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Country context (optional)

Please use this field to provide any relevant contextual or background information about the country's law, policy, and practice, or the stateless population, to help contextualise the information in the survey (optional question).

International and Regional Instruments

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
|---------|-------------------|---|---|--|--|
| IOB.1.a | 1954 Convention | Is your country party to the 1954 Statelessness Convention? | UN Convention Relating to the Status of Stateless Persons, 1954 | Yes | United Nations, Treaty Series, vol. 360, p.117. Convention relating to the Status of Stateless Persons New York, 28 September 1954: http://www.refworld.org/docid/3ae6b3840.html |
| IOB.1.b | | If yes, when was ratification/accession? | | Signature: 20 October 1954 Ratification: 1 February 1962 | Italy's ratification of the Convention relating to the Status of Stateless Persons, adopted in New York, on 28 September 1954, Law n. 306 of 1 February 1962: http://www.gazzettaufficiale.it/eli/gu/1962/06/07/142/sg/pdf (IT) |
| 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 impact on the rights of stateless people. | Yes, the provisions of Articles 17 & 18 on wage-earning employment and self-employment, are recognised as recommendations only. | https://treaties.un.org/doc/publication/mtdsg/volume%20i/chapter%20v/v-3.en.pdf |
| IOB.1.d | | Does the Convention have direct effect? | Best practice is that the Convention has direct effect, though this may depend on the legal regime. | Yes. Ratification of international treaties through enactment gives automatic legal effect at national level, even without the adoption of implementing legislation (in the case of the 1954 Convention, there is no comprehensive legislation implementing its provisions). | Arts. 80 & 87 of the Italian Constitution: https://www.quirinale.it/allegati_statici/costituzione/costituzione.pdf (IT) |
| IOB.2.a | 1961 Convention | Is your country party to the 1961 Statelessness Convention? | UN Convention on the Reduction of Statelessness, 1961 | Yes. | Accession to the 1961 Convention on the Reduction of Statelessness, approved in New York on August 30 th , 1961 (2802): http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg (IT) |
| IOB.2.b | | If yes, when was ratification/accession? | | Acceded on 1 Dec 2015. | United Nations, Treaty Series, vol. 989, p. 175. Convention on the Reduction of Statelessness, New York, 30 August 1961: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=V-4&chapter=5&clang=en Ratification law of 29 Sept 2015 n° 162, G.U. 12 Oct 2015: http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg (IT) |
| IOB.2.c | | Are there reservations in place? Please list them. | As above | No. | |
| IOB.2.d | | Does the Convention have direct effect? | As above | Yes. Italy ratified the 1961 Convention, which means that it has legal effect. In practice, the rules and safeguards provided in the 1961 Convention are incorporated in national legislation through the Nationality Law. | Law n. 91, New norms on nationality of 5 February 1992, as amended by Law 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) |
| IOB.3.a | Other conventions | State party to European Convention on Nationality 1997? Please list any reservations. | European Convention on Nationality, 1997 | Italy has only signed the Convention [06 Nov 1997], not acceded. | European Convention on Nationality: https://www.coe.int/it/web/conventions/full-list/-/conventions/treaty/166/signatures |
| IOB.3.b | | State Party to European Convention on Human Rights 1950? Please list any relevant reservations. | European Convention on Human Rights, 1950 | Yes. Signature: 04/11/1950 Ratification: 26/10/1955 Entry into force: 26/10/1955 No reservations. | Treaty list for a specific State: Italy: https://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/country/ITA?p_auth=eBKpHUjG |
| IOB.3.c | | State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations. | Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 | No. | Chart of signatures and ratifications of Treaty 200 Council of Europe Convention on the avoidance of statelessness in relation to State succession: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=eBKpHUjG |

