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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> UN Convention Relating to the Status of Stateless Persons, 1954 	Yes	UNTC, 1954 Convention
IOB	1	b		If yes, when was ratification/accession?		8 March 1960	<i>Idem</i>
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons.	<p>Yes</p> <p>The provisions of article 10§2 (continuity of residency), are regarded by the French Government as applying only to stateless persons who were forcibly displaced from French territory during WWII, and who have, prior to the date of entry into force of this Convention, returned there directly from the country to which they were forced to proceed, without in the meantime having received authorisation to reside in the territory of any other State.</p>	<i>Idem</i>
IOB	1	d		Does Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on legal regime.	<p>Yes</p> <p>Decree N°60-1066 of 4 October 1960</p>	Legifrance (French – FR)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	No	UNTC , 1961 Convention
IOB	2	b		If yes, when was ratification/accession?		N/A	<i>Idem</i>
IOB	2	c		Are there reservations in place? Please list them.	As above	Yes, at the time of signature but no ratification.	<i>Idem</i>

IOB	2	d		Does Convention have direct effect?	As above	N/A	
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	European Convention on Nationality, 1997	Signed but never ratified. No reservations.	Council of Europe , details of Treaty n°166
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	European Convention on Human Rights, 1950	<p>Ratified on 3 May 1974, Decree n°74-360 of 3 May 1974.</p> <p>Two reservations in place but not strictly relating to statelessness:</p> <p>On right to liberty and freedom (article 5) and fair trial (article 6): those articles shall not hinder the application of the provisions governing the system of discipline in the armed forces, determining the general legal status of military servicemen, nor of the provisions of Article 375 of the Code of Military Justice.</p> <p>On derogation in time of emergency (article 15§1): Article 16 of the French Constitution on state of siege must be understood as complying with the purpose of Article 15 of the Convention and for the interpretation and application of the said Article 16, the terms to the extent strictly required by the exigencies of the situation shall not restrict the power of the President of the Republic to take the measures required by the circumstances.</p>	<p>Full list, signatures and ratifications</p> <p>Full list, reservations and declarations</p> <p>Legifrance, Decree n°74-360 (FR)</p>
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	Not signed, not ratified, no reservations indicated.	Council of Europe , Details of Treaty n°200

IOB	3	d	Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)	Yes, bound by Directive 2008/115/EC and fully transposed. No reservations in place.	Official Journal of the EU , Directive 2008/115/EC Legifrance : Law n°2011-672 of 16 June 2011 on immigration, integration and nationality and Decree n°2011-820 of 8 July 2011 applying the law (FR)
IOB	3	e	State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	Convention on the Rights of the Child 1989	Yes , ratified on 7 August 1990 and Decree n°90-917 of 8 October 1990. Reservation confirmed on ratification (does not concern statelessness): (1) This Convention, particularly Article 6, cannot be interpreted as constituting any obstacle to the implementation of the provisions of French law relating to the voluntary interruption of pregnancy. (2) Article 30 is not applicable in France as it regards “States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist”. (3) Interpretation of Article 40, para. 2 (b) (v), establishes a general principle to which limited exceptions may be made under law. This is particularly the case for certain non-appealable offences tried by the Police Court and for offences of a criminal nature. Nonetheless, decisions handed down by the final court of jurisdiction may be appealed before the Court of Cassation.	UNTC , Convention on the rights of the Child Legifrance , Decree n°90-917 (FR)
IOB	3	f	State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.	International Covenant on Civil and Political Rights 1966	Yes , acceded on 4 November 1980, Decree n°81-76 of 29 January 1981. Yes , three reservations in place, none strictly relating to statelessness: ‘In case of conflict between its obligations under the Covenant and its obligations under the Charter of the UN, France’s obligations under the Charter will prevail.’ Plus two reservations similar to those made to ECHR regarding the state of	UNTC , International Covenant on Civil and Political Rights 1966 Legifrance , Decree n°81-76 (FR)

						emergency and the rules pertaining to the disciplinary regime in the army.	
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.	International Covenant on Economic, Social and Cultural Rights 1966	<p>Yes, acceded on 4 November 1980, Decree n°81-77 of 29 January 1981.</p> <p>Three declarations but no reservations in place.</p>	<p>UNTC, International Covenant on Economic, Social and Cultural Rights 1966</p> <p>Legifrance, Decree n°81-77 (FR)</p>
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Convention on the Elimination of all Forms of Discrimination Against Women 1979 Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness. 	<p>Yes, ratification on 14 December 1983, Decree n°84-183 of 12 March 1984.</p> <p>Reservations were entered to Article 29 (“<i>The Government of the French Republic declares, in pursuance of Article 29, § 2, of the Convention, that it will not be bound by the provisions of Article 29, § 1</i>”) and to Article 9 (which “<i>must not be interpreted as precluding the application of the 2nd § of Article 96 of the code of French nationality</i>”). It also declared the 11th preambular § contains debatable elements. The term “family education” in Article 5 (b) of the Convention was specified as meaning “public education concerning the family” and in any event, Article 5 would be applied subject to respect for Article 17 of the ICCPR and Article 8 of the ECHR. France also declared that no provision of the Convention would be interpreted as prevailing over provisions of French legislation which are more favourable to women than to men. France also commented on reservations made by Saudi Arabia, Syria, Bahrain, South Korea, Oman, the UAE and Brunei Darussalam.</p>	<p>On ratification: Legifrance, Decree n°84-183 (FR)</p> <p>On reservations: UNTC, Convention on the Elimination of all Forms of Discrimination Against Women 1979</p>
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	<p>Yes, ratified on 18 February 1986, Decree n°87-916 of 9 November 1987.</p> <p>Yes, reservation to Article 30§1 relating to settling disputes, including before the ICJ – France declares it shall not be bound by those provisions</p>	UNTC , Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

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				there reservations in place? Please list them.			Legifrance , Decree n°87-916 (FR)
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Are there reservations in place? Please list them.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes , acceded on 28 July 1971, Decree n°71-901 of 2 November 1971. No reservations but three declarations including one which may be relevant: with regard to Article 4, France interprets the reference made therein to the principles of the UDHR as releasing the States Parties from the obligation to enact anti-discrimination legislation which is incompatible with the freedoms of opinion and expression, and of peaceful assembly and association.	Legifrance , Decree n°71-901 (FR) UNTC , International Convention on the Elimination of All Forms of Racial Discrimination 1965
IOB	3	k		State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990? Are there reservations in place? Please list them.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	No.	UNTC , 1990

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> • Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends... • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons... • UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations... • Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory... 	<p>There is no data on statelessness in the census. According to INSEE, the category “stateless” is not foreseen by the Nationality Codes. The French population census considers that all individuals have a nationality. As INSEE cannot code this denomination, it is considered a non-answer (as are references to unknown nationality). The person is either assigned the nationality of their country of birth or INSEE looks up a respondent sharing similar characteristics where nationality is indicated and assigns them this nationality.</p> <p>Official statistics on statelessness relate to the statelessness determination procedure. In 2017, 341 new claims were made (19% increase compared to 2016). 298 decisions were issued, including 65 positive and 233 negative decisions. This is a 22% recognition rate, which is higher than in 2015 (15%) but lower than the period 2005-2010 when the average was a 30% recognition rate. A breakdown by country of birth and gender is available. This does not include accompanying minors. It is worth indicating that 13 claims were introduced by people saying they were born in France. None of them received a positive decision. As of 31 December 2017, 1425 stateless persons and persons with undetermined nationality were protected by OFPRA (34% women). Children who turn 18 are counted too. Another source of data is the acquisition of French nationality data in Eurostat, which is disaggregated by country of origin and includes “not disaggregated or stateless”. For 2016, 2347 people are listed under that section (data is available from 1998).</p>	<p>INSEE, see p.6 of leaflet where it is explained that the “country of birth” and the “current nationality” are asked for in the census. There is no box that people can check to indicate they don’t have a nationality.</p> <p>Email exchange with INSEE where they explain how they integrate answers from respondents indicating no nationality in the census.</p> <p>Gábor Gyulai (2010), Country Report on France, Funded and supported by the Open Society Justice Initiative, unpublished (confidential to UNHCR)</p> <p>OFPRA, 2017 Activity report, April 2018 pp. 28, 58, 107, 122 (FR)</p> <p>Eurostat, Acquisition of citizenship by age group, sex and former citizenship, 2018</p>

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POP	1	b		Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	See above. Prefectures may deliver stay permits bearing “undetermined nationality”.	Interview with a lawyer working on statelessness.
POP	1	c		What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?	As above	UNHCR uses OFPRA statistics. No estimate for persons at risk of statelessness.	
POP	1	d		Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or	As above	Not to our knowledge.	

