

ENS BRIEFING

APPLYING THE STATELESSNESS PROVISIONS IN THE EU PACT ON MIGRATION AND ASYLUM

MAY 2026

KEY TAKEAWAYS

This briefing takes stock of progress towards implementation of the Pact's statelessness provisions ahead of the 12 June 2026 deadline and makes recommendations to improve the identification and protection of stateless people in line with EU and international law.

The Pact introduced new legal requirements to identify and record indications of statelessness, pending a determination. This constitutes important progress towards improved identification and protection of stateless applicants and beneficiaries of international protection in Europe.

There has been some progress towards implementation, but information from our members across the EU suggests much work remains to be done. To support full implementation, effective application, and robust monitoring, ENS recommends that:

- **Member States** should finalise necessary adjustments to their national regulatory frameworks and operational policy and guidance and urgently skill-up officials to ensure indications of statelessness are identified and recorded at screening and registration, and individuals referred to a procedure to determine their statelessness at an appropriate juncture in proceedings. Information about statelessness should be shared and considered as appropriate in all asylum, return, and detention decisions including in border procedures. The specific rights of stateless persons under international law should be closely monitored in fundamental rights monitoring.
- **The European Commission** should highlight the statelessness provisions in its engagement with Member States, ensure Pact monitoring assesses how the statelessness provisions in the Screening Regulation and Asylum Procedures Regulation are being applied, and resource their effective application.
- **EU Agencies (EU Asylum Agency, FRA, Frontex)** should ensure that the legal requirement to identify and record indications of statelessness is mainstreamed across all relevant products and activities, recognising its crosscutting nature, and that mechanisms are in place to uphold the specific rights of stateless persons under international law. They should ensure that statelessness is considered when engaging and supporting Member States and in their own operations when carrying out screening, registration, monitoring, or returns.
- **The European Parliament** should monitor and provide oversight of application in practice of the statelessness provisions and protection of the fundamental rights of stateless persons
- **UNHCR and civil society** actors should incorporate recommendations on statelessness into relevant publications and advocacy interventions at regional and national levels, and ensure their teams are equipped to support stateless individuals and those with undetermined nationality to access their rights

We are calling for collaborative action between all stakeholders including affected communities to fully implement and effectively apply the statelessness provisions and guarantee the full rights and support owed to stateless applicants and beneficiaries of international protection under international law.

BACKGROUND

Statelessness was invisible in the [original Pact proposals](#). In response to this omission, ENS, our members, and partners engaged extensively with the European Parliament, Council, and Commission throughout the negotiations to advocate for clear provisions reflecting EU MS international obligations to protect the rights of stateless persons.

Several of our calls to address statelessness were heard and incorporated in the final Pact instruments adopted in 2024. In November 2024, we published a [briefing](#) with detailed recommendations to support the implementation of new requirements to identify and address statelessness in the lead-up to the 12 June 2026 deadline.

Now, this latest briefing takes stock of progress and focuses on application. It draws on information gathered from our work and that of our national members about implementation gaps to date, and recommends action to ensure full adherence with the new requirements in all Member States.

WHAT ARE THE STATELESSNESS PROVISIONS IN THE PACT?

SCREENING REGULATION

The Screening Regulation includes under Article 2(5) the international customary law definition of a stateless person found in the 1954 UN Convention relating to the Status of Stateless Persons: *'a person who is not considered as a national by any State under the operation of its law'*. As part of preliminary vulnerability checks, Recital 37 provides that *'indications... of being stateless'* should be identified, Article 12(3) provides that the screening be carried out *'with a view to identifying whether a third-country national might be a stateless person'*, and Article 17, the *'Screening form'*, includes the field *'indication of nationalities or statelessness'*.

