ADDRESSING
STATELESSNESS
IN EUROPE

CLOSING PROTECTION GAPS
AND REALISING EVERYONE’S
RIGHT TO A NATIONALITY

8-9 June 2023

Conference Outcomes Report
On 8-9 June 2023, the European Network on Statelessness (ENS) in collaboration with Fundación Cepaim and the University Complutense de Madrid hosted a pan-regional conference in Madrid to raise awareness, foster alliances and build momentum towards Europe living up to its obligations to protect stateless people and ensure that everyone’s right to a nationality can be fulfilled. The conference took place on the eve of Spain assuming the Presidency of the Council of the European Union and brought together more than 200 participants from 34 countries - stateless changemakers, community organisations, civil society actors, lawyers, academics, and representatives from governments, UN and regional institutions.

Just prior to the conference, ENS released an updated briefing on statelessness and the EU Pact on Migration and Asylum and a public statement urging Spain to use its EU Council Presidency to galvanise improvements to law, policy and practice on statelessness in all EU Member States and beyond. Increased collective efforts are needed to guarantee adequate protection of stateless people in Europe and ensure that everyone living in Europe can acquire a nationality. It is essential to address statelessness as part of Europe’s refugee response.

The failure to properly identify statelessness impacts negatively on the operation of asylum systems and prevents stateless refugees and migrants from accessing the full scope of rights and services to which they are entitled under international and European law. Only a handful of European States have functioning statelessness determination procedures, and there are many gaps in the identification of statelessness in asylum and other migration procedures. Children continue to be born stateless in Europe, where they do not acquire the nationality of their country of birth or a parent’s nationality. Without proper identification mechanisms and routes to regularise residence status and/or acquire nationality, many stateless people are left at risk of human rights violations, including lack of legal identity, long term destitution, and unlawful immigration detention, to name a few. Many are left in limbo for years.

This report sets out three key learning points and ten commitments to action that were made by decision-makers and other participants at the Madrid Conference in order to foster concerted follow-up by all relevant stakeholders.
KEY LEARNING POINTS

1. LIVED EXPERIENCE MUST SHAPE SOLUTIONS TO STATELESSNESS

The Conference helped crystalise an emerging understanding that people with lived experience of statelessness and representatives of affected communities must be part of decision-making processes and jointly lead change efforts. Several inspiring examples were shared, including the work of ENS member and formerly stateless person, Aleksandra Semeriak Gavrilenok, who collaborated with others to build a coalition that analysed the situation of stateless people in Spain and initiated a national campaign (#DesplazamientosApatridas) to improve the protection of stateless people in Spain and close legal and other gaps relating to statelessness in the context of asylum and forced migration.

2. STATELESSNESS IS AN INTERSECTIONAL ISSUE

The Conference also confirmed that we are making progress in addressing statelessness as an intersectional issue. Stateless people in Europe may be refugees or migrants or may be part of in situ stateless populations that continue to face serious discrimination. Stateless people are of different ages, sexes, sexual and gender identities, socio-economic backgrounds, abilities or disabilities, religions, and ethnicities and may face discrimination on multiple grounds linked to different aspects of their identities and experiences. The conference demonstrated the tangible impact of bringing together experts (both with and without lived experience) working on cross-cutting issues to deepen understanding of the interconnectedness of their work and find solutions.

3. COMMITMENT OF KEY MANDATE-HOLDERS IS ESSENTIAL TO PROGRESS

Almost a quarter of participants at the Conference were representatives of governments, international and regional organisations, and elected representatives. This included high-level representatives from the Spanish Government, European Parliament, Council of Europe, EU Fundamental Rights Agency, EU Asylum Agency, and UNHCR, who spoke on conference panels and made important public commitments to action within the context of their respective mandates. Their ongoing collaboration and implementation of commitments are crucial to achieving necessary changes in the identification, recognition, and protection of stateless people, and ensuring that all stateless people in Europe can acquire a nationality.
Numerous commitments to action were made at the Conference. We set out ten key commitments below to help foster their implementation and sustain the momentum achieved in Madrid.

1. THE SPANISH GOVERNMENT WILL ADDRESS STATELESSNESS DURING ITS PRESIDENCY OF THE EU COUNCIL

The Spanish Government, represented by Isabel Goicoeche Aranguren (Under-Secretary of State for the Ministry of the Interior), committed to addressing statelessness during Spain’s Presidency of the EU Council. Ms. Goicoeche Aranguren emphasised that the Spanish Government places great importance on the protection of fundamental rights, and that this includes formal recognition of statelessness and other legal solutions for stateless people.

She stressed that it is important to address statelessness in the EU Migration and Asylum Pact, as it does not make sense to address migration issues without addressing statelessness. She noted Spain’s ongoing progress on addressing statelessness and confirmed that Spain will work towards developing a common framework in Europe to defend the rights of stateless people and ensure common approaches to nationality issues.