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				Syrian Kurds)? Please provide explanation and figures.			
POP	1	e		Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10	Not to our knowledge.	
POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	No.	
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	As indicated above, the lack of a category to indicate the absence of nationality or the status of statelessness in the census is an issue. The way stateless people are counted by the Ministry of Justice (e.g. issuance of residence permits and acquisition of French nationality) is not explained. Further research should be done to better understand this.	See POP1a
POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	The situation in detention should be looked at more carefully. Based on informal discussions with people working in detention it seems there is a lack of understanding of the issue of statelessness and therefore possible under reporting. A further issue is the situation of undocumented migrants. Gábor Gyulai reported: ‘Several interviewees pointed to ... undocumented migrants who can neither be regularised, nor expelled, or as they are called in current French argot, the “ <i>ni-ni</i> ” (<i>ni régularisable, ni expulsable</i>). There is no reliable data about the	Gábor Gyulai (2010), Country Report on France, Funded and supported by the Open Society Justice Initiative, unpublished (confidential to UNHCR)

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						number of undocumented migrants living in France; estimates often refer to hundreds of thousands.”	
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	In 2017, OFPRA recognised 114 ‘stateless-refugees’ whose situation is linked to the conflict in Syria. This is an increase compared to 2016 (91 stateless-refugees) and 2015 (96 stateless-refugees). These statistics are counted separately.	OFPRA, Activity report 2017, April 2018 , p.2 (FR)
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	No official statistics.	
POP	2	b		Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide.	As above	There are statistics on individuals released from immigration detention due to expiry of the maximum duration of detention (45 days or 90 days from January 2019), meaning the authorities did not manage to remove them. In 2017, 4% of the total people detained were in this situation: 1061 people in metropolitan France, and 2 people in French overseas departments.	2017 Annual Report on immigration detention by ASSFAM, Forum réfugiés-Cosi, France Terre d'asile, La Cimade, Ordre de Malte France and Solidarité Mayotte, 3 July 2018, p.14.

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Article 1(1) and 1(2). 	<p>Yes. The legislation explicitly refers to the 1954 Convention: “<i>Stateless status is recognised to every person who meets the definition of Article 1 of the New York Convention of 28 September 1954 [...]</i>”. Exclusion provisions foreseen by the legislation are where a) the person has been guilty of acts contrary to the purposes, objectives and principles of the United Nations; or b) their activities on French territory constitute a serious threat to public order, public security or the security of the State.</p>	<p>CESEDA, Article L-812-1 Code of Entry and Residence of Foreigners and of the Right to Asylum, as modified by Law No 2015-925 of 29 July 2015 on the reform of asylum law and Law No 2016-274 of 7 March 2016 on the reform of immigration law (FR)</p>
IDP	1	b	Existing SDP procedure	<p>Which of the following best describes the situation in your country?</p> <p>1. There is a dedicated Statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure.</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. • UNHCR (Good Practices Paper 6): Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention. European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness. 	<p>Group 1 - There is a dedicated Statelessness determination procedure (SDP) established in law.</p>	<p>Articles L. 812-1 to 812-8 and Articles R. 812-1 to 812-7, Code of Entry and Residence of Foreigners and of the Right to Asylum, as modified by Law No 2015-925 of 29 July 2015 on the reform of asylum law and Law No 2016-274 of 7 March 2016 on the reform of immigration law.</p> <p>Law No 2015-925 on the reform of asylum law, Article 6 Decree No 2015-1166 of 21 September 2015, on the implementation of Law No 2015-925 on the reform of asylum law Article 23.</p>
IDP	2	a		You have identified that your country has a dedicated SDP established in law, administrative guidance or judicial	<p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: There is no general rule for appointing the most appropriate authority for statelessness determination... the structure must be</p>	<p>The French Office for the Protection of Refugees and Stateless Persons (<i>Office Français de protection de réfugiés et des apatrides</i> – OFPRA).</p>	<p>CESEDA, Article L. 812-2 (FR)</p>

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				procedure. Which authority is responsible for determining statelessness?	evaluated in light of the specific national circumstances.		
IDP	2	b	Access to procedures	<p>Must an application for statelessness status be made on a specific form? Are there clear instructions on how to make a claim for statelessness or how to fill in the relevant forms?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: For procedures to be fair and efficient, access to them must be ensured. Dissemination of information, including through targeted information campaigns where appropriate and counselling on the procedures, facilitates access... Given that individuals are sometimes unaware of SDPs or hesitant to apply...procedures can usefully contain safeguards permitting State authorities to initiate a procedure. • UNHCR (Good Practices Paper 6): Accepted that good practice existed in countries where applications were accepted orally or in writing and in any language. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: Bureaucratic difficulties (such as complicated application forms, inflexible procedures, strict language requirements, limited places where claims can be submitted, high costs, etc.) can encumber, or even impede access to SDPs. The protection-oriented framework therefore requires a flexible interpretation of such rules, especially since the majority of the population of concern may be in a vulnerable position and may not have the necessary language skill, financial means or possibility to travel that may be justifiably expected in other types of standard administrative procedures. <p>ENS (2016), Protecting Stateless Persons from Arbitrary Detention in the United Kingdom:</p>	<p>The application must be made on a specific OFPRA form delivered on request by the applicant. It must be written in French and signed. Two recent photographs must be attached as well as, if relevant, travel documentation, civil status documents and a copy of a valid residence permit. When the completed application is submitted, OFPRA immediately acknowledges receipt and issues a certificate of registration (not a residency permit).</p>	<p>CESEDA, Article R.812-1 (FR)</p> <p>See OFPRA website for a screenshot of the form (FR)</p> <p>Guide of procedures, 2018, p.44 (FR)</p>

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					Any application form to apply for stateless status should be simplified and offered in a variety of languages... [and] made freely available, including in immigration detention centres.		
IDP	2	c		Do submissions and/or other written evidence have to be submitted in the native language?	UNHCR (Good Practices Paper 6) : As above.	The application form must be completed in French. Additional information can be provided orally during an interview, but this is not compulsory: <i>“the Office may invite the applicant to a personal interview”</i>	CESEDA, Article R.812-2 (FR)
IDP	2	d		Can an application for statelessness status be made orally to a public official?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): As above. • UNHCR (2014), Handbook on Protection of Stateless Persons: Given that individuals are sometimes unaware of SDPs or hesitant to apply for statelessness status, procedures can usefully contain safeguards permitting State authorities to initiate a procedure. 	No. Only OFPRA is competent to receive an application for stateless status. It is explicitly stated on the OFPRA website that <i>“the persons who want to introduce an application for statelessness status must contact OFPRA directly”</i> .	CESEDA, Article L. 812-2 (FR) OFPRA website (FR)
IDP	2	e		Are there obligations in law on authorities to consider the application?	UNHCR (Good Practices Paper 6) : access to the SDP must be guaranteed.	Yes. No decision can be derived from the absence of answer from OFPRA.	CESEDA, Article R.812-1 See OFPRA website for a screenshot of the form (FR) Guide of procedures, 2018, p.44 (FR)
IDP	2	f		Are government authorities authorised to initiate SDPs ex officio?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): ...it is recommended that governmental authorities be authorized to initiate these procedures ex officio... • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: as above. 	No.	Gábor Gyulai (2010), Country Report on France, Funded and supported by the Open Society Justice Initiative, unpublished (confidential to UNHCR)
IDP	2	g		Is there an application fee?	UNHCR (Good Practices Paper 6) : access to the SDP must be guaranteed.	No.	Nothing specified in the law. Lawyers and professionals asked informally for the purpose of this study confirm.

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IDP	2	h		<p>Is there a requirement for lawful stay in order to access SDP?</p>	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): Access to the procedure needs to be open to anyone who claims to be stateless, regardless of whether or not that person already has lawful stay or residence in the country. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: Everyone in a state’s territory must have access to SDPs. There is no basis in the 1954 Convention for requiring that applicants for statelessness determination be lawfully within a state. 	No.	<p>Nothing specified in the law.</p> <p>Lawyers and professionals asked informally for the purpose of this study confirm.</p>
IDP	2	i		<p>Is there a time limit beyond which a person cannot access the SDP procedure? If so, what is this and can the requirement be waived?</p>	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): For procedures to be fair and efficient, and to ensure that all stateless persons benefit from the implementation of the 1954 Convention, access to the SDP must be guaranteed and not subject to time limits. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: There is... no basis in the 1954 Convention to set time limits for individuals to claim stateless status... 	No.	<p>Nothing specified in the law.</p> <p>Lawyers and professionals asked informally for the purpose of this study confirm.</p>
IDP	2	j		<p>Is the examination of statelessness claims conducted by a dedicated centralised body with relevant expertise? If yes, please specify.</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: 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. • UNHCR (Good Practices Paper 6): Where to situate SDPs institutionally is a matter of State discretion and can vary from one country to the next. Regardless...it is important that examiners develop expertise... while ensuring that the procedures are accessible... 	The procedure is centralised. OFPRA is designated as the administrative authority in charge of determining stateless status and providing protection.	<p>CESEDA, Articles L.812-1 to L.812-4 (FR)</p> <p>Not specified on OFPRA website.</p> <p>Gábor Gyulai (2010), Country Report on France, Funded and supported by the Open Society Justice Initiative, unpublished (confidential to UNHCR)</p>

