



# **European Migration Network**

## Ad-Hoc Query on national procedure for the recognition of stateless persons

Requested by BE EMN NCP on 16<sup>th</sup> June 2009

Responses from FR, IT, HU and BE (4 in Total)

*Disclaimer: The following responses have been provided for the purpose of information exchange among EMN NCPs in the framework of the EMN. This information, therefore, reflects the opinions and views of the contributing EMN NCPs, but does not necessarily represent the official policy of an EMN NCPs' Member State.*

### 1. Background Information

One of the agreements in the Belgian governmental declaration of March 2008 is that a separate procedure for the recognition of stateless persons will be put in place. Preliminary research find out that currently only separate procedures exist in France, Italy, Hungary and Spain. The best practices and lessons learnt in these countries can help the Belgian authorities to better prepare the legislative framework.

The BE NCP would appreciate your reply by 24 July 2009.












### 2. Responses<sup>1</sup>

		Wider Dissemination? <sup>2</sup>	<b><i>Ad Hoc query: How is the procedure and framework for the recognition of stateless persons organized in your country? More exactly, What are the conditions, the procedures and possible appeal possibilities? Lessons learnt/Best practices? Do you have annual figures about the number of demands and recognition and refusal rates?</i></b>
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<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>2</sup> A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further."




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	<b>Belgium</b>		<p>Currently Belgium does not have a separate procedure for the recognition of stateless persons. Persons who want to be recognised as a stateless person will have to start a procedure with the Tribunal of First Instance. The Tribunal will investigate whether the person has a right to a nationality of one of the countries with which he has certain ties. In case the person's statelessness is recognised, he/she should make an application for regularisation on grounds of the Aliens Act (i.e. impossibility to return). In case the regularisation procedure is successful, the stateless person will receive a foreigner card of unlimited duration.</p> <p>Numbers of demands, acceptance and refusals rates are currently not available. However, it is estimated that on annual basis some dozens receive the status of stateless person.</p>
	<b>Bulgaria</b>		
	<b>Czech Republic</b>		
	<b>Denmark</b>		
	<b>Germany</b>		
	<b>Estonia</b>		
	<b>Ireland</b>		
	<b>Greece</b>		
	<b>Spain</b>		
	<b>France</b>	yes	<p>France has a separate procedure for the recognition of stateless persons.</p> <p>Applications for stateless status are sent directly to the French Office of asylum and stateless persons (OFPRA), while applications for refugee status are sent to OFPRA through the prefectures. The OFPRA checks if applications are substantiated and based. The procedure is long, there are checks with the country of origin of the applicant and research of evidence of the assertions of the applicant in his country of origin.</p> <p>Appeals, unlike asylum, are not made to the Court of Appeal of asylum (CNDA), but to the administrative courts (the common law of appeals against decisions of administrative authorities ).</p> <p>The stateless person does not have the same rights as refugees. He receives a residence permit valid for 1 year. The stateless person has no social rights, unlike refugees : he has the rights for all residents in France.</p> <p>The number of applicants for stateless status is constant : between 200 and 250 per year. The stateless status is given to 33% of the applicants, on average.</p>
	<b>Italy</b>	Yes	<p>Law 306/1962 has implemented in Italy the New York Convention relating to the Status of Stateless Persons of 28 September 1954 (in particular, Article 1 of the Convention defines "stateless person" as the condition of a person that no state sees as its own citizens).</p> <p>In our country the statelessness of a person can be recognized either by a court either by administrative procedures.</p> <p>For the certification of the status of statelessness by administrative procedures, the competent authority is the "Ministry of Interior -</p>

