricht University, Eleven International Publishing: The Hague, 2015, p. 97 and 381-388.

3. ASSESSMENT OF MEMBER STATE RULES IN LIGHT OF INTERNATIONAL AND EUROPEAN STANDARDS

3.1. A comparative typology of modes of protection against statelessness: Assessing Member State practices in light of international and European standards

KEY FINDINGS

- The comparative analysis shows that several Member States violate the international and European standards regarding protection against statelessness.
- This is not only true for Member States not bound by the relevant international treaties, but also for Member States that have acceded to these conventions.
- Moreover, the standards of protection against statelessness differ considerably between the Member States.
- This is particularly problematic for the grounds for loss, since the loss of Member State nationality with statelessness as a consequence implies the loss of European citizenship.
- There is a need for greater clarity as regards the legal position of Latvian and Estonian permanent resident non-citizens who formerly held the citizenship of the Soviet Union in light of international and European law. Indeed, in order to avoid the activation of provisions preventing or reducing statelessness, States sometimes deliberately do not classify a person as “stateless”, but rather assign a different label to the person involved. This occurred in Latvia and Estonia with the introduction of the special status of “permanent resident non-citizen” in Latvia or a “person of undefined nationality” in Estonia.

Individuals can be protected against statelessness in two ways. They can acquire a nationality and they can be protected by not losing the nationality that is already held. Hence, in order to assess the extent to which States provide sufficient protection against statelessness, the rules on the acquisition and loss of citizenship need to be analysed. For this purpose a typology of modes of protection against statelessness was created in 2013 by the EUDO Citizenship Observatory in collaboration with the UNHCR.⁴⁰ The following analytical grid outlines categories of persons who are at risk of being or becoming stateless and assesses, with reference to the most important international and European standards, the national laws of the Member States of the European Union on the acquisition and loss of citizenship.

⁴⁰ Updated information until 2015 can be found at <http://eudo-citizenship.eu/databases/protection-against-statelessness>.

Comparative typology: Persons at risk of being or becoming stateless

- S01 Children born in a country who would otherwise be stateless
- S02 Foundlings found in a country of unknown parentage
- S03 Persons born to a citizen of a country (birth in that country)
- S04 Persons born to a citizen of a country (birth abroad)
- S05 Persons who are recognised refugees
- S06 Stateless persons or persons with unclear citizenship who are not covered by any other mode of protection against statelessness
- S07 Persons who voluntarily renounce the citizenship of their country
- S08 Persons who reside outside the country of which they are a citizen
- S09 Persons who render services to a foreign country
- S10 Persons who render military service to a foreign country
- S11 Persons who are disloyal to the country of which they are a citizen or whose conduct is seriously prejudicial to the vital interests of that country
- S12 Persons who commit other (criminal) offences
- S13 Persons who have acquired citizenship by fraud
- S14 Persons whose descent from a citizen is annulled or who are adopted by a citizen of another country
- S15 Persons who change their civil status due to marriage with a citizen of another country or dissolution of a marriage with a person holding the same citizenship
- S16 Persons whose spouse or registered partner loses citizenship of a country
- S17 Children whose parents lose citizenship of a country

Note on terminology

In this section we use short-hand references when referring to relevant articles from national legislation. First, in line with the European Bulletin on Nationality (English edition), we use abbreviations when referring to the 28 Member States:

AUT = Austria; BEL = Belgium; BUL = Bulgaria; CRO = Croatia; CYP = Cyprus; CZE = Czech Republic; DEN = Denmark; EST = Estonia; FIN = Finland; FRA = France; GER = Germany; GRE = Greece; HUN = Hungary; IRE = Ireland; ITA = Italy; LAT = Latvia; LIT = Lithuania; LUX = Luxembourg; MAL = Malta; NET = Netherlands; POL = Poland; POR = Portugal; ROM = Romania; SLK = Slovakia; SLN = Slovenia; SPA = Spain; SWE = Sweden; UK = United Kingdom

These short-hand formulas have also been used in Annex 2. Using the comparative typology, the annex provides an exhaustive comparative overview of the Member States' practices relating to the avoidance and reduction of statelessness.

Second, in line with the reference system used by EUDO CITIZENSHIP,⁴¹ and in particular by the online EUDO CITIZENSHIP Global Database on Protection Against Statelessness,⁴² we only include the articles of the citizenship law currently in force in a specific country. For example, "NET 1(1)a" refers to Article 1, paragraph 1, subsection a of the Netherlands Nationality Act, as currently in force.

For each of the 28 Member States the consolidated version of the citizenship law can be found on their respective EUDO CITIZENSHIP 'Country Profile' pages.⁴³ The laws are available in both the original language and an English translation, although the translation may occasionally not include the most recent amendments. Details on these amendments can, however, be consulted on the same country profile page under 'Chronology of Legislation'.

⁴¹ Available at <http://eudo-citizenship.eu>.

⁴² Available at <http://eudo-citizenship.eu/databases/protection-against-statelessness>.

⁴³ Available at <http://eudo-citizenship.eu/country-profiles>.

Below we present our key findings on the extent to which the EU Member States provide sufficient protection against statelessness. The presentation follows the logic of the comparative typology and discusses modes S01 to S17 in numerical order.

This section largely focuses on the content of the laws. However, it is important to point out that implementation problems have been shown to exist, for example when states (mis)use the label 'unknown nationality' to avoid recognising statelessness of individuals and thereby leave people in limbo, unable to claim access to nationality as stateless persons. According to the European Network on Statelessness, "In several [European] countries, the scale of the problem [of statelessness among children] is obscured behind registration practices that fail to clearly differentiate between stateless children and those of "unknown nationality", many of whom may actually also be stateless but not identified as such".⁴⁴

3.1.1. Children born in a country who would otherwise be stateless (S01)

Several international instruments impose explicit obligations upon States to grant citizenship to children born on their territory who would otherwise be stateless. Contracting States to the 1961 Convention have committed themselves to granting their citizenship to children born in their territory who would otherwise be stateless, either (a) at birth, by operation of law, or (b) upon an application being lodged. State parties may make the grant in accordance with sub-paragraph (b) subject to one or more of the following conditions (CRS 1): (1) the application is lodged during a period beginning not later than the age of 18 and ending not earlier than the age of 21; (2) the child has habitually resided in the territory of the country, not exceeding five years immediately preceding the lodging of the application or 10 years in total; (3) has neither been convicted of an offence against national security nor has been sentenced to imprisonment for a term of five years or more on a criminal charge; and (4) has always been stateless.

The second relevant instrument, the 1997 ECN, imposes an obligation to provide for citizenship to be acquired by minor children who are born on their territory and who do not acquire at birth another citizenship. Such citizenship shall be granted either at birth by operation of law, or subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.⁴⁵

The difference between the two Conventions is immediately apparent: under the ECN a citizenship application may be subject to the requirement of lawful and habitual residence, while this is only habitual residence under the 1961 Convention. It is therefore obvious that the requirement of lawful residence is not in line with the latter Convention.

While Austria, Denmark, Germany, Latvia and the Netherlands require the child to be lawfully resident, Sweden asks the child to have permanent residence. This would not, however, violate the 1961 Convention if it refers to permanent *habitual* residence – although the mention of permanent residence *permit* seems to indicate that lawful residence is also required in Sweden.

Several other countries have problematic provisions as well where residence is concerned. This is because they focus on the residence status of the parents, while this status is

⁴⁴ European Network on Statelessness (2015), p. 4.

⁴⁵ Also the Committee on the Rights of the Child has explicitly clarified that states must grant nationality to all otherwise stateless children born on the territory. For an overview, see www.institutesi.org/CRC_nationality_factsheet.pdf.

irrelevant when it comes to granting citizenship to children born on the territory of a State who would otherwise be stateless. Hungary and Lithuania, which require both parents to be resident in the country, and Estonia and Latvia, where at least five years of residence is required of the parents, therefore violate the 1961 Convention. The same is true for the Czech Republic, which requires at least one parent to have permanent residence.

It is equally problematic that certain countries impose additional conditions by requiring the parents to be stateless or of unknown citizenship (Croatia, the Czech Republic, Hungary, Latvia, Lithuania, Poland and Slovenia). Again, the parents' citizenship status should be immaterial; it is only relevant whether the child would be "otherwise stateless".

The 1961 Convention also provides that the deadline for the application to be lodged cannot end before the age of 21. National rules in Austria and Sweden are not in line with the Convention in that they only grant protection up to the age of 20, leaving persons between 20 and 21 without protection. Latvia unlawfully imposes language and integration requirements if the child is 15 years or older.

It should also be noted that Denmark imposes additional conditions on stateless persons who are between the age of 18 and 21, such as the absence of a criminal record. These conditions can, however, be consistent with the 1961 Convention in cases of very serious crimes, as mentioned in Article 1(2)(c).

Another requirement found in some countries, e.g. Germany, is that the child must have been stateless since birth. This is acceptable under the 1961 Convention.

The nationality of Belgium, Finland and France is not acquired automatically *iure soli* by otherwise stateless children who are entitled to acquire the nationality of a parent. The UNHCR Guidelines no. 4 conclude that this condition does not violate the obligations of the 1961 Convention.⁴⁶

3.1.2. Foundlings of unknown parentage found in a country (S02)

As regards the position of children found in a country of unknown parentage, both the 1961 Convention (CRS 2) and the European Convention on Nationality (ECN 6(1)b) provide that these children shall, in the absence of proof to the contrary, be considered to have been born within that territory to parents possessing the citizenship of that country. The UNHCR Guidelines No 4 underpin that Contracting States to the 1961 Convention should apply Art. 2 CRS to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth.⁴⁷

The analysis shows that Cyprus is the only country that does not provide for any protection against statelessness for children found in Cyprus of unknown parentage. Greece provides for protection, but requires that the child was also born in Greece, while Austria, Ireland, Malta, Portugal and the UK only grant protection if the child is a newborn infant. We therefore conclude that all these countries violate the relevant international norms.

⁴⁶ Par. 24-26 of 'Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness', available at www.refworld.org/docid/50d460c72.html.

⁴⁷ Compare principle 9 of Recommendation 2009/13.

3.1.3. Persons born to a citizen of a country (birth in that country) (S03)

While the 1961 Convention does not contain a general provision on children born in a country to a citizen of that country, the European Convention (ECN 6(1)(a)) states that, subject to any exceptions to children born abroad (see S04 *infra*), the country shall provide for its citizenship to be acquired by operation of law by children one of whose parents is a citizen at the time of the child's birth. A country may, however, require a special procedure for children born out of wedlock (ECN 6(1)(a), second sentence). Moreover, the first principle of the Council of Europe Recommendation 2009/13 reads that countries should provide for the acquisition of citizenship *iure sanguinis* by children without any restriction that would result in statelessness. Finally, it is important to point at the judgment of the European Court of Human Rights in *Genovese v. Malta* (2011), from which it follows that discrimination with respect to the acquisition of nationality violates Article 8 in conjunction with Article 14 ECHR.⁴⁸

Against the background of the international standards, we can witness provisions that discriminate against men (but never women) in Denmark and the Netherlands. In Denmark, no citizenship consequences are attached to the recognition or judicial establishment of paternity. Consequently, no protection against statelessness exists if the child is born out of wedlock to a father who is a citizen of these countries. The Netherlands requires proof that the father is also the biological father if the child has reached the age of seven years at the moment of the establishment of paternity by recognition. Since the rules in force in these countries discriminate against men with regard to the transmission of their citizenship to their children, we argue that they violate the case-law of the European Court of Human Rights (*Genovese v. Malta*).⁴⁹

3.1.4. Persons born to a citizen of a country (birth abroad) (S04)

In discussing the previous mode of protection against statelessness, it was already seen that the European Convention states that a Contracting State shall provide for its citizenship to be acquired by operation of law by a child one of whose parents is a citizen at the time of the child's birth (ECN 6(1)a), but that this rule may be subject to exceptions to children born abroad. Since the ECN does not elaborate on the issue, the relevant international norm for the purposes of assessing whether there is protection for children born abroad is the 1961 Convention (CRS 4).

Contracting parties to this Convention shall grant their citizenship to persons born to a citizen, if he/she is not born in the territory of a Contracting State to the 1961 Convention and would otherwise be stateless (CRS 4). Citizenship shall be granted at birth, by operation of law, or upon an application being lodged. Subject to the following provisions, no such application may be rejected: (1) the application is lodged before the applicant reaches an age, being not less than 23 years; (2) he/she has habitually resided in the territory of the country for such period immediately preceding the lodging of the application, not exceeding three years; (3) has not been convicted of an offence against national security; and (4) has always been stateless.

It was already mentioned in section 3.1.3 that principle 1 of the Council of Europe Recommendation 2009/13 is in fact much stronger: no restriction on *iure sanguinis* acquisition should cause statelessness.

⁴⁸ Judgment of the European Court of Human Rights of 11 October 2011 in *Genovese v. Malta*, Appl. 53124/09, available at: <http://hudoc.echr.coe.int/eng?i=001-106785>

⁴⁹ Ibid. See on this point also De Groot and Vonk (2012).

Some countries make the acquisition of their nationality dependent on the child's registration as a national, even if the child would otherwise remain stateless. Thus, we see that there is no safeguard against statelessness under Latvian law if the parent resides abroad and the child is not registered. This is not only a clear violation of the first recommendation of Council of Europe Recommendation 2009/13, but also of Article 4 of the 1961 Convention.⁵⁰ Other violations are found in Ireland and the UK. A similar rule as in Latvia is found in Ireland, the difference being that the rule applies if the parent was *born* abroad rather than on the condition that he or she is *resident* abroad. In the UK, finally, no safeguard against statelessness exists for minors who are born to a citizen parent who acquired citizenship by descent, and the person is not registered as a national within one year after a compulsory three-year residence period in the UK. British law therefore also differentiates between parents based on how they acquired citizenship, which violates the European Convention (ECN 5(2)).

3.1.5. Persons who are recognised refugees (S05)

The 1951 Convention relating to the Status of Refugees provides that Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees, by in particular making every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings (Article 34). The ECN requires Contracting parties to facilitate the acquisition of its citizenship for recognised refugees that are lawfully and habitually resident (ECN 6(4)g).

Many Member States provide for some form of facilitated access to their nationality for refugees, although the example of Denmark shows that this can be very minimal indeed. A considerable number of countries, however, do not grant any kind of facilitation. We identify Albania, Belgium, Croatia, Cyprus, Estonia, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal and the UK. In many countries naturalisation is only discretionary. Without more detailed research on the actual naturalisation practice in these countries – that is, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Ireland, Italy, Romania, Slovakia, Slovenia and Sweden – it is difficult to say whether refugees are generally treated more favourably than persons who acquire citizenship via ordinary naturalisation.

3.1.6. Stateless persons or persons with unclear citizenship who are not covered by any other mode of protection against statelessness (S06)

Article 32 of the 1954 Convention is similar to Article 34 of the 1951 Convention in that it reads that Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons, by in particular making every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings. Likewise, the abovementioned provision on refugees in the European Convention is equally applicable to stateless persons (ECN 6(4)(g)).

In spite of different international standards dictating facilitated naturalisation for stateless persons, we can see that no form of facilitated access to nationality exists in Austria, Croatia, Cyprus, Lithuania, Luxembourg, Malta, Portugal, Romania, and Spain. Considering that stateless persons do not enjoy any of the rights ordinarily linked to nationality, it is submitted that this lack of facilitation is particularly serious. On the other hand, the practice in Germany, Hungary the Netherlands and Poland (facilitation and entitlement to naturalisation) as well as in the UK (facilitation and acquisition by declaration) should be

⁵⁰ Considering that one of the issues at stake in *Genovese v. Malta* was the "denial of citizenship", it can also be argued that not granting nationality to children who would otherwise be stateless violates the object and purpose of this judgment.

regarded as best practices. These countries seem to acknowledge a heightened responsibility for securing a nationality for stateless persons. Discretionary facilitation, finally, exists in Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Greece, Ireland, Italy, Latvia, Slovakia, Slovenia and Sweden. Since insufficient research has been conducted on the naturalisation proceeding relating to stateless persons in these countries, it is difficult to know if these persons are granted facilitated access in practice.

3.1.7. Persons who voluntarily renounce the citizenship of their country (S07)

While the international standards concerning citizens who voluntarily renounce citizenship of their country provide that this shall not result in loss of citizenship unless the person possesses or acquires citizenship of another country (CRS 7(1) and ECN 7(3)), they do not expressly stipulate that the renunciation will lapse if another nationality is not acquired within a certain period.⁵¹

All countries but one comply with the rule that renunciation of nationality cannot result in statelessness. In Greece, renunciation can lead to statelessness under the release procedure, but not if Greek citizenship is lost by declaration.

The risk of statelessness may also occur following the requirement to renounce one's previous citizenship as a condition for naturalisation. We observe a potential risk of statelessness at least in Germany, since this country requires that (most) applicants for naturalisation renounce their foreign nationality before they acquire the new nationality through naturalisation. Once the authorities have checked that the applicant fulfils all other conditions for naturalisation, he or she is given a guarantee that naturalisation will be granted ('Einbürgerungszusicherung'). However, once the applicant has renounced his or her original nationality, the authorities check again whether all the naturalisation requirements are still fulfilled. Should the applicant at this point no longer meet the requirements, the naturalisation is rejected and the applicant is left stateless. It is argued that this practice violates the object and purpose of the 1961 Convention, a view that is shared by the Tunis Conclusions in relation to Article 7(2) of the Convention.⁵²

3.1.8. Persons who reside outside the country of which they are a citizen (S08)

With regard to citizens who reside outside the country of which they are a citizen, the European Convention imposes stricter norms than the 1961 Convention. While the former provides that loss of citizenship as a result of the lack of a genuine link between a country and a citizen habitually residing abroad may not result in statelessness (ECN 7(1)e), and that the country shall be guided by the principle of non-discrimination between its nationals (ECN 5(2)), the 1961 Convention does allow statelessness on the ground of departure, residence abroad, failure to register or on any similar ground (CRS 7(3)-(5)). This only applies to two categories, however. First, a naturalised citizen may lose his/her citizenship on account of residence abroad for a period, not less than seven consecutive years, if (s)he fails to declare to the appropriate authority his/her intention to retain citizenship. Or, second, the person is a citizen and born abroad. Retention of citizenship one year after the person reaches the age of majority may in the latter case be conditional on residence at that time in the country or on registration.

Our analysis shows that in all but three countries residence abroad cannot result in statelessness. Cyprus, Ireland and Malta have rules that are in accordance with the exceptions allowed by the 1961 Convention (only Ireland is a party to the Convention). As none of these countries is bound by the stricter rules of the European Convention, they do

⁵¹ See also para. 32 and 42 of the Tunis Conclusions.

⁵² Paras. 44-45.

not violate international norms binding upon them. Nevertheless, these discriminatory rules – naturalised citizens are treated differently from nationals by origin – lower these countries' scores from the perspective of best practices on the protection against statelessness.⁵³

3.1.9. Persons who render services to a foreign country (S09)

The exhaustive list of grounds for loss laid down in ECN 7 does not permit loss of nationality as a result of rendering services to a foreign country. Under the 1961 Convention, however, and despite the main rule that countries shall not deprive a person of his/her citizenship if such deprivation would result in statelessness (CRS 8(3)), a country may retain the right to deprive someone of his/her citizenship if at the time of signature, ratification or accession, it specifies its retention of such right on the ground that, inconsistently with his duty of loyalty to the country, the person has rendered or continued to render services to, or received or continued to receive emoluments from, another country. Austria, Ireland and the UK have made a declaration in relation to CRS 8(3), but only Austria currently has formally made this a ground for loss in its national legislation.

Importantly, the 1961 Convention contains an often-neglected provision that provides that a country shall not exercise its power of deprivation under this exception unless the person has the right to a fair hearing by a court or other independent body (CRS 8(4)). This right to a fair hearing equally applies to modes S11 and S13. In addition to stating that deprivation procedures must apply the principle of proportionality,⁵⁴ the Tunis Conclusions further clarify that “[*ex lege*] loss and deprivation of nationality may only take place in accordance with law and accompanied by full procedural guarantees, including the right to a fair hearing by a court or other independent body”.⁵⁵

A number of violations of the 1961 Convention and the European Convention can be observed. First, there is no protection against statelessness in Austria, Estonia, France, Greece, Italy, Latvia, Lithuania and Spain. Of these seven countries, only Austria and Latvia ratified the 1961 Convention, and only Austria also ratified the European Convention. However, while Latvia violates the 1961 Convention by not having made the abovementioned declaration, Austria made this declaration both to the 1961 Convention and the European Convention. Austrian legislation is therefore in line with the international obligations of this country, but scores low from the perspective of good practices.