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					<p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</p>		
IDP	2	k		<p>Is there training to inform different governmental bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom and how often?)</p>	<ul style="list-style-type: none"> • UNHCR Executive Committee, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) – 2006: Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons. • UNHCR (Good Practices Paper 6): Training sessions for officials and meetings between the various decentralized bodies, UNHCR and civil society take place on a regular basis, allowing for an exchange of information and discussion of trends and common challenges. 	<p>It is not clear whether statelessness forms part of standard OFPRA training.</p> <p>UNHCR organises an annual course on refugee law with a component on statelessness. Two OFPRA staff members take part in this course each year.</p>	<p>Confirmed by UNHCR country office.</p>
IDP	2	l		<p>Is there cooperation between agencies that may come into contact with stateless persons? If so, how are cases referred to the appropriate authority for determination?</p>	<p>UNHCR (Good Practices Paper 6): good practice identified as cooperation between actors working on statelessness and the various government agencies involved in determining statelessness.</p>	<p>OFPRA may receive referrals from the Prefecture in cases where third country nationals have a residence permit but cannot get documents from the country of origin. OFPRA may receive referrals from the Ministry of Interior in cases where people are living as French nationals, but it is discovered do not possess French nationality. UNHCR may make referrals to OFPRA.</p>	<p>Interview with OFPRA, conducted on 14 December 2016.</p> <p>Confirmed by UNHCR country office.</p>
IDP	3	a	Assessment	<p>Who has the burden of proof in the SDP? Is this shared in practice, even if not in law?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ...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. • UNHCR (Good Practices Paper 6): SDPs present unique evidentiary considerations. Given the nature of statelessness, individuals 	<p>OFPRA determines the various countries with which the applicant may have a nationality tie. This is usually done through a personal interview which OFPRA is however not obliged to conduct. Then there is an examination of any eventual entitlement to obtain the nationality of any of these states. OFPRA can approach the consular representation of the relevant states in France</p>	<p>Guide of Procedures, 2018, p. 44-45 (FR)</p> <p>Gábor Gyulai (2010), Country Report on France, Funded and supported by the Open Society</p>

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				<p>are often unable to substantiate a claim with documentary evidence... SDPs must therefore take into consideration the difficulties inherent in proving statelessness. UNHCR recommends that SDPs provide for a shared burden of proof between the applicant.</p> <ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: The applicant has a duty to provide as full and truthful account...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...Given the nature of statelessness, applicants ...are often unable to substantiate the claim with much, if any, documentary evidence... authorities need to take this into account, where appropriate giving sympathetic consideration to testimonial explanations regarding the absence of certain kinds of evidence. UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is incumbent on individuals to cooperate to establish relevant facts. If an individual can demonstrate, on the basis of all reasonably available evidence, that he or she is evidently not a national, then the burden should shift to the State to prove that the individual is a national of a State. 	<p>or its own consular representation abroad with queries regarding legal affiliation of the applicant to these states. OPFRA asks the applicant to sign a document allowing it to contact state authorities, provided that there is no fear of persecution identified.</p> <p>The guide of procedures never refers to the applicant’s obligation to “prove” their statelessness; it rather talks about the authority’s methodology to establish the facts.</p> <p>OPFRA requires the applicant to demonstrate they have taken the necessary steps to obtain the nationality they would be entitled to according to the relevant legal provisions (if there is such a country). A genuine attachment to the country in question is not a requirement in this assessment.</p> <p>The burden of proof is shared: OPFRA is “<i>not obliged to carry out an investigation to collect evidence; but if the applicant has made genuine efforts but cannot obtain sufficient evidence that we could possibly obtain, then we conduct our own investigation including to contact the authorities of the countries of origin</i>”.</p>	<p>Justice Initiative, unpublished (confidential to UNHCR)</p> <p>Interview with OPFRA, conducted on 14 December 2016. Confirmed by UNHCR country office.</p>
IDP	3	b	<p>What is the standard of proof? Is it the same as in asylum applications?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: States are...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 	<p>In order to establish the fact of statelessness OPFRA considers all relevant evidence, which shall be “<i>sufficiently precise and serious</i>”. In practice, the standard of proof is slightly higher than in asylum applications. The SDP is based on the evidence the applicant can bring that they have performed official acts to claim a nationality that they have then been refused</p>	<p>Guide of Procedures, 2018, p.44 (FR)</p> <p>Interview with OPFRA, conducted on 14 December 2016. Confirmed by UNHCR country office.</p>

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					<p>considered as a national by any State under the operation of its law. UNHCR, Nationality and Statelessness, Handbook for Parliamentarians No. 22, 2014: Because of the difficulties inherent in proving statelessness, the threshold of evidence required before statelessness is determined should not be too high. States are therefore advised to adopt the same standard of proof as that required in refugee status determination...</p>	<p>(and the proof of such refusal); or on objective elements demonstrating that the applicant is not eligible to any nationality. The decision issued in the SDP is objective and is not based on the intimate conviction as it is in the asylum procedure. The assessment is of a totally different kind.</p>	
IDP	3	c		<p>Is there respect for specific protection needs and evidentiary challenges presented by women, children and people with disabilities in the SDP?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: As a result of discrimination, women might face additional barriers in acquiring relevant documentation, such as birth certificates or other identification documents that would be pertinent to establishing their nationality status... Children, especially unaccompanied children, may face acute challenges in communicating basic facts with respect to their nationality. States...must follow the principle of pursuing the best interests of the child when considering the nationality status and need for statelessness protection of children. • Gen. Rec. 32 of CEDAW: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women... Discriminatory laws or practices may lead to women and their children being unable to gain access to documentation that proves their identity and nationality... 	<p>The only information available is that the provision granted to asylum seekers by the revised Asylum Law of 29 July 2015 according to which they can be accompanied to the personal interview by a third party authorised by OFPRA is not applicable to stateless persons.</p>	<p>Interview with a lawyer who is providing support to persons applying to the SDP.</p>
IDP	3	d		<p>Are decision makers presented with clear guidance how to determine</p>	<p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: determining authorities can benefit</p>	<p>No information available. OFPRA Guide of Procedures explains what procedures are applied by OFPRA but does not provide decision</p>	

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				statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.	significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances...	makers with guidance on how to determine statelessness.	
IDP	4	a	Procedural Protections	Is there free legal aid available during the application?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants. 	No. Applicants for stateless status are not entitled to free legal aid in this procedure, as the relevant provision only foresees this right as applying to lawfully and habitually resident foreigners (if coming from outside the EU). Applicants for stateless status (unlike e.g. asylum-seekers) are not mentioned among the exceptions to this rule. Nevertheless, the law stipulates that legal aid can be exceptionally granted to people who do not meet the required criteria when their situations appears worthy of special attention.	Law No 2014-1654 of 29 December 2014, Article 3 (FR)
IDP	4	b		Is an interview always offered (unless granting without interview)?	UNHCR (2014), Handbook on Protection of Stateless Persons : The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential to ensure that applicants have the opportunity to present their cases fully...	An interview is not compulsory by law: OFPRA may invite the applicant to an interview. OFPRA can also conduct the interview by audio-visual communication means.	CESEDA, Article R.812-2 (FR) CESEDA, Article R.723-9 (FR)
IDP	4	c		Are interpreters provided for statelessness determination interviews? Are they free of charge?	ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).	Yes, interpreters are provided free of charge for SDP interviews if needed: <i>“the applicant is heard in the language of his choice, except if there is another language they understand and can use to communicate”</i> .	CESEDA, Article R.812-2 (FR)
IDP	4	d		Are there quality assurance audits of the SDP? Does	• UNHCR (2014), Handbook on Protection of Stateless Persons : States are encouraged... to	UNHCR carries out quality assurance audits of OFPRA’s work but these do not include the SDP.	Quality assurance audit OFPRA, Report 2016 (FR)

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				<p>UNHCR participate in the proceedings? Can they access files? Do they play a quality monitoring or training role?</p>	<p>incorporate the following safeguards: [...] access to UNHCR is guaranteed. UNHCR (Good Practices Paper 6): Quality assurance audits of SDPs are considered good practice.</p>		
IDP	4	e		<p>Are decisions (refusals and grants) given with reasons? And in writing?</p>	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons.</p>	<p>The law stipulates that decisions are given with reasons and in writing. The notification must be made by postal service attested by an acknowledgement of receipt. Anecdotal evidence indicates that the main reasons for refusals are “<i>journey not established</i>” and/or “<i>vague statements from the applicant</i>”.</p>	<p>CESEDA, Article L.812-4 and Article R.812-3 (FR)</p> <p>Interview with a lawyer providing support to applicants to the SDP.</p>
IDP	4	f		<p>Is there a referral mechanism if an individual has been refused asylum but may be stateless?</p>	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): Efficient referral mechanisms should be established... officials who may be in contact with stateless persons need to be trained to identify potential applicants ...and refer them to appropriate channels. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: The regulation should... guarantee that proper cross-referral systems exist for cases where the two determination procedures are not conducted in a joint framework... potentially stateless persons whose asylum claim has been rejected are properly informed about the possibility to claim stateless status. 	<p>If the same person submits an asylum claim and an application for stateless status, the asylum procedure will take priority. In cases where only an asylum claim is submitted and then refused, the SDP is not automatically activated even where there are indications that the person could be stateless.</p>	<p>Guide of Procedures, p.45 (FR)</p> <p>Confirmed by UNHCR country office.</p>
IDP	5	a	Protection during SDP	<p>Does the applicant have automatic legal admission while their claim for stateless status is assessed? Is expulsion possible during the process? If yes, are there verified reports of such incidents?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: An individual awaiting a decision is entitled, at a minimum, to all rights based on jurisdiction or presence in the territory as well as “lawfully in” rights... his or her status must guarantee, inter alia, identity papers, the right to self-employment, freedom of movement and protection against expulsion... it is recommended that individuals... receive the same standards of treatment as asylum-seekers... 	<p>No. Applicants have no right to legally stay on the territory. Expulsion is possible during the process. The Prefectures may admit applicants for temporary stay but have no obligation to do so. There are cases of people being issued with an obligation to leave the French territory while still being in the SDP. However, there is no information on actual expulsions.</p>	<p>Guide of Procedures, p.44 (FR)</p> <p>OFPRA website (FR)</p> <p>Interview with a lawyer providing support to applicants to the SDP.</p>