ASYLUM PROCEDURES REGULATION (APR)

The APR in Recital 24 reminds Member States to *'respect their international obligations towards stateless persons, in accordance with international human rights law instruments including where applicable under the [1954 Convention]'*, advising that they *'should endeavour to identify stateless persons and strengthening their protection thus allowing stateless persons to enjoy core fundamental rights and reducing the risk of discrimination or unequal treatment'*. Article 3(15) includes the international legal definition of a stateless person.

Article 27(2) provides for the consequence of identification of statelessness, stating that where an individual claims not to have a nationality, that fact shall be clearly registered pending the determination of whether the individual is stateless. Consequently, Article 29(4)(a) cites the requirement to include *'nationalities or, if applicable, an indication of statelessness'* in documents issued to confirm an asylum application.

REGULATION ON ASYLUM AND MIGRATION MANAGEMENT (RAMM)

The AMMR in Recital 49 includes the same text that appears in the APR recitals requiring respect for international obligations towards stateless persons, reference to the 1954 Convention, and strengthening protection and avoiding discrimination. Article 2(2) also incorporates the international legal definition of a stateless person.

REGULATION ON THE ESTABLISHMENT OF EURODAC

In Recital 56, the Eurodac Regulation references the 2015 [Council Conclusions on Statelessness](#) and recalls the commitment that all Member States have made to accede to the 1954 Convention.

WHY ARE THE STATELESSNESS PROVISIONS SO IMPORTANT?

For the more than 10 million stateless people around the world, statelessness can mean denial of many basic rights most people take for granted. In Europe, [statelessness affects over half a million people](#) including recent migrants and those who have lived in the same place for generations. Statelessness is often intertwined with other root causes of forced displacement, such as the persecution of ethnic, religious, or other members of minority groups, armed conflicts, and discrimination.

Among the stateless people living in Europe today are individuals who arrived seeking international protection and were either stateless prior to leaving their country of origin or have since become stateless. According to [Eurostat](#), on average, around 2% of first-time asylum applicants to the European Economic Area each year are recorded as being stateless or of 'unknown nationality'. This is very likely an underestimate due to the limited awareness, capacity, and tools to accurately identify and record statelessness in the migratory context to date. A high proportion of refugees come from countries (such as Syria, Iraq, Iran, Afghanistan, Eritrea, Somalia, and Sudan, among others) where, as a result of discrimination in nationality laws, State succession, or deprivation of nationality practices, they or their children may be stateless or have undetermined nationality.

The fact that an asylum applicant may be stateless is often critical when assessing their claim for international protection. Whether someone is stateless or a national of their country of origin not only impacts on the decision-making process, but also on the nationality rights of their children, and access to procedures such as family reunification, resettlement, or naturalisation because they are unlikely to have documentary proof of their identity and family links. It also has a significant impact on an individual's ability to return to a country of former residence. The failure to identify and determine statelessness can therefore lead to unlawful detention and futile and costly attempts to enforce return. Stateless people are due [specific rights under international law](#) and risk further discrimination and rights violations if their statelessness is not identified and acted upon.

WHAT STEPS HAVE BEEN TAKEN TO IMPLEMENT THE STATELESSNESS PROVISIONS?

REGIONAL GUIDANCE, TOOLS, AND TRAINING

The European Commission's [Common Implementation Plan](#) and Operational Checklist emphasised that Member States must assess, and if necessary, address their capacity to identify and assist persons with vulnerabilities across all screening and border procedures, including under the new provisions requiring identification of indications of statelessness in the Screening Regulation (Article 12(3-4)).

The Commission has helpfully [clarified](#) that wherever vulnerability is referenced in the Pact instruments, this should be taken to include (indications of) statelessness. This means that authorities are obliged to consider the specific profile of stateless applicants not just in vulnerability checks under the Screening Regulation, but across all processes and procedures. They should take positive steps to ensure non-discrimination and protection of the rights of stateless persons, recognising the inherent difficulties they may face.

It is unclear what further guidance has been produced by the Commission for Member States on how to implement the statelessness provisions during Screening and relevant procedures, as this guidance is not currently publicly available. The publicly available Commission State of Play Reports on the Pact do not refer to the statelessness provisions in any detail.

