

Legislative reforms are urgently needed to improve the legal situation of stateless persons in Spain and to facilitate their naturalisation

Spain provides examples of good practice in addressing statelessness, but people affected do not have a facilitated means of acquiring Spanish nationality, as required by international law, and those who apply for stateless status find themselves in protracted situations without legal protection.

Statelessness is a human rights violation that denies the fundamental right that every person has to a nationality, recognised in Article 15 of the Universal Declaration of Human Rights, and with it all related rights, as stateless people lack the protection of a State. This is a reality that affects more than ten million people in the world, more than half a million in Europe, and thousands in Spain, with a significant increase in the numbers recently.

Spain is an example of good practice in addressing statelessness. Firstly, it acceded to the 1954 Convention relating to the Status of Stateless Persons, which resulted in Spain becoming one of the pioneers in introducing a statelessness determination procedure, which offers legal protection to those recognised as stateless. Secondly, the rules on acquisition, loss, renunciation, and deprivation of Spanish nationality in the Civil Code include sufficient safeguards to prevent the emergence of new cases of statelessness, in line with international standards. Consequently, Spain has recently acceded to the 1961 Convention on the Reduction of Statelessness, thus showing its current commitment to the prevention and reduction of statelessness on its territory.

However, this good work contrasts with the lack of legal protection for those who apply for stateless status, as Spain does not provide for this in law. There is only one regulation (derived from a brief section of Article 34.1 of the Immigration Law), which provides for administrative discretion in authorising the provisional stay of applicants for stateless status and the same family reunification rules as the general regime for foreigners. The regulation does not consider the specific nature of statelessness and is silent on access to free legal aid, applications at the border, and access to a work permit during the procedure. Likewise, being a stateless person recognised in Spain does not provide any facilitated route to acquire Spanish nationality by residence. The 1954 Convention urges States to facilitate the naturalisation of stateless persons, but Spain requires stateless people to comply with the standard ten-year period of residence for foreigners in general.

This legal reality contrasts with that of asylum seekers and refugees: people who apply for asylum in Spain cannot be removed during the procedure, they are documented as asylum applicants, they have the possibility to acquire a work permit and, once granted protection, they can apply for Spanish nationality after a reduced residence period of five years. This differential treatment disregards the similar situation of stateless people and refugees and the legal connection between the 1954 and 1951 conventions, since both

establish an international protection status, although this denomination is most often used to refer to asylum.

Bearing in mind this context, we consider that good legal practice would be to take advantage of the upcoming reform of the Asylum Law, to include a chapter that refers to statelessness, which takes into account the aforementioned and other issues. The second good practice would be the reform of the Civil Code, reducing the period of residence to qualify for Spanish nationality for stateless persons to two years, in line with the 1954 Convention and in recognition of the unique status of stateless persons as lacking any nationality.

The webinars organised by Fundació Cepaim together with the European Network on Statelessness on 23 and 30 September and 7 October provide an opportunity to address these problems and find sustainable and joint solutions among institutions, support organisations, academics, and other key stakeholders, including people affected by statelessness.

From Fundació Cepaim, European Network on Statelessness, Accem, CCAR and other endorsing organisations, we thank you for your interest. We remain at your disposition for any consultation, suggestion or collaboration with the aim of improving the protection of stateless persons, and preventing and reducing the incidence of statelessness both in Spain and in Europe.