2. THE EUROPEAN PARLIAMENT WILL CONTINUE TO ADVOCATE FOR STATELESSNESS TO BE ADDRESSED AS AN EU ISSUE AND URGE EU MEMBER STATES TO PROTECT STATELESS PEOPLE

EU Member States’ legal obligations to protect stateless individuals were highlighted by the Chair of the European Parliament’s LIBE Committee, Juan Fernando López Aguilar MEP, who highlighted that statelessness is an EU issue, both for policy making and law making. He discussed the binding nature of the Treaty on the Functioning of the EU and its incorporation of international law as EU law. He noted in particular that the 1951 Refugee Convention and the 1954 Convention relating to the Status of Stateless Persons are binding for EU Member States and that the EU Charter of Fundamental Rights also affords protection to stateless people. Mr López Aguilar indicated three key priorities for action: (1) adopting appropriate administrative procedures to identify and protect stateless people across EU Member States; (2) sharing good practice; and (3) ensuring the protection of vulnerable stateless people, including children, whose births must be registered, and their best interests respected. He also confirmed that the Parliament’s position on the Migration and Asylum Pact included rights for stateless people, mentioning in particular the proposed Screening Regulation, the Regulation on Asylum and Migration Management (RAMM), and the Crisis and Force Majeure Regulation. During interventions from the floor, including by Yana Toom MEP, it was emphasised that given its mandate, the European Commission needs to play a visible and active role on statelessness, including by attending multistakeholder events such as this one.
3. EU AGENCIES AND OTHERS WILL ENSURE THAT STATELESSNESS IS MAINSTREAMED IN RESPONSES TO CRISIS SUCH AS THE INVASION OF UKRAINE AND ONGOING CONFLICT

Several conference participants discussed the situation of stateless people currently or formerly living in Ukraine and noted that crisis responses such as the EU Temporary Protection Directive must equally protect third country nationals and stateless people as well as nationals of the country of crisis. Remaining barriers to the inclusion of all those affected by statelessness within the scope of the TPD were highlighted.

Nina Gregori, Executive Director the EU Asylum Agency, and Jim Clarken, Chair of the Management Board of the EU Fundamental Rights Agency recognised the need for improvements to ensure that stateless people fleeing Ukraine are consistently able to access protection, despite a lack of documents in some cases, on an equal basis with Ukrainian nationals and third country nationals fleeing Ukraine.

4. THE EU ASYLUM AGENCY AND OTHERS WILL MAINSTREAM STATELESSNESS ACROSS THEIR TRAINING PROGRAMMES AND ENSURE STATELESSNESS IS ADDRESSED IN COUNTRY OF ORIGIN (COI) REPORTS

The need for supporting and improving officials’ knowledge of statelessness through training was highlighted by Nina Gregori of the EU Asylum Agency and others. Ms Gregori noted that the failure to identify and address statelessness amongst people seeking protection in Europe can result in failure to identify risks of persecution and can lead to adverse outcomes in protection procedures. She also remarked on the importance that recognition of statelessness can have on people’s lives, children’s rights, family reunification, and naturalisation. Ms Gregori committed to mainstreaming statelessness in all EUAA training programmes, finalising a module on statelessness in protection procedures, and developing a new training module on identifying statelessness during asylum registration procedures. Nina Gregori also highlighted the importance of including information about statelessness in COI reports to ensure robust decision-making. Asylos and others also emphasised the urgent need to include issues relating to statelessness and the situation of stateless persons in COI reports, so that asylum and protection decisions can be made based on accurate, reliable information.
5. THE EU FUNDAMENTAL RIGHTS AGENCY WILL CONTINUE ITS WORK IN PRIORITY AREAS TO ENSURE THE RIGHTS OF STATELESS PEOPLE ARE PROTECTED

Jim Clarken, Chair of the Management Board of the EU Fundamental Rights Agency, emphasised, alongside many others, that stateless people have rights even if they have no nationality, and that their rights must be protected. Mr Clarken stressed that EU Member States must work towards eliminating discrimination based on nationality (or lack of nationality) and fostering more inclusive societies. He confirmed that the EU Fundamental Rights Agency’s priorities on the issue of statelessness include encouraging Member States to establish statelessness determination procedures that provide protection status for stateless people, including the right to work, access to education and healthcare, social security, and freedom of movement; ensuring access to birth certificates and identity documents that allow stateless people to access key services; encouraging Member States to revise their nationality laws to eliminate provisions that prevent effective approaches to statelessness; increasing awareness and understanding of statelessness, including through training for officials, human rights institutions, and the judiciary; and working in collaboration with EU allies to ensure delivery on commitments to create more inclusive societies, where freedom, equality, the rule of law, and human rights are respected and where all individuals are recognised and have the opportunity to participate fully in political, economic and social life.