Second, in contrast to the 1961 Convention, which speaks of deprivation, loss takes place automatically (lapse) in Italy and Spain. Neither country is party to the 1961 Convention, however. Finally, Estonia and Spain discriminate against naturalised citizens (ECN 5(2)) by not allowing for the loss of citizenship if the person is a citizen by birth, although we add that neither State is party to the European Convention.

3.1.10. Persons who render military service to a foreign country

Rendering military service to a foreign state is mentioned as a ground for loss in the European Convention, but not expressly in the 1961 Convention. In the latter this ground for loss is covered by the more general provision of Article 8(3). Loss due to foreign military service is explicitly not allowed to result in statelessness under the European Convention (ECN 7(3)). The explanatory report to the ECN explains that it does not matter whether the person involved served in the official army of another state or not.⁵⁶ The provision covers

⁵³ Compare on this ground for loss also ILEC Guidelines, para IV, 2.

⁵⁴ Para. 60.

⁵⁵ Para. 26. Compare on this procedural issue also the ILEC Guidelines, para III.

⁵⁶ CoE, Details of Treaty No.166, European Convention on Nationality (1997), available at <http://conventions.coe.int/Treaty/EN/Reports/Html/166.htm>.

every voluntary military service in any foreign military force irrespective of whether it is part of the armed forces of a foreign state.⁵⁷

With respect to the 1961 Convention, Austria has been the only country making a declaration to the effect that it retains the right to deprive a person of his or her citizenship if such person enters, on his own free will, the military service of a foreign State. Upon ratification of the European Convention, Austria was again the only country lodging a declaration to the effect that its citizens can be deprived of Austrian citizenship due to foreign military service, and that this can result in statelessness.⁵⁸ Although Austria therefore scores low from a best practices point of view, its loss provision regarding military service does not violate any international norms binding on the country.

The Member States where statelessness can arise from loss of nationality, in violation of international norms, are Cyprus, Estonia, France, Greece, Italy, Latvia, Lithuania, Romania and Spain. Moreover, this ground for loss does not apply in Estonia and Spain to citizens by birth. Both countries therefore discriminate against citizens who acquired their citizenship other than by birth (ECN 5(2)).

3.1.11. Persons who are disloyal to the country of which they are a citizen or whose conduct is seriously prejudicial to the vital interests of that country (S11)

Disloyalty or conduct that is seriously prejudicial to the vital interests of a country is a legitimate ground for deprivation under the 1961 Convention and for deprivation or lapse under the European Convention. While the latter does not allow for any exceptions to the rule that this ground for loss cannot result in statelessness (ECN 7(3)), the 1961 Convention provides that states may retain the right to deprive a person of his or her citizenship, if at the time of signature, ratification or accession it specifies its retention of such right on the ground that, inconsistently with his duty of loyalty the person has (a) taken an oath, or made a formal declaration, of allegiance to another country, or given definite evidence of his determination to repudiate his allegiance to the country; or (b) has conducted himself in a manner seriously prejudicial to the vital interests of the country (CRS 8(3)).⁵⁹

This ground for loss can be found in around half of the countries. Upon signing the 1961 Convention, Austria, Ireland and the UK specified that they retain the right to deprive citizens of their nationality (in the case of Ireland and the UK only for *naturalised* citizens) on grounds of disloyalty or seriously prejudicial conduct. Currently, only Ireland has this ground for loss in its citizenship legislation. Not being bound by the European Convention, which prohibits discrimination of naturalised citizens under Article 5(2), Ireland thus acts in compliance with the international norms binding upon the country.

The countries that violate international norms because they allow statelessness to arise from a deprivation or lapse of citizenship due to disloyal behaviour are Belgium, Cyprus, Estonia, Greece, Ireland, Lithuania, Malta, Romania and Slovenia. Countries that additionally discriminate against naturalised citizens are Belgium, Cyprus, Estonia, Ireland, Lithuania and Malta, as well as Bulgaria and France. In the latter two countries, however, loss cannot result in statelessness.

Although many of these provisions are old and not often applied in practice, the problems raised by the unequal treatment of citizens – natural born versus naturalised – and the

⁵⁷ Compare on this ground for loss the ILEC Guidelines, para IV, 3.

⁵⁸ UN, Convention on the Reduction of Statelessness (1961), Declarations and Reservations, available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en#EndDec.

⁵⁹ Compare on this ground for loss again the ILEC Guidelines, para IV, 3.

creation of statelessness are serious. The fact that many provisions are also rather general and vaguely worded makes this ground for loss a potential source of legal insecurity. Recently, we can observe a tendency of (re)introducing or widening this ground for loss as reaction to the fact that some young nationals have joined jihadist movements in Iraq and Syria. This is the case in Austria, France and the UK,⁶⁰ for example, and is under discussion in Belgium and the Netherlands.

3.1.12. Persons who commit other (criminal) offences (S12)

Considering that both the 1961 Convention and the European Convention contain an exhaustive list of grounds for loss, in the case of the former exclusively focused on the issue of statelessness, it can be observed that neither Convention permits that states provide for the loss of citizenship for citizens who commit (criminal) offences other than those already listed in any other mode of protection against statelessness. Nevertheless, this ground for loss exists in Cyprus and Lithuania and can also result in statelessness. France also allows for the loss of its citizenship, but loss is not allowed to render a person stateless. Malta, finally, discriminates against naturalised citizens. The legislation of these countries – and for our purposes especially Cyprus and Lithuania, where loss can also result in statelessness – is therefore not in line with international standards.

3.1.13. Persons who have acquired citizenship by fraud (S13)

It is accepted by the international instruments that fraud is a legitimate ground for loss of citizenship, even if this would render a person stateless. Thus, despite the general rule in the 1961 Convention that a Contracting State shall not deprive someone or his/her citizenship if such deprivation would result in statelessness, the state may still proceed to deprive a person of citizenship where it was obtained by misrepresentation or fraud, also if this results in statelessness (CRS 8(2)). The position of the ECN on the issue of fraud is identical to that of the 1961 Convention. It should be stressed, however, that the 1961 Convention also states that a country shall not exercise its power under this exception unless the person has the right to a fair hearing by a court or other independent body (CRS 8(4)).⁶¹

However, it follows from the CJEU Rottmann ruling that within the European Union deprivation of nationality due to fraud with statelessness as a consequence may only happen after a proportionality test. Among the factors that play a role in the context of that test are the seriousness of the fraud and the culpability of the person involved, but also the existence of a genuine and effective link between a person and a state means an important limitation to the automatic application by states of a revocation of citizenship as a result of fraud. Whenever the person has developed a genuine and effective link with the state in question, it is argued that a limitation period has to be taken into consideration.⁶²

Although the international norms are rather similar, it can be observed that the ECN allows for loss by operation of law (*ex lege*), while the 1961 Convention only allows for deprivation. Countries where loss due to fraud does not exist are Croatia, the Czech Republic, Italy, Poland and Sweden, while loss cannot result in statelessness in Luxembourg. Consequently, we could say that all these countries have norms that can be qualified as best practices for protecting against statelessness.

⁶⁰ For Austria, see par. 33(3) of the Law of 29 December 2014, BGBl. I Nr. 104/2014, which entered into force on 1 January 2015. For France, see art. 25 and 25-1 Civil Code, as modified by Law 2006-64 of 23 January 2006. The United Kingdom deals with this matter in s56 of the Immigration, Asylum and Nationality Act 2006. For Belgium and the Netherlands, see Wautelet (2015) and De Groot/Vonk (2015) respectively. See generally on this subject Macklin and Bauböck (2015).

⁶¹ See also the Tunis Conclusions, para. 26.

⁶² See ILEC Guidelines, para II.

All other countries act in accordance with the international consensus that fraud can be a ground for loss of citizenship, and that this loss is allowed to render a person stateless. There are, however, frequent problems with regard to the right to a fair hearing. It is sufficient here to point at the case of the Netherlands, where the nationality act provides for the possibility to withdraw a naturalisation decision with retroactive effect when it is discovered that Dutch nationality was acquired by fraud (NET 14(1)). The decision to withdraw Dutch nationality can only be taken if all relevant circumstances are taken into account. A decision to withdraw nationality will be communicated to the person concerned, who then has six weeks to object to this decision with the administrative authorities responsible for taking the decision (the Immigration and Naturalisation Department). If the objection fails, the withdrawal takes immediate effect and the person will have to hand in his or her Dutch passport. While the person can appeal this decision in court, it follows from the above that he or she can only do this as a non-Dutch national, which is problematic because decisions depriving someone of his or her nationality should only take effect when the (judicial) decision can no longer be challenged.⁶³

That a non-judicial withdrawal procedure can lead to statelessness is in clear violation of Article 8(4) of the 1961 Convention. An administrative procedure (including a hearing) with the Immigration and Naturalisation Department will definitely not suffice. Holding the view that Article 8(4) has direct effect, we feel that in cases where the withdrawal of naturalisation results in statelessness, a Dutch court will have to conclude that the person concerned still holds Dutch nationality until all domestic remedies have been exhausted. This conclusion should stand for as long as the Dutch court has not ruled that the government rightly decided to withdraw a naturalisation decision. While it is unfortunate that one cannot complain about the incorrect interpretation of the 1961 Convention to an international court, we stress that the recent ruling of the ECtHR in *Genovese v. Malta* opens up new perspectives in the context of the ECHR. After all, is the message conveyed by Article 8(4) of the 1961 Convention not the same as Articles 6 and 13 ECHR? We therefore emphasise that, in light of Articles 6 and 13 ECHR, the right to a fair hearing by an independent body should not be limited to cases that could lead to statelessness, but to all cases in which persons are deprived of their nationality.⁶⁴

3.1.14. Persons whose descent from a citizen is annulled or who are adopted by a citizen of another country (S14)

The relevant international norms relating to persons whose descent from a citizen is annulled or who are adopted by a citizen of another country can be found in the 1961 Convention (CRS 5(1)), which provides that the loss of citizenship as a consequence of legitimation, recognition or adoption shall be conditional upon possession or acquisition of another citizenship. The European Convention in turn provides for the following grounds for loss, but only if it does not render the (minor) child stateless (ECN 7(3)):

A State Party may not provide in its internal law for the loss of its nationality *ex lege* or at the initiative of the State Party except in the following cases (ECN 7(1)):

(...)

- f. where it is established during the minority of a child that the preconditions laid down by internal law which led to the *ex lege* acquisition of the nationality of the State Party are no longer fulfilled;
- g. adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents.

⁶³ See the previous remarks on Rottmann (Section 2) as well as the ILEC Guidelines, para. III.

⁶⁴ See also ILEC Guidelines, para III.

Reference has to be made here as well to the 1967 European Convention on the Adoption of Children (Article 11(2)):

A loss of nationality which could result from an adoption shall be conditional upon possession or acquisition of another nationality.⁶⁵

It should also be mentioned that the 1961 Convention includes an obligation to avoid statelessness as a consequence of “any change in the personal status of a person”. The successful denial of paternity is the most common example. Other examples are – provided that a legal system allows for such possibilities – a denial of maternity, annulment or revocation of a recognition or of an adoption. It is important to emphasise that this list is not exhaustive, and the Tunis Conclusions therefore explicitly mention that “the range of situations which fall under Article 5(1) is likely to grow as a result of developments in the area of reproductive technology”.⁶⁶

It is also appropriate to stress that it does not matter whether a legal system provides for a retroactive effect of the just-mentioned types of change in personal status. In all cases the protective regime against statelessness as foreseen in Article 5(1) of the 1961 Convention applies. Another approach would make it too easy for States to avoid their obligations under Article 5(1).

Among the EU Member States, only a minority regulate this ground for loss expressly. When comparing regulations across countries, we can distinguish between three main procedural approaches. Some countries have a rule that when it is established that the preconditions laid down by internal law which led to the *ex lege* acquisition of citizenship are no longer fulfilled, the person involved is automatically assumed to have lost his or her citizenship. Other states even go a step further in such cases by providing that the person is assumed never to have been a citizen at all. Finally, a small minority of countries provide for a possibility of withdrawal of citizenship. As mentioned above, however, these differences with respect to the juridical-technical construction of this ground of loss do not matter for the protection against statelessness. Nevertheless, we shall see that not all States provide in such cases for a clear safeguard against statelessness (this is, for example, the case in Belgium, Finland and Germany).

A further distinction between countries relates to the age limit. As stated above, the European Convention expressly limits this ground for loss to minors. The age limit of 18 years is common in several other countries, except Finland and Germany, where this is limited to children under five years of age. Finland explicitly takes into account additional considerations, such as the ties between the target person and the country involved (FIN 32).

The underlying rationale for restricting loss of nationality to cases where the annulment of the family relationship takes place before the child reaches the age of five is the assumption that after this age the child has built up a genuine link with the country of nationality. This fact justifies – in the best interest of the child – the continuation of the possession of the nationality involved.

A similar idea lies behind the rule of the Principles 10 and 15 of Recommendation 2009/13 of the Committee of ministers of the Council of Europe, which recommend States not to provide

⁶⁵ See a similar provision in the 2008 European Convention on the Adoption of Children (revised), Article 12(2).

⁶⁶ Para. 37.

for loss of nationality in cases of revocation or annulment of an adoption if statelessness would be caused or if the child already has habitual residence in the country of an adoptive parent whose nationality was acquired for a period of more than five years. States are encouraged to follow these practices.

In countries that do not mention this ground for loss specifically in their citizenship act, it is not always clear whether this implies that no such ground for loss exists. It also needs to be stressed that Member States that do not expressly regulate this type of loss but nonetheless still revoke nationality are acting at odds with the requirement of the predictability of grounds for loss of nationality. This is highly problematic in light of the ban on arbitrary deprivation of nationality which implies that loss of nationality needs a firm legal basis.⁶⁷

Since this mode of protection concerns children whose nationality position in relation to their parents can sometimes remain unclear even after reading a country's nationality act, we are slightly hesitant in presenting the following findings (see also the caveat we make under mode S17 *infra*). While annulment of paternity or adoption is only an explicit ground for loss in Belgium, Finland, Germany, Greece, Italy, Lithuania, Luxembourg, the Netherlands and Romania, it may exist implicitly in several other countries as well. Our findings suggest, however, that this ground for loss can only – in violation of the international norms – render a person stateless in Belgium, Finland, Germany and Romania. Moreover, we point out that the legislation in Romania merely refers to adoption as a ground for loss, while the other countries refer more generally to the annulment of a family relationship.

Finally, we draw attention to the fact that children may be left stateless in many countries when the State of their presumed nationality concludes that they were never born as the child of a national because they were wrongly registered as such due to an administrative mistake or fraud. On that issue, the Tunis Conclusions⁶⁸ state:

Article 5(1) also applies if it is established that the family relationship which constituted the basis of a child's acquisition of nationality was registered erroneously. This includes situations in which the identity of the parent (relevant for *jure sanguinis* acquisition of nationality) has been erroneously recorded, or where it is discovered, after acquisition of the nationality by an *ex lege* extension of naturalisation from a parent to a child, that no family relationship ever existed between the parent and the child.⁶⁹

States are encouraged to follow this line of reasoning. Some States might do so through the protection of legitimate expectations; others via the protection of the status of a national. In Germany, for example, GER 3(2) would apply, which provides:

German citizenship shall also be acquired by any person who has been treated by German public authorities as a German national for 12 years and this has been due to circumstances beyond his or her control. In particular, any person who has been issued a certificate of nationality, a passport or a national identity card shall be treated as a German national. Acquisition of citizenship shall apply as of the date when the person was deemed to have acquired German citizenship by treating him or her as a German national. The acquisition of German citizenship shall extend to

⁶⁷ See Article 15(2) of the Universal Declaration of Human Rights and the ILEC Guidelines, para IV, 5.

⁶⁸ 'Expert meeting – Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality', available at www.refworld.org/docid/533a754b4.html.

⁶⁹ Compare the ILEC Guidelines, para V, b.

those descendants who derive their status as Germans from the beneficiary pursuant to sentence 1.

In France, FRA 21-13(1) would be relevant in cases of wrong registration as a national. The article literally reads: “May claim French nationality by declaration uttered as provided for in Articles 26 and following, persons who have enjoyed in a constant way the apparent status of French citizenship for the ten years prior to the declaration”.⁷⁰

Finally, some remarks are in order on loss of citizenship due to adoption, which is only regulated in a small number of Member States. An important distinction has to be made between full and weak adoption. The difference between the two is that full adoption (*adoption plénière*) has the consequence of dissolving the legal relationships with the (natural) parents and creating new legal relationships between the child and the adoptive parents. Full adoption can therefore be regarded as a special case of loss of family relationships. Weak adoption (*adoption simple*) does not dissolve the legal relationship with the (natural) parents. In case of weak adoption this original family relationship is maintained (the family relationship with the adoption parents is additional). Consequently, weak adoption should never cause the loss of nationality.⁷¹

In case of full adoption, a small minority of States provide – under certain conditions – for such loss, namely Belgium (22(1)(4)), Germany (27), Lithuania (7(7) and 24(8)), the Netherlands (16(1)(a)) and Switzerland (8a). Many other States choose a different approach because of the fact that the loss of the family relationship in case of adoption is a mere legal fiction, and not the legal affirmation of a fact, as is the case with a denial of paternity or an annulment of recognition of paternity. These States do not provide for loss of nationality after adoption.

3.1.15. Persons who change their civil status due to marriage with a citizen of another country or dissolution of a marriage with a person holding the same citizenship (S15)

This ground for loss does no longer exist in Europe as a result of the introduction of the equal treatment of men and women.

3.1.16. Persons whose spouse or registered partner loses citizenship of a country (S16)

The relevant provision under the European Convention is Article 4(d), which reads that “neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse”. The 1961 Convention in turn provides that the loss of citizenship by a person as a consequence of the loss or deprivation of citizenship of his/her spouse or registered partner shall be conditional upon the person possessing or acquiring another citizenship (CRS 6). These principles are complemented by the 1979 Convention on the Elimination of All Forms of Discrimination against Women, which states that a country shall grant women equal rights with men to acquire, change or retain their citizenship. A country shall therefore ensure that change of citizenship by the husband during marriage shall not automatically change the citizenship of the wife, render her stateless or force upon her the citizenship of the husband (CEDAW 9(1)).⁷²

The only Member State that possibly violates these international norms is Bulgaria, where the nationality law provides that a person who has acquired citizenship of the countries

⁷⁰ Lagarde (2011, pp. 116-118) mentions that good faith of the person involved is not a condition for the application of that rule.

⁷¹ Tunis Conclusions, para. 36.

⁷² This is confirmed by the Tunis Conclusions, para. 40.

based on the same false or concealed information or facts as the spouse, will share in the loss of citizenship if the spouse loses citizenship for this reason.

3.1.17. Children whose parents lose citizenship of a country (S17)

In a similar vein as mode S16, the 1961 Convention provides that the loss of citizenship by a child as a consequence of his/her parent losing or being deprived of citizenship shall be conditional upon the child's possession or acquisition of another citizenship (CRS 6).⁷³ The European Convention is less strict by stating that Contracting States may provide for the loss of their citizenship by children whose parents lose that nationality, except in cases of voluntary service in a foreign military force or conduct seriously prejudicial to the vital interests of the country (ECN 7(2)).

The analysis and assessment of this last mode of protection against statelessness is by far the most difficult, as the nationality acts are often unclear about what happens with the nationality position of children upon the loss of nationality by their parents. For example, the only ground for loss that can lead to statelessness in the Netherlands is loss due to fraudulent acquisition (NET 14(1) in conjunction with 14(6)). However, in fraud cases where the parents' loss of nationality might affect a child as well, the judge will take a separate decision on the nationality of the child. This decision can potentially result in the child becoming stateless, but this is not self-evident when reading the Dutch law. As our analysis relies heavily on the rules explicitly laid down in the nationality legislation of the respective countries, we are hesitant to identify countries that violate the international norms on this issue and thus limit ourselves to pointing out that the following countries could possibly violate the strictest international norm as laid down in the 1961 Convention: Bulgaria, Croatia, the Czech Republic, Finland, the Netherlands, Poland, Romania and Slovenia.