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| IOB.3.d | Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)? Please list any relevant reservations. | Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive) | Yes. | Law 2 August 2011, n. 129 Conversione in legge, con modificazioni, del decreto-legge 23 giugno 2011, n. 89, recante disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari. Entrata in vigore del provvedimento: 06/08/2011 http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2011-08-05&atto.codiceRedazionale=011G0178&elenco30giorni=false (IT) |
| IOB.3.e | State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations. | Convention on the Rights of the Child, 1989 | Yes. No reservations. | Commissione parlamentare per l'infanzia, Legge 27 maggio 1991, n. 176, Ratifica ed esecuzione della convenzione sui diritti del fanciullo: https://www.gazzettaufficiale.it/eli/id/1991/06/11/091G0213/sg (IT) Convention on the Rights of the Child, New York, 20 November 1989: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-11&chapter=4&clang=en Declarations and Reservations: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-11&chapter=4&clang=en |
| IOB.3.f | State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations. | International Covenant on Civil and Political Rights, 1966 | Yes. Italy entered reservations to Articles 15(1) and 19(3) but these do not impact on statelessness. | Declarations and Reservations: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-4&chapter=4&clang=en |
| IOB.3.g | State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations. | International Covenant on Economic, Social and Cultural Rights, 1966 | Yes. No reservations. | International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-3&chapter=4&clang=en |
| IOB.3.h | State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations. | Convention on the Elimination of all Forms of Discrimination Against Women, 1979 CEDAW, Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness | Yes. No reservations. | Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-8&chapter=4&clang=en |
| IOB.3.i | State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations. | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 | Yes. No reservations. | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-9&chapter=4&clang=en |
| IOB.3.j | State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations. | International Convention on the Elimination of All Forms of Racial Discrimination, 1965 | Yes. No reservations. | International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1966: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidg_no=IV-2&chapter=4&clang=en |

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| 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? Please list any relevant reservations. | International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990 | No. | International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, 18 December 1990: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtid=g_no=IV-13&chapter=4&clang=en |
| IOB.3.l | | State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations. | Convention on the Rights of Persons with Disabilities, 2006 | Yes. No reservations. | Convention on the Rights of Persons with Disabilities, New York, 13 December 2006: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtid=g_no=IV-15&chapter=4&clang=en |

Stateless Population Data

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
|---------|--------------------------|---|---|---|---|
| POP.1.a | Availability and sources | Does the State have a standardised ‘stateless’ category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence). | <p>CEDAW, Gen. Rec. 32 (2014): States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union, Conclusions on Statelessness (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>ISI, The World’s Stateless (2014): States should strengthen measures to count stateless persons on their territory.</p> <p>International Recommendations on Statelessness Statistics (IROSS) (endorsed by UN Statistical Commission in 2023): States should use standardised definition of statelessness and consistent indicators for collecting statelessness data.</p> <p>Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023): States and relevant actors should collect rigorous and comparable data on stateless populations, including data disaggregated by sex, gender, age, and disability status, in accordance with the international recommendations on statelessness statistics and in consultation with relevant stakeholders.</p> | Yes, there is a category for stateless people in the Government’s annual censuses. The most recent data is provided by the Istituto Nazionale di Statistica (ISTAT). The statistical data from population censuses as of 1 January 2024 counts 643 stateless people. The overall number is low because the Italian Government census counts only stateless people who are officially recognised as stateless and in possession of a valid residence permit. The data is disaggregated but the annual census on stateless people shows only sex-disaggregated data for recognised stateless people. In the Government Census, stateless people are distinguished by Regions where they have their residence. | <p>ISTAT Resident foreigners as of 1 January - Citizenship: Italy, regions, provinces - Geopolitical area of citizenship: http://dati.istat.it/Index.aspx?QueryId=22141</p> <p>ISTAT Data population on stateless people by type of residence permit https://esploradati.istat.it/databrowser/#/it/dw/categories/IT1,POP_1.0/POP_FOREIGNIM/DCIS_PERMSOGG1/IT1,29_348_DF_DCIS_PERMSOGG1_1,1.0</p> |
| POP.1.b | | Do public authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures. | As above | Yes, there are other categories that overlap with statelessness. In the portal of the Italian census on the resident population counted per year, the definitions of “foreigner” and “stateless” are in the same check box (section), so it may overlap. See POP.1c. | <p>Recommendations of Tavolo Apolidia on the Protection og Stateless Persons and the Reduction of Statelessness in Italy (Raccomandazioni del Tavolo Apolidia sulla Protezione degli Apolidi a sulla Riduzione dell'Apolidia in Italia): https://tavoloapolidia.org/app/uploads/2021/09/Advocacy-Paper-Tavolo-Apolidia_2021_def.pdf</p> <p>CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p> <p>National Strategy for Roma and Sinti Equality, Inclusion and Participation 2021-2030, Implementation of the Recommendation of the Council of the European Union of 12 March 2021 (Strategia Nazionale di uguaglianza, inclusione e partecipazione di Rom e Sinti 2021-2030, Attuazione della Raccomandazione del Consiglio dell’Unione Europea del 12 marzo 2021 (2021/C 93/01)): https://politichecoesione.governo.it/media/2967/strategia-nazionale-rom-e-sinti_2021-2030.pdf</p> <p>Council of Europe: Commissioner for Human Rights, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May</p> |