EU agencies have produced relevant tools and training to support Member States to implement the statelessness provisions. These include:

- EUAA [Practical Guide on the registration and lodging](#) of applications with an updated section on nationality and statelessness, and the more recent [Practical Guide on Nationality](#), which covers concepts of nationality and statelessness
- Updated EUAA training modules aligned with the Pact, including a new dedicated module on [identification of statelessness in screening and registration](#), alongside broader modules on [screening, registration and lodging](#), and [vulnerability](#), which include statelessness-related content, as well as a module on [statelessness within international protection](#)
- EUAA-Frontex Screening Toolbox, which, we understand includes a vulnerability checklist and some information about indications of statelessness (though the toolbox is not publicly available)
- A dedicated EUAA [factsheet on statelessness in the context of international protection](#)

Remaining gaps include a lack of clarity on the extent to which FRONTEX operational staff receive training on statelessness and if all actors responsible for screening will have access to EUAA tools. Further efforts are also needed to ensure that statelessness is systematically mainstreamed across all relevant tools, training and operational guidance relating to vulnerability identification and referral and that frontline actors have access to and effectively use these tools.

The Pact requirement that Member States establish independent monitoring mechanisms overseeing screening and the asylum border procedure are particularly relevant to oversee implementation of the statelessness provisions. The Fundamental Rights Agency (FRA) has developed a common methodological tool providing practical guidance on how to do this monitoring, which includes references to statelessness in screening and border procedures. It is unclear to what extent the EUAA Monitoring Mechanism, which assess compliance with the Common European Asylum System, and national quality assurance processes, include a focus on statelessness-related rights and obligations.

NATIONAL LEVEL IMPLEMENTATION

ENS has been monitoring implementation through ongoing engagement with EU agencies, the Commission, and our network of members working in all EU+ countries. In May 2026, we surveyed our members on progress towards implementation of the statelessness provisions in the Pact. We received responses covering 13 EU+ countries.¹ While not exhaustive, the survey results highlight some emerging trends and persistent gaps.

In all 13 countries, attention to statelessness in preparations for Pact implementation has been limited. In most countries, national implementation plans (NIPs) do not adequately address the statelessness provisions. Of 15 publicly available NIPs reviewed by ENS, only three substantively refer to the statelessness provisions. The plans that do mention statelessness usually only do so in reference to obligations without setting out how these will be implemented in practice. In a third of countries for which we received survey responses, NIPs are not yet public, raising concerns about transparency, oversight, and consultation.

The transposition of Pact instruments into national law remains ongoing in most countries, with the majority reporting that some legislation is still in draft, review, or pre-adoption stages. Where

¹ We received responses from ENS members working in the following countries: Belgium, Croatia, Cyprus, Czechia, France, Greece, Ireland, Malta Norway, Portugal, Romania, Spain, and Sweden.

legislative proposals have been submitted close to the implementation deadline, there has been very limited opportunity for scrutiny and delays in implementation are likely.

Competent authorities for screening have been designated in most countries surveyed (usually the police or border authorities), but it is generally not known if these authorities have access to training or guidance on statelessness (e.g. the EUAA training and tools).

Gaps at the preparation stage are also reflected in continued uncertainty around application. In particular, how statelessness will be addressed in practice once identified, particularly in relation to the obligation to register a claim of statelessness pending determination (Article 27(2) APR). It is unclear if authorities have access to any guidance or standard operating procedures on how to act on indications of statelessness. This is particularly the case in countries that do not have a dedicated statelessness determination procedure (SDP), where it is unclear how determination will happen in practice and who will be competent for this. Even in countries with SDPs, referral pathways from screening or asylum procedures do not appear to have been established, raising concern about access to existing procedures to determine statelessness.

Some Member States (e.g. Austria, Ireland, Malta) are considering introducing SDPs to meet obligations under the Pact, which is welcome. When establishing such procedures, it is important to ensure clear procedural links that allow for the determination of both claims for international protection *and* claims of statelessness.