Many countries do not allow for the extension of loss from parents to their children, including Cyprus, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Malta, Portugal, Spain and the UK. Irish law even explicitly states that the loss of Irish nationality by a person shall not of itself affect the nationality of her or his children (IRE 22(2)).⁷⁴

3.2. The particular issue of the “non-citizens” in Latvia and “persons of undefined citizenship” in Estonia

In order to prevent the activation of statelessness or reducing provisions in national legislation that are supposed to prevent statelessness, States sometimes deliberately do not classify a person as “stateless” but label the person involved differently, as happened e.g. in Estonia with the introduction of the status of “person of undefined citizenship” after gaining independence from the Soviet Union. While in 1992 about one third of Estonia's population (mostly ethnic Russians and other Russian-speaking minorities) became (*de facto*) stateless, or in Estonian official terms, “individuals with undefined citizenship”,⁷⁵ this had dropped to 7 per cent of the population in 2012.⁷⁶ The number of stateless persons is meant to be reduced even further as a result of a law reform that will facilitate the naturalisation of stateless persons born in Estonia. According to the UNHCR, “the amendments will come into force on 1 January 2016 and will be applied retroactively to all children under the age of 15 who were born or will be born before this date. The

⁷³ This is confirmed by the Tunis Conclusions, para. 41.

⁷⁴ See ILEC Guidelines, para IV, 6.

⁷⁵ Järve and Poleshchuk (2013), 1

⁷⁶ Ibid. See also Vetik (2011), 162.

amendments also propose a dual citizenship option for children up until they are 18 years of age, when the person will have three years to decide which citizenship to retain".⁷⁷

Latvia, in turn, introduced the special status of "permanent resident non-citizen" in 1995.⁷⁸ The nationality position of this group is unclear and may be illustrated through the following example.

The Irish case of *Spila v Minister for Justice, Equality and Law Reform* illustrates the EU-wide difficulties created by the uncertain status of the Latvian non-citizens.⁷⁹ A family applied for naturalisation and could be eligible to receive privileged treatment due their statelessness. Their statelessness, however, was unclear from the documents they submitted (accompanied by copies of non-citizen passports). These documents read "nationality: Latvian (Russian ethnic)". The question was whether the applicants, Latvian non-citizens, were stateless and whether the Minister should have treated them as such.⁸⁰ The Irish Court did not decide on this matter but stated: "This Court is relieved of the responsibility for deciding whether these applicants are, as a matter of international law or otherwise, to be considered as 'stateless'".⁸¹ It is clear that the Irish court, experiencing difficulties to establish the nationality status of the family under Latvian law, could have asked for guidance from the CJEU in the context of a preliminary ruling procedure (see below par. 5.2).

From an international perspective, if a Latvian "permanent resident non-citizen" moves to another Member State of the European Union (e.g. as a long-term resident), he enjoys the facilitations in force in that other Member State regarding stateless persons. If the State of residence provides for the acquisition of nationality *iure soli* by a child born on its territory if it otherwise would be stateless, the child of such a Latvian "permanent resident non-citizen" will acquire the nationality of the country of birth, provided that he does not acquire any other nationality.

This would only be different if the status as a "permanent resident non-citizen" has to be qualified as a second-class nationality status of Latvia, comparable with an American national without citizenship, a British subject without citizenship or (until 1962) a Dutch national without citizenship. In the event of such a classification, however, the question is whether such a second-class Latvian national possesses European citizenship. In principle, "every person holding the nationality of a Member State" is citizen of the Union (Art. 20 TFEU). Persons holding the nationality of a Member State are – in principle – entitled to European citizenship, even if the Member State involved does not classify them as a 'citizen'. Nevertheless, a Member State may exclude some nationals from European citizenship. This follows from Declaration (no. 2) on nationality of a Member State, which was attached to the Maastricht Treaty but which, however, is no longer attached after the entry into force of the Lisbon Treaty. It is remarkable that Latvia did not lodge such a declaration with the Presidency of the European Union. The mere fact that Latvia deliberately labelled the persons involved as 'permanent residents' and not as 'nationals' is in our opinion not enough to exclude them from European citizenship.⁸²

⁷⁷ Available at www.unhcr-northerneurope.org/news-detail/estonia-makes-milestone-changes-to-its-citizenship-act/. See also the information available on the Estonian country profile page at <http://eudo-citizenship.eu/country-profiles/?country=Estonia>.

⁷⁸ Kruma (2015), p. 8.

⁷⁹ *Spila & Others v Minister for Justice Equality & Law Reform & Others* [2012] IEHC 336, available at www.courts.ie/Judgments.nsf/0/72407196F915A5BC80257A640052F80D.

⁸⁰ *Ibid.*, par. 8.

⁸¹ *Ibid.*, par. 12. See also Vlada Polisdova, "Access to Nationality for Latvian Non-Citizens", master thesis Maastricht University, 2015.

⁸² See also par 5.2.

3.3. Some concluding observations

Obviously, several Member States violate international and European standards regarding protection against statelessness. This applies not only to Member States that are not bound by the relevant international treaties, but also in Member States that acceded to these conventions. The standards of protection against statelessness differ considerably between the Member States. This is particularly problematic for the grounds for loss, since the loss of a Member State nationality with statelessness as a consequence implies the loss of European citizenship. Last but certainly not least, there is need for clarity on the legal position of Latvian and Estonian non-citizens in light of international and European law. It was shown above that the status of non-citizen – i.e. the individuals involved are neither considered full citizens nor stateless – has important consequences for these two Baltic States and the other EU Member States alike.

4. PROTECTION OF STATELESS PERSONS IN THE MIGRATORY CONTEXT AND STATELESSNESS DETERMINATION PROCEDURES

KEY FINDINGS

- Dedicated stateless determination procedures are lacking in most EU Member States, apart from France, Italy, Spain, Latvia, Hungary, United Kingdom, Slovakia and Belgium.
- This situation entails a serious risk that stateless persons are not properly identified.
- Without proper identification of stateless persons, it is unclear whether they are accorded appropriate treatment in line with the Member States' international commitments.
- The Member States are therefore encouraged to adopt determination procedures, drawing on the guidance provided in the UNHCR Handbook on Protection of Stateless Persons.
- While the Handbook accords States broad discretion in the design and operation of statelessness determination procedures so as to tailor the procedure to their domestic situation, a number of safeguards are imperative.
- The statelessness determination procedure must be available for all persons claiming to be stateless and who are present on the territory of the State involved, and decisions must be taken within a reasonable time. A right of appeal to an independent body must be guaranteed. The burden of proof must be regulated in a way that, on the one hand, the applicant has to submit all evidence reasonably available to her or him, and that, on the other, the determination authority or court has the obligation to obtain and present all evidence reasonably available to it. The standard of proof that may be required is that it is established to a reasonable degree that the person involved is not considered as a national by any State, with which he or she has a relevant link, under the operation of its law.
- Evidence that the introduction of procedures to determine statelessness would act as a pull factor for stateless persons to come to the EU is lacking.

It is not always feasible for a stateless person in Europe to immediately acquire a nationality. The UNHCR makes a distinction between the '*in situ*' stateless persons, who have an immediate claim to the nationality of their state of residence, and stateless persons in the migratory context, who may need a transitional protection status until their statelessness is resolved.⁸³ This chapter addresses international standards as well as examples of current by EU Member States regarding this latter group.

⁸³ UNHCR Handbook on the Protection of Stateless Persons 2014, paras. 58-59.

4.1. Why and how should stateless persons be protected in migratory context?

As already explained in section 1.1, stateless persons fall into the 'protection gap' to the extent they have no state to turn to on the basis of nationality. On the normative level, this fact alone, combined with the realities of the state-based world order, leads to a collective obligation on the part of the states to extend higher level of protection to stateless persons within their jurisdiction compared to other non-nationals.

The obligation to protect stateless persons is enshrined in the 1954 Convention relating to the status of stateless persons. This Convention has been ratified by all but four EU Member States (the exceptions being Malta, Poland, Cyprus and Estonia), with the above-mentioned pending pledge from the EU Member States to achieve a universal ratification of this Convention within the EU. There is, therefore, a strong international legal obligation at the present time for a clear majority of EU Member States to put in place functioning protection regimes for stateless persons.

The list of rights guaranteed by the 1954 Convention is very similar to the one of the 1951 Convention on refugees, encompassing a broad range of civil, political, social and economic rights. Not all rights, however, can be claimed by every stateless person on the territory of the state in an equal measure; access to rights depends on the degree of attachment of the stateless person to the state in question.

Some of the rights explicitly protected by the Convention that recent surveys have found to be most problematic in the EU are access to identity documents (Art. 27) and travel documents (Art. 28), as well as access to administrative assistance that is normally provided by the state of nationality (Art. 25). Another important principle contained in the Convention with regard to problems occurring in the EU is that no requirements can be placed on a stateless person which "by their nature a stateless person is incapable of fulfilling" (Art. 6).⁸⁴

It is important to remember that the Convention was drafted more than half a century ago, and that the rights described in it do not always reflect the realities of a highly bureaucratised, contemporary European welfare state. When applying the Convention in current statelessness cases, it is therefore important to rely on the recent authoritative interpretations of the Convention by the UNHCR, in particular the Handbook on the Protection of Stateless Persons of 2014, and the UNHCR Guidelines on Statelessness.

4.1.1. Right to legal residence

The UNHCR's Guidelines and Handbook are particularly important when discussing stateless persons' access to residence rights in the EU. The right to legal residence is an important prerequisite for accessing any form of temporary protection in the EU for stateless persons in a migratory context. It may also be an important first step towards the durable solution of acquiring a nationality, since acquisition of nationality by adults in the EU is often made conditional on prior legal residence.

The 1954 Convention does not explicitly protect the right of stateless persons to legal residence. The Handbook, however, states that granting residence rights to stateless persons "would fulfil the object and purpose of the treaty".⁸⁵ This guideline is also reflected in the practices of the EU Member States – all of the EU Member States that currently have

⁸⁴ See the different UNHCR country reports listed in the bibliography.

⁸⁵ UNHCR Handbook on the Protection of Stateless Persons 2014, par. 174.

a functioning statelessness determination procedure grant residence rights to everyone who is determined to be stateless.

It is important to note that the 1954 Convention, in light of its interpretation by the UNHCR, does not require states to grant residence rights to every stateless person who find themselves on the territory of that state. Other solutions might be appropriate for individuals who have a clear prospect of obtaining equivalent protection elsewhere, for example by acquiring or re-acquiring a nationality, or because they enjoy a permanent residence status abroad.⁸⁶ An obligation to grant residence rights to persons who renounced their nationality voluntarily may not always exist.⁸⁷

4.1.2. Differences with the 1951 Refugee Convention

Despite numerous similarities, there are also important differences between the 1954 Statelessness Convention and the 1951 Refugee Convention. The central difference is that there is no prohibition of *refoulement* under the 1954 Statelessness Convention. There is, therefore, no need to avoid contact with the states of former residence or former nationality, unless the stateless person in question is also a refugee. For that reason, it is very important to have proper coordination between the statelessness and the refugee status determination procedures, where any refugee-related concerns a person might have get resolved first before the person's statelessness is established.

4.2. Role of statelessness determination procedures

In order to provide protection to stateless persons, it is important to be able to identify the beneficiaries of such protection. Statelessness determination procedures are therefore central for a well-functioning statelessness protection regime. The identification of an individual as stateless is also important in the context of reducing the number of instances of statelessness. For example, if a state provides for a facilitated naturalisation for stateless persons, in order to benefit from such facilitation stateless persons need to be able to prove their statelessness through a determination procedure.⁸⁸ Also, if states provide for a delayed acquisition of nationality at birth by otherwise stateless children born on their territory, the statelessness of the children concerned may also need to be established through a determination procedure.⁸⁹ Statelessness determination procedures are therefore crucial for the achievement of all four main goals on statelessness as formulated by the UNHCR: the identification and protection of stateless persons, and the prevention and reduction of statelessness.⁹⁰

Considering the importance of identifying stateless persons through statelessness determination procedures, it is worrying that only eight EU Member States have mechanisms for establishing statelessness of individuals, namely France, Italy, Spain, Latvia, Hungary, United Kingdom, Slovakia and Belgium.⁹¹ Other states may have ways of identifying certain individuals as stateless in certain contexts or procedures, but those are not considered sufficient for the purposes of implementing UN treaties on statelessness by

⁸⁶ UNHCR Handbook on the Protection of Stateless Persons 2014, paras. 153-157.

⁸⁷ UNHCR Handbook on the Protection of Stateless Persons 2014, paras. 161-162.

⁸⁸ The Netherlands facilitates naturalisation for stateless persons, but due to the lack of a well-functioning status determination procedure stateless persons are unable to prove their statelessness and to benefit from the procedure. See UNHCR (2011), "Mapping Statelessness in the Netherlands".

⁸⁹ The Netherlands again presents an example where the said safeguard against statelessness of children born on the territory malfunctions due to the lack of determination procedures. *Ibid.*

⁹⁰ Available at www.unhcr.org/453497302.html.

⁹¹ See the ENS Guidebook. Belgium is not included in the survey by ENS, because the statelessness determination mechanism is not sufficiently formalised to be considered as a statelessness determination procedure, and happens mostly in courts in a non-coherent manner.

the UNHCR, NGOs and academics.⁹² Section 4.3 discusses some important building blocks for the design of a statelessness determination procedure. Section 4.4 gives some examples of statelessness status determination in EU Member States, including promising upcoming developments. Section 4.5 then assesses whether statelessness determination procedures have had a pull factor effect, while section 4.6 closes the chapter with some final observations.

4.3. Design of statelessness determination procedures

It needs to be pointed out that neither of the two UN Statelessness Conventions places an explicit obligation on contracting states to establish a statelessness determination procedure. The Guidelines maintain, however, that this obligation is implied in the Conventions but that “States have broad discretion in the design and operation of statelessness determination procedures as the 1954 Convention is silent on such matters” (par. 62 of the UNHCR Handbook on Protection of Stateless Persons).⁹³

According to the UNHCR Handbook on Protection of Stateless Persons, establishing statelessness determination procedures is in the interest not only of individuals but also of States: “Doing so enhances the ability of States to respect their obligations under the 1954 Convention. In countries where statelessness arises among mixed migratory movements, statelessness determination procedures also help governments assess the size and profile of stateless populations in their territory and thus determine the government services required. In addition, the identification of statelessness can help prevent statelessness by revealing the root causes and new trends in statelessness” (par. 10).

The UNHCR Handbook gives States much leeway in designing their determination procedures. Thus, “States may choose between a centralized procedure or one that is conducted by local authorities. Centralized procedures are preferable as they are more likely to develop the necessary expertise among the officials undertaking status determination [...] Some States might elect to integrate statelessness determination procedures within the competence of immigration authorities. Other States may place statelessness determination within the body responsible for nationality issues, for example naturalization applications or verification of nationality requests. This would be particularly appropriate where the individuals concerned are likely to be longstanding residents of the State” (par. 63 and 65).

Statelessness determination procedures should of course be formalised in law. For this purpose the UNHCR encourages States to incorporate a number of safeguards ranging from making and communicating decisions within a reasonable time to providing a right of appeal to an independent body. States should also refrain from removing an individual from their territory pending the outcome of the determination process (par. 71-72).

The question of the assessment of evidence is clearly of great importance. In the view of UNHCR, “[s]tatelessness determination requires a mixed assessment of fact and law. Such cases cannot be settled through analysis of nationality laws alone as the definition of a stateless person requires an evaluation of the application of these laws in practice, including the extent to which judicial decisions are respected by government officials. The kinds of evidence that may be relevant can be divided into two categories: evidence

⁹² Examples are identification procedures in the Netherlands (UNHCR (2011), “Mapping Statelessness in the Netherlands”, Adviescommissie Vreemdelingenzaken (2013) and K. Swider (2014b)), Germany (Blanchini (2014)), and Poland.

⁹³ Available at www.refworld.org/docid/53b676aa4.html.

relating to the individual's personal circumstances and evidence concerning the laws and other circumstances in the country in question" (par. 83).

It is recalled that Article 1(1) of the 1954 Convention reads that a stateless person is a "person who is not considered as a national by any State under the operation of its law", which presents considerable challenges to applicants in proving their statelessness. UNHCR therefore recommends that "[i]n the case of statelessness determination, the burden of proof is in principle shared, in that both the applicant and examiner must cooperate to obtain evidence and to establish the facts. The procedure is a collaborative one aimed at clarifying whether an individual comes within the scope of the 1954 Convention. Thus, the applicant has a duty to be truthful, provide as full an account of his or her position as possible and to submit all evidence reasonably available. Similarly, the determination authority is required to obtain and present all relevant evidence reasonably available to it, enabling an objective determination of the applicant's status".

The standard of proof or threshold of evidence necessary to determine statelessness must, in turn, "take into consideration the difficulties inherent in proving statelessness, particularly in light of the consequences of incorrectly rejecting an application. Requiring a high standard of proof of statelessness would undermine the object and purpose of the 1954 Convention. States are therefore advised to adopt the same standard of proof as that required in refugee status determination, namely, a finding of statelessness would be warranted where it is established to a "reasonable degree" that an individual is not considered as a national by any State under the operation of its law" (par. 91).

It is very important that "the lack of nationality does not need to be established in relation to every State in the world. Consideration is only necessary of those States with which an individual has a relevant link, generally on the basis of birth on the territory, descent, marriage, adoption or habitual residence. However, statelessness will not be established to a reasonable degree where the determination authority is able to point to clear evidence that the individual is a national of an identified State. Such evidence of nationality may take the form, for example, of written confirmation from the competent authority responsible for naturalization decisions in another country that the applicant is a national of that State through naturalization or information establishing that under the nationality law and practice of another State the applicant has automatically acquired nationality there" (par. 92).

As for detention, the Handbook remarks that the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention for stateless persons. Therefore, "[s]tatelessness determination procedures are ... an important mechanism to reduce the risk of prolonged and/or arbitrary detention" –which is explicitly condemned by the European Parliament's Resolution on the situation of fundamental rights in the EU⁹⁴ – and the Handbook contains recommendations as to how applicants should be treated while awaiting the outcome of their statelessness determination.

Having provided an overview of UNHCR's instructions on establishing a statelessness determination procedure, it is useful to briefly see how Member States have used the 'broad discretion' that is accorded to them under international law to design and operate these procedures.

⁹⁴ European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI)), available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0286&language=EN&ring=A8-2015-0230>.

A dozen states worldwide are said to currently provide a right of residence to stateless persons, on the basis of their statelessness.⁹⁵ Most of these countries are in fact in Europe, but none of the countries can be considered as following a single 'best practice'. What is clear from the comparative overview provided by the European Network on Statelessness is the considerable diversity in state practice as regards the authority in charge of the procedure, the relationship with asylum procedures, the legal conditions for submitting a claim and the practical access to the determination procedure.⁹⁶ This is also exemplified by the Dutch experience, which will be analysed in the next section.

4.4. Existing practices in EU Member States with regard to status determination and protection of stateless persons

With regard to statelessness determination procedures, there is no one single best practice that can be used as a model for all of the EU. Most states combine some good practice and some shortcomings within their procedures when evaluated in light of relevant UNHCR Guidelines. Below is a brief summary of two such procedures developed relatively recently in the EU: in Hungary and in the UK. Attention will also briefly be paid to the case of the Netherlands, as an illustration of a jurisdiction without a special statelessness determination procedure.

4.4.1. Hungary

A statelessness determination procedure was introduced in Hungary in 2007. It was one of the pioneer procedures in the EU with a clear basis in legislation⁹⁷ with detailed rules on implementation. The procedure is clearly rooted in the 1954 Convention, relying on its definition and the exclusion grounds. Hungary applies an additional exclusion ground to applicants who became stateless with the sole purpose of obtaining the statelessness status.⁹⁸ It is specified in the law for the purposes of identifying a stateless person that it is not necessary to establish the lack of nationality of the applicant in every state in the world, but that it is sufficient to establish that the applicant is not a national of the states with which he or she can demonstrate a relevant link, namely through birth, residence or family links.⁹⁹

The Office on Immigration and Nationality is in charge of considering the applications for the statelessness status. It has regional offices, allowing applicants easy geographical accessibility. The application can be submitted in the written form or orally.

Until recently the Hungarian law only allowed applications from stateless persons who already enjoyed legal residence in Hungary, for example on the basis of a student visa or a different residence permit. That was a significant obstacle to extending protection for all stateless persons under the 1954 Convention. On 23 February 2015, the Constitutional Court, however, declared the lawful residence requirement to be unconstitutional.¹⁰⁰ The judgment came into force on the 30th of September of this year, and therefore the lawful stay requirement no longer applies to stateless persons applying for status determination in Hungary. The law requires the responsible authority to take a decision on the statelessness

⁹⁵ These are, in chronological order, France, Italy, Spain, Latvia, Hungary, Mexico, Moldova, Georgia, the Philippines, the United Kingdom, Slovakia and Turkey.