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| | | | | | <p>2011 , 7 September 2011, CommDH(2011)26: https://www.refworld.org/docid/4ecb8b182.html Council of Europe: Commissioner for Human Rights, Report by Nils Muiznieks Commissioner for Human Rights of the Council of Europe: Following his visit to Italy from 3 to 6 July 2012, 18 September 2012, CommDH(2012)26: https://www.refworld.org/docid/5058413c2.html</p> |
| POP.1.c | | <p>What is UNHCR’s estimate for the stateless/at risk of statelessness population or population with undetermined nationality and what is the source for this estimate?</p> | <p>As above</p> | <p>UNHCR states on its website, “Although statistics on the exact size of the stateless population in Italy are not available; it is estimated that the majority of stateless people living in Italy are of Roma descent, originating from former Yugoslavia. Many have not been recognised as Italian nationals despite living in the country for generations.”</p> <p>According to estimates currently available, there may be around 3,000 stateless people or people at risk of statelessness or people with undetermined nationality in Italy. The majority of people who are stateless or at risk of statelessness belong to Romani communities from former Yugoslavia who have been living in Italy for many years.</p> <p>From the information available from 2021, it is estimated that there are approximately 1,710 stateless people or people at risk of statelessness belonging to these communities, living in formal or spontaneous settlements.</p> <p>It is also estimated that around 2,250 people from Romani communities of the former Yugoslavia who are stateless or at risk of statelessness are present in Italy.</p> <p>A factor of particular concern is the proportion of minors within this population, which, according to available information, is around 50-55%.</p> <p>The rest of the stateless population in Italy mainly originates from the former USSR, Cuba, China (Tibet), and the Occupied Palestinian Territories.</p> <p>There are no more recent figures, as the exact number of stateless people is difficult to define precisely due to their invisibility in relation to institutions.</p> <p>Another interesting data is the number of valid residence permits indicating 'stateless' in the nationality field, which is included in the publicly accessible ISTAT database (570 as of 1 January 2024).</p> | <p>UNHCR RECOMMENDATIONS ON THE RELEVANT ASPECTS OF THE PROTECTION OF STATELESS PERSONS IN ITALY: https://www.unhcr.org/it/wpcontent/uploads/sites/97/2021/11/Advocacy-Paper-Statelessness_Italy_ENG_Nov21_def.pdf</p> <p>UNHCR, Italy joins top league of countries reducing statelessness: http://www.unhcr.org/ibelong/italy-joins-top-league-of-countries-reducing-statelessness/</p> <p>UNHCR publication on reducing statelessness, July 2020: https://www.unhcr.org/it/wp-content/uploads/sites/97/2020/07/Porte_Fine_all_Apolidia_IT.pdf</p> <p>UNHCR Global Trends 2024: https://www.unhcr.org/globaltrends.html</p> <p>UNHCR Refugee Data Finder: https://www.unhcr.org/refugee-statistics/download/?url=11DJWv</p> <p>Raccomandazioni del tavolo di lavoro sull’apolidia sulla protezione degli apolidi e sulla riduzione dell’apolidia in Italia, Settembre 2021: https://tavoloapolidia.org/app/uploads/2021/09/Advocacy-Paper-Tavolo-Apolidia_2021_def.pdf</p> <p>Fantasm urbani: la condizione giuridica dei cittadini rom di origine jugoslava negli insediamenti italiani, pubblicato da Associazione 21 luglio febbraio 2021 https://www.21luglio.org/2018/wp-content/uploads/2021/02/fantasm-urbani-edit.pdf</p> <p>Report “The impact of statelessness on access to human rights in Italy, Portugal and Spain”, June 2019: https://www.unhcr.org/it/wp-content/uploads/sites/97/2020/08/UNHCR_Impact-of-Statelessness-ITPTES_def_web.pdf</p> <p>Dossier statistico immigrazione 2021, a cura del Centro Studi e Ricerche IDOS, pag. 480 e segg</p> <p>National Strategy for Roma and Sinti Equality, Inclusion and Participation 2021-2030, Implementation of the Recommendation of the Council of the European Union of 12 March 2021 (Strategia Nazionale di uguaglianza, inclusione e partecipazione di Rom e Sinti 2021-2030, Attuazione della Raccomandazione del Consiglio dell’Unione Europea del 12 marzo 2021 (2021/C 93/01)) https://politichecoesione.governo.it/media/2967/strategia-nazionale-rom-e-sinti_2021-2030.pdf</p> <p>ISTAT database: http://dati.istat.it/index.aspx?datasetcode=dcis_permsogg1</p> |