In relation to fundamental rights monitoring, most Member States have designated national ombudspersons to carry out this function, while others have appointed other national-level oversight bodies or are still in the process of establishing these mechanisms.

Given these gaps and uncertainties in the implementation phase, we outline a series of detailed recommendations below on how to ensure full and robust application of the statelessness provisions in the Pact going forwards.

THE NEW RETURN REGULATION

Alongside the Pact, a new Return Regulation will complete the EU's reformed migration framework. We are deeply concerned that the Regulation weakens safeguards and adopts an enforcement-led approach, which fails to account for the specific situation of stateless people. Final drafts contain no reference to statelessness or Member States' obligations towards stateless people under international law, nor do they establish clear obligations to identify statelessness within return procedures. This omission is inconsistent with the Pact, creating a significant gap that undermines the coherence of EU migration law and policy.

While the results of vulnerability checks during Screening are intended to inform subsequent procedures, including returns, reliance on this stage alone is insufficient. Statelessness may arise or only become apparent after Screening, some individuals subject to return may not have been screened, and Screening may miss or inadequately capture indications of statelessness. At a minimum, there is a clear need to update operational guidance (e.g. the Return Handbook) with statelessness-specific considerations and to closely monitor readmission and return practices in light of emerging evidence of risks and gaps affecting stateless people.

RECOMMENDATIONS TO APPLY THE STATELESSNESS PROVISIONS IN THE PACT

To address current gaps and ensure effective implementation and application of the statelessness provisions, ENS recommends that:

1. Member States

- Finalise and operationalise national regulatory frameworks, operational policies and guidance to ensure the effective application of the stateless provisions under the Screening and Asylum Procedures regulations, incorporating remaining adjustments where required.
- Assess and increase capacity to identify and record indications of statelessness and the specific needs of stateless applicants and those with undetermined nationality, including unaccompanied children, and all adults and children in a family group.
- Ensure frontline officials (including police and border guards) are adequately trained and have the tools and resources they need to identify, record, and act upon indications of statelessness.
- Establish, in line with Article 27(2) APR, standard operating procedures and procedural pathways to determine statelessness (or nationality) by trained personnel in a dedicated procedure with procedural safeguards at an appropriate juncture in international protection proceedings
- Act on indications of statelessness by facilitating access to the territory and the regular asylum procedure and/or statelessness determination procedure, taking into account that accelerated procedures may be inappropriate in cases involving statelessness, particularly where this gives rise to complex questions of fact and law
- Apply Article 42(2) APR by automatically transferring cases to the regular procedure when the time limit is exceeded and as soon as complex questions of fact or law emerge to minimise the risk of applicants being left in limbo
- Ensure that statelessness is adequately considered in all relevant procedures and action taken to facilitate access to the territory where appropriate given that stateless people are very likely to be unreturnable to their country of habitual residence and at particular risk of ending up in limbo and arbitrary detention
- Ensure that, across all procedures, authorities take due account of the specific situation and profile of stateless people and adopt positive measures to guarantee their effective protection and non-discrimination, recognising that statelessness is considered a vulnerability under the Pact
- Ensure that the specific international law standards relating to the protection of stateless persons and prevention and reduction of statelessness are reflected in independent fundamental rights monitoring mechanisms
- When developing information materials, ensure that these include specific information for stateless applicants and those with undetermined nationality
- Ensure that where new mechanisms for free legal counselling are being developed, these include adequate capacity and training to provide counselling on the specific rights and procedures for stateless persons and those with undetermined nationality

2. The European Commission

- Continues to highlight the statelessness provisions in its engagement with Member States, providing support to national authorities to effectively operationalise these, including by producing and publishing guidance on how to identify indications of statelessness and how to apply Article 27(2) APR.