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					ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : States should refrain from expelling or removing an individual from their territory pending the outcome of the determination process.		
	5	b		Do applicants for stateless status who are awaiting a decision have permission to work, if they have no other permission to stay in the country?	UNHCR (2014), Handbook on Protection of Stateless Persons : Allowing individuals...to engage in wage-earning employment...may reduce the pressure on State resources and contributes to the dignity and self-sufficiency of the individuals concerned.	No permission to work if they are not legally staying on the territory. Legal stay does not necessarily entitle someone to a right to work e.g. asylum seekers or those with temporary stay permit not necessarily permitted to work.	French Civil Service website (FR)
IDP	5	c		Do applicants for stateless status with limited means have access to assistance to meet their basic needs (shelter and welfare support)? Please describe.	UNHCR (2014), Handbook on Protection of Stateless Persons : The status of those awaiting statelessness determination must also reflect applicable human rights such as... assistance to meet basic needs.	As Prefectures are not obliged to allow applicants for stateless status to legally remain on the territory during the procedure, access to assistance to meet their basic needs varies. Where the Prefecture grants a temporary stay permit, the applicant can access Universal Healthcare Protection (<i>Protection universelle maladie</i> – PUMA) and be accommodated either in an emergency shelter for a maximum of 21 days or in accommodation and rehabilitation centers (<i>centres d’hébergement et de réinsertion sociale</i> – CHRS) where they can be accommodated for several months. In case they are not granted temporary stay by the Prefecture, applicants in the SDP are considered irregular foreigners so can only access State Medical Aid (AME) if they can prove they have lived in France for three months and are accommodated through the 115 emergency schemes. In cases where the applicant cannot access the AME, urgent healthcare needs will still be covered.	Social care of foreigners in France, Legal analysis study, UNAFO and ODTI, July 2016 (FR) On PUMA: Social Security Code, Articles L.160-1 to L.160-7 (FR) On CHRS: Social Action and Families Code, Article L.345-1 (FR) And Social Action Code, Article L.111-2 (FR) On 115: Law No98-657, Orientations relating to fighting exclusion, 29 July 1998 (FR) For more information see: Website of the DRIHL (FR) On AME: Social Action and Families Code, Articles L.252-1 to L.252-5 (FR) Decree No2005-860, Conditions of entry for applicants to State Medical Aid, 28 July 2005 (FR)

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							Social action and families Code, Articles L.254-1 and L.254-2 (FR) Circular, No DHOS/DSS/DGAS/2005/141, 16 March 2005 (FR)
IDP	5	d	Is it possible to detain an applicant while he/she is in the SDP procedure?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. • UNHCR (Good Practices Paper 6): State practice... reflects rights to liberty and freedom of movement by avoiding detention of those seeking recognition of their stateless status. 	As there is no right to stay on the territory during the SDP an applicant may be detained for the purpose of removal. The Ministry of Interior explicitly states: <i>“Such an application [SDP] therefore does not prevent a removal order to be executed”</i> .	See the website of the Ministry of Interior (FR)	
IDP	5	e	Does law or policy set out a timeframe for the SDP? If so, is it complied with? Can the decision maker extend the timeframe?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): Some of the most fundamental guarantees reflected in current State practice include: a time limit for a decision following submission of a statelessness status application. • UNHCR (2014), Handbook on Protection of Stateless Persons: In general, it is undesirable for a first instance decision to be issued more than six months from the submission of an application... in exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months to provide time for enquiries regarding the individual's nationality status to be pursued with another State... 	There is no timeframe defined in law or policy. In practice, verification with the consular authorities generates very long delays to the procedure (2-3 years in several cases reported).	Interviews with asylum practitioner and lawyers.	

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IDP	6	a	Appeals	Is there an automatic right of appeal on the case of refusal (on grounds of both law and fact)?	UNHCR (2014), Handbook on Protection of Stateless Persons : States are encouraged... to incorporate the following safeguards: there is a right of appeal... An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	In case of a negative decision by OFPRA, the applicant can appeal before the local administrative court (<i>tribunal administratif</i>) in their place of residence within 2 months. A further appeal is possible before the geographically competent court of appeal (<i>cour administrative d'appel</i>) and as a final stage before the Council of State. Appeals do not have suspensive effect.	CESEDA, Article L.812-3 Refusal of statelessness status, Official website of the French public administration (FR) OFPRA website (FR)
IDP	6	b		Is legal aid available for appealing/applying to review a negative determination?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: The applicant is to have access to legal counsel and, where free legal assistance is available, it is to be offered to applicants without financial means. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : Applicants are to have access to legal counsel both at first instance and upon appeal.	The same rules on legal aid apply as for any appeal before the administrative courts i.e. legal aid is not available ipso jure (de plein droit). It is possible to apply for legal aid which would suspend the two-month timeframe for the appeal. Any foreign national is eligible for legal aid provided they are legally and regularly staying on French territory. In practice, it seems at least in the Rhône that legal aid is never refused in these cases.	Administrative code of justice, Article R441-1 (FR) Article 3 Law No91-646, 10 July 1991, modified by Article 28, Law No2016-247, 7 March 2016 (FR) Interview with a lawyer.
IDP	6	c		Is there a fee for the appeal application?	UNHCR (2014), Handbook on Protection of Stateless Persons : An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	There is no fee.	French Civil Service Website (FR)
IDP	6	d		Is there evidence of significant errors in decision making? If so, is there a publicly available source (e.g. audits, independent reports, academic research etc.)? If yes, please provide this. If anecdotal, please describe.		No. In 2017, the number of cases before the Administrative Courts increased by 28% (from 60 cases in 2016 to 77 in 2017). 66 decisions were taken by Administrative Tribunals and 11 by Administrative Courts of Appeal. Only 3 decisions overturned OFPRA's negative decision.	OFPRA, 2017 Activity Report, p.28 (FR) Correspondence with OFPRA

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IDP	7	a	Stateless Status	Does recognition of statelessness result in permission to stay/legal status? Is status granted immediately or automatically upon recognition or identification as stateless?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: The 1954 Convention ... [grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty... It is therefore recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.</p>	<p>Yes. The recognition of statelessness leads to permission to stay ('private and family life' stay permit costing 19 Euros) for the recognised person and their spouse and children, unless the person's presence constitutes a threat to public order. Once the status of statelessness is granted, the Director of OFPRA informs the competent Prefecture (where the person lives) of the positive decision so the stay permit can be granted.</p>	<p>CESEDA, Article L.313-26 (FR)</p> <p>Official website of the French public administration (FR)</p> <p>CESEDA, Article R 812-3 (FR)</p>
	7	b		Are there additional requirements - beyond meeting the definition of a stateless person and satisfying the exclusion provisions - that a stateless person must meet to be granted permission to stay/legal status?	<p>As above.</p>	<p>No, but the Prefecture in charge of delivering the residence permit, can refuse to do so if it considers the person presents a threat to public order.</p>	<p>See explanation on the website of the Ministry of Interior (FR)</p>

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IDP	7	c		How long is initial status? Is residence status renewable?	UNHCR (2014), Handbook on Protection of Stateless Persons : It is recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.	Once permission to stay has been obtained, a multi-annual stay permit valid for up to four years is issued to the recognised stateless person, their spouse or common-law spouse and children. After four years' legal stay and unless their presence constitutes a threat to public order, a 10-year residence permit is issued <i>ispo jure</i> (de plein droit) to the foreigner holding valid residence permit. It costs 9 EUR (on top of the 19 EUR paid already) or 19 EUR (fiscal stamp). This residence permit is renewable.	CESEDA, Article L.313-26 (FR) Ministry of Interior website (FR) Official website of the French public administration (FR) CESEDA, Articles L. 314-1 and L.314-11 9° (FR)
IDP	7	d		Is a travel document issued to those recognised as stateless?	UN Convention Relating to the Status of Stateless Persons, 1954 , Art. 28: The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents.	Recognised stateless persons may request a travel document (<i>document de voyage pour apatriote</i>) unless their presence constitutes a threat to public order. For a stateless person with a temporary multi-annual permit, the TD is valid for one year and costs 15 EUR. For a stateless person with a residence permit of 10 years, the TD is valid for five years and costs 45 EUR.	CESEDA, Article L.812-7 (FR) General Tax Code, Article 953 (modified by the Law 2010-1657 of 29 December 2010) (FR)
IDP	7	e		What are the family reunion provisions for individuals recognised as stateless?	UNHCR (2014), Handbook on Protection of Stateless Persons : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised statelessness status in their territory with their spouses and dependents. Indeed, some States have obligations arising under relevant international or regional human rights treaties to do so.	Individuals recognised as stateless (whatever the type of permit they have – residence permit or stay permit) can ask to benefit from family reunification, under the same conditions as refugees.	CESEDA, Articles L.812-5 and L. 752-1
IDP	7	f		Is residence status granted to stateless persons revocable? If yes, on what grounds?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State... he or she will cease to be stateless in terms of the 1954 Convention. This may justify the cancellation of a residence permit obtained on the basis of statelessness status, although proportionality considerations in relation to 	Provisions are the same as in the UNHCR Handbook 2014: if a person recognised as stateless subsequently acquires the nationality of another State, stateless status is withdrawn. The same applies to a person recognised as stateless who has acquired this status by fraud or misleading statements.	Guidebook for individuals recognised as stateless, OFPRA, p. 7-8 (FR)