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| POP.1.d | | Have there been any surveys or mapping studies to estimate the stateless population in the country? | As above | Yes. | <p>Report “The impact of statelessness on access to human rights in Italy, Portugal and Spain”, June 2019: https://www.unhcr.org/it/wp-content/uploads/sites/97/2020/08/UNHCR_Impact-of-Statelessness-ITPTES_def_web.pdf</p> <p>UNHCR Global Trends 2024: https://www.unhcr.org/globaltrends.html</p> <p>Raccomandazioni del tavolo di lavoro sull’apolidia sulla protezione degli apolidi e sulla riduzione dell’apolidia in Italia, Settembre 2021: https://tavoloapolidia.org/app/uploads/2021/09/Advocacy-Paper-Tavolo-Apolidia_2021_def.pdf</p> <p>Dossier statistico immigrazione 2021, a cura del Centro Studi e Ricerche IDOS, pag. 480 e segg.</p> |
| POP.1.e | | Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures. | As above | <p>The IDOS Study Centre, based on data collected by MIUR (Ministry of Education, University and Research), published figures on stateless students attending Italian schools. The research shows that, in the school year 2017-2018, 354 stateless people attended Italian schools (58 kindergarten, 179 primary school, 105 secondary school and 12 high school). There are no more recent sources.</p> <p>Another interesting data is the number of valid residence permits indicating "stateless" in the nationality field, which is included in the publicly accessible ISTAT database.</p> | <p>Centro Studi e Ricerche IDOS, Dossier Statistico Immigrazione 2019, p. 471</p> <p>Centro Studi e Ricerche IDOS , Dossier statistico immigrazione 2021, pag. 480 e segg.</p> <p>UNICEF 2019 report on ending childhood statelessness: https://www.unicef.org/eca/media/5941/file/Ending%20childhood%20statelessness%20in%20Europe%20UNICEF-UNHCR.pdf</p> <p>Osservatorio MSNA CeSPI, Approfondimento n. 17/ dicembre 2023, Minori stranieri non accompagnati in Italia e rischio apolidia: il caso Costa d’Avorio: https://www.cespi.it/sites/default/files/osservatori/allegati/appro_f.17_costa_davorio_e_apolidia_-_lunardini.pdf</p> <p>ISTAT database: http://dati.istat.it/index.aspx?datasetcode=dcis_permsogg1</p> |
| POP.1.f | | Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe. | As above | Issues are mainly related to the difficulty of mapping stateless people without a residence permit about whom very little information is available. Data on the stateless population is likely underreported and underestimated and there are many contradictions in available data. The Italian census system counts only people recognised as stateless in a dedicated determination procedure. The actual situation is largely underreported. | Consiglio Italiano per i Rifugiati (CIR) practice |
| POP.1.g | | Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the State also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting). | As above. EASO/EUAA, Practical guide on registration (2021) : States should collect information from applicants for international protection about their nationality(ies) and potential lack of nationality. When registering families, it is important to collect this data for each family member. | There is no official data available on stateless refugees or asylum seekers. | |