- Considers the statelessness provisions and incorporates relevant information to facilitate their application when revising the Practical Handbook for Border Guards and bringing together border guards, asylum officials, and return case workers to ensure a common understanding between key actors of how to identify and record initial indications of statelessness pending a determination
- Ensures that monitoring of Pact implementation specifically addresses and assesses how the statelessness provisions are being applied in practice and identifies areas where additional support may be needed, including to ensure that stateless persons are channelled to appropriate procedures to determine their statelessness (APR Art 27(2)) and do not end up in situations of limbo when there is no prospect of return/removal
- Ensures that adequate resourcing is available to support the full application of the statelessness provisions, including resourcing for civil society initiatives
- Ensures that statelessness and nationality matters are raised and discussed as appropriate in relevant expert meetings especially those relating to Commission monitoring and assessment of systemic shortcomings in relation to the Pact

3. The EU Asylum Agency

- Carefully considers the statelessness provisions in all remaining product updates and continues to seek input from statelessness experts to reflect the changes under the Pact
- Ensures that appropriate information and guidance on how to implement the new statelessness provisions are incorporated into any new products relating to vulnerability, screening/registration, border procedures, and other relevant areas, and that national authorities and Agency staff have access to appropriate tools to support the implementation of these new provisions
- Promotes the uptake of the European Asylum Curriculum, in particular the training on identification of statelessness, among all relevant first contact officials including those responsible for screening and registration, as well as all other relevant modules that include information on statelessness for all officials, including asylum determination, information provision, and other relevant areas
- Monitor the application of the statelessness provisions as part of the EUAA CEAS Monitoring Mechanism, including by explicitly referring to statelessness within its methodology, and issue recommendations and support where Member States are falling short of their obligations towards stateless people
- Ensure that statelessness is mainstreamed across all relevant EUAA sectors, units, products and activities, recognising the crosscutting nature of statelessness, and to ensure consistency among EUAA outputs.
- Liaise with FRONTEX and other relevant actors to ensure that these tools are also available to all screening officials at country level (including where this is mandated to police and border guards).

4. The Fundamental Rights Agency

- Supports the effective uptake and practical application of its guidance for Member States on Fundamental Rights Monitoring, including by continuing to support national independent monitoring mechanisms to monitor the specific rights and protections of stateless persons enshrined in the 1954 Convention Relating to the Status of Stateless Persons and other fundamental rights, including Article 7 of the Convention on the Rights of the Child
- Ensures that its guidance on children and guardianship reflects the Pact provisions on statelessness and incorporates adequate information to support the identification of

indications of statelessness among children and referral to appropriate procedures for the determination of statelessness/nationality, and by promoting this guidance among guardianship services.

5. Frontex

- Ensures that all Frontex staff have received training on statelessness and are equipped with adequate knowledge of statelessness when conducting operations
- Ensures that it has adequate capacity, knowledge, and training on statelessness to provide operational support to Member States on screening, in particular to support the training of screening authorities (particularly where police or border authorities are competent) to fully observe their obligations to identify and record indications of statelessness

6. Eurostat

- Ensures that data collection mechanisms provide for the possibility to identify and record (indications of) statelessness with a separate field for this purpose, as well as to record different nationalities or statelessness for different family members including children
- Facilitates improved harmonisation and reporting of data on statelessness, including clear definitions for the use of nationality categories (for example, avoiding potentially overlapping categories such as 'Palestinian' and 'stateless', ensuring clear guidance is provided to Member States to improve the quality of data) to support monitoring of the implementation of new statelessness provisions

7. European Parliament

- Ensures that in its monitoring and oversight role, the statelessness provisions and fundamental rights of stateless persons are being fully and adequately applied in practice
- Passes resolutions that call on Member States to introduce stronger safeguards and protections for stateless persons in line with international law and human rights standards