6. THE COUNCIL OF EUROPE WILL PREPARE GUIDANCE ON CHILD-SENSITIVE PROCEDURES FOR STATELESS CHILDREN AND CHILDREN’S ACQUISITION OF NATIONALITY, AND CONTINUE TO RAISE STATELESSNESS IN ITS INTERACTIONS WITH MEMBER STATES

Leyla Kayacik, Special Representative of the Secretary General of the Council of Europe on Migration and Refugees noted that statelessness is integral to the work of the Council of Europe. For example, statelessness is mainstreamed in the organisation’s monitoring work, and its current multiannual Action Plan on the Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe includes stateless people. The Council of Europe’s joint conference on statelessness with UNHCR in Strasbourg in 2021 facilitated the sharing of good practices and produced a series of recommendations, which it is now working towards implementing with children as a top priority. Ms Kayacik confirmed that the Council of Europe Committee on Legal Cooperation (CDCJ) will prepare guidance on child-sensitive procedures for stateless children and children’s acquisition of nationality. Ms Kayacik also confirmed that she plans to address statelessness, when relevant, in her fact-finding missions, to facilitate sharing of relevant information and good practices, and advocate for ratification of UN and Council of Europe conventions on statelessness.
7. UNHCR WILL CONTINUE TO INCREASE WORK AT LOCAL LEVEL TO COLLABORATE WITH PEOPLE WITH LIVED EXPERIENCE OF STATELESSNESS, AND CONTINUE TO ADDRESS STATELESSNESS BEYOND THE END OF THE #IBELONG CAMPAIGN THROUGH THE NEW GLOBAL ALLIANCE TO END STATELESSNESS

Many participants at the conference noted the vital contributions of stateless changemakers, community organisations and wider civil society. Gillian Triggs, Assistant High Commissioner for Protection at UNHCR, confirmed UNHCR’s mandate to protect stateless people and, based on UNHCR’s mandate to protect stateless people, reiterated UNHCR’s commitment to doing so globally through the current #IBelong campaign, the new Global Alliance to End Statelessness, and other work. She emphasised that progress has been made, including recent accessions to the UN statelessness conventions and adoption of statelessness determination procedures, but noted that many challenges remain which require our collaborative efforts.

She noted the importance of improving data relating to stateless people and commended ENS’s StatelessnessINDEX as a vital tool to help benchmark and monitor law, policy and practice to ensure that this is in line with states’ international obligations. She committed to continue the work at the local level and further strengthen collaboration with stateless people and others to ensure that stateless people can access protection and a path to citizenship. The numerous stateless people and communities attending the conference also stressed the need to ensure that the voices of stateless people are heard and highlighted the importance of recognizing the intersectional nature of statelessness.

8. KEY MANDATE-HOLDERS WILL TAKE ACTION TO ADDRESS THE IMPACT OF CLIMATE CHANGE AND OTHER ENVIRONMENTAL ISSUES AND THEIR LINKS TO STATELESSNESS

The impact of climate change and other environmental issues and their links to statelessness were raised in different sessions during the Conference. Jim Clarken noted that the EU Fundamental Rights Agency is beginning to work more on environmental issues and forced displacement and has a new strategy relating to this. They see massive human rights implications of the climate crisis across Europe and other fields and are aware of the impact it is already having and will continue to have on human rights and forced migration. Leyla Kayacik remarked that a declaration was adopted at the recent Reykjavik Summit of the Council of Europe, in which there is a section devoted to environmental issues.

There was agreement that the work of the Council of Europe on environmental issues should be strengthened and become a more visible priority for the organisation. The Committee of Ministers will now oversee implementation of this declaration. Gillian Triggs noted that UNHCR has a special adviser whose work relates to the intersection of environmental issues, armed conflict, forced displacement, and statelessness, and UNHCR will raise issues relating to this at COP28.
9. STAKEHOLDERS WILL TAKE ACTION TO ADDRESS THE MENTAL HEALTH IMPACTS OF STATELESSNESS

Mental health issues related to statelessness were raised at the Conference on numerous occasions as an issue deserving more attention. Conference participant, Dr Francesca Brady of University College London, has been undertaking a study on this topic and will continue to raise awareness about it, alongside several other conference participants who committed to investigating, raising awareness, and taking actions on this topic.

10. CHANGEMAKERS, DONORS, AND ADVOCATES WILL TAKE ACTION TO BETTER RESOURCE WORK ON STATELESSNESS AND FIND INNOVATIVE WAYS TO DO THIS

The need for improved funding and capacity for work on statelessness was highlighted by various stakeholders throughout the conference.

ENS is fully committed to supporting the implementation of these commitments and others made at the conference as we work together with stateless people, our members, and all relevant stakeholders to break the cycle of statelessness in Europe and realise everyone’s right to a nationality.
We are grateful to Oak Foundation, Sigrid Rausing Trust, Fundación “la Caixa”, Comic Relief, the UN Refugee Agency, and the Spanish Ministry of Inclusion, Social Security and Migration for their generous support of this event.

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