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					acquired rights and factors arising under international human rights law, such as the degree to which the individual has established a private and family life in the State, need to be taken into account.		
IDP	7	g		Do persons granted stateless status have permission to work?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: The Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, as regards the right to engage in wage-earning employment. • UNHCR (2014), Handbook on Protection of Stateless Persons: Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work [...] must accompany a residence permit. 	Yes, they have permission to work based on the rights guaranteed under the residence permit they hold and under the same conditions as third country nationals staying legally in France.	CESEDA, Article L.313-12 (FR) Guidebook for individuals recognised as stateless, OFPRA, p.10 (FR)
IDP	7	h		Do persons granted stateless status have access to primary education?	UN Convention Relating to the Status of Stateless Persons, 1954 : (Art. 22) The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.	Yes. They have access to primary education under the same common law rules and provisions as anyone else.	Guidebook for individuals recognised as stateless, OFPRA, p.10 (FR)
IDP	7	i		Do persons granted stateless status have access to secondary and higher education?	UN Convention Relating to the Status of Stateless Persons, 1954 : (Art. 22) The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.	Yes. They have access to secondary and higher education under the same common law rules and provisions as anyone else.	Guidebook for individuals recognised as stateless, OFPRA, p.10 (FR)

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IDP	7	j		Do persons granted stateless status have access to social welfare and healthcare?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: (Art. 23, 24) UNHCR (2014), Handbook on Protection of Stateless Persons: Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit. 	On the basis of their legal residency, individuals recognised as stateless have access to universal healthcare (<i>protection maladie universelle - PUMA</i>), covering basic medical expenses, if residing continually in France for at least 3 months. They also have access to social assistance depending on their level of income and can benefit from the Active Solidarity Income (<i>Revenu de Solidarité Active</i>). However, unlike refugees and those with subsidiary protection they cannot access integration programmes (<i>programme d’insertion par la mobilité géographique</i>).	Social Security Act (Code de la sécurité sociale), L380-1 (FR) Report on social care of third country nationals in France, July 2016 (FR) OFPRA website on rights and obligations of people under its protection (FR)
IDP	8	a	Access to citizenship	Are stateless persons able to naturalise as citizens? In what timeframe?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954 (Art. 32): The Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings. UNHCR (Good Practices Paper 6): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. This may be achieved, for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence. 	Yes, stateless persons can naturalise as citizens. They must prove 5 years of stable legal stay in France. This is shortened to 2 years if they have obtained a master’s degree in France. They must produce all OFPRA civil status records. Naturalisation costs 55 EUR (fiscal stamp).	Civil Code, Articles 21-17 (FR) Civil Code, Article 21-19 (FR) Article 37 modified by Decree 2015-108 of 2 February 2015 (FR)
IDP	8	b		If stateless persons can naturalise are there accelerated naturalisation procedures (e.g. reduced qualification periods) which apply to stateless persons? If yes, please provide	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954 (Art. 32): as above. • UNHCR (Good Practices Paper 6): as above. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality... 	There is no accelerated procedure for stateless persons unlike for refugees who can be naturalise without any qualifying period.	Civil Code, Article 21-19 6° (FR)

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				comparative timeframes for naturalisation in other situations.			
IDP	9	c		<p>Are previous criminal convictions a bar to naturalisation? If yes, please describe the requirement. Is there a good character clause (separate from criminal record requirement)? If yes, please describe.</p>	<p>• Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015: Each state should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory, and in particular each State should:...</p> <p>d) ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p> <p>Human Rights Watch, Roma in the Czech Republic: Foreigners in their Own Land (1996): ... denying citizenship to previously convicted criminals effectively adds an additional, ex post facto punishment to the individual who committed a crime. Imposing penalties heavier than those that applied at the time a crime was committed violates Article 15 of the ICCPR.</p>	<p>Individuals recognised as stateless and applying for French nationality don't have to produce any official records of criminal convictions, but criminal records in France and abroad are checked. A claim for French nationality might be considered ineligible if the applicant has been convicted for terrorism or any other crime threatening the interests of the Nation. The Prefecture conducts an inquiry to check the applicant's civic conduct (for instance whether they pay their taxes etc.).</p>	<p>List of elements to provide for applying to French nationality, Ministry of Interior (FR)</p> <p>Circular of 24 August 2011 on the control of the assimilation condition within the procedures to acquire the French nationality (FR)</p> <p>French public administration webpage on access to citizenship (FR)</p>
IDP	9	d		<p>Is there a citizenship/integration test?</p>	<p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality...</p>	<p>Yes. The test takes the form of an interview and applies to all applicants for French nationality.</p>	<p>Article 37 – 2° modified by Decree 2015-108 of 2 February 2015 (FR)</p> <p>French public administration webpage on access to citizenship (FR)</p>

Statelessness Determination and Status – March 2019

IDP	9	e	Are there language requirement exemptions for stateless persons?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): It is...recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons...for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence. • Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015: as above • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: as above. 	No. There is no exemption for stateless persons from the requirement to prove language skills (B1 spoken), which is tested during the interview.	Article 37 – 1° modified by Decree 2015-108 of 2 February 2015 (FR) French public administration webpage on access to citizenship (FR)
IDP	9	f	Are there income exemptions for stateless persons if a level of income is required for naturalization?	UNHCR (Good Practices Paper 6) : as above.	Not applicable.	

Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> • ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. • ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 	Yes, the law provides that the administrative authority can place third country nationals in administrative detention in several cases (listed in Article L.561-2 CESEDA).	CESEDA, Article L.551-1 modified by Law n°2016-274 of March 7th 2016 (FR) CESEDA, Article L.561-2 (FR)
DET	1	b		Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?	ECHR Art 5 (1)(f)	<p>According to the law, a foreigner can be placed or retained in detention only for the time strictly necessary until their departure from France. French law does not allow immigration detention for purposes other than those allowed under ECHR 5(1)(f). French law provides for foreigners to be placed in administrative detention when they:</p> <ul style="list-style-type: none"> *must be handed over to another EU member state or are subject to a transfer decision. *are subject to a deportation order. *must be escorted back to the border following a legal interdiction from French territory. *are subject to a refusal of entry or an enforceable removal order. *are subject to an obligation to leave French territory issued less than a year ago 	CESEDA Article L.554-1 (FR) CESEDA Article L.531-1 (FR) CESEDA Article L.742-3 (FR) Penal Code Article 131-30 (FR) CESEDA Article L.531-3 (FR)

			<p>detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?</p>	<p>protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention.</p> <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – states must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’. 	<p>there are referrals into the SDP from detention.</p>	
	1	e	<p>Are stateless persons detained in practice? Please provide figures and source of information if available.</p>	<ul style="list-style-type: none"> • Auaud v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: as above. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: as above. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: as above. 	<p>No official statistics available. Based on the OFPRA Activity Report for 2017 giving an overview of the main countries of origin of those who have applied for stateless status, and according to the 2017 annual report on detention by French NGOs providing legal advice in detention, the following nationalities that could include stateless people have been reported in detention centres: Kosovans (298 cases) in Lyon (101), Metz (182) and Toulouse-Cornebarrieu (15) detention centres; and Armenians (63 cases) in the Metz detention centre.</p>	<p>2017 Annual Report on Detention, Assfam Cimade, Forum réfugiés-Cosi, France terre d’asile et Ordre de Malte France, Solidarité Mayotte (FR)</p> <p>OFPRA, Activity report 2017, April 2018, p.28 (FR)</p>
DET	1	f	<p>Does law (and/or policy) provide that immigration detention should be used only as a last</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. 	<p>No. French Law does not foresee any obligation to prove the impossibility of alternative measures before deciding to detain someone. If the person can present guarantees of representation and unless proved to the contrary, house arrest should be given priority but a necessity and</p>	<p>AIDA Report on France, February 2018</p>

				resort, after all alternatives to detention have been exhausted?	EU Returns Directive : Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.	proportionally test is not really implemented.	
DET	1	g		Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?	<ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed... • EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons... • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : The special circumstances and needs of particular asylum-seekers must be taken into account... • Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention... 	No. However, on arrival to the detention centre, the person is informed of their rights, including the right to seek asylum. A vulnerability assessment is carried out by the French Office for Immigration and Integration (OFII) at the beginning of the asylum procedure, but stateless persons are not defined as a vulnerable group. Only health circumstances can constitute a reason for release after 48 hours of detention.	CESEDA Article L.551-2 (FR) CESEDA Article L.551-3 (FR) CESEDA Article L.744-6 (FR) CESEDA, Article L.744-6 (FR) Information from practice/caselaw.
DET	2	a	Alternatives to immigration detention	Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they	<ul style="list-style-type: none"> • ICCPR Art 9 • FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends... • UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all States ... to adopt, where applicable, alternative measures to detention. • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to 	Yes. The law foresees house arrest: *in case of an absence of reasonable prospects of removal. *as an alternative to administrative detention. *with electronic monitoring for parents of minor children residing in France for 45 days (however this measure is not implemented yet according to AIDA Report on France). An instruction of the Interior Ministry of 19 July 2016 recommends Prefectures largely	CESEDA Article L.561-1 (FR) CESEDA Article L.561-2 (FR) Ministry of Interior, Instruction of 19 July 2016 relating to the