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| <p>POP.2.a</p> <p>Stateless in detention data</p> | <p>Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.</p> | <p>Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.</p> | <p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations. CEDAW, Gen. Rec. 32 (2014): State parties should gather, analyse and make available sex-disaggregated statistical data and trends. ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory. Equal Rights Trust, Guidelines (2012): 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. Council of the European Union, Conclusions on Statelessness (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> | <p>There is no official data available on stateless people in immigration detention (Pre-removal centres) in Italy. A 2022 report by the National Guarantor states that 6,383 persons transited through Pre-removal detention centres in 2022 and lists the nationalities held by the detainees, none of which refers to statelessness. According to the 2023 report (covering January-March 2023), out of the 1,457 detainees, one is referred to as "apolide" (recognised stateless person). The most recent Guarantor report does not contain relevant data. However, there have been reports of stateless people in immigration detention.</p> | <p>Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al parlamento 2023, https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/fc13013de38c3ba97c6d0357fe21b941.pdf</p> |
| <p>POP.2.b</p> | <p>Does the State record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.</p> | <p>Does the State record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.</p> | <p>As above</p> | <p>There is no official data available on stateless people in administrative immigration detention (Pre-removal centres) in Italy. General data on immigration detention in Italy can be found in the Report to the Parliament by the National Guarantor for the rights of persons detained or deprived of liberty and from NGOs reports (i.e., the Global Detention Project). The statistics published by the National Guarantor that provide the reasons for release from pre-removal detention do not include a category of "un-removability". Persons released from detention for reasons related with un-removability, in particular stateless persons for whom a country of return could not be identified or effected, may potentially fall within the category "order of the Questore for expiration of the maximum term" (20% of the total releases from Pre-removal detention centres). Other categories that may be relevant are "detention not validated by the judicial authority" (23%) and "released for other reasons" (7%). As a rule, un-removable foreigners are not qualified as such under any assessment, therefore they remain exposed to the risk of new detention.</p> | <p>Global Detention Project, Italy Immigration Detention: https://www.globaldetentionproject.org/countries/europe/italy</p> <p>Global Detention Project, Immigration Detention in Italy: Complicit in Grave Human Rights Abuses? October 2019, https://www.globaldetentionproject.org/italy-complicit-in-grave-human-rights-abuse</p> <p>Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al parlamento 2022, https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/8d31d77e25e800f9c0eb31448e8f03d8.pdf</p> <p>Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al parlamento 2020 https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/a5fa1a499fdaf9e241f537006675c158.pdf (IT)</p> |