⁹⁶ European Network on Statelessness, "Statelessness Determination and the Protection Status of Stateless Persons", p. 6-7, available at

www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20determination%20and%20the%20protection%20status%20of%20stateless%20persons%20ENG.pdf.

⁹⁷ Namely, Hungarian Immigration Act after the amendment of 2007 (Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals of 1 July 2007), Section 79 (1).

⁹⁸ Gyulai (2010), p. 14.

⁹⁹ European Network on Statelessness (2013), p. 29.

¹⁰⁰ Constitutional Court of Hungary, Judgment of 23 February 2015, III/01664/2014.

application within two months.¹⁰¹ An important safeguard for the accessibility of the procedure enshrined in the Hungarian determination procedure is that the applicant has a right to a free interpreter during the proceedings.¹⁰² The applicant also has a right to an interview.¹⁰³

As to the difficult issue of assessing evidence in a statelessness status determination, the Hungarian law provides a helpful non-exhaustive list of sources of evidence that might need to be considered, including statements of the applicant, information obtained from the UNHCR, from the diplomatic representations of Hungary abroad and from foreign authorities.¹⁰⁴

A person who has applied for the statelessness determination status and is awaiting the outcome of the procedure in Hungary does not enjoy any protection status or any form of right to residence. This is a major gap in the Hungarian system, and unfortunately in all other statelessness determination procedures that exist in the EU, contrary to the UNHCR guidance on the matter.

No administrative appeal is possible to the negative first instance decision, but the option of a judicial appeal is available to the applicant.¹⁰⁵

A person who is recognised as stateless in Hungary receives a legal residence permit valid for three years, which can be renewed for a period of one year.¹⁰⁶ This residence permit does not allow its holder free access to the labour market, as a special working permit needs to be obtained in order to be able to work legally.¹⁰⁷ In other areas, recognised stateless persons in Hungary enjoy a wide range in line with the requirements of the 1954 Convention, and can moreover make use of a facilitated naturalisation procedure after five years of residence.

It is worth noting that Hungary was one of the countries to implement a UNHCR quality assurance initiative with regard to its statelessness determination procedure.¹⁰⁸

4.4.2. The UK

The statelessness determination procedure in the UK became effective on 6 April 2013. Prior to the introduction of the procedure, the UNHCR, together with its implementing NGO partners in the UK Asylum Aid, conducted an extensive study on the position of stateless persons in the United Kingdom,¹⁰⁹ which illustrated, among others, the crucial importance of a status determination procedure in addressing the problem of statelessness.

The UK procedure defines a stateless person in accordance with the 1954 Convention and applies the exclusionary clauses of this Convention. It moreover closely follows the UNHCR Guidelines on the application of the definition in the context of determination procedures.¹¹⁰

¹⁰¹ Gyulai (2010), p. 21.

¹⁰² European Network on Statelessness (2013), p. 21.

¹⁰³ European Network on Statelessness (2013), p. 24.

¹⁰⁴ European Network on Statelessness (2013), p. 29.

¹⁰⁵ European Network on Statelessness (2013), pp. 32-33.

¹⁰⁶ European Network on Statelessness (2013), p. 36.

¹⁰⁷ Gyulai (2010), p. 32.

¹⁰⁸ See Alajos Lángi, "Because quality matters – in statelessness determination as well", 8 January 2013, blog of the European Network on Statelessness (www.statelessness.eu/blog/because-quality-matters-statelessness-determination-well).

¹⁰⁹ See Gregg, Nash and Oakeshott (2011) in the bibliography under National and regional studies on statelessness.

¹¹⁰ "Applications for leave to remain as a stateless person – Guidance", UK Border Agency, 1 May 2013, parts 3-4.

The Home Office's department of Visas and Immigration is responsible for the implementation of the determination procedure.

The procedure is widely accessible to any stateless person on the territory of the UK, regardless of their status or their length of stay in the UK. Accessibility is ensured further by securing the right of the applicant to an interpreter.¹¹¹

The applicant has the right to be heard by the authority in an interview, unless the authority is planning to take a decision in favour of the applicant, in which case the authority is allowed to proceed without having heard the applicant in a formal interview.¹¹²

The UK procedure is very explicit as to the burden of proof and the standard of proof in the procedure, which can be seen as a good practice. It stipulates that "the burden of proof lies with the applicant to establish his claim to be stateless with as much evidence as he can reasonably be expected to provide", but also that "caseworkers should make reasonable efforts to assist the applicant in establishing the necessary evidence, whether by research or enquiry".¹¹³ It could be said that this is not exactly in line with the UNHCR Guidelines that require a shared burden of proof between the applicant and the authorities. However, the explicit reference to the duties of the responsible authority in tracing the relevant evidence, as well as the 'reasonableness' test on the evidence that can be expected from the applicant are very valuable. As to the standard of proof, "the applicant is required to establish that he or she is not considered a national of any State to the standard of the balance of probabilities, i.e. more likely than not".¹¹⁴ This standard is higher than applies to asylum cases, which is again not exactly in line with the UNHCR which advises applying the same low standard of proof as in asylum applications. An explicit reference to a low standard of proof is crucial for statelessness determination procedures to fulfil their function.

An example of good practice in the UK procedure that is worth pointing out is an explicit reference to the interaction between the statelessness and the refugee status determination procedures. It is stated that until any refugee-related concerns are resolved, no contact is to be made with foreign authorities with a view to obtaining clarity of the applicant's potential nationality. Even after the refugee procedures have been completed, the authorities cannot disclose the details of asylum applications to foreign authorities, and it is advised to always try and obtain prior consent of the applicant for any contact with foreign authorities in general.¹¹⁵

A highly problematic aspect of the UK procedure is that "there is no right of appeal against the refusal to grant leave as a stateless person in addition to those which may already be available".¹¹⁶

One of the conditions for obtaining a residence permit upon the recognition of statelessness is that the person "is not admissible to their country of former habitual residence or any other country".¹¹⁷ Even though the UNHCR accepts excluding stateless persons from protection if they have a clear prospect of obtaining equivalent protection in a different

¹¹¹ European Network on Statelessness 2013, p. 21.

¹¹² "Applications for leave to remain as a stateless person – Guidance" (hereafter "Applications for leave to remain as a stateless", UK Border Agency, 1 May 2013, par. 2.2.

¹¹³ 'Applications for leave to remain as a stateless person', par. 3.2.

¹¹⁴ 'Applications for leave to remain as a stateless person', par. 3.2.

¹¹⁵ 'Applications for leave to remain as a stateless person', par. 3.3. See also European Network on Statelessness 2013, p. 12.

¹¹⁶ 'Applications for leave to remain as a stateless person', para 2.1.

¹¹⁷ 'Applications for leave to remain as a stateless person', section 403c.

state, the 'equivalent protection' exception needs to be defined narrowly, and only be invoked if the applicant:

- is able to acquire or re-acquire nationality through a simple, rapid and non-discretionary procedure, which is a mere formality; or
- enjoys permanent residence status in a country of previous habitual residence to which immediate return is possible.¹¹⁸

The reference in the UK procedure to 'any other country' is too broad and allows for an application of this exception that would undermine the purposes of the protection of stateless persons.

A residence permit can also be denied to a stateless person in the UK on the basis of public security.¹¹⁹ A person recognised as stateless and eligible for a residence permit on this basis obtains a leave to remain in the UK for 30 months, with a possibility of extension for periods of 30 months at a time. This permit secures an unrestricted access to the labour market for the stateless person¹²⁰ and a wide range of other rights.

4.4.3. The Netherlands

The problems in countries without a dedicated statelessness determination procedure can be illustrated with reference to the current situation in the Netherlands. The lack of a dedicated procedure means that the question whether or not a person is stateless has to be answered *ad hoc* by the competent authority or court. However, this decision does not bind other authorities or courts which may be called upon to answer the question whether a person is stateless. In other words, the *ad hoc* determination of statelessness lacks *erga omnes* effect. Moreover, due to the lack of a dedicated statelessness determination procedure, both the burden and standard of proof depend on the type of procedure in which the *ad hoc* determination of a person's statelessness takes place.

One of the main conclusions of a UNHCR study on statelessness conducted in the Netherlands was that the identification of statelessness is flawed.¹²¹ As a result, the rights of stateless persons following from the 1954 and 1961 Conventions are not guaranteed. The Advisory Committee on Migration Affairs (*Adviescommissie Vreemdelingenzaken*) also concluded that a proper determination procedure of statelessness is lacking in the Netherlands and that there is an urgent need to develop such a procedure.¹²²

While the Dutch government decided on 10 September 2014 to create a statelessness determination procedure, the exact design of the procedure is still the subject of discussion. For example, it is being discussed what the appropriate authority for statelessness determination should be, how to ensure proper access to the procedure and how to deal with the burden of proof and the standard of proof.¹²³

4.5. Is a statelessness determination procedure a 'pull factor'?

A particularly important question concerns whether the introduction of a dedicated statelessness determination procedure functions as a 'pull factor' – in other words, whether

¹¹⁸ UNHCR Handbook on the Protection of Stateless Persons, para. 154.

¹¹⁹ 'Applications for leave to remain as a stateless person', section 404.

¹²⁰ 'Applications for leave to remain as a stateless person', para. 6.1.

¹²¹ UNHCR, 'Mapping Statelessness in the Netherlands'.

¹²² Advisory Committee on Migration Affairs, 'Geen land te bekennen'.

¹²³ See the round table debate organised by the Dutch Advisory Committee on Migration Affairs on 16 March and 18 May 2015. The minutes of the meeting are available at <http://acvz.org/wp-content/uploads/2015/07/ADV-007-aanbieding-discussiestuk-staatloosheid.pdf>.

it attracts people who want to have their statelessness acknowledged so that they fall within the scope of the protection mechanisms against statelessness.

This question was included in semi-structured list of questions sent to experts in a number of Member States of the EU.¹²⁴ Based on the answers of respondents from countries where a statelessness determination procedure has been introduced, there are no clear signs that the existence of such a procedure has attracted substantial numbers of potentially stateless persons. Some respondents, however, expect an increase in the near future due to the large influx of persons currently seeking shelter in Europe.

The Home Office in the UK indicated in a strong manner that neither an increase of statelessness determination procedures is expected in the immediate future, nor is any indication or evidence that the introduction of the procedure led to a pull factor.

The Hungarian Office of Immigration and Nationality, in turn, also denied any pull factor effect. However, as a result of the abovementioned Constitutional Court decision declaring the lawful residence requirement to be unconstitutional, the Hungarian authorities indicated that the number of individual statelessness determination procedures may increase in the future. There are no data on this yet, but the requirement that applicants need to have lawful residence has resulted in a relatively low number of applications so far: out of the 232 cases where an application for statelessness determination was lodged between 2007 and September 2015, 124 cases were accepted.

In France, the Office for the Protection of Refugees and Stateless People (OFPRA after the French *L'Office Français de Protection des Réfugiés et Apatrides*)¹²⁵ referred to statistics for the period 1997-2014 indicating that the average number of applications for statelessness determination was around 250 per year.¹²⁶ The admissions rates differed considerably, ranging from 25 per cent to 40 per cent for the period 2004-2014. The OFPRA expects a slight increase in the number of applications for the immediate future, but denies any pull factor effect.

In Denmark, a form of statelessness determination was introduced in 2011 in administrative practice. In 2013, the Aliens Act was amended, providing in Sect. 48e for the registration of personal information about asylum seekers by the police and the Immigration Service, including information about their nationality and/or statelessness. At present, the Danish practice does not contain any further rules regarding statelessness determination.

Statistics about the number of persons recognised as stateless under the determination procedure are hard to interpret. This is caused by the fact that in 2012 the Immigration Service notified groups of possibly stateless persons (primarily Syrians, Rohingya and Bhutanese refugees from Nepal) that in the past they may have been registered wrongly as nationals of their country of origin rather than as stateless persons. About 4,000 letters were sent out to these groups and 804 persons were re-registered as stateless persons (against 171 persons in 2011). The Danish Human Rights Institute also expected an increase in the number of determination procedures owing to the expected influx of Syrian refugees.

¹²⁴ See Annex 3.

¹²⁵ <https://www.ofpra.gouv.fr/>

¹²⁶ See in particular p. 66 of OFPRA's 2014 report (available at www.ofpra.gouv.fr/sites/default/files/atoms/files/rapport_dactivite_2014.pdf).

Among the recent asylum applicants, the number of persons who were registered as stateless persons in Denmark were as follows:

- 2011 – 123 persons;
- 2012 – 200 persons;
- 2013 – 425 persons;
- 2014 – 1,265 persons.

All in all, there is no indication that the introduction of statelessness determination procedures has had a pull factor effect. However, it is likely that more people will make use of existing determination procedures in the near future due to the growing influx of refugees, some of whom may claim to be stateless.

4.6. Concluding observations

The lack of a dedicated statelessness determination procedure entails a serious risk that stateless persons are not properly identified as such. Without proper identification of stateless persons, it is unclear whether they are accorded appropriate treatment in line with the Member States' obligations following from international treaties.

For these reasons, it is essential for Member States of the European Union to install statelessness determination procedures. States should draw on the guidance provided in the UNHCR Handbook on Protection of Stateless Persons and the experiences with such procedures in other Member States.

While the Handbook allows States broad discretion in the design and operation of stateless determination procedures so as to tailor the procedure to their domestic situation, a number of safeguards are imperative.

Thus, the statelessness determination procedure must be available for all persons claiming to be stateless and who are present on the territory of the State involved, and decisions must be taken within a reasonable time. A right of appeal to an independent body must be guaranteed. The burden of proof must be regulated in a way that, on the one hand, the applicant has to submit all evidence reasonably available to her or him, and that, on the other, the determination authority or court has the obligation to obtain and present all evidence reasonably available to it. The standard of proof that may be required is that it is established to a reasonable degree that the person involved is not considered as a national by any State, with which he or she has a relevant link, under the operation of its law.

5. POSSIBLE ROLE OF EUROPEAN UNION IN ADDRESSING STATELESSNESS

KEY FINDINGS

- Different provisions in the Treaty on the Functioning of the European Union (TFEU) can be identified that may serve as a legal basis for EU legislation on the identification and protection of stateless persons.
- First of all, legislative action of the EU can be based on Article 21(2) (EU Citizenship) TFEU due to the link between statelessness determination and EU citizenship.
- Also the wording of Articles 78 (asylum) and 79 (immigration) TFEU provides sufficient flexibility to serve as a basis for EU legislation on the identification and protection of stateless persons.
- A third and final legal basis for EU legislation on statelessness is Article 67(2) (General provisions of an Area of Freedom, Security and Justice) in conjunction with Article 352 TFEU ('flexibility clause' of EU competences).
- Different situations relating to statelessness determination can be envisaged where a preliminary ruling procedure before the CJEU could clarify the interaction with EU citizenship.
- An EU Directive on statelessness determination would avoid imposing a much larger burden on Member States offering a (better) protection regime than on Member States offering less beneficial protection, or none at all.
- Member States are encouraged to exchange information on policies regarding the prevention and reduction of statelessness and the treatment of stateless persons, and to increase awareness of problems regarding statelessness by improving the availability of statistical data on stateless persons within the EU.
- Aspects of statelessness that need to be addressed through migration law are the regularisation of residence of stateless persons as well as – in exceptional cases – the regulation of return to a previous country of residence. The EU has competence to address these issues on the basis of Title V, Chapter 2 TFEU, and has already extensively legislated on such matters in the context of asylum law.

5.1. Introductory remarks on the legal basis for EU measures

In light of the foregoing, measures taken by the European Union may prove to be desirable. It is therefore necessary to give careful consideration to any provisions in the Treaty on the Functioning on the European Union (TFEU) that may serve as a legal basis for EU legislation on the identification and protection of stateless persons.

In the first place, Article 21(2) (EU Citizenship) TFEU could be used to enact rules on the determination of statelessness for cases where the determination of being (otherwise) stateless has as a consequence that the individual involved possesses or can acquire the nationality of an EU Member State and thereby is or would become a European citizen (compare also the remarks below under 5.2.1-5.2.3).

Article 78 (asylum) TFEU, in turn, regulates the procedure for adopting legislation in the field of Common EU Asylum Policy, and Article 79 (immigration) TFEU empowers the EU to legislate on other forms of immigration to the EU.

The wording of both TFEU articles provides sufficient flexibility to serve as a basis for EU legislation on the identification and protection of stateless persons, in particular against the backdrop of Article 67(2) (General provisions of an Area of Freedom, Security and Justice). Article 67(2) TFEU provides that “stateless persons shall be treated as third country nationals”. Article 352 TFEU, which allows the EU to legislate for the purpose of attaining “one of the objectives set out in the Treaties” when “the Treaties have not provided the necessary powers”, could be relied on as an additional legal basis.¹²⁷

5.2. A possible role for the CJEU via enforcing European citizenship

5.2.1. Deprivation of nationality with statelessness as consequence is only allowed after the application of a proportionality test

It follows from the CJEU *Rottmann* ruling that deprivation of nationality with statelessness as a consequence is only allowed after the application of a proportionality test. For example, if the authorities in a Member State would refuse to apply this proportionality test arguing that the person involved will not be stateless after the deprivation, the issue of statelessness determination can be subject of a preliminary ruling procedure. It is evident that enforcing European citizenship through the Court of Justice does not require measures initiated by other European institutions. It depends on judges in Member States (and indirectly on stakeholders involved in relevant national proceedings) to approach the Court of Justice of the EU with preliminary ruling questions.

5.2.2. A child acquired the nationality of an EU Member State ex lege, but fails to benefit from that nationality due to an administrative hurdle

The *Rottmann* ruling does not only have relevance for deprivation of nationality, but also for the recovery of an old nationality (see par. 60ff of the ruling) and for the acquisition of nationality in general. The relevance for the acquisition of nationality becomes particularly apparent if an otherwise stateless child is born on the territory of a Member State where (s)he or he is entitled to an automatic *ex lege* acquisition of nationality aimed at protecting the child against statelessness. If the application of this default *ius soli* rule is refused with the argument that the child is not “otherwise stateless”, the statelessness determination can be the subject of a preliminary ruling procedure.

This is also the case if a child of two Latvian non-citizens is born on the territory of a Member State where (s)he would acquire the nationality of that Member State if (s)he had to be classified as (otherwise) stateless under international and European law. Therefore the CJEU can be approached to answer the question whether they are stateless or citizens.

5.2.3. A stateless person is entitled to be registered as a national after having fulfilled certain requirements

Another situation concerns an otherwise stateless child who is born on the territory of a Member State where (s)he is not automatically entitled to the nationality of the country of birth. If an entitlement to acquire the nationality by means of registration or the exercise of an option declaration exists, a preliminary ruling procedure could also be appropriate if the competent authorities recognise that the additional conditions are met, but still deny the acquisition of nationality with the argument that the child is not “otherwise stateless”.

¹²⁷ See generally Molnár (2014).

5.3. The role and possible contributions of the European Union as regards the avoidance and reduction of statelessness

5.3.1. A common legal framework for the determination of statelessness in the EU

The identification of stateless persons is, as demonstrated by several recent UNHCR country case studies on statelessness in the EU,¹²⁸ the most pressing statelessness-related objective in the EU nowadays.

It is desirable that the EU takes legislative action by means of issuing a Directive. Indeed, “the necessity of a directive [...] derives from the EU’s objective to establish a common migration policy that is not only fair towards stateless persons but is also based on solidarity among Member States (Articles 67(2) TFEU and 80 TEU). Member States that offer a (better) protection regime would likely have to bear a larger burden than Member States that offer less beneficial protection, or none at all”.¹²⁹

5.3.2. The possible promotion of facilitated naturalisation of stateless persons living on the territory of the EU

In September 2012, the EU pledged to promote the ratification of the 1954 UN Convention by all the Member States. While 24 Member States are already Contracting States, the other Member States have to be strongly urged to follow. The pledge should also have consequences for the accountability of the European Union for meeting the standards of the Convention by the Member States. This includes the obligation of Member States to provide for facilitated naturalisation of stateless persons living on their territory, as laid down in Article 32 of the 1954 Convention.

5.3.3. Stimulating the exchange of information between Member States, in particular on policies regarding the prevention and reduction of statelessness and the treatment of stateless persons

Two priorities can be identified regarding the prevention and reduction of statelessness and the treatment of stateless persons. First, the EU should monitor and ensure the compliance by Member States with their obligations towards European institutions and other Member States, in particular in light of the principle of sincere and loyal cooperation as laid down in Article 4.3 TEU. Second, a more effective implementation of multilateral international treaties should be ensured, with the EU becoming a more active promoter of these international and regional human rights standards and principles, and their effective and consistent implementation by EU Member States. These priorities broadly follow the ILEC recommendations on exchange of information between Member States on loss of nationality.¹³⁰

To achieve these goals, the EU should establish a more effective mechanism for the exchange of information regarding national regulations and policy measures in areas related to nationality and statelessness, when they affect Union citizenship and their obligations to both other Member States and the Union. This could be done by relaunching and re-visiting Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States’ measures in the areas of asylum and immigration.