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			<p>Department for civil liberties and immigration” and the procedure is governed by art. 17 of Rep. Presidential Decree (D.P.R.) No 572/1993 (“Regulation implementing Law 91/92” about the new rules on citizenship).</p> <p>The person concerned must present a specific request accompanied by the following documentation:</p> <ul style="list-style-type: none"> <li>* birth certification</li> <li>* documentation related to residence in Italy</li> <li>* documentation appropriate to show the status of stateless person, or certification issued by the competent Italian Consulate in the country of origin or, possibly, the competent Authority of the last country of residence showing that he/she does not possess any citizenship.</li> </ul> <p>The foreign documents must be duly legalized and translated. The Ministry of Interior may, as appropriate, ask for other documents. Received recognition, the stateless person must submit to the competent police authority (so called “Questura”) application for a residence permit and application for a travel document for stateless status through the so called “form 209” (in accordance with the provisions of Legislative Decree of 25 July 1998, No 286 "Consolidated Text on provisions governing immigration and the status of aliens", and following amendments and implementations). Once the request , the applicant is given a receipt in anticipation of the residence permit for 20 days following the date of entry into the country. After 20 days, applicants receive a residence permit and travel document for stateless persons. Statistical data are not currently available.</p>
	<b>Cyprus</b>		
	<b>Latvia</b>		
	<b>Lithuania</b>		
	<b>Luxembourg</b>		
	<b>Hungary</b>	yes	<p>The procedure for the recognition of stateless status is regulated in Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and in its executive Government Decree (114/2007). The Act and the Government Decree entered into force in July 2007 and they contain specific provisions on the procedure.</p> <p>The conditions and the main phases of the procedure are the following:</p> <ul style="list-style-type: none"> <li>- the procedure starts on the basis of a request submitted by a person residing lawfully in the territory of Hungary; there are no strict formal requirements concerning the request;</li> <li>- the request is examined by the immigration authority;</li> <li>- during the procedure the representative of the person concerned and an officer of UNHCR may also be present;</li> <li>- the procedure is free of charge;</li> <li>- besides the request for the recognition of stateless status, the person concerned has to attach documents verifying his/her identity, his/her travel documents, and all other documents that may be admissible to support his/her statements;</li> <li>- an interview has to be held with the person concerned (There is a preliminary hearing first that focuses more on the facts and the personal circumstances, such as personal identification data, marital status, education, occupation, place of residence or accommodation. The preliminary hearing is followed by a full hearing during which the person concerned has to present his/her reasons for lodging the request, and has to present any evidence to support his/her case that has not been presented earlier,</li> </ul>

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			<ul style="list-style-type: none"> <li>- the person concerned is required to <b>prove or substantiate</b> his/her stateless status, with particular regard to the state:             <ul style="list-style-type: none"> <li>a) where his/her place of birth is located;</li> <li>b) where his/her previous permanent or habitual residence is located; and</li> <li>c) of the nationality of his/her family members and parents;</li> </ul> </li> <li>- the applicant has the right to legal assistance;</li> <li>- where under the proceedings governed by Act II of 2007 there is any possibility that a third-country national should be declared stateless, the immigration authority shall inform the person in question concerning his/her option to request stateless status, about the relevant procedure, and about the rights and obligations of stateless status;</li> <li>- the decision has to be rendered by the immigration authority within 60 days;</li> <li>- there is no possibility for appeal against the decision within the administrative procedure, however a judicial review is possible,</li> <li>- the Municipal Court of Budapest has exclusive jurisdiction for the judicial review and has to make a decision on the case within 90 days and has to hold a mandatory hearing.</li> </ul> <p>Regarding the documents of stateless persons, in the absence of the requirements for a residence permit, a person recognized by Hungary as a stateless person shall be granted a residence permit on humanitarian grounds. The immigration authority may issue a travel document - upon request - to a stateless person residing in the territory of Hungary for the purpose of re-entry to the territory of Hungary from his/her travel abroad.</p> <p>The procedure to determine the status of statelessness was introduced into Hungarian legislation in July 2007; therefore we have annual statistics from that date on.</p> <p>Statistics from July-December 2007:</p> <ul style="list-style-type: none"> <li>- number of procedures started: 14, recognition: 1, refusal: 2</li> </ul> <p>Statistics from January until December 2008:</p> <ul style="list-style-type: none"> <li>- number of procedures started: 50, recognition: 24, refusal: 8</li> </ul> <p>Statistics from January until June 2009:</p> <p>number of procedures started: 15, recognition: 11, refusal: 3</p> <p>Link to publication Hungarian Helsinki Committee: "Protection of non-refugee stateless persons in Central Europe (Gábor Gyulai, 2007)</p> <p><a href="http://helsinki.webdialog.hu/dokumentum/Statelessness_CentralEu.pdf">http://helsinki.webdialog.hu/dokumentum/Statelessness_CentralEu.pdf</a></p>
	Malta		
	Netherlands		
	Austria		

EMN Ad-Hoc Query: **Deportation of foreign national prisoners**

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	Poland		
	Portugal		
	Romania		
	Slovenia		
	Slovak Republic		
	Finland		
	Sweden		
	United Kingdom		

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