Statelessness Determination and Status

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| SDS.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. | 1954 Convention : Articles 1(1) & 1(2). | Italy ratified the 1954 Convention in February 1962. National law does not provide a definition of a 'stateless person' so the 1954 Convention definition applies. | LEGGE 1 febbraio 1962, n. 306, Ratifica ed esecuzione della Convenzione relativa allo status degli apolidi, adottata a New York il 28 settembre 1954: http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1962-06-07&atto.codiceRedazionale=062U0306&elenco30giorni=false (IT) |
| SDS.2.a | Training | Is there training to inform different public authorities about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?) | UNHCR Executive Committee, Conclusion 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. HRC, Resolution 53/16 on the right to a nationality (2023) : States should ensure the effective implementation of nationality laws, including through awareness-raising and publicity, and training of public officials, including judges and local leaders, that is gender-responsive and sensitive to race and diversity, informed by meaningful consultation and engagement with stateless leaders and communities and wider civil society. | No compulsory trainings are provided to officials competent for the administrative procedure. A draft law on the recognition of statelessness status submitted in 2015 provided that public administration personnel and administrative stakeholders should receive basic training on the implementation of the regulations of the offices and services in which they perform their activity. A new Parliament was elected in 2018, but the draft law has not been resubmitted and no relevant changes occurred. UNHCR delivers ad hoc statelessness-related training to asylum decision-makers. | Consiglio Italiano per i Rifugiati (CIR) practice DISEGNO DI LEGGE COMUNICATO ALLA PRESIDENZA IL 26 NOVEMBRE 2015, Disposizioni concernenti la procedura per il riconoscimento dello status di apolidia in attuazione della Convenzione del 1954 sullo status delle persone apolidi, No. 2184, Art.14: http://www.senato.it/japp/bgt/showdoc/17/DDLPRES/0/967066/index.html?stampa=si&spart=si&toc=no (IT) DECRETO-LEGGE 17 febbraio 2017 n. 13, Art. 2: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17:13 as converted into, LEGGE 13 aprile 2017 n. 46: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT) |
| SDS.2.b | | Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency). | UNHCR, Good Practices Papers – Action 6 (2020) : 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. UNHCR, Geneva Conclusions (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. HRC, Resolution 53/16 on the right to a nationality (2023) : as above | Since reforms to the judicial procedure in 2017, which attributed the competence to conduct SDPs to specialised sections of the Civil Court, a specific annual training is provided by the "Scuola Superiore della Magistratura" (Judicial Training Centre). Law 13/2017 states that specialised training is compulsory for judges of the specialised sections and members of territorial commission. UNHCR cooperates with the courts to deliver ad hoc statelessness trainings. Other ad hoc training courses are provided by academics, professionals, lawyers' associations, NGOs, UNHCR and other civil society associations with trainers from different professional backgrounds. These are mainly focused on immigration issues and are not exclusively concerned with statelessness but do provide some knowledge, tools and skills to address statelessness and the right to nationality. The project The Statelessness Legal Clinics (SLC) - Strengthening Legal Education and Practice on Statelessness by Improving Access to Statelessness Determination Procedures through University Legal Clinics and Training of Students Interested in the Issue aims to ensure that stateless people and people at risk of statelessness living in Italy receive legal assistance in order to benefit from full rights and protection. Every year, CIR participates as lecturer on statelessness issues within the training course on refugees and migrants at Sapienza University. | DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17:13 (IT) As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT) Fondazione Formazione Forense Ordine Avvocati di Firenze, Firenze, L'apolidia secondo il diritto interno e nel diritto internazionale, Giugno 2013 Fondazione Formazione Forense Ordine Avvocati di Pistoia, Pistoia, Il diritto degli apolidi e stato della giurisprudenza in Italia. Il progetto "In the sun", Aprile 2013 Consiglio Nazionale Forense CIR – Europe Consulting, Roma – Corso sull'apolidia, Peregrini sine civitate, Novembre 2012-Marzo 2013 https://www.programmaintegra.it/wp/inclusione_sociale/slc-statelessness-legal-clinics-strengthening-legal-education-and-practice-on-statelessness/ Convegno del 30.03.2017, Biblioteca Medicea Laurenziana, Firenze, "Perdere la propria cittadinanza è come scomparire dal |

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| | | | | | <p>mondo": http://apolidia.org/index.php/notizie-ed-eventi/139-convegno-del-30-03-2017-biblioteca-medicea-laurenziana-firenze-perdere-la-propria-cittadinanza-e-come-scomparire-dal-mondo</p> <p>Dipartimento di Scienze politiche, Università Sapienza di Roma https://masterdirittiumanisapienza.it/ https://disp.web.uniroma1.it/it/corso-di-formazione-su-rifugiati-e-migranti</p> <p>Ius e Nomos, Specialist training, Session XII, 27 April 2018, Il riconoscimento della Protezione Internazionale, la Protezione Umanitaria, l'Apolidia: https://www.iusnomos.eu/</p> <p>Ius e Nomos, Specialist training, Session XVII, 11 May 2019, L'apolidia e la protezione internazionale degli apolidi: https://www.iusnomos.eu/</p> <p>Webinar del 11/12/2020, Apolidia e cittadinanza; profili storici, giuridici e procedurali e l'esperienza del JUSTROM-Italia: https://pjp-eu.coe.int/en/web/access-to-justice-for-roma-women/newsroom//asset_publisher/F6SRoTa4uvMG/content/training-courses-for-legal-professionals-in-italy/maximized</p> <p>Unione Italiana Apolidi ETS, "inVISIBILE", Workshop 24/11/2023: https://webmagazine.unitn.it/fileswebmagazine/download/118358/locandinainvisible.pdf</p> <p>CIR, Webinar 6/12/2023, L'apolidia in Italia e in Europa: principali profili e sfide da affrontare: https://www.cironlus.org/2023/11/21/webinar-lapolidia-in-italia-e-in-europa-principali-profilo-e-sfide-da-affrontare/</p> <p>International Conference "Statelessness: Ad limen civitatis" 28/04/2023 Sala Chiesa of the Foligno Educatorio https://www.fondazioneforensefirenze.it/uploads/fff/files/2023/04%20-%20Aprile/28%20-%20Apolidia/Locandina%2028_04_2023%20Apolidia.pdf</p> |
| SDS.3.a | Existence of a dedicated SDP | <p>Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated.</p> <p>1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated statelessness status (proceed to Question 4a).</p> <p>2. There is no dedicated SDP leading to a dedicated statelessness status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes</p> | <p>UNHCR, Handbook on Protection (2014): It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.</p> | #1 - The Italian legal system provides for two paths to the recognition of the status of stateless persons: an administrative procedure and a judicial one. | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT)</p> <p>As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> |