It needs to be mentioned that activities aimed at addressing and improving the situation of stateless persons – such as the creation of a framework to exchange information between Member States on their policies regarding the prevention and reduction of statelessness

¹²⁸ See the “References” below for a complete overview.

¹²⁹ Meijers Committee, ‘A proposal for an EU Directive on the identification of statelessness and the protection of stateless persons’, 13 October 2014, available at www.commissie-meijers.nl/sites/all/files/cm1410_proposal_for_an_eu_directive_on_the_identification_and_the_protection_of_stateless_persons.pdf.

¹³⁰ See Carrera and de Groot (2014).

and the treatment of stateless persons - could be covered by the allocations of the Asylum, Migration and Integration Fund (AMIF). Article 2 (lit. e) Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund provides expressly: "Reference to third-country nationals shall be understood to include stateless persons and persons with undetermined nationality".

5.3.3. Increasing awareness of problems regarding statelessness by improving the availability of statistical data on stateless persons within the European Union

It has been seen that EU and international law provide important normative standards for the field of nationality law and statelessness. In order to understand their practical relevance, however, it is important to have an insight into how many people are affected by such rules and practices. Statistics can provide a particularly useful perspective when assessing the varying rules and practices relating to statelessness across EU Member States.

Member States should report to Eurostat how many stateless persons live on their territory and also how many of these persons are born on the territory of that State or on the territory of another Member State. Comparable statistics should be provided concerning persons of undetermined nationality or whose nationality is under investigation.

For that purpose, Regulation (EC) No 862/2007 of 11 July 2007 on Community statistics on migration and international protections should be amended so that Member States are obliged to collect the above-mentioned data and to communicate them to Eurostat.

5.4. A possible role of European law via ensuring a transitory protection status for stateless persons who cannot immediately access a nationality

5.4.1. EU competence to address statelessness through migration law: relevant treaty framework

The protection of stateless persons needs to be achieved predominantly through the domain of migration law. That is not to say that all stateless persons are necessarily migrants. Some are stateless in the country in which they were born, and never crossed any state borders. However, even those individuals often depend on the rules of migration law for access to their rights. Nationals have an undisputed right of residence in their state, and non-nationals, on the other hand, need a legal ground for permission to reside. Stateless persons belong to the category of non-nationals, also if they have never 'immigrated' into the country, and therefore the regulation of their residence status and the rights attached to it fall within the sphere of migration law.

The most appropriate way to provide protection to stateless persons is to grant them a residence permit. Persons enjoying legal residence in the EU have access to a broad package of rights. Although the 1954 Convention does not contain an international obligation to offer every stateless person on the state's territory a right to legal residence, it is appropriate for the Member States of the European Union to grant stateless persons a residence permit, at least in all cases where the persons involved do not have a clear prospect of obtaining equivalent protection in another country.

Thus, the aspects of statelessness that need to be addressed through migration law are the regularisation of residence of stateless persons, for example through permits on the basis of subsidiary protection, as well as – in exceptional cases – the regulation of return to a previous country of residence. It was argued in section 5.1 that the EU has competence to address these issues on the basis of Title V, Chapter 2 TFEU, and the EU has already extensively legislated on such matters in the context of asylum law.

5.4.2. Ensuring compliance with the principle of subsidiarity when addressing statelessness in the migratory and asylum context.

Even if the EU is competent to legislate on the identification and protection of stateless persons, the principle of subsidiarity requires establishing that the EU level is the most appropriate one to pass such measures, as opposed to the national or local levels. The following reasons can be advanced why the objectives related to the protection and identification of statelessness can best be achieved at the EU level.

First, only a coordinated effort by the EU will avoid the 'race to the bottom' phenomenon. The experience with establishing the Common European Asylum System shows that a protection regime for vulnerable groups in the EU needs to be coordinated on the EU level to avoid this race to the bottom, which is caused by the fear that stateless persons in the EU will choose to seek protection in the Member State that offers the easiest access to the recognition of their status as a stateless persons and the best subsequent protection. A Member State might therefore be tempted to have a less attractive statelessness protection regime than its neighbouring state, in order to avoid attracting stateless persons who need assistance. This might eventually lead to an overall low level of protection offered to stateless persons in the EU, and possibly to violations of relevant international obligations. In the context of open borders, it is the EU's responsibility to ensure that such considerations do not play a role in the domestic politics. Member States which strive to comply with their international law obligations on statelessness should not be hindered in these efforts by fears of attracting a disproportionate number of stateless persons from other Member States that avoid complying with international standards.

Moreover, EU legislation on the identification and protection of stateless persons would lead to an overall better implementation of international norms on statelessness in the EU. EU legislation has generally a stronger legal position in the national jurisdictions than international treaty norms. Better remedies against non-compliance would be available to stateless persons whose rights are violated. Enforcing the international standards for identification and protection of stateless persons at the EU level has therefore a potential to give those standards a higher practical value.

Second, the EU has already touched upon issues of statelessness in the past in its relations with third states and candidate Member States, in particular in the context of pre-accession negotiations.¹³¹ The pledge to the UN in September 2012 indicates an ambition of the EU to become more involved with statelessness-related problems abroad. However, if the EU does not take measures on statelessness within its borders, its negotiating power when urging non-Member States to do that is reduced. The framework that they pledge to develop for addressing statelessness abroad cannot be equally effective without a corresponding domestic action. Developing and implementing internal minimum standards on the protection and identification of stateless persons is a prerequisite for exporting these standards abroad and a necessary first step towards fulfilling the pledge made to the UN.

Third and finally, the existence of the status of a stateless person is already acknowledged in the laws within the Common European Asylum System.¹³² The TFEU was the first EU treaty to mention stateless persons. Even though statelessness is not a separate protection ground within the Common European Asylum System, it is argued that the frequent references to this legal status require that stateless persons are identified in a consistent manner across the Member States. The divergence in

¹³¹ See, for example, Communication from the Commission 'Latvia: Accession Partnership', 29 June 1998, Official Journal C 202, pp. 0041-0047.

¹³² See, for example, Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection, Art. 36; Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection.

statelessness determination outcomes can lead to discrepancies in the implementation of some provisions. For example, Article 36 of the Directive 2013/32/EU of 26 June 2013 “On common procedures for granting and withdrawing international protection” reads:

A third country designated as a safe country of origin in accordance with this Directive may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant only if:

- he or she has the nationality of that country; or
- he or she is a stateless person and was formerly habitually resident in that country.

This means that if a person is not stateless, his or her ‘safe country of origin’ can only be the country of his or her nationality, even if he or she enjoyed habitual residence in another country. The way in which a Member State decides on whether a person is stateless has an influence on the effects of this provision.

CONCLUSIONS, POLICY OPTIONS AND RECOMMENDATIONS

1. Cyprus, Estonia, Malta and Poland should accede to the 1954 UN Convention on the Status of Stateless Persons as soon as possible.
2. All Member States should implement the obligations of the 1954 Convention properly. In particular they should facilitate the naturalisation of stateless persons residing on their territory and thus facilitate their access to European citizenship.
3. Member States that have not yet acceded to the 1961 UN Convention on the Reduction of Statelessness should be encouraged to consider the accession to that Convention.
4. All Member States have to be encouraged to implement the obligations of the 1961 Convention properly and to take due account of the Guidelines of the UNHCR on the interpretation of the rules of that Convention.
5. The European Commission should initiate a European Union Directive on statelessness determination procedures. Next to procedural issues in the narrow sense, this Directive should include rules on the burden of proof and standard of proof and indicate the application *ratione personae* (i.e. who has access to the procedures). The Directive should follow as far as possible the Guidelines on statelessness determination procedures issued by the UNHCR and reproduced in the UNHCR Handbook on Protection of Stateless Persons.
6. In order to properly identify stateless persons, Member States are strongly encouraged to install statelessness determination procedures. While these procedures can be tailored to their domestic situation, the following safeguards are imperative: the procedures must be available for all persons claiming to be stateless and who are present on the territory of the State involved. Decisions must be taken within a reasonable time and a right of appeal to an independent body must be guaranteed. The burden of proof must be regulated in a way that, on the one hand, the applicant has to submit all evidence reasonably available to her or him, and that, on the other, the determination authority or court has the obligation to obtain and present all evidence reasonably available to it. The standard of proof that may be required is that it is established to a reasonable degree that the person involved is not considered as a national by any State, with which he or she has a relevant link, under the operation of its law.
7. Regulation (EC) No 862/2007 of 11 July 2007 on Community statistics on migration and international protection should be amended in order to oblige Member States to collect data on the number of stateless persons born on their territory, the number of stateless persons living on their territory, as well as the number of persons with undetermined nationality living on their territory, and to communicate these data to Eurostat.
8. In order to promote the correct implementation of the obligations following from the 1954 and 1961 Conventions, the European Union should develop an effective mechanism for the exchange of information in order to enable Member States to learn from each other's practices. The EU should establish a more effective mechanism for the exchange of information regarding national regulations and policy measures in areas related to nationality, where they affect Union citizenship and their obligations to other Member States and the Union. The European Commission should relaunch and revisit the 2006 Council Decision 2006/688/EC of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration.
9. The European Union should take measures in order to ensure that stateless persons living on the territory of a Member State have facilitated access to residence permits.

10. It is necessary to clarify the status of Latvian non-citizens under international and European law, in order to give them and their descendants access to the protection of in particular the rules of the 1961 Convention in those Member States that are party to the Convention or have other domestic rules in force that protect (otherwise) stateless persons.

11. In order to further avoid and reduce statelessness in the European Union and improve the treatment of stateless persons, it is advisable that the European Parliament asks the European Commission to prepare a biennial State of the Art Report, preferably to be delivered for the first time in 2018.

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ANNEX 1. RATIFICATION INTERNATIONAL INSTRUMENTS ON STATELESSNESS BY THE 28 MEMBER STATES OF THE EU

State	1954 Convention Relating to the Status of Stateless Persons			1961 Convention on the Reduction of Statelessness			1997 European Convention on Nationality		
	Signature	Ratification, accession (a), succession (d)	Declarations and reservations	Signature	Ratification, accession (a), succession (d)	Declarations and reservations	Signature	Ratification	Reservations
AUT		2-8-2008	a		22-9-1972	a x	6-11-1997	17-9-1998	x
BEL	28-9-1954	27-5-1960			1-7-2014	a			
BUL		22-3-2012	a		22-3-2012	a	15-1-1998	2-2-2006	
CRO		10-12-1992	d		22-9-2011	a	19-1-2005	n.a.	
CYP		n.a.			n.a.				
CZE		19-7-2004	a		19-12-2001	a	7-5-1999	19-3-2004	
DEN	28-9-1954	17-1-1956			11-7-1977	a	6-11-1997	24-7-2002	
EST		n.a.			n.a.			n.a.	
FIN		10-10-1968	a		7-8-2008	a	6-11-1997	6-8-2008	
FRA	12-1-1955	8-3-1960		31-5-1962	n.a.		4-7-2000	n.a.	
GER	28-9-1954	26-10-1976			31-8-1977	a	4-2-2002	11-5-2005	
GRE		11-4-1975	a		n.a.		6-11-1997	n.a.	
HUN		21-11-2001	a		12-5-2009	a	6-11-1997	21-11-2001	
IRE		17-12-1962	a		18-1-1973	a x		n.a.	
ITA	20-10-1954	3-12-1962			n.a.		6-11-1997	n.a.	

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LAT		11-5-1999	a		14-4-1992	a	30-5-2001	n.a.	
LIT		7-2-2000	a		22-7-2013	a		n.a.	
LUX	28-10-1955	27-6-1960			n.a.		26-5-2008	n.a.	
MAL		n.a.			n.a.		29-10-2003	n.a.	
NET	28-9-1954	12-4-1962		30-8-1961	13-5-1985		6-11-1997	21-3-2001	x
POL		n.a.			n.a.		29-4-1999	n.a.	
POR		01-10-2012	a		1-10-2012	a	6-11-1997	15-10-2001	
ROM		27-1-2006	a		27-1-2006	a	6-11-1997	20-1-2005	
SLK		4-3-2000	a		3-4-2000	a	6-11-1997	27-5-1998	
SLN		7-6-1992	d		n.a.			n.a.	
SPA		5-12-1997	a		n.a.			n.a.	
SWE	28-9-1954	2-4-1965			19-2-1969	a	6-11-1997	28-6-2001	
UK	28-9-1954	16-4-1959		30-8-1961	29-3-1966			n.a.	x

ANNEX 2. TABLES ON THE AVOIDANCE AND REDUCTION OF STATELESSNESS IN ALL EU MEMBER STATES

The following table is based on a comparative analysis conducted by the EUDO CITIZENSHIP Observatory and UNHCR. More information can be found in the EUDO Citizenship Global Database on Protection against Statelessness: <http://eudo-citizenship.eu/databases/protection-against-statelessness>. As explained in the 'Note on terminology' on page 24, the shorthand formulas below refer to the relevant provisions in the Member States' Citizenship Acts. These acts can be found under 'Current citizenship law' on their respective EUDO CITIZENSHIP 'Country Profile' pages, available at <http://eudo-citizenship.eu/country-profiles>.

Idmode S01: Children born in a country who would otherwise be stateless

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 8(2); AUT 14	Automatic; Naturalisation (entitlement)	For child born in wedlock, father or mother must also have been born in the country. For child born out of wedlock, the mother must also have been born in the country; For stateless person born in Austria: must be between 18 and 20 years of age, stateless since birth, habitually resident in Austria for five years and at least ten years in total, and not convicted for a crime which carries a prison sentence of 5 years or more (or for a number of specific crimes relating to national security and public order).	Safeguard against statelessness limited to persons between the age of 18 and 20.
Belgium	BEL 10	Automatic	Child is not entitled to citizenship of another country.	In line with international standards.
Bulgaria	BUL 10	Automatic	Child does not acquire citizenship of another country by descent.	In line with international standards.
Croatia	CRO 7	Automatic	Parents must be of unknown citizenship.	Safeguard against statelessness limited to cases where both parents are of unknown citizenship.
Cyprus	No	n.a.	n.a.	No safeguard against

	provision			statelessness for children born in the country who would otherwise be stateless.
Czech Republic	CZE 5; CZE 29	Automatic; Naturalisation (entitlement)	<p>Person is born in the Czech Republic to parents who are both stateless, if at least one of them holds a residence permit (permitting stay longer than 90 days), and provided that the child would otherwise be stateless;</p> <p>Person is born in the Czech Republic, did not acquire the citizenship of either of his/her parents and would otherwise remain stateless, provided that at least one of the parents holds a residence permit at the time of the child's birth (permitting a stay longer than 90 days). Provision does not apply if parents can transmit their nationality by contacting the authorities of their home country but fail to do so.</p>	Safeguard against statelessness limited to cases where at least one parent holds a permanent residence permit.
Denmark	DEN 6	Naturalisation (discretionary)	Child must reside lawfully in the country. Additional conditions for persons between the age of 18-21: he/she must have resided in the country for 5 years immediately preceding the application (or 8 years in total), not been sentenced for any offence carrying a sentence of five years or more, and not been convicted for offences against national security.	Safeguard against statelessness limited to persons who are lawfully resident in the country.
Estonia	EST 13(4)-13(6)	Declaration	Child must be born and permanently resident in Estonia after 26 February 1992 (or before August 20, 1991 as citizen of the USSR) and "not deemed by any State to be citizens of that State on the basis of any Act in force". Until the age of 15, an application for citizenship can only be made by the child's parents (or single or adoptive parent) who must have been legally resident in Estonia for 5 years and are "not deemed by any State to be citizens of that State on the basis of any Act in force" (including citizens of the USSR before August 20, 1991).	Until the age of 15, safeguard against statelessness limited to children who have a parent who is stateless and who has been legally resident in the country for five years.
Finland	FIN 9(1)(4),	Automatic	Child must not be entitled to citizenship of another country, or parents must be of unknown citizenship	In line with international standards.

	9(2), 12(2)		and the child is not entitled to the citizenship of another country. Or the child is born in Finland to parents who have refugee status (or similar status) there and the child does not acquire citizenship of either parent except through registration of his/her birth with the state of citizenship of the parents or through another procedure requiring the assistance of the authorities of that country. Additional requirement in case only one parent has refugee status in Finland: the child does not acquire citizenship of the other parent by birth, nor has a secondary right through birth to acquire it.	
France	FRA 19(1)	Automatic	Child is born to stateless parents or to foreign parents and is not entitled to citizenship of another country.	In line with international standards.
Germany	2 AG- StlMind?k 1977	Naturalisation (entitlement)	Child must be under 21 years of age, stateless since birth, lawfully and habitually resident in the country for five years, and not convicted for a crime which carries a prison sentence of 5 years or more.	Safeguard against statelessness limited to persons who are lawfully resident in the country.
Greece	GRE 1(2)	Automatic	Child must be of unknown citizenship or must not acquire another citizenship at birth.	In line with international standards.
Hungary	HUN 3(3)(a); HUN 5a(1)(b)	Automatic; Declaration	Child must be born to stateless parents resident in the country; Person is born in Hungary and legally resident, did not acquire another citizenship by operation of law, and has been resident in the country for 5 continuous years.	Safeguard against statelessness limited to cases where the parents are both stateless and resident in the country, or to cases where the child is legally resident in the country.
Ireland	IRE 6(3)	Automatic	Child must not be entitled to citizenship of another country.	In line with international standards.
Italy	ITA 1(1)(b)	Automatic	Parents must be unknown or stateless, or child must not be entitled to citizenship of another country.	In line with international standards.
Latvia	LAT 3(1); LAT 3(2)- 3(5)	Registration; Declaration	Person is a minor, born in Latvia after August 21, 1991 both whose parents are stateless persons (or comparable status "non-citizens") and the parents have permanent residence in Latvia (with permanent residence permit if arrived after 1 July 1992). Application does not need to be submitted by both	Safeguard against statelessness limited to children both whose parents are stateless and the parents have been resident in the country for five years;

			<p>parents;</p> <p>Person is a minor, born in Latvia after August 21, 1991, has been stateless (or comparable status: "non-citizen") since birth, and is a permanent resident. Declaration until the age of 15 by legal representative(s) who is (are) also stateless, and has been resident in Latvia for 5 years. From age of 15 and until the age of 18: declaration by person under further condition that he/she is proficient in the language of Latvia (but exceptions under LAT 21), and has not been sentenced for committing a serious crime.</p>	<p>Safeguard against statelessness limited to children whose legal representative(s) is/are stateless and have been permanent residents for five years. From the age of 15, safeguard against statelessness limited to children who fulfill language requirements. No safeguard against statelessness for persons between the age of 18-21.</p>
Liechtenstein	LIE 5b	Naturalisation (entitlement)	<p>Person is born in Liechtenstein, has been stateless since birth and has not yet reached the age of 21 years, and has had at least 5 years of continuous legal and main residence in the country.</p>	<p>Safeguard against statelessness limited to persons who are lawfully resident in the country.</p>
Lithuania	LIT 15	Automatic	<p>Person is born, in the country or abroad, to stateless parents legally residing in the country.</p>	<p>Safeguard against statelessness limited to cases where both parents are stateless and legally resident in the country.</p>
Luxembourg	LUX 1(3), 1(4)	Automatic	<p>Parents must be stateless or incapable of transferring their citizenship to the child.</p>	<p>In line with international standards.</p>
Malta	MAL 10(6)-(7)	Naturalisation (entitlement)	<p>Person is born in Malta and has been stateless since birth, is habitually resident in the country for 5 years, and not convicted in any country of an offence against the security of Malta or convicted for a crime which carries a prison sentence of 5 years or more.</p>	<p>In line with international standards.</p>
Netherlands	NET 6(1)(b)	Declaration	<p>Child (or adult) must be stateless since birth and resident in the country for 3 years.</p>	<p>Safeguard against statelessness limited to children (or adults) who are lawfully resident in the country for 3 years.</p>
Poland	POL 14(2)	Automatic	<p>Child must be born to parents who are unknown, stateless or of undetermined citizenship.</p>	<p>Safeguard against statelessness is limited to cases where the child is born to parents who are</p>

				unknown, stateless or of undetermined citizenship.
Portugal	POR 1(1)(f)	Automatic	Child must not be entitled to citizenship of another country.	In line with international standards.
Romania	No provision	n.a.	n.a.	No safeguard against statelessness for children born in the country who would otherwise be stateless.
Slovakia	SLK 5(1)(b), 5(1)(c)	Automatic	Parents must be stateless or child must be unable to acquire the citizenship of any other country.	In line with international standards.
Slovenia	SLN 9	Automatic	Parents must be of unknown citizenship or stateless.	Safeguard against statelessness limited to cases where both parents are of unknown citizenship or stateless.
Spain	SPA 17(1)(c)	Automatic	Parent must be stateless or child must not be able to acquire the citizenship of any other country.	In line with international standards.
Sweden	SWE 6; SWE 7; SWE 8	Declaration; Declaration; Declaration	Child is stateless since birth and resident in the country with a permanent residence permit (for children below the age of 18 years); Child is stateless, holds a permanent residence permit and has been residing in the country for two years (for children between 5-18 and irrespective of place of birth); Person is stateless, holds a permanent residence permit and is resident in the country since the age of 15 years (for persons between 18-21 and irrespective of place of birth).	Safeguard against statelessness limited to persons who hold a permanent residence permit.
United Kingdom	UK, Schedule 2(3)(1)	Registration	Child must be under 22 years of age, stateless since birth, resident in the country for 5 years and not absent from the country for a total of more than 450 days.	In line with international standards.