			<p>subject to a statutory time limit and periodic reviews of their necessity and proportionality?</p> <p>detention...are part of any assessment of the necessity and proportionality of detention.</p> <ul style="list-style-type: none"> • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards. • Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial measures) before resorting to detention should be established by law. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems. • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) 	<p>resort to house arrest for Dublin procedures.</p> <p>In theory, unaccompanied children cannot be returned and thus cannot be detained. However, in practice NGOs working in administrative detention centres reported cases of children being detained. On 12 July 2016, France was condemned by the European Court of Human Rights in 5 cases concerning children detained with their family.</p> <p>If the person can present guarantees of representation and unless proved to the contrary, house arrest should be given priority but a necessity and proportionally test is not really implemented.</p>	<p>application of the Dublin III Regulation (FR)</p> <p>ECtHR: 12 July 2016 R.M. and Others v. France A.B. and Others v. France R.K. and Others v. France R.C. and V.C v. France A.M. and Others v. France</p> <p>Interior Ministry Document on administrative detention centres, 2014 (FR)</p> <p>AIDA Report on France, February 2018</p>
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Detention – March 2019

				<p>...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual.</p> <p>International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>			
DET	2	b		<p>Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.</p>	As above	<p>Yes. The 2017 Annual report on detention underlines that, despite several abuses that have already been reported, detention is systematically used as a key tool of French migration policy, though it is ineffective to address the main migratory issues. According to this report, France is the country where immigration detention is used the most in comparison with other EU countries. Moreover, it underlines that the number of children confined in detention centres has significantly increased over the last years.</p>	<p>2017 Annual Report on Detention, pp.7, 12, 15-16 (FR)</p>
DET	3	a	Procedural safeguards	<p>Is there a maximum time period for immigration detention set out in the law? What is it?</p>	<ul style="list-style-type: none"> • UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention: to guard against arbitrariness, maximum periods of detention should be set in national legislation. 	<p>Yes, people can now be detained in administrative detention centres for 90 days. The person is first detained for 48 hours, then a request before the Judge of Freedoms and Detention can be lodged to suspend or extend the detention. The Judge shall hand down a decision within 48 hours. The Judge can order an extension of 28 days or release the detainee. A second prolongation of 30 days can be granted by the Judge. Moreover, the Judge can extend the detention no more than twice for a</p>	<p>CESEDA Article L.552-1 (FR)</p> <p>CESEDA Article L.552-7 (FR)</p>

				<ul style="list-style-type: none"> • EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention. 	<p>period of 15 days each if the foreigner has obstructed the expulsion order or asked for protection against expulsion.</p>	
DET	3	h	Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention?	<ul style="list-style-type: none"> • UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him. • EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they 	<p>Yes, the administrative decision to detain shall be written and motivated and takes effect from its notification to the person concerned.</p>	<p>CESEDA Article L.551-2 (FR)</p>

					understand and this must outline the reasons for their detention.		
DET	3	b		<p>Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?</p>	<ul style="list-style-type: none"> • International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition): The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and that contains information on all their rights and entitlements during detention. 	<p>French law provides that on arrival to the detention centre, the person shall be informed in a language they understand that they can:</p> <ul style="list-style-type: none"> *request the assistance of an interpreter, a counsel and a doctor; *communicate with their consulate or any person of their choice; *seek asylum and benefit from legal and linguistic assistance. <p>In mainland France, five NGOs (Assfam, Forum réfugiés-Cosi, France Terre d’Asile, La Cimade, and Ordre de Malte) are authorised to access administrative detention centres. The 27 administrative detention centres and 26 places of administrative detention are subdivided into 8 lots, with each accessible by one NGO. Solidarité Mayotte is authorised to intervene in detention centres in Mayotte</p>	<p>CESEDA Article L.551-2 & 551-3 (FR)</p> <p>Decree n°2014-676, 24 June 2014 on NGOs’ access to detention centres and places (FR)</p> <p>Briefing note from the Interior Ministry on NGOs’ access to detention centres and places (FR)</p> <p>AIDA Report on France, February 2018, pp.96 & 112</p>
DET	3	c		<p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are</p>	<ul style="list-style-type: none"> • ICCPR Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. • EU Returns Directive: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. • Auaud v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to 	<p>Yes. The initial decision to detain is taken by the Prefect for 48 hours. If the person is not expelled during this time, their detention can be extended initially for 28 days. The Judge of Freedoms and Detention can then either:</p> <ul style="list-style-type: none"> *order the extension of detention for a maximum period of 30 days; *decide to place the person under house arrest; *refuse the extension of detention. 	<p>Service-public.fr website on detention centres</p> <p>CESEDA Article L.552-7 (FR)</p>

			<p>detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p>	<p>deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued.</p> <ul style="list-style-type: none"> • Kim v Russia [2014] Application no 44260/13 (ECtHR): The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. • A. v. Australia, CCPR/C/59/D/560/1993, (HRC): Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed. • Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešniteraboti [2009] Case C-357/09 (ECJ): There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not executed with due diligence the detention will cease to be permissible. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 41 To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. 	<p>If the Judge has ordered the extension of detention before it expires, they may decide to extend it twice for up to 15 days. The Judge checks if the police respected procedures, the legality of police custody and of placement into administrative detention. The Judge can also be seized at any moment by the person detained if they argue that new elements require that the detention ends. In practice these requests must be very solidly argued and are hardly ever considered admissible.</p>	
DET	3	d	<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are</p>	<ul style="list-style-type: none"> • ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. 	<p>An individual can challenge the legality of decisions taken by the Prefect (removal orders or house arrests) before the administrative court within 48 hours from the notification of the decision. The administrative court must take a decision within 96 hours on the lawfulness of the</p>	<p>CESEDA Article L.512-1 (FR)</p>

			there any obstacles in practice?	<ul style="list-style-type: none"> • ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. • Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. 	detention. If an asylum claim is submitted from detention, it is possible to challenge the decision to detain within 48 hours of the detention notification. The court must decide within 96 hours after the claim was lodged.	CESEDA Article L.556-1 (FR)
DET	3	e	Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of removal? Do these rules articulate the respective roles that state and individual are expected to play? Are there time limits clearly set out? Are the outcomes of such processes used/considered relevant for subsequent	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play, and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible. 	Not to our knowledge.	

Detention – March 2019

				determination of whether an individual is stateless?			
DET	3	f		Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. • EU Returns Directive: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance. 	Yes, free legal assistance either from a lawyer or NGOs providing support in detention centres is available. Legal assistance is also available by law for detention appeals before the administrative court.	CESEDA Article L.551-2 (FR) Service-public.fr website on retention centres and legal assistance (FR) CESEDA Article R.552-6 (FR)
DET	4	a	Protections on release	Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 • UNHCR (2014), Handbook on Protection of Stateless Persons: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons. • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guidelines 55 & 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to 	No, but their online dossier is updated. For example, when the person is released because removal could not be completed (whatever the reason), this is specified on their online dossier. If the judge cancels the decision setting the country of removal, the person can be issued with a house arrest.	Interview with professionals working in detention centres. Ministry of Justice website (FR)

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					under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.		
DET	4	b		<p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare? Do they have the right to work?</p>	<p>• Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešnite raboti [2009] Case C-357/09 (ECJ): Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release. Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 55 as above.</p>	<p>People released from detention because their removal has been cancelled by the judge are issued with a temporary stay permit, until a new decision from the judge on the case is made, granting access to:</p> <ul style="list-style-type: none"> - social services - healthcare (PUMA) - emergency accommodation <p>As it is not otherwise specified, they have the right to work.</p>	<p>CESEDA, Article L.554-2 (FR)</p> <p>Social Action and Families Code, Article L.111-2 (FR)</p> <p>Social Security Code, Articles L.160-1 to L.160-7 (FR)</p> <p>Social Action and Families Code, Article L.345-2-2 (FR)</p> <p>CESEDA, Article L.311-4 (FR)</p>
DET	4	c		<p>If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?</p>	<p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 40 When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.</p>	No.	

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DET	5	a	Return & Readmission agreements	Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p>	<p>Yes. France has entered into bilateral readmission agreements with more than 50 countries, including around 20 European countries. In any case, in accordance with French law, a stateless person cannot be removed to another country if recognised as stateless and granted stateless status (unless they constitute a serious threat to public order, public security or the security of the State). For example, in the bilateral agreement with Austria, it is recalled that the obligation to readmit does not apply if the applicant country has recognised the status of stateless person pursuant to the 1954 Convention. Also, the obligation to readmit does not apply if the stateless person has a valid residence permit or temporary residence permit delivered by a contracting Party to the 1990 Convention implementing the Schengen Agreement.</p>	<p>About readmission bilateral arguments, see Migreurop and Gisti (FR)</p> <p>CESEDA, Article L313-26 (FR)</p> <p>Bill authorising the approval of the agreement between the Government of the French Republic and the Federal Government of Austria relative to the readmission of persons in an irregular situation (FR)</p> <p>Law authorising the approval of the agreement, 4 August 2018 (FR)</p>
DET	5	b		Are you aware of cases of stateless people being returned under such agreements?		No.	

Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? If yes, continue with PRS1b below. If no, proceed to PRS1j.	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... • Convention on the Rights of the Child 1989: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 	Yes.	Civil code Article 19.1 (FR)
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ... ENS (2015), No Child Should Be Stateless: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their 	The provision is ipso jure (de plein droit) so an otherwise stateless child born in France is French by law, but in practice a request must be submitted for the nationality certificate to be delivered. Children born stateless in France whose parents apply for their recognition as stateless under the SDP (e.g. if the parents have not been informed about Article 19-1 or the Prefecture has not recognised the child's right to French nationality), may acquire French nationality under the rules that apply to children born in France to foreign parents.	Civil code Article 19-1 (FR) Civil code Article 31 and following (FR) Civil Code, Articles 21-7 & 21-11 (FR)

					domestic systems. The first, and optimal, method – as it is all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth.		
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<p>• UNHCR Guidelines on Statelessness #4 2012: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child’s parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions.</p> <p>ENS (2015), No Child Should Be Stateless: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child’s parent(s) do hold a nationality themselves, but are unable to pass this on...</p>	<p>No, but in practice, for Article 19 to be applied, the situation of the parents must be proven (if they are stateless or cannot pass on their nationality) as well as the fact that the child was born in France (birth registration). There are other possibilities in law for the child to acquire French nationality:</p> <ul style="list-style-type: none"> *if they were born in France to unknown parents; *if they were born in France to foreign parents whose nationality laws do not allow one of the parents to pass on their nationality (but the child shall be deemed never to have been French if, as a minor, they acquire the foreign nationality of one of their parents); *if the child was born on the territory, is living in France and has lived regularly in France for at least 5 years (with or without continuity) from the age of 11 (if they apply for French nationality at 16 or 18). The parents can ask for the child to acquire French nationality at the age of 13 if the child has regularly lived in France since the age of 8. 	<p>Civil code Article 19-1 (FR)</p> <p>Civil Code, Articles 21-7 and 21-11 (FR)</p>
PRS	1	d		Are children born stateless required to prove they cannot access another nationality to	<p>UNHCR Guidelines on Statelessness #4 2012: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State’s nationality laws where this conflicts with the interpretation</p>	<p>Not by law, but in practice, the situation of the parents and birth of the child in France must be proven. If the child goes through the SDP, they must meet the same requirements as for an adult applicant (see above under SDP).</p>	<p>Civil code Article 19-1 (FR)</p> <p>OFPRA Website, section on «Enfants d’apatrides statutaires» (FR)</p>

				<p>acquire nationality of the country of birth? If yes, please describe the requirement e.g. what is the standard and burden of proof, and how lack of any other nationality (i.e. statelessness) is determined in practice?</p>	<p>applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... 'reasonable degree'... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.</p>		
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: <ul style="list-style-type: none"> ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all. • UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of "habitual residence".... This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term "habitual residence" is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does 	<p>There is no residency requirement under Article 19. If the French nationality of a stateless child born in France is not recognised under Article 19, Article 21 still applies. A person born on the territory and still residing there at the age of majority acquires French nationality under Article 21-7. The right to acquire French nationality by declaration due to birth and residence also applies to a minor child born to foreign parents. From the age of 16, every minor child may claim, without their parents, French nationality by declaration, if at the time of declaration, they reside in France. The minor shall fulfil the conditions of habitual residence for a continuous or discontinuous period of at least five years, from the age of 11 (Art. 21-11(1)). French nationality may also be claimed by the legal representative on behalf of the minor child born in France of foreign parents, from the age of 13, having habitual residence from</p>	<p>Civil code Article 19 and Article 19.1 (FR)</p> <p>Civil Code, Articles 21-7 to 21-11 (FR)</p> <p>"Every child born in France of foreign parents acquires French nationality at the age of majority when, at that time, he or she lives in France and has had his or her habitual residence in France for a continuous or discontinuous period of at least five years, from the age of 11".</p>

				<p>not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence.</p> <ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Arts 3 & 7 • Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: 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. • European Convention on Nationality, 1997: Article 6 (2)(b) ... 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. <p>ENS (2016), Ending Childhood Statelessness: The ECN cannot be interpreted as undermining states' obligations under the CRC...and the requirement of lawful residence should be removed.</p>	<p>the age of eight. Except in some cases of impairment of mental or physical faculties, the consent of the minor is required (Art. 21-11(2)). Law n° 2016-274 of 7 March 2016 introduced a new case of acquisition of French citizenship by declaration at the age of majority for someone who, at the age of majority and by declaration before the administrative authority, has a sibling who has acquired French nationality under Articles 21-7 or 21-11. The person must prove habitual residence in France since the age of six and have followed compulsory schooling in France in schools supervised by the State. Unlike Articles 21-7 or 21-11, birth in France is not required.</p>	
PRS	1	f	<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless. <p>ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention which permits only the condition of a certain period of habitual residence.</p>	No.	

PRS	1	g		<p>What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years... • UNHCR Guidelines on Statelessness #4 2012: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21 in accordance with Article 1(2)(a) of the 1961 Convention. • ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents. 	<p>No age limit under Article 19 as the provision is automatic in law.</p>	<p>Civil Code Article 19.1 (FR)</p>
PRS	1	h		<p>Are there specific provisions for the nationality or statelessness of children born to beneficiaries of international protection?</p>	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities. 	<p>Not to our knowledge.</p>	

PRS	2	a	Foundlings	<p>Are foundlings granted citizenship by law? If it's not automatic, is there an application procedure?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless. 	<p>Yes. The child born in France whose filiation is not legally established is deemed to be born a French citizen.</p>	<p>Civil Code Article 19 and Article 58 (FR)</p>
PRS	2	b		<p>If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?</p>	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: At a minimum, the safeguard ... is to apply 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... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities. 	<p>Article 58 of the French Civil code expressly refers to a new-born, which implies an age limit. But there is no age limit under Article 19.</p>	<p>Civil Code Article 19 and Article 58 (FR)</p>
PRS	2	c		<p>Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?</p>	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality. 	<p>Yes, if the filiation is established while the child is a minor, but not if it results in statelessness.</p>	<p>Civil Code Article 19 (FR)</p>

PRS	3	a	Adoption	<p>Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption. • ENS (2015), No Child Should Be Stateless: ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process. 	<p>There are two types of adoption under French law: full or simple. Full adoption replaces the existing filiation between the adopted person and the family of origin by a new relationship. Simple adoption makes it possible to adopt a person without breaking the links with the family of origin. Each type has a different effect on the nationality of the adopted person. Under Article 20, the French nationality of the child subject to full adoption as a minor is governed by the same rules that apply to children whose filiation is established by <i>jus soli</i> or <i>jus sanguinis</i>. Simple adoption does not affect the nationality. The adopted person shall retain the nationality of the family of origin, unless they claim French citizenship under Article 21-12.</p>	<p>Civil Code, Article 20 (FR)</p> <p>On full adoption, see Civil Code, Articles 356 to 359 (FR)</p> <p>On simple adoption, see Civil Code, Article 363 (FR)</p> <p>Civil Code, Article 21-12 (FR)</p>
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PRS	3	b		<p>Does a foreign child adopted by national parents acquire nationality? Is there a risk of statelessness during the adoption process? Are there any age limits?</p>	<ul style="list-style-type: none"> • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: ...ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between...arrival...and formal adoption. 	<p>Yes (as above). In the case of a simple adoption, a foreign child adopted by national parents does not automatically acquire French nationality - the child must apply for it through a declaration. If the simple adoption was realised abroad, an exequatur procedure is necessary. In the case of a full adoption, the child acquires nationality by filiation. If the adoption was realised abroad, it must be comparable to a full adoption under French law. There is no risk of statelessness during the adoption, but the child must be under 18.</p>	<p>Service-public.fr, website on nationality for adopted children (FR)</p> <p>Civil Code, Article 20 (FR)</p> <p>On full adoption, see Civil Code, Articles 356 to 359 (FR)</p> <p>On simple adoption, see Civil Code, Article 363 (FR)</p> <p>Civil Code, Article 21-12 (FR)</p>
PRS	4	a	ius sanguinis and discrimination	<p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory? (see question below for where child would otherwise be stateless)</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Art 4 • UNHCR Guidelines on Statelessness #4 2012: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011: While the right to 	<p>Yes. Children are French if at least one of their parents is French wherever the place of birth. If only one parent is French, and the child is born outside the territory, they can renounce French nationality during the six months preceding their 18th birthday and the 12 months following.</p>	<p>Civil Code, Articles 18 & 18-1 (FR)</p>

				<p>citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant's social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [. . .] must ensure that the right is secured without discrimination within the meaning of Article 14.</p> <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: States are free to impose additional conditions [to ius Sanguinis conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result.... • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 • Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012 • Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 		
PRS	4	b	Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis) if they would otherwise be stateless? Are	As above	See above.	