8. UNHCR

- Incorporates language and recommendations on statelessness into publications, tools, messaging, and advocacy interventions at regional and national levels to ensure statelessness is mainstreamed across UNHCR's engagement with the EU and Member States on application and monitoring of the Pact
- Undertakes activities to ensure that the Pact's statelessness provisions are applied in accordance with international law and UNHCR guidance, in particular the Handbook on Protection of Stateless Persons

9. Civil society, legal, and other support providers

- Ensure they have adequate knowledge and capacity to support stateless individuals and those with undetermined nationality to be properly identified and to access their rights and appropriate routes to protection and/or to signpost them to specialist providers
- Adequately mainstream statelessness knowledge, capacity, and information in their services, programmes, training, resources, and advocacy relating to application of the Pact statelessness provisions

- Identify current and future gaps on the protection of stateless persons within Pact implementation, and where relevant, challenge Member States and EU bodies through advocacy to act in addressing such gaps
- Work with ENS and its members to develop specialist tools and resources to support implementation of the statelessness provisions, including toolkits for the identification of statelessness, and other resources

Effective implementation and application of the new statelessness provisions and improved protection for stateless applicants and beneficiaries of international protection will require the Commission, EU Agencies, and Member States to work closely together and with statelessness experts. This includes ENS and our members – particularly those with lived expertise – as well as UNHCR and others. This expertise must be channelled into monitoring and ensuring that the Pact’s statelessness provisions are fully applied in practice on the ground in all Member States. The perspectives of stateless individuals and community representatives must be central to this engagement and should be sought out by all stakeholders when devising regional and national implementation strategies. We stand ready to support this process to ensure that this welcome progress on paper turns into action on the ground to improve the identification and protection of stateless applicants and beneficiaries of international protection in Europe.

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USEFUL RESOURCES

- [Statelessness Index](#): Comparative information on law, policy, and practice relating to statelessness in 35 European countries.
- ENS and partners: country-specific identification toolkits to help frontline practitioners to identify and address statelessness:
 - [Toolkit to identify and address statelessness in Bulgaria](#) (2024)
 - [Toolkit to identify and address statelessness in Czechia](#) (2024)
 - [Toolkit to identify and address statelessness in Romania](#) (2024)
 - [Toolkit to identify and address statelessness in France](#) (2022)
 - [Toolkit to identify and address statelessness in Germany](#) (2025)
- [ENS, Statelessness Determination and Protection in Europe: Good practice, challenges and risks](#) (2025): Outlines SDPs, highlights best practice examples, and provides a critical analysis of the remaining gaps and barriers in countries across Europe.
- ENS, [Stateless Journeys](#): Knowledge hub and advocacy campaign on statelessness and asylum with tools, stories, and policy recommendations to promote improved identification and protection:
 - [Children's right to a nationality](#) (2023)
 - [Birth registration](#) (2023)
 - [Asylum registration and screening](#) (2023)
 - [Detention and return](#) (2023)
 - [Family reunification](#) (2023)
 - [Naturalisation and integration](#) (2023)
 - [Refugee reception and status determination](#) (2023)
 - [Resettlement and other pathways to protection](#) (2023)
- [UNHCR, Statelessness and the EU Pact on Migration and Asylum, Key advocacy messages](#) (2025): Recommendations for States to fully implement the Pact statelessness provisions.
- [UNHCR, Good Practice Papers, Action 6, Establishing Statelessness Determination Procedures for the Protection of Stateless Persons](#) (2020): Outlines SDPs, provides good practice examples, and supports States in identifying statelessness and protecting stateless people.
- [UNHCR, Stateless Persons in Detention: A tool for their identification and enhanced protection](#) (2017): Provides practical guidance and screening questions to help identify statelessness in detention and outlines steps to improve protection and prevent prolonged or arbitrary detention.
- [UNHCR Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons](#) (2014): Provides guidance on interpreting the 1954 Convention, including criteria for identifying statelessness, procedures for determination, and protection standards.

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The [European Network on Statelessness \(ENS\)](#) is a civil society alliance of over 180 organisations and individuals working to address statelessness in 40 European countries.