Idmode S02: Foundlings found in a country of unknown parentage

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 8(1)	Automatic	Child must be younger than 6 months.	Safeguard against statelessness limited to children younger than 6 months.
Belgium	BEL 10	Automatic	No conditions.	In line with international standards.
Bulgaria	BUL 11	Automatic	No conditions.	In line with international standards.
Croatia	CRO 7	Automatic	No conditions.	In line with international standards.
Cyprus	No provision	n.a.	n.a.	No safeguard against statelessness for children found in the country of unknown parentage.
Czech Republic	CZE 10	Automatic	Person is under the age of 3, found in the Czech Republic, and his/her identity cannot be established.	Safeguard against statelessness limited to children under the age of 3 and of unknown identity.
Denmark	DEN 1(2)	Automatic	No conditions.	In line with international standards.
Estonia	EST 5(2)	Automatic	No conditions.	In line with international standards.
Finland	FIN 12(1)	Automatic	No conditions.	In line with international standards.
France	FRA 19	Automatic	No conditions.	In line with international standards.
Germany	GER 4(2)	Automatic	No conditions.	In line with international standards.
Greece	GRE 1(2)	Automatic	Child is born in the country with unknown citizenship or does not acquire another citizenship at birth.	Safeguard against statelessness limited to children in respect of whom it is proven that they were born in the country.
Hungary	HUN 3(3)(b)	Automatic	No conditions.	In line with international standards.
Ireland	IRE 10	Automatic	Child must be a newborn infant.	Safeguard against statelessness limited to newborn children.
Italy	ITA 1(2)	Automatic	No conditions.	In line with international standards.
Latvia	LAT 2(1)(5)-2(1)(6)	Automatic	Person is found in Latvia of unknown parentage, or person is left without parental care or is an orphan and is under extra-familial care in Latvia.	In line with international standards.
Lithuania	LIT 16	Automatic	No conditions.	In line with international standards.
Luxembourg	LUX 1(2)	Automatic	No conditions.	In line with international standards.

Malta	MAL 17(3)	Automatic	Child must be a newborn infant.	Safeguard against statelessness limited to newborn children.
Netherlands	NET 3(2)	Automatic	No conditions.	In line with international standards.
Poland	POL 15	Automatic	No conditions.	In line with international standards.
Portugal	POR 1(2)	Automatic	Child must be a newborn infant.	Safeguard against statelessness limited to newborn children.
Romania	ROM 5(3)	Automatic	No conditions.	In line with international standards.
Slovakia	SLK 5(2)(b)	Automatic	No conditions.	In line with international standards.
Slovenia	SLN 9	Automatic	No conditions.	In line with international standards.
Spain	SPA 17(1)(d)	Automatic	No conditions.	In line with international standards.
Sweden	SWE 3	Automatic	No conditions.	In line with international standards.
United Kingdom	UK 1(2)	Automatic	Child must be a newborn infant.	Safeguard against statelessness limited to newborn children.

Idmode S03: Persons born to a citizen of a country (birth in that country)

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 7, 7a	Automatic	No other conditions unless person -who is a minor - is born out of wedlock and the parents marry while the father is citizen at the time of marriage. Consent is needed by the person and her/his legal agent if the person is 14 years or older.	Safeguard against statelessness for persons born out of wedlock, whose father is a citizen, limited to cases where the father marries the mother.
Belgium	BEL 8(1)(1)	Automatic	No conditions.	In line with international standards.
Bulgaria	BUL 8, 9	Automatic	No conditions.	In line with international standards.
Croatia	CRO 4(1)	Automatic	No conditions.	In line with international standards.
Cyprus	CYP 109(1); CYP 114	Automatic; Registration (entitlement)	No other conditions (but: person must be born on or after 16 August 1960 in Cyprus to a citizen or to parents entitled to citizenship (in case of death)); Person's descent from a citizen of Cyprus is established through a judicial decision.	In line with international standards.
Czech Republic	CZE 4, 6, 7(1)-7(2)	Automatic	No other conditions (but: if person is born out of wedlock, only automatic under certain	In line with international standards.

			conditions).	
Denmark	DEN 1(1), 2; DEN 6	Automatic; Naturalisation (discretionary)	No other conditions (but: if person is born out of wedlock, only automatic if the person is an unmarried minor whose father is a citizen and marries the mother); By (discretionary) naturalisation if the child is born out wedlock and the father is a citizen. No further conditions.	Safeguard against statelessness for persons born out of wedlock, whose father is a citizen, limited to cases where the father marries the mother.
Estonia	EST 5(1)	Automatic	No conditions.	In line with international standards.
Finland	FIN 9(1)(1)-9(1)(3), 11; FIN 26(1)(1)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established). By declaration if paternity is established when person is an adult and father has been a citizen since person's birth.	In line with international standards.
France	FRA 18	Automatic	No conditions.	In line with international standards.
Germany	GER 4(1), 5	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a under the age of 23 years when the process of recognition or establishing paternity begins. For children born before 1993, child must also have been legally ordinarily resident in federal territory for three years).	In line with international standards.
Greece	GRE 1(1), 2	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established).	In line with international standards.
Hungary	HUN 3(1), 3(2)	Automatic	No conditions.	In line with international standards.
Ireland	IRE 7(1)	Automatic	No conditions.	In line with international standards.
Italy	ITA 1(1)(a), 2(1); ITA 2(2), 2(3)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established); By declaration if person is adult (within one year of establishment of paternity).	In line with international standards.
Latvia	LAT 2(1)(2)	Automatic	Person is born in Latvia to two citizens, or to	In line with international standards.

			one citizen and LAT 9(2) or 9(5) (regarding dual citizenship) are complied with.	
Lithuania	LIT 14	Automatic	No conditions.	In line with international standards.
Luxembourg	LUX 1(1)	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a minor when maternity/paternity is established and the parent must be a citizen at the time of establishment).	Condition that parent must be a citizen at the time of birth, not at the time of establishment of filiation, is not in line with standards.
Malta	MAL 5(1), 17(1)(a)	Automatic	No conditions.	In line with international standards.
Netherlands	NET 3(1), 4; NET 6(1)(c)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor whose descent from a male citizen is legally established, recognized by the father, or legitimated by marriage (if person is 7 years or older DNA proof of the paternity is required)); By declaration if person is a minor and is recognized by a citizen father who has raised and cared for him or her for 3 years.	Safeguard against statelessness for children who have reached the age of 7 and were born out of wedlock to a father who is a citizen is limited to cases where proof of biological truth is given.
Poland	POL 14(1)	Automatic	No conditions.	In line with international standards.
Portugal	POR 1(1)(a), 14	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established).	In line with international standards.
Romania	ROM 5(1), 5(2)	Automatic	No conditions.	In line with international standards.
Slovakia	SLK 5(1)(a)	Automatic	No conditions.	In line with international standards.
Slovenia	SLN 4	Automatic	No conditions.	In line with international standards.
Spain	SPA 17(1)(a); SPA 17(2)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established); By declaration if person's descent from a male citizen has been established while person is an adult. Declaration must be made within two years after the establishment of paternity and person must declare loyalty to the head of state and obedience to the constitution and the	In line with international standards.

			laws of the country. Renunciation of prior citizenship, except for citizens of countries with which bilateral treaties have been concluded.	
Sweden	SWE 1	Automatic	No conditions.	In line with international standards.
United Kingdom	UK 1(1)a, 3, 50 (9A)	Automatic	No conditions.	In line with international standards.

Idmode S04: Persons born to a citizen of a country (birth abroad)

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 7, 7a	Automatic	No other conditions unless person -who is a minor - is born out of wedlock and the parents marry while the father is citizen at the time of marriage. Consent is needed by the person and her/his legal agent if the person is 14 years or older.	Safeguard against statelessness for persons born out of wedlock, whose father is a citizen, limited to cases where the father marries the mother.
Belgium	BEL 8(1)(2)(a); BEL 8(1)(2)(b), 8(1)(2)(c)	Automatic; Declaration	Automatic if at least one parent is a citizen and born in the country, or if the person has not acquired citizenship of any other country at the age of 18 (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established); By declaration within five years after birth if the child is born to a father or a mother who is a citizen and who was born outside the country.	In line with international standards.
Bulgaria	BUL 8, 9	Automatic	No conditions.	In line with international standards.
Croatia	CRO 5	Automatic; Registration	Automatic if one parent is a citizen and the other parent is stateless or of unknown citizenship, or if person has not acquired citizenship of any other country at the age of 18; Otherwise by registration, or if person starts residing in the country before the age of 18 (acquisition retroactive since birth).	In line with international standards.

Cyprus	CYP 109(2); CYP 114	Automatic; Registration (entitlement)	No other conditions (but: person must be born on or after 16 August 1960 abroad to a citizen or to parents entitled to citizenship (in case of death). If person is permanently resident abroad, the birth must also be registered in Cyprus); Person's descent from a citizen of Cyprus is established through a judicial decision.	In line with international standards.
Czech Republic	CZE 4, 6, 7(1)-7(2)	Automatic	No other conditions (but: if person is born out of wedlock, only automatic under certain conditions).	In line with international standards.
Denmark	DEN 1(1), 2; DEN 6	Automatic; Naturalisation (discretionary)	No other conditions (but: if person is born out of wedlock, only automatic if the person is an unmarried minor whose father is a citizen and marries the mother); By (discretionary) naturalisation if the child is born out of wedlock and the father is a citizen. No further conditions.	Safeguard against statelessness for persons born out of wedlock, whose father is a citizen, limited to cases where the father marries the mother.
Estonia	EST 5(1)	Automatic	No conditions.	In line with international standards.
Finland	FIN 9(1)(1), 9(1)(2), 9(1)(3), 11, 26(2)	Automatic	No other conditions (but: if person is born out of wedlock, father must have been a citizen since the child's birth and his paternity must have been established before the child reaches the age of 18).	In line with international standards.
France	FRA 18	Automatic	No conditions.	In line with international standards.

Germany	GER 4(1); GER 4(4); GER 5	Automatic; Registration; Declaration	Automatic if parent is a citizen who was born in the country or he/she was born abroad before 31 December 1999 (but: if person is born out of wedlock and only the father is a national, he/she must be under the age of 23 years when the process of recognition or establishing paternity begins. For children born before 1993, child must also have been legally ordinarily resident in federal territory for three years); By registration within one year of birth if the person is born to a parent who is a citizen, who was born abroad after 31 December 1999, and is ordinarily resident abroad. In case the registration deadline is missed, the child still acquires citizenship if it would otherwise become stateless; By declaration if person is under 23 years of age, born out of wedlock to a citizen and a female citizen of another country before 1 July 1993, and resident in the country for 3 years.	In line with international standards.
Greece	GRE 1(1), 2	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established).	In line with international standards.
Hungary	HUN 3(1), 3(2)	Automatic	No conditions.	In line with international standards.
Ireland	IRE 7(1); IRE 7(3), 27	Automatic; Registration	No other conditions; By registration if parent was born abroad (or Northern Ireland), unless parent is abroad in public service.	Safeguard against statelessness for persons born to a parent who was born abroad is limited to cases where the person is registered as a national (unless this parent is abroad in public service).

Italy	ITA 1(1)(a), 2(1); ITA 2(2), 2(3)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established); By declaration if person is adult (within one year of establishment of paternity).	In line with international standards.
Latvia	LAT 2(1)(2)	Automatic	Person is born abroad to two citizens, or to one citizen and LAT 9(2) or 9(5) (regarding dual citizenship) is complied with.	In line with international standards.
Lithuania	LIT 14	Automatic	No conditions.	In line with international standards.
Luxembourg	LUX 1(1)	Automatic	No other conditions (but: if person is born out of wedlock, he/she must be a minor when maternity/paternity is established and the parent must be a citizen at the time of establishment).	Condition that parent must be a citizen at the time of birth, not at the time of establishment of filiation, is not in line with standards.
Malta	MAL 5(2), 17(1)(a)	Registration	No conditions.	In line with international standards.
Netherlands	NET 3(1), 4; NET 6(1)(c)	Automatic; Declaration	No conditions. But: if person is born out of wedlock, he/she must be a minor whose descent from a male citizen is legally established, recognized by the father, or legitimated by marriage (if person is 7 years or older DNA proof of the paternity is required); By declaration if person is a minor and is recognized by a citizen father who has raised and cared for him or her for 3 years.	Safeguard against statelessness for children who have reached the age of 7 and and were born out of wedlock to a father who is a citizen is limited to cases where proof of biological truth is given.
Poland	POL 14(1)	Automatic	No conditions.	In line with international standards.
Portugal	POR 1(1)(b), 14; POR 1(1)(c)	Automatic; Registration or declaration	Automatic if person is born to a citizen and who resides abroad in service of the country; By registration or declaration if person is born to a citizen who resides abroad other than in service of the country.	In line with international standards.
Romania	ROM 5(1), 5(2)	Automatic	No conditions.	In line with international standards.

Slovakia	SLK 5(1)(a)	Automatic	No conditions.	In line with international standards.
Slovenia	SLN 4; SLN 6	Automatic; Declaration	Automatic if one parent is a citizen and the other parent is unknown, of unknown citizenship or without citizenship, or when the child would otherwise be stateless; By declaration if one parent is a citizen and the other parent is a citizen of another country, the person is between 18 and 36 years of age, and has not previously lost citizenship due to release, renunciation or deprivation.	In line with international standards.
Spain	SPA 17(1)(a); SPA 17(2)	Automatic; Declaration	No other conditions (but: if person is born out of wedlock, he/she must be a minor when paternity of a male citizen is established); By declaration if person's descent from a male citizen has been established while person is an adult. Declaration must be made within two years after the establishment of paternity and person must declare loyalty to the head of state and obedience to the constitution and the laws of the country. Renunciation of prior citizenship, except for citizens of countries with which bilateral treaties have been concluded.	In line with international standards.
Sweden	SWE 1; SWE 5	Automatic; Declaration	Child is born in wedlock to a Swedish parent, or out of wedlock to a Swedish mother; By declaration (by father) if person -who must be a minor- is born out of wedlock to a father who has been a citizen since the time of the child's birth and a mother who is a foreign citizen. Father must be a citizen at the time of the declaration. Consent is required from age of 12 if the child possesses a foreign citizenship.	Safeguard against statelessness for persons born out of wedlock, whose father is a citizen, limited to cases where the father makes a declaration.

United Kingdom	UK 2; UK 3	Automatic; Registration	Automatic if parent is a citizen who acquired citizenship otherwise than by descent or is in public service of the country; By registration if person is a minor and parent has acquired citizenship by descent and has resided at any time in the country for 3 years (entitlement to acquisition if registered within one year, otherwise discretionary).	No safeguard against statelessness if person is a minor, born to a citizen who acquired citizenship by descent, and the person is not registered as a national within one year after the compulsory three-year residence period in the country; Law differentiates between parents based on how they acquired citizenship.
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Idmode S05: Persons who are recognised refugees

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 11a(4)1	Naturalisation (entitlement)	Facilitation: 6 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Belgium	No provision	n.a.	n.a.	No facilitated access.
Bulgaria	BUL 13(a)	Naturalisation (discretionary)	Facilitation: 3 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
Croatia	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Cyprus	No provision	n.a.	No facilitation.	No facilitated access.
Czech Republic	CZE 15(1)(h)	Naturalisation (discretionary)	No facilitation (but 5-year residence requirement for ordinary naturalisation can be waived).	No facilitated access (but residence requirement can be waived).
Denmark	DEN 6	Naturalisation (discretionary)	Facilitation: 8 years of residence (ordinary naturalisation: 9 years).	Minimal facilitated naturalisation.
Estonia	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Finland	FIN 20	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 6 years) and the application shall be processed expeditiously.	Facilitated naturalisation limited to reduced residence requirement and expeditious processing of application.
France	FRA 21-16, 21-17, 21-19(7), 21-24-1	Naturalisation (discretionary)	Facilitation: 0 years of residence (ordinary naturalisation: 5 years). Political refugees can be exempted from language requirement if they have resided lawfully and habitually in the country for 15 years and are over 70.	Facilitated naturalisation limited to absence of residence requirement and waiver of language requirement under certain conditions.

Germany	GER 8 in conjunction with administrative regulations, 12(1)6	Naturalisation (entitlement)	Facilitation: 6 years of residence (ordinary naturalisation: 8 years) and exemption from renunciation requirement.	Facilitated naturalisation limited to reduced residence requirement and exemption from renunciation requirement.
Greece	GRE 5(1)d	Naturalisation (discretionary)	Facilitation: 3 years of residence (ordinary naturalisation: 7 years).	Facilitated naturalisation limited to reduced residence requirement.
Hungary	HUN 4(2)d	Naturalisation (entitlement)	Facilitation: 3 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.
Ireland	IRE 16(g)	Naturalisation (discretionary)	No facilitation (but residence and other requirements may be waived).	No facilitated access (but residence and other requirements may be waived).
Italy	ITA 9(1), 16(2)	Naturalisation (discretionary)	Facilitation: 5 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Latvia	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Lithuania	LIT 18(4)	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Luxembourg	LUX 6	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Malta	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Netherlands	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Poland	POL 30(1)(3), 30(2), 31(2)	Naturalisation (entitlement)	Facilitation: 2 years of residence with a recognized refugee status (ordinary naturalisation: 3 years of residence with a permanent residence permit or a long term EU residence permit, or 10 years of residence in total).	Facilitated naturalisation limited to reduced residence requirement.
Portugal	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Romania	ROM 8(2)c	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.
Slovakia	SLK 7(2)e	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.

Slovenia	SLN 12(7)	Naturalisation (discretionary)	Facilitation: 5 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Spain	SPA 22(1), (3), (4)	Naturalisation (entitlement)	Facilitation: 5 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Sweden	SWE 11(4)b	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
United Kingdom	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.

Idmode S06: Stateless persons or persons with unclear citizenship who are not covered by any other mode of protection against statelessness

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	No facilitated access.
Belgium	BEL 19(2)	Naturalisation (discretionary)	Discretionary facilitation: 2 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
Bulgaria	BUL 14	Naturalisation (discretionary)	Facilitation: 3 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
Croatia	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Cyprus	No provision	n.a.	No facilitation.	No facilitated access.
Czech Republic	CZE 15(1)(h)	Naturalisation (discretionary)	No facilitation (but 5-year residence requirement for ordinary naturalisation can be waived).	No facilitated access (but residence requirement can be waived).
Denmark	DEN 6	Naturalisation (discretionary)	Facilitation: 8 years of residence (ordinary naturalisation: 9 years).	Minimal facilitated naturalisation.
Estonia	EST 13(1)-13(3)	Naturalisation (discretionary)	Facilitation: 0 years of residence (ordinary naturalisation: 8 years) and exemption from language and citizenship test. Facilitation only applies to children under the age of 15, permanently resident in Estonia and stateless.	Facilitated naturalisation limited to children under the age of 15, for whom there is a reduced residence requirement and exemption from language and citizenship test.
Finland	FIN 20	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 6 years). Facilitation is limited to persons who are involuntarily stateless.	Facilitated naturalisation limited to reduced residence requirement. Person must also be involuntarily stateless.