				there any conditions? Could these conditions be regarded as discriminatory?			
PRS	5	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired. • UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Ensure birth registration for the prevention of statelessness. • UN Sustainable Development Goal 16: By 2030, provide legal identity for all, including birth registration. 	Yes. The required documents to register the birth of a child are: <ul style="list-style-type: none"> * birth certificate issued by a doctor/nurse * declaration of the child’s name * identity documents of the parents * recognition act if done prior to birth * family record book if parents have one. There is nothing in law forbidding undocumented and irregularly residing persons to declare the birth of their child and in principle all children born in France must be registered. In practice the fact that the parents must prove their identity can constitute an obstacle to register the birth (although this is meant to protect the child and not as a discriminatory practice).	Civil Code, Article 55 (FR) French Civil Service official website (FR)

					<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights. 		
PRS	5	b		<p>Are there credible reports that suggest that children are prevented from registering in practice because of lack of documentation and/or parents' legal residence?</p>	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Art 7(1) • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • UNHCR Guidelines on Statelessness #4 2012: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • UN Sustainable Development Goal 16 • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above 	Not to our knowledge.	
PRS	5	c		<p>Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical</p>	<ul style="list-style-type: none"> • UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... • PICUM, Rights of Accompanied Children in an Irregular Situation, 2011: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National 	No.	

				authorities required to report undocumented migrants)?	legislation is often below the standards set out in human rights law, inexplicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements.		
PRS	6	a	Late Birth Registration	Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births... 	All children must be registered within 5 working days after birth (not counting the day of birth) or within 8 days where the place of birth is far from the place of registration. If the child is born abroad, the deadline is 15 days for the birth to be declared at the Consulate or the Embassy. If the birth is not declared by the deadline, the civil servant at the city hall cannot register the birth and it can only be recognised by the High Court. If the birth is not declared by someone who attended the delivery (father, doctor, nurse etc.), the person can be convicted and sentenced to six months imprisonment and a fine of 3750 EUR.	Civil Code, Article 55 (FR) Decree No 2017-278 on declaration of birth, 2 March 2017 (FR) Civil Code, Article 56 (FR) Penal Code, Article 433-18-1 (FR)
PRS	6	b		Is late birth registration possible in practice?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: as above. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: as above. 	If the birth is not declared by the deadline, the civil servant at the city hall cannot register the birth and it can only be recognised by the High Court.	Civil Code, Article 56 (FR)

PRS	6	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. 	If the birth is not declared by the deadline, it can only be recognised by the High Court. No information is available on current practice.	Civil Code, Article 56 (FR)
PRS	7	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless... 	There are no national campaigns or promotion events for civil registration. In hospitals and maternity services, information leaflets on birth registration are provided.	
PRS	7	b		Are there sections of the population believed to be stateless/at risk of statelessness? Are minorities disproportionately affected? Please provide details and source of information.	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 Article 9 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 	Sections of the population believed to be at risk of statelessness include Roma children and children of irregular migrants born in France.	Interviews with lawyers and professionals.
PRS	7	c		Has the Government implemented any other measures specifically aimed at reducing (risk	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 1, Action 8 • UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015 	Not to our knowledge.	

				of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)			
PRS	8	a	Withdrawal of nationality	<p>Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be found? Do any provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8: A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless. • European Convention on Nationality, 1997: Article 7(3): A State party may not provide in its internal law for the loss of its nationality...if the person concerned would thereby become stateless... • Universal Declaration of Human Rights: Article 15(2) No one shall be arbitrarily deprived of his nationality ... 	<p>Loss of nationality is often voluntary and can result from the exercise of this right under Article 23 of the Civil Code. In the case of deprivation of nationality, it is declared by decree following confirmation by the Council of State under Articles 25 & 25-1 of the Civil Code. A French person can be deprived of their nationality for the reasons described under these two articles, unless they would become stateless. Deprivation powers are applied in practice.</p>	<p>Ministry of Interior website, on loss or deprivation of nationality (FR)</p> <p>Civil Code, Article 23 (FR)</p> <p>Civil Code, Articles 25 & 25-1 (FR)</p>
PRS	8	b		<p>Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8(4): A contracting state shall not exercise a power of deprivation...except in accordance with the law, which shall provide for ...the right to a fair hearing by a court or other independent body. • European Convention on Nationality, 1997: Article 11: Each state party shall ensure that decisions relating to the acquisition, retention, loss, recovery 	<p>Deprivation of nationality is declared by decree following confirmation by the Council of State. A decree is an executory action taken by the President of the Prime Minister. The deprivation is only applicable if the alleged acts against the person were committed before they acquired French nationality or within 10 years of the date of acquisition; and can only be pronounced</p>	<p>Civil Code, Articles 25 & 25-1 (FR)</p>

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				there? (e.g. judicial oversight, time limit, subject to prior sentencing, appeal rights, legal aid)	or certification of its nationality contain reasons in writing...	within 10 years of the perpetration of the acts. However, if the acts referred to relate to Article 25(1) – crimes against the fundamental interests of the Nation, or a terrorist act – the time periods are extended to 15 years.	
PRS	8	c		Are withdrawal provisions (both for loss and deprivation) applied in practice?		Yes.	

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		<p>21 published judgements adjudicating statelessness:</p> <ul style="list-style-type: none"> • 20 cases Administrative Court • 1 Court of Cassation 	<ul style="list-style-type: none"> • Case Nantes Administrative Court, 10 January 2017 – confirms dismissal of stateless status • Case Nantes Administrative Court, 1 March 2016 – confirms dismissal of stateless status • Case Bordeaux Administrative Court, 22 February 2016 – confirms dismissal of stateless status • Case Nantes Administrative Court, 10 November 2015 – confirms dismissal of stateless status • Case Nantes Administrative Court, 10 January 2014 – denies stateless status • Case Versailles Administrative Court, 19 November 2013 – confirms dismissal of stateless status • Case Paris Administrative Court, 25 October 2012 – confirms dismissal of stateless status • Case Paris Administrative Court, 25 October 2012 – confirms dismissal of stateless status • Case Versailles Administrative Court, 19 January 2012 – confirms dismissal of stateless status • Case Versailles Administrative Court, 1 June 2011 – asks OFPRA to further study the case of the claimant • Cases N° 10BX00116 , N° 10BX01106 ; N°10BX01073 ;N°10BX01072 Bordeaux Administrative Court, 1 February 2011 – confirm dismissal of stateless status • Cases N° 09MA00321 and N° 09MA00317 Marseille Administrative Court, 5 November 2010 – confirm dismissal of stateless status • Case Marseille Administrative Court, 11 March 2010 – sets aside OFPRA decision to dismiss stateless status and asks OFPRA to recognize stateless status to the claimant

							<ul style="list-style-type: none"> • Case Paris Administrative Court, 10 December 2009 – sets aside OFPRA decision to dismiss stateless status to the claimant • Case Paris Administrative Court, 22 October 2009 – confirms dismissal of stateless status • Case Court of Cassation, Civil Chamber, 20 March 2013 – confirms dismissal of stateless status • Case Versailles Administrative Court, 14 September 2017 – denies stateless status
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		<p>76 published judgements (including those listed above) mentioning statelessness:</p> <p>Administrative caselaw:</p> <ul style="list-style-type: none"> • 55 cases, Administrative Courts • 4 cases, Council of State <p>Judiciary caselaw:</p> <ul style="list-style-type: none"> • 13 cases Court of Cassation • 4 cases Court of Appeal 	<p>Jurisprudences database Legifrance (administrative caselaw)</p> <p>Jurisprudences database Legifrance (judicial caselaw)</p> <p>Keyword ‘statelessness’ not ‘stateless’ otherwise all references to OFPRA are returned.</p>
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g.	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. 	<p>Not to our knowledge.</p> <p>There is a lack of knowledge on statelessness in general and it is not perceived as an issue.</p>	Interview with asylum practitioners and lawyers.

				provider, frequency).	<ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. 		
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: as above 	There is no compulsory legal training for lawyers on statelessness and there are very few free trainings offered on this subject. Most of the time, it is only evoked during legal trainings on immigration law and it remains very theoretical.	Forum Réfugiés-Cosi
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Applicants are to have access to legal counsel. • UNHCR (Good Practices Paper 6): Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK. 	DLA Piper and Betto Seraglini Grant Fund support projects and activities on refugees and stateless people’s rights, but they do not provide free advice to stateless persons or those at risk of statelessness.	Paris Bar Association, Pro Bono Trophy 2016 (FR)

LIT	4	a	Literature	Is there domestic legal academic literature on statelessness? If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.		It is difficult to find domestic legal academic literature on statelessness. There are many articles and references on “nationality”. On statelessness in particular, there is very little specific to France. It seems there is a general interest on the link between climate change and statelessness.	<ul style="list-style-type: none"> • Romuald Libiki, <i>Le droit de l’apatridie, Pratiques et controverses</i>, Paris, Publibook, 2013 • Report from the Paris Bar Association on Deprivation of nationality, February 2016. • François Sureau, <i>La déchéance de nationalité : deux catégories de Français</i>, Article de la revue <i>Etudes</i>, April 2011 • Emmanuel Decaux, « L’apatridie », <i>Pouvoirs</i>, vol. 160, no. 1, 2017, pp. 73-84. • Aline Angoustures, Dzovinar Kévonian, Claire Mouradian (ed.), <i>Réfugiés et apatrides. Administrer l’asile en France (1920-1960)</i>, Rennes, Presses universitaires de Rennes, 2017, 312 pages
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