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| | | <p>through which stateless people could regularise their stay and/or access their rights (proceed to Question 11a).</p> <p>3. There is a dedicated statelessness status but no formal procedure for determining this (proceed to Question 17a).</p> | | | |
| SDS.4.a | Access to the procedure (Group 1) | <p>Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.</p> | <p>UNHCR, Handbook on Protection (2014): States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise.</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is important that examiners develop expertise while ensuring that the procedures are accessible.</p> | <p>In the administrative procedure, the Ministry of the Interior is responsible for the certification of statelessness - applications are processed by the Nationality Office. Since reforms in 2017 (Decree 13/17; Law 46/17), competence for the judicial procedure is now attributed to specialised sections of the Civil Court in the applicant’s place of residence. Both the Ministry of Interior and the Civil Court are the appropriate authorities to process the application, however the level of expertise may vary depending on the judge or official handling the procedure. The administrative procedure is easily accessible to stateless people, as all applicants can present the application personally or send the application to the Ministry of Interior through the Prefecture of the place of residence.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell’immigrazione illegale, Art 3(2): http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT)</p> <p>As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all’immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> |
| SDS.4.b | | <p>Are there clear, accessible instructions on how to make a claim of statelessness?</p> | <p>UNHCR, Handbook on Protection (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p> | <p>With regard to the administrative procedure, the law states the documentation needed to lodge the application (birth certificate, documentation certifying residence in Italy and documentation demonstrating statelessness). The Ministry of Interior provides an application form to submit the claim.</p> <p>In the judicial procedure, applicants must be assisted by a lawyer who lodges the application on their behalf.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT).</p> <p>Application Form: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/modulo_istanza_apolidia_0.pdf</p> <p>DECRETO LEGISLATIVO 1 settembre 2011, n. 150, Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, Art. 19 bis, introduced by the Decree 13/17 as converted into Law 46/17: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-09-01;150!vig=</p> <p>Raccomandazioni del tavolo di lavoro sull’apolidia sulla protezione degli apolidi e sulla riduzione dell’apolidia in Italia, Settembre 2021: https://tavoloapolidia.org/app/uploads/2021/09/Advocacy-Paper-Tavolo-Apolidia_2021_def.pdf</p> <p>CIR dedicated a page of its website on statelessness https://www.cir-onlus.org/tutto-quello-che-devi-sapere-sull-apolidia-in-italia/</p> <p>Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 14: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf</p> |