France	21-19(7), 21-24-1	Naturalisation (discretionary)	Stateless persons can be exempted from language requirement if they have resided lawfully and habitually in the country for 15 years and are over 70.	No facilitated access apart from waiver of language requirement for stateless persons under certain conditions.
Germany	GER 8 in conjunction with administrative regulations	Naturalisation (entitlement)	Facilitation: 6 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.
Greece	GRE 5(1)d, 6(3)(d)	Naturalisation (discretionary)	Facilitation: 3 years of residence (ordinary naturalisation: 7 years) and exemption from language and citizenship test as well from requirement to produce certain types of identification documentation (i.e. birth certificates).	Facilitated naturalisation limited to reduced residence requirement and exemption from language and citizenship test as well as documentary evidence.
Hungary	HUN 4(4)	Naturalisation (entitlement)	Facilitation: 5 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.
Ireland	IRE 16(g)	Naturalisation (discretionary)	No facilitation (but residence and other requirements may be waived).	No facilitated access (but residence and other requirements may be waived).
Italy	ITA 9(1)	Naturalisation (discretionary)	Facilitation: 5 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Latvia	LAT 12(1)(1)	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Lithuania	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Luxembourg	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Malta	MAL 10(1)	Naturalisation (discretionary)	No facilitation	No facilitated access.
Netherlands	NET 8(4)	Naturalisation (entitlement)	Facilitation: 3 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
Poland	POL 30(1)(2)(b), 30(2), 31(2)	Naturalisation (entitlement)	Facilitation: 2 years of residence with a permanent residence permit or a long term EU residence permit (ordinary naturalisation: 3 years of residence with a permanent residence	Facilitated naturalisation limited to reduced residence requirement.

			permit or a long term EU residence permit, or 10 years of residence in total).	
Portugal	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Romania	No provision	Naturalisation (discretionary)	No facilitation.	No facilitated access.
Slovakia	SLK 7(2)h	Naturalisation (discretionary)	Facilitation: 3 years of residence (ordinary naturalisation: 8 years).	Facilitated naturalisation limited to reduced residence requirement.
Slovenia	SLN 12(8)	Naturalisation (discretionary)	Facilitation: 5 years of residence (ordinary naturalisation: 10 years).	Facilitated naturalisation limited to reduced residence requirement.
Spain	No provision	Naturalisation (entitlement)	No facilitation.	No facilitated access.
Sweden	SWE 11(4)b	Naturalisation (discretionary)	Facilitation: 4 years of residence (ordinary naturalisation: 5 years).	Facilitated naturalisation limited to reduced residence requirement.
United Kingdom	UK, Schedule 2(4)(1), 2(4)(5)	Declaration	Facilitation: 3 years of residence (ordinary naturalisation: 5 years) and exemption from language and citizenship test.	Facilitated naturalisation limited to reduced residence requirement and exemption from language and citizenship test.

Idmode S07: Persons who voluntarily renounce the citizenship of their country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 37	Declaration	Person is a citizen of another country.	In line with international standards.
Belgium	BEL 22(1)(2)	Declaration	Person is, or will become, a citizen of another country. If person is not yet a citizen of another country, the declaration only works upon the effective acquisition of the new citizenship.	More protection than required by international standards.
Bulgaria	BUL 20	Release	Person is, or will become, a citizen of another country.	In line with international standards.
Croatia	CRO 18, 19, 21, 22(1), 20(1)	Declaration / Release	Person is, or will become, a citizen of another country.	In line with international standards.
Cyprus	CYP 112	Declaration	Person is a citizen of another country.	In line with international standards.
Czech Republic	CZE 40	Declaration	Person is or becomes a citizen of another country and permanently resides abroad	In line with international standards.

			without being registered as a permanent resident in the Czech Republic.	
Denmark	DEN 9	Release	Person is, or will become, a citizen of another country, on the condition that person acquires a foreign citizenship within a certain time limit.	More protection than required by international standards.
Estonia	EST 23-27	Release	Person is, or will become, a citizen of another country.	In line with international standards.
Finland	FIN 35	Release	Person is, or will become, a citizen of another country. If not yet a citizen of another country at the time of applying for renunciation, the renunciation is conditioned on acquisition of a foreign citizenship within a time limit. Applicant is required to submit proof of such acquisition for renunciation to enter into force.	More protection than required by international standards.
France	FRA 23-4, 23, 18-1, 19-4, 22-3, 23-2, 23-5	Release / Declaration	Person is a citizen of another country.	In line with international standards.
Germany	GER 18-24	Release	Person is a citizen of another country or has applied for foreign citizenship and received an assurance to be granted the citizenship of that foreign country. The release from citizenship shall be deemed to be null and void if the released person fails to acquire the foreign citizenship of which he or she was assured within one year of issuance of the certificate of release.	More protection than required by international standards.
Greece	GRE 18;	Release;	Person is an adult, resides abroad and declares that he/she has no connection to the country;	No safeguard against statelessness for citizens who are released from their citizenship.
	GRE 19	Declaration	The person is a citizen of another country, 18 years old, and has acquired citizenship of the country while being a minor by a common declaration of the parents or by naturalisation	

			of a parent. Loss can result in statelessness in case of release, but not in case of loss by declaration.	
Hungary	HUN 8	Declaration	Person is, or will become, a citizen of another country.	In line with international standards.
Ireland	IRE 21(1)	Declaration	Person is, or will become, a citizen of another country.	In line with international standards
Italy	ITA 11, 3(4), 14	Declaration	Person is, or will become, a citizen of another country.	In line with international standards.
Latvia	LAT 23	Release	Person is, or will become, a citizen of another country.	In line with international standards.
Lithuania	LIT 25	Declaration	Person is, or will become, a citizen of another country.	In line with international standards.
Luxembourg	LUX 13(1)	Declaration	Person is, or will become, a citizen of another country.	In line with international standards.
Malta	MAL 13	Declaration	Person is a citizen of another country.	In line with international standards.
Netherlands	NET 15(1)(b), 16(1)(b), 16(2), 14(6)	Declaration	Person is a citizen of another country.	In line with international standards.
Poland	POL 46	Release	Person is a citizen of another country.	In line with international standards.
Portugal	POR 8	Declaration	Person is a citizen of another country.	In line with international standards.
Romania	ROM 27	Declaration	Person is, or will become, a citizen of another country.	In line with international standards.
Slovakia	SLK 9(2), 9(3)	Release	Person is, or will become, a citizen of another country.	In line with international standards.
Slovenia	SLN 18, 19, 20, 21; SLN 25	Release; Declaration	Person resides abroad and can prove or has proof that he/she will be granted citizenship of another country. Release may be granted if the person does not reside abroad and is not guaranteed a foreign citizenship, but release is considered withdrawn if these two conditions are not met within two years; By declaration if the person is a citizen of another country.	More protection than required by international standards.

Spain	SPA 24(2)	Declaration	Person is a citizen of another country.	In line with international standards.
Sweden	SWE 15	Release	Person is, or will become, a citizen of another country. Loss cannot result in statelessness, unless it is necessary in order to acquire another citizenship. In such cases, a time limit is set for acquisition of the foreign citizenship.	More protection than required by international standards.
United Kingdom	UK 12	Declaration	Person is, or will become (within 6 months), a citizen of another country.	More protection than required by international standards.

Idmode S08: Persons who reside outside the country of which they are a citizen

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	In line with international standards.
Belgium	BEL 22(1)(5), 22(3)	Lapse	Person was born abroad, is a citizen of another country and has resided uninterruptedly abroad from the age of 18 until 28. Loss can be prevented by making a declaration expressing the wish to remain a citizen before reaching the age of 28. Does not apply to persons holding an office and residing abroad on behalf of the government or who are staff members of an organisation/company governed by the law of the country. Loss cannot result in statelessness.	In line with international standards.
Bulgaria	No provision	n.a.	n.a.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	CYP 113(4)	Withdrawal	Person acquired citizenship by naturalisation and resides abroad for 7 continuous years and (a) was not in the service of his/her country or an international organisation of which that country is a member or, (b) failed to notify his/her continued interest to retain citizenship on an annual basis. Loss can result in	No safeguard against statelessness for citizens who reside abroad; Discrimination naturalised citizens.

			statelessness.	
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	DEN 8	Lapse	Person is 22 years of age, born abroad, never resided in the country and never stayed in the country under circumstances indicating a special tie to the country, nor has he/she resided more than 7 years in a different Nordic country. Unless the person submits a request for retention before reaching the age of 22 years (discretionary). Loss cannot result in statelessness.	In line with international standards.
Estonia	No provision	n.a.	n.a.	In line with international standards.
Finland	FIN 34	Lapse	Person is 22 years of age, born abroad, and currently residing abroad. Exemptions: Person has resided at least 7 years in the country or in other Nordic states before the age of 22, submits a request to retain citizenship between the age of 18 and 22, has been issued with a passport of the country, or completed military or civil service in the country. Loss cannot result in statelessness.	In line with international standards.
France	FRA 23-6	Withdrawal	Person has never possessed the	In line with international standards.
Germany	No provision	n.a.	n.a.	In line with international standards.
Greece	No provision	n.a.	n.a.	In line with international standards.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	IRE 19(1)(c)	Withdrawal	Person has acquired citizenship by naturalisation and has been ordinarily resident abroad for a continuous period of seven years, otherwise than in public service, and who has not declared annually his/her intention to retain citizenship. Does not apply to persons naturalised on the basis of cultural affinity to the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who reside abroad; Discrimination of naturalised citizens.
Italy	No provision	n.a.	n.a.	In line with international standards.

Latvia	LAT 6	n.a.	n.a.	In line with international standards.
Lithuania	No provision	n.a.	n.a.	In line with international standards.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	MAL 14(2)(d)	Withdrawal	Person has acquired citizenship by registration or naturalisation and is resident abroad for at least seven years, other than in diplomatic service, and has not declared an intention to remain a citizen. Loss can result in statelessness.	No safeguard against statelessness for citizens who reside abroad; Discrimination of naturalised and registered citizens.
Netherlands	NET 15(1)(c), 15(3), 15(4), 14(6)	Lapse	Person is a citizen of another country and resides outside the European Union for an uninterrupted period of 10 years for other than diplomatic purposes or work in an international organisation. Period is interrupted when the person resides in the European Union for more than 1 year, or when the person obtains a certificate of possession of citizenship or a passport-like document (period recommences upon acquisition of document). Loss cannot result in statelessness.	In line with international standards.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	No provision	n.a.	n.a.	In line with international standards.
Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	SPA 24(3)	Lapse	Person is 21 years of age (or 19 in exceptional cases), born abroad to a citizen who was also born abroad. Person must reside abroad. Loss can be prevented by making declaration expressing the desire to retain citizenship within 3 years of attaining majority or emancipation. Does not apply in time of war. Loss cannot result in statelessness.	In line with international standards.
Sweden	SWE 14(1),	Lapse	Person is 22 years of age, born abroad, never	In line with international standards.

	17		resided in the country (or at least seven years in the country or another Nordic state), and never stayed in the country under circumstances indicating a special tie to the country. Person can submit request for retention before reaching the age of 22 years (discretionary). Loss cannot result in statelessness.	
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Idmode S09: Persons who render services to a foreign country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 33	Withdrawal	Person is in the service of another country and her/his actions substantially damage the interests and reputation of the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who render services to another country.
Belgium	No provision	n.a.	n.a.	In line with international standards.
Bulgaria	No provision	n.a.	n.a.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	No provision	n.a.	n.a.	In line with international standards.
Czech Republic	CZE 39 and General Principles of Administrative Law	Withdrawal	Person acquired citizenship by fraud. Loss can result in statelessness.	In line with international standards.
Denmark	7(2)	Lapse	Person acquires citizenship of another country by undertaking public service there.	In line with international standards.
Estonia	EST 28(1)(1), 28(3)	Withdrawal	Person enters state public service of another country without permission from his/her country. Does not apply if person has acquired citizenship by birth. Loss can result in statelessness.	No safeguard against statelessness for citizens who render services to another country; Discrimination of naturalised citizens.
Finland	No provision	n.a.	n.a.	In line with international standards.
France	FRA 23-8	Withdrawal	Person is in public service of another country	No safeguard against statelessness for

			despite a request to resign from that function from his/her government.	citizens who render services to another country.
Germany	No provision	n.a.	n.a.	In line with international standards.
Greece	GRE 17(1)(a)	Withdrawal	Person has accepted a public service position in another country against the express prohibition by his/her government. Loss can result in statelessness.	No safeguard against statelessness for citizens who render services to another country.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	ITA 12(1)	Lapse	Person serves in the civil service of another country despite a request from his/her government to resign from this function. Loss can result in statelessness.	No safeguard against statelessness for citizens who render services to another country.
Latvia	LAT 24(1)(2)	Withdrawal	Person serves in the armed forces, internal military forces, or security services of another country (except for countries with which a dual citizenship arrangement exists) without permission of the Latvian government. Loss cannot result in statelessness.	In line with international standards.
Lithuania	LIT 24(4)	Withdrawal	Person is in the service of another country without authorisation of the state. Loss can result in statelessness.	No safeguard against statelessness for citizens who render services to another country.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	No provision	n.a.	n.a.	In line with international standards.
Netherlands	No provision	n.a.	n.a.	In line with international standards.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	No provision	n.a.	n.a.	In line with international standards.
Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	SPA 25(1)(b)	Lapse	Person has acquired citizenship other than by birth ("de origen") and exercises political office in another country against express prohibition	No safeguard against statelessness for citizens who render services to another country; Lapse instead of deprivation;

			from his/her government. Loss can result in statelessness.	Discrimination of naturalised citizens.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Mode S10: Persons who render military service to a foreign country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 32	Lapse	Person voluntarily enters military service of another country. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country.
Belgium	No provision	n.a.	n.a.	In line with international standards.
Bulgaria	No provision	n.a.	n.a.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	CYP 113(3)(b)	Withdrawal	Person acquired citizenship by naturalisation and serves in the army of a country at war with his/her country. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country; Discrimination naturalised citizens.
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	No provision	n.a.	n.a.	In line with international standards.
Estonia	EST 28(1)(1), 28(1)(2), 28(3)	Withdrawal	Person enters military service of another country without permission from his/her country, joins the intelligence or security service of another country or a foreign organisation which is armed or militarily organized or which engages in military exercises. Does not apply if the person has acquired citizenship by birth. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country; Discrimination of naturalised citizens.
Finland	No provision	n.a.	n.a.	In line with international standards.
France	FRA 23-8	Withdrawal	Person serves in the army of another country despite a request to resign from his/her government.	No safeguard against statelessness for citizens who render military service to another country.

Germany	GER 28	Lapse	Person is a citizen of another country and voluntarily enters in the army or a comparable armed organisation of that country without permission of his/her government (exception: if this is permitted under intergovernmental agreement).	In line with international standards.
Greece	GRE 17(1)(a)	Withdrawal	Person has accepted a public service position in another country against the express prohibition by his/her government. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	ITA 12(1)	Lapse	Person serves in the army of another country despite a request from his/her government to resign from this function. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country.
Latvia	LAT 24(1)(2)	Withdrawal	Person serves in the armed forces, internal military forces, or security services of another country without permission from his/her government. Loss cannot result in statelessness.	In line with international standards.
Lithuania	LIT 2(5), 24(4)	Withdrawal	Person serves in the military of another country without authorisation of the state. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	No provision	n.a.	n.a.	In line with international standards.
Netherlands	NET 15(1)e	Lapse	Person must be a citizen of another country and in voluntary service of an army of a hostile state.	In line with international standards.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	ROM 25(1)b	Withdrawal	Person serves in the army of a country with which his/her country has broken diplomatic relations or is at war. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country.

Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	SPA 25(1)(b)	Lapse	Person has acquired citizenship other than by birth ("de origen") and voluntarily serves in army of another country. Loss can result in statelessness.	No safeguard against statelessness for citizens who render military service to another country; Discrimination of naturalised citizens.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Idmode S11: Persons who are disloyal to the country of which they are a citizen or whose conduct is seriously prejudicial to the vital interests of that country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	In line with international standards.
Belgium	BEL 23(1)(2), 23/1	Withdrawal	Person has acquired citizenship other than by birth and has violated his/her duties as a national or has been convicted for committing a serious crime against the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination of naturalised citizens.
Bulgaria	BUL 24	Withdrawal	Person has acquired citizenship by naturalisation, resides abroad and has been convicted for committing a serious crime against his/her country. Loss cannot result in statelessness.	Discrimination of naturalised citizens.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	CYP 113(3)(a), 113(3)(b)	Withdrawal	Person acquired citizenship by naturalisation and has shown disloyalty via words or deeds, or has, in any war in which his/her country was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination naturalised citizens.
Czech	No provision	n.a.	n.a.	In line with international standards.

Republic				
Denmark	DEN 8B	Withdrawal	Person is convicted for offences against the independence and safety of his/her country or against its constitution and supreme authorities, or the person is convicted in another country for similar offences. Loss cannot result in statelessness.	In line with international standards.
Estonia	EST 28(1)(3), 28(3)	Withdrawal	Person forcibly attempts to change the constitutional order of his/her country. Does not apply if the person acquired citizenship by birth. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination of naturalised citizens.
Finland	No provision	n.a.	n.a.	In line with international standards.
France	FRA 25(1), 25(4), 23-7	Withdrawal	Person acquired citizenship by declaration, naturalisation or reacquisition and committed a crime against the basic interests of the country or a terrorist act or offered services to a foreign state (limit: act committed before acquisition or within ten years and deprivation within 10 years or 15 years after act) or the person is citizen of another country and acts as belonging to that country. Loss cannot result in statelessness.	Discrimination of naturalised citizens.
Germany	No provision	n.a.	n.a.	In line with international standards.
Greece	GRE 17(1)(b)	Withdrawal	Person resides abroad and acts against the interests of his/her country. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	IRE 19(1)(b)	Withdrawal	Person has acquired citizenship by naturalisation and has, by any overt act, shown him/herself to have failed in the duty of fidelity to the nation and loyalty to the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination of naturalised citizens.
Italy	No provision	n.a.	n.a.	In line with international standards.
Latvia	LAT 24(1)(4)	Withdrawal	Person has violently attempted to overthrow	In line with international standards.

			the government, change the political system, or incited to activities aimed at ending Latvian independence. Citizenship can only be withdrawn by means of a judicial decision. Loss cannot result in statelessness.	
Lithuania	LIT 22(1), 22(2)	Withdrawal	Person acquired citizenship by naturalisation under the simplified procedure or by way of exception, or restoration and prepared, attempted to commit or committed international crimes such as aggression, genocide, crimes against humanity, war crimes, or prepared, attempted to commit or committed criminal acts against the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination of naturalised citizens.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	MAL 14(2)(a), 14(2)(b)	Withdrawal	Person has acquired citizenship by registration or naturalisation and has shown him/herself by act or speech to be disloyal or disaffected towards the country or has, during any war in which the country was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his/her knowledge carried on in such a manner as to assist an enemy in that war. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country; Discrimination of naturalised citizens.
Netherlands	NET 14(2)	Withdrawal	Person must be convicted for crimes against the security of the state, the royal dignity, the heads of befriended states, or against the exercise of certain rights and duties affecting the (democratic) organisation of the state (crimes which carry a prison sentence of 8 years or more), or the person has committed a terrorist crime, or the person has committed certain crimes as described in the Statute of	In line with international standards.

			Rome. Loss cannot result in statelessness.	
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	ROM 25(1)a; ROM 25(1)d	Withdrawal; Withdrawal	Person resides abroad and acts against the interests of his/her country; Person supports a terrorist organisation and puts at risk the national security of the country. Loss can result in statelessness.	No safeguard against statelessness for citizens who are disloyal or whose conduct is seriously prejudicial to the vital interests of the country.
Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	SLN 26(1)-(4)	Withdrawal	Person is a citizen of another country, resides abroad and acts contrary to the international and other interests of Slovenia. Activities considered harmful: member of an organisation engaged in activities to overthrow the constitutional order, or a member of a foreign intelligence service and as such harming the interests of the country or harming such interests by serving under any government authority or organisation of a foreign state, or a persistent perpetrator of criminal offences prosecuted ex officio and of offences against public order, or the person refuses to carry out the duty of a citizen as prescribed by the constitution and the law, despite the appeal of the competent authority.	No safeguard against statelessness because the person is considered to hold foreign citizenship if in possession of a foreign passport or performing military service according to the regulations of a foreign state, or if he/she is employed with the state authorities or in the armed forces of a foreign state. This does not, however, imply that the person actually holds citizenship of another country.
Spain	No provision	n.a.	n.a.	In line with international standards.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	UK 40(2), 40(4)	Withdrawal	Secretary of State is satisfied that deprivation is conducive to the public good. Loss cannot result in statelessness.	In line with international standards.

Idmode S12: Persons who commit other (criminal) offences

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	In line with international standards.
Belgium	BEL 23/1	Withdrawal	Person has acquired citizenship other than by birth and has been convicted for committing a serious crime	In line with international standards.
Bulgaria	No provision	n.a.	n.a.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	CYP 113(3)(c)	Withdrawal	Person acquired citizenship by naturalisation and has been sentenced, within 5 years of the acquisition of citizenship, in any country for any offence carrying a sentence of more than 12 months. Loss can result in statelessness.	No safeguard against statelessness for citizens who commit other (criminal) offences, and this is not a permitted ground for loss under international standards; Discrimination of naturalised citizens.
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	No provision	n.a.	n.a.	In line with international standards.
Estonia	No provision	n.a.	n.a.	In line with international standards.
Finland	No provision	n.a.	n.a.	In line with international standards.
France	FRA 25(2), 25(3)	Withdrawal	Person has acquired citizenship by declaration, naturalisation or reacquisition and misconducts in office (corruption, abuse of official authority) or evades military service (limit: one year before to ten years after the acquisition of citizenship). Loss cannot result in statelessness.	Although the person does not risk becoming stateless, this ground for loss is not permitted under international standards; Discrimination of naturalised citizens.
Germany	No provision	n.a.	n.a.	In line with international standards.
Greece	No provision	n.a.	n.a.	In line with international standards.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	No provision	n.a.	n.a.	In line with international standards.
Latvia	No provision	n.a.	n.a.	In line with international standards.
Lithuania	LIT 22(3),	Withdrawal	Person who acquired citizenship by	No safeguard against statelessness for

	24(6)		naturalisation, under the simplified procedure or by way of exception, or restoration and who prior to coming to reside in the country, was sentenced to imprisonment in another state for a premeditated crime which is a grave crime under the laws, or was punished for a grave crime in the country, irrespective of whether or not the conviction for the crimes has expired. Loss can result in statelessness.	citizens who commit other (criminal) offences, and this is not a permitted ground for loss under international standards; Discrimination of naturalised citizens.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	MAL 14(2)(c)	Withdrawal	Person has acquired citizenship by registration or naturalisation and within seven years after becoming naturalised or registered as a citizen has been sentenced in any country to a punishment for a term of not less than twelve months. Loss cannot result in statelessness.	Discrimination of naturalised and registered citizens.
Netherlands	No provision	n.a.	n.a.	In line with international standards.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	No provision	n.a.	n.a.	In line with international standards.
Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	No provision	n.a.	n.a.	In line with international standards.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Idmode S13: Persons who have acquired citizenship by fraud

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 24	Nullification	Person acquired citizenship based on a faked document or wrong information, criminal activity, or by fraud in some other way. Based on General Law on Administrative Procedures.	In line with international standards.

			Loss can result in statelessness.	
Belgium	BEL 23(1)(1), 23(9)(2)	Withdrawal	Person has acquired citizenship other than by birth and has acquired citizenship by means of false representation, use of forged documents or concealment of facts which would have precluded the granting of citizenship (expiration period of 5 years). Loss can result in statelessness.	In line with international standards.
Bulgaria	BUL 22	Nullification	Person has acquired citizenship by naturalisation based on false data and facts, or has concealed such facts that could have justified a negative decision. Time limit of 10 years. Loss cannot result in statelessness.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	CYP 113(2)	Withdrawal	Person acquired citizenship by registration or naturalisation and intentionally provided false or misleading information or held back information which was decisive for the acquisition of citizenship. Loss can result in statelessness.	In line with international standards, but discrimination of persons who acquired citizenship by registration or naturalisation.
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	DEN 8A	Withdrawal	Person acquired citizenship and has intentionally provided false or misleading information or held back information, which was decisive for the acquisition of citizenship. Loss can result in statelessness.	In line with international standards.
Estonia	EST 28(1)(4)	Withdrawal	Person has acquired citizenship by naturalisation or reacquisition based on false information and thereby conceals facts which would have precluded the grant or reacquisition of citizenship. Loss can result in statelessness.	In line with international standards.
Finland	FIN 33(1), 33(3), 33(4)	Withdrawal	Person has acquired citizenship by declaration or naturalisation by providing false or	In line with international standards.

			misleading information, or withheld relevant information, decisive for the acquisition of citizenship (time limit: 5 years). Consideration of the person's situation, culpability of the act, circumstances in which fraud is committed and his/her ties with the country and, for minors, also age. Loss can result in statelessness.	
France	FRA 27-2	Withdrawal	Person has acquired citizenship by declaration, naturalisation or reacquisition while failing to meet statutory requirements or based on misrepresentation or fraud (limit: two years after discovery). Loss can result in statelessness.	In line with international standards.
Germany	GER 35	Withdrawal	Person has acquired, or has been allowed to retain, citizenship by willful deceit, threat, bribe or by giving willfully wrong or incomplete information (time limit: 5 years). Loss can result in statelessness.	In line with international standards.
Greece	Administrative law	Withdrawal	Person has acquired citizenship based on false information or fraud (provision based on general principle of administrative law). Loss can result in statelessness.	In line with international standards.
Hungary	HUN 9	Withdrawal	Person has acquired citizenship, otherwise than by birth, due to false information or fraud in procedure of acquisition (time limit: 10 years). Loss can result in statelessness.	In line with international standards.
Ireland	IRE 19(1)(a)	Withdrawal	Person has acquired citizenship by naturalisation based on fraud, misrepresentation or concealment of material facts or circumstances. Loss can result in statelessness.	In line with international standards.
Italy	No provision (based on General	n.a.	Person acquired citizenship by naturalisation, recognition of paternity or adoption that was based on fraud (void marriage, void adoption,	In line with international standards.

	Principles of Administrative Law)		false documents etc). Loss can result in statelessness.	
Latvia	LAT 24(1)(3), 24(3), 24(4)	Withdrawal	Person has knowingly provided false information when verifying a right to hold citizenship of Latvia, or when acquiring citizenship by naturalisation. Time limit: 10 years, unless person has been convicted for any of the international crimes referred to in Article 5 of the ICC Statute, or person holds citizenship of a country not referred to in LAT 9(1), clauses 1-4. Loss can result in statelessness.	In line with international standards.
Lithuania	LIT 24(5)	Withdrawal	Person acquired citizenship by means of forged documents or any other fraud. Loss can result in statelessness.	In line with international standards.
Luxembourg	LUX 25	Withdrawal	Person has acquired citizenship, otherwise than by descent, by providing false information, fraud or dissimulation in procedures to acquire citizenship. Loss cannot result in statelessness.	More protection than required by international standards.
Malta	MAL 14(1)	Withdrawal	Person has acquired citizenship, by registration or naturalisation, by means of fraud, false representation or the concealment of any material fact. Loss can result in statelessness.	In line with international standards.
Netherlands	NET 14(1)	Nullification	Person has acquired citizenship based on false information or fraud in procedure (time limit: 12 years, unless the person is convicted for one of the offences referred to in Articles 6, 7 or 8 of the Rome Statute of the International Criminal Court). No right to fair hearing and loss can result in statelessness.	No right to a fair hearing.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	POR 16, 18 in conjunction with artt. 87-	Nullification	Person has acquired citizenship based on false information or on an inexistent fact. Loss can result in statelessness.	In line with international standards.

	88 of the Civil Registry Code			
Romania	ROM 25(1)c	Withdrawal	Person has acquired citizenship due to fraud. Loss can result in statelessness.	In line with international standards.
Slovakia	SLK 8b(1)	Nullification	Person acquired citizenship with falsified documents or documents that did not belong to him/her, or the person failed to inform the authorities of facts that could have substantial influence on the decision, or citizenship was acquired as a result of a crime, or the documents to acquire citizenship were obtained through criminal action. Loss can result in statelessness.	In line with international standards.
Slovenia	SLN 16(1)	Nullification	Person has acquired citizenship by naturalisation based on false declarations or deliberate concealment of essential facts or circumstances. Loss can result in statelessness.	In line with international standards.
Spain	SPA 25(2)	Nullification	Person has acquired citizenship, other than by birth ("de origen"), by fraud, falsity, or concealment of information (time limit: 15 years). Loss does not have detrimental effects on third parties in good faith. Loss can result in statelessness.	In line with international standards.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	UK 40(3)	Withdrawal	Person has acquired citizenship by declaration or naturalisation as a result of fraud, false representation or concealment of fact. Loss can result in statelessness.	In line with international standards.

Idmode S14: Persons whose descent from a citizen is annulled or who are adopted by a citizen of another country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	In line with international standards.
Belgium	BEL 8(4); BEL 22(1)(4)	Lapse; Lapse	Person is a minor whose family relationship with a citizen is annulled; Person is a minor who is adopted by citizen(s) of another country and acquires or already possesses citizenship of that country. Citizenship is not lost if one of the adoptive parents is a citizen, or if the parent married to the adoptive parent who is a citizen of another country, is a citizen. Loss can result in statelessness.	No safeguard against statelessness if family relationship is annulled.
Bulgaria	No provision	n.a.	n.a.	In line with international standards.
Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	No provision	n.a.	n.a.	In line with international standards.
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	No provision	n.a.	n.a.	In line with international standards.
Estonia	No provision	n.a.	n.a.	In line with international standards.
Finland	FIN 32	Withdrawal	Person is a minor and paternity is annulled or considered annulled before the age of 5, or within 5 years of establishing paternity. Consideration of child's situation, in particular of his/her age and ties with the country. Loss can result in statelessness.	No safeguard against statelessness if family relationship is annulled.
France	No provision	n.a.	n.a.	In line with international standards.

Germany	GER 4(1), 17(3); GER 27	Nullification; Nullification	Person's family relationship with the father who is a citizen is annulled, unless the person is five years or older; Person is adopted by a citizen of another country and acquires citizenship of that country, unless the adoptee retains a legal relation to his/her German parent. Loss can result in statelessness.	No safeguard against statelessness if family relationship is annulled.
Greece	GRE 20	Release	Person was adopted before majority by a citizen of another country and acquires citizenship of that country. Loss cannot result in statelessness.	In line with international standards.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	ITA 3(3)	Withdrawal	Person has acquired citizenship by adoption, which is subsequently annulled as a result of his/her behaviour. Loss cannot result in statelessness.	In line with international standards.
Latvia	No provision	n.a.	n.a.	In line with international standards.
Lithuania	LIT 7(7), 24(8)	Withdrawal	Person is adopted and has not, upon reaching the age of 21 years, renounced citizenship of another state. Loss cannot result in statelessness.	In line with international standards.
Lithuania	LIT 7(7), 24(8)	Withdrawal	Person is adopted and has not, upon reaching the age of 21 years, renounced citizenship of another state. Loss cannot result in statelessness.	In line with international standards.
Luxembourg	LUX 13(3)	Lapse	Person is a minor whose family relationship with a citizen ceases to be established. Loss cannot result in statelessness.	In line with international standards.
Malta	No provision	n.a.	n.a.	In line with international standards.
Netherlands	NET 14(4)	Lapse	Person is a minor and her/his family relationship with the parent who is a citizen is annulled and the other parent is not a citizen. Loss cannot result in statelessness.	In line with international standards.

Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	ROM 29; ROM 7(1)(2)	Lapse; Lapse	Person is adopted as a minor by a citizen of another country and acquires citizenship of that country. Consent is required if the person is over the age of 14 years. If adoption is annulled during minority, citizenship is considered never to have been lost; If the person's adoption by a citizen is annulled during minority, the person is considered never to have acquired citizenship if he/she is resident abroad or leaves the country to reside abroad. Loss can result in statelessness.	No safeguard against statelessness in case of adoption.
Slovakia	SLK 5(3)	n.a.	The child of a national retains citizenship even if descent of the parent who is a national is annulled.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	No provision	n.a.	n.a.	In line with international standards.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Idmode S16: Persons whose spouse or registered partner loses citizenship of a country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	No provision	n.a.	n.a.	In line with international standards.
Belgium	No provision	n.a.	n.a.	In line with international standards.
Bulgaria	BUL 23	Nullification	Person's spouse loses citizenship of the country because it was acquired in a fraudulent way, and the person has acquired citizenship based on same false or concealed information or facts. Loss can result in statelessness.	No safeguard against statelessness if the person's spouse -on whom his/her citizenship depends- loses citizenship due to fraudulent acquisition.

Croatia	No provision	n.a.	n.a.	In line with international standards.
Cyprus	No provision	n.a.	n.a.	In line with international standards.
Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	No provision	n.a.	n.a.	In line with international standards.
Estonia	No provision	n.a.	n.a.	In line with international standards.
Finland	No provision	n.a.	n.a.	In line with international standards.
France	No provision	n.a.	n.a.	In line with international standards.
Germany	No provision	n.a.	n.a.	In line with international standards.
Greece	No provision	n.a.	n.a.	In line with international standards.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	No provision	n.a.	n.a.	In line with international standards.
Latvia	LAT 24(2)	n.a.	n.a.	In line with international standards.
Lithuania	No provision	n.a.	n.a.	In line with international standards.
Luxembourg	No provision	n.a.	n.a.	In line with international standards.
Malta	No provision	n.a.	n.a.	In line with international standards.
Netherlands	No provision	n.a.	n.a.	In line with international standards.
Poland	No provision	n.a.	n.a.	In line with international standards.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	No provision	n.a.	n.a.	In line with international standards.
Slovakia	No provision	n.a.	n.a.	In line with international standards.
Slovenia	No provision	n.a.	n.a.	In line with international standards.
Spain	SPA 25(2)	n.a.	n.a.	In line with international standards.
Sweden	No provision	n.a.	n.a.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

Idmode S17: Children whose parents lose citizenship of a country

Country	Articles in law	Procedure	Conditions	Assessment
Austria	AUT 29	Lapse	Child loses citizenship because parent loses citizenship due to acquisition of another citizenship and the parent extends that acquisition to unmarried child (or: would extend that if the child would not already be citizen of that country). Exception: the other parent remains a citizen. If the child is born out of wedlock, citizenship is only lost if the child acquires citizenship of another country by law and his/her legal agent consents to the acquisition of that citizenship (in case the parent is male citizen: only if paternity has been established). Loss cannot result in statelessness.	In line with international standards.
Belgium	BEL 22(1)(3), 22(1)(6), 22(3)	Lapse	Child loses citizenship because parent renounces citizenship, but the parent acquires citizenship of another country and extends that acquisition to the child (or: would extend that if the child is not already a citizen of that country). Exception: the other parent remains a citizen. Or: the parent who is the child's sole legal representative loses citizenship because of permanent residence abroad, unless the child would become stateless.	In line with international standards.
Bulgaria	BUL 21, 23	Ext of Release, Nullification	Child loses citizenship because parent renounces citizenship (if the child is 14 or older only extension of loss with his/her consent) or loses citizenship that was acquired in a fraudulent way and the child has acquired citizenship based on same false or concealed information or facts. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
Croatia	CRO 22(2), 20(2)	Extension of Declaration / Extension of Release	Child loses citizenship because parent renounces citizenship and the other parent is a citizen of another country. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
Cyprus	No provision	n.a.	n.a.	In line with international standards.

Czech Republic	No provision	n.a.	n.a.	In line with international standards.
Denmark	DEN 7(3), 8(2)	Lapse	Child loses citizenship because parent loses citizenship due to voluntary acquisition of the citizenship of another country or residence abroad. Exceptions: the other parent remains a citizen and has (shared) custody over the child (in case of acquisition of a foreign citizenship) or if the child would become stateless (in case of permanent residence abroad).	In line with international standards.
Estonia	No provision	n.a.	n.a.	In line with international standards.
Finland	FIN 33(2), 33(3), 33(4)	Withdrawal	Child loses citizenship because parent acquired citizenship by declaration or naturalisation as a result of false or misleading information, or withholding relevant information, and has extended this fraudulent acquisition to the child. Exception: the other parent is a citizen. Consideration of the child's situation, culpability of the act, circumstances in which fraud is committed and his/her ties with the country as well as age. Withdrawal proceeding needs to start within five years following the acquisition of citizenship. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
France	No provision	n.a.	n.a.	In line with international standards.
Germany	GER 17(2)	Withdrawal	Child loses citizenship because parent loses citizenship due to fraudulent acquisition (unless the child is five years or older). Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
Greece	No provision	n.a.	n.a.	In line with international standards.
Hungary	No provision	n.a.	n.a.	In line with international standards.
Ireland	No provision	n.a.	n.a.	In line with international standards.
Italy	No provision	n.a.	n.a.	In line with international standards.
Latvia	LAT 24(2)	n.a.	n.a.	In line with international standards.
Lithuania	LIT 28	Withdrawal	Both parents, who have acquired citizenship by naturalisation, lose citizenship. Person whose parents lose citizenship is under 18 years of age	In line with international standards.

			and he/she has acquired citizenship by means other than by birth (consent of person between 14 and 18 years of age is required). Loss cannot result in statelessness.	
Luxembourg	LUX 13(2)	Lapse	Child loses citizenship because parent renounces citizenship and has sole parental authority over the child. In case of shared custody, both parents need to renounce citizenship. Provision only applies if child has or acquires another citizenship.	In line with international standards.
Malta	No provision	n.a.	n.a.	In line with international standards.
Netherlands	NET 16(1)(c), 16(1)(d)	Lapse	Child loses citizenship due to voluntary acquisition of citizenship of another country by the parent, which is extended to the child (or: the child already has citizenship of this other country). Child loses citizenship when the parent voluntarily renounces or loses citizenship due to residence abroad or due to non-compliance with the requirements for naturalisation. Exceptions: Other parent remains a citizen, or the child acquired citizenship by birth in the country, or the child is born in another country and resides there at the time of acquisition, or the child resided in another country uninterruptedly for 5 years. Loss can result in statelessness.	No safeguard against statelessness for children whose parents, under certain circumstances, lose citizenship.
Poland	POL 7, 8	Extension of Release	Child loses citizenship because parent renounces citizenship and includes the child in the declaration of renunciation. Consent needed from the age of 16 years. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
Portugal	No provision	n.a.	n.a.	In line with international standards.
Romania	ROM 28(1), 28(2)	Extension of Release	Child loses citizenship because both parents renounce citizenship and live in another country together with the child. Consent is required if the child is over the age of 14 years. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country.
Slovakia	SLK 9(2),	Extension of	Child loses citizenship because parent renounces	In line with international standards.

	9(7)	Release	citizenship and includes the child, who is under 14 years, in the application for release. Loss is conditional on proof of acquisition of another citizenship or the promise to become a citizen of another country.	
Slovenia	SLN 22, 23, 24, 16(3)	Release; Nullification	Child of 18 years or older loses citizenship at the request of both parents when both parents renounce citizenship (or one parent in the case where only one parent is a citizen). Consent is needed if the child is 14 years or older. Child loses citizenship because parent loses citizenship due to fraud in the naturalisation procedure or non-renunciation. Loss can result in statelessness.	No safeguard against statelessness for children whose parents lose citizenship of the country and request loss of citizenship for the child too, or when the parent loses citizenship due to fraud.
Spain	No provision	n.a.	n.a.	In line with international standards.
Sweden	SWE 14(3), 17	Lapse	Child loses citizenship acquired through the parent when this parent was born abroad and loses citizenship because he/she never resided in the country (or at least 7 years in the country or another Nordic state) and never stayed in the country under circumstances indicating a special tie to it. Exceptions: other parent remains a citizen and the child also acquired his/her citizenship from that parent. Loss cannot result in statelessness.	In line with international standards.
United Kingdom	No provision	n.a.	n.a.	In line with international standards.

ANNEX 3. LIST OF INTERVIEWED EUROPEAN AND INTERNATIONAL STAKEHOLDERS, EXPERTS AND PRACTITIONERS (IN ALPHABETICAL ORDER)

- Mr Stephen Bray, Status Review Unit, Complex Casework Directorate, UK Visas and Immigration, Home Office (United Kingdom)
- Dr. Eva Ersboll, Danish Human Rights Institute, Copenhagen (Denmark)
- Ms Zsófia Huszka, Visa and Residence Unit, Office of Immigration and Nationality, (Hungary)
- Prof. Kristine Kruma; Judge at the Latvian Constitutional Court (Latvia)
- Ms Marie Ripert, Bureau des apatrides, Office français de protection des réfugiés et des apatrides (France)
- Ms Inge Sturkenboom, UNHCR Europe Bureau Statelessness, Brussels
- Dr. Laura van Waas, Institute for Statelessness and Inclusions (Netherlands)

The interviewees have been selected on the basis of their expertise and involvement in statelessness issues, as well as their expertise in nationality law.

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

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