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| SDS.4.c | | Can submissions be made orally and/or in writing in any language? | ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013) : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs. | There is no provision requiring that the application in the administrative procedure be submitted in any specific language. Practice shows that applicants present their applications in Italian. In the judicial procedure, the appeal must be lodged in Italian and there is no obligation to present evidence in Italian (certified translations). In practice, depending on the language, translation is required to understand the content. Most lawyers prefer to have a certified translation of the documents. In the administrative procedure applications should be made in written form, through the local Prefecture, to the Ministry of Interior. An applicant who wants to claim statelessness status at the Police Headquarters, for example, can ask for information orally, but they are then invited to lodge the application with the Prefecture. All judicial procedures require a written application. | Consiglio Italiano per i Rifugiati (CIR) practice Codice di procedura civile, Libro I, Titolo VI, Art. 122: http://www.altalex.com/documents/news/2014/10/29/disposizioni-general-atti-processuali (IT) DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) CIR, IN THE SUN: Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf |
| SDS.4.d | | Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements. | ENS (2013) : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs. | In the administrative procedure, the application must be submitted in a written format. The Ministry of Interior provides a model application form, but the applicant is not obliged to use it. Moreover, the applicant must provide several documents including a birth certificate, documentation certifying residence in Italy, and either documentation demonstrating statelessness or a declaration from the consulate of the state of origin or former residence certifying they are not a national. Recently, where the applicant has problems providing a birth certificate, the tendency of the Ministry of Interior is to consider that the submission of this document is not compulsory. The application will only be considered admissible without a birth certificate if there is another document from which the person's place and date of birth can be inferred. If there is no document containing this information, the application will still be rejected. This is a practice, but it is not foreseen in the law or in official sources. The practice has been reported by UNHCR, which has a cooperation agreement with the Ministry of Interior. The Ministry of Interior may ask for additional documentation and will only determine statelessness based on the documentation provided, so the application may be refused without an interview if the applicant does not provide all the required documentation. In the judicial procedure, the application must be lodged by a lawyer on behalf of the applicant and submitted in the form provided for by the Code of Civil Procedure. The applicant does not need to provide specific documents to access the procedure, but must be assisted by a lawyer throughout the proceedings before the Civil Court. Hearings are scheduled by the Judge taking into consideration the complexity of the case. | Application Form: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/modulo_istanza_apolidia_0.pdf DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) DECRETO-LEGGE 17 febbraio 2017, n. 13, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 as converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT) Art. 702 bis of the Civil Procedural Law: https://www.brocardi.it/codice-di-procedura-civile/libro-quarto/titolo-i/capo-iii/sezione-v/art702bis.html (IT) Articolo abrogato dal D. Lgs. 10 ottobre 2022, n. 149 (c.d. "Riforma Cartabia"), come modificato dalla L. 29 dicembre 2022, n. 197. Information acquired by UNHCR during the meeting of the TAVOLO APOLIDIA |
| SDS.4.e | | Are competent authorities authorised to initiate SDPs <i>ex officio</i> ? | UNHCR, Good Practices Papers – Action 6 (2020) : It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i> . UNHCR, Handbook on Protection (2014) : Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure. | No. | |
| SDS.4.f | | Are there obligations in law on authorities to consider the application? | UNHCR, Good Practices Papers – Action 6 (2020) : Access to the SDP must be guaranteed. | As there is a specific procedure in law, the authorities are obliged to consider all applications. | DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) |

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| SDS.4.g | | Is there an application fee? | <p>UNHCR, Good Practices Papers – Action 6 (2020): Access to the SDP must be guaranteed.</p> | <p>No, there is no fee for submitting an application in the administrative procedure. Applicants can be requested to pay bureaucratic expenses or taxes (e.g. stamps). In the judicial procedure free legal aid can be obtained by law if the applicant can fulfil specific income requirements (annual income of EUR 12,838.01 - NB.amount is modified every year) and no assets.</p> <p>The main problems concern the availability and quality of legal aid, which vary considerably, depending on the region where an applicant resides.' If the applicant does not qualify for legal aid, they must pay a fee for the judicial procedure, which is usually EUR 259 for first instance courts.</p> | <p>D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spesse-di-giustizia (IT)ASGI, Il patrocinio a spese dello stato nei procedimenti giurisdizionali per l'accertamento della protezione internazionale e/o umanitaria, 2016: https://www.asgi.it/wp-content/uploads/2016/09/2016_DEF-Scheda-ASGI-patrocinio-a-spesse-dello-Stato.pdf (IT)</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172</p> <p>Testo unico in materia di spese di giustizia (D.P.R. 115/2002, Art. 13 comma 1 lett. d) e comma 3: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spesse-di-giustizia (IT)</p> |
| SDS.4.h | | Is there a lawful stay requirement to access the SDP? | <p>UNHCR, Good Practices Papers – Action 6 (2020): Access to the procedure needs to be open to anyone regardless of lawful stay or residence.</p> <p>ENS (2013): There is no basis in the 1954 Convention for requiring lawful stay.</p> | <p>The law does not require an applicant to demonstrate “lawful” residence in Italy, referring only to “residence”. In practice the Ministry of Interior requires a residence permit to submit the application.</p> <p>Recently, the tendency of the Ministry of Interior concerning the administrative procedure is to consider that the submission of lawful residence is not compulsory to access the procedure.</p> <p>There is no requirement to demonstrate lawful stay to access the judicial procedure. In fact, it is only necessary to have some form of proof of presence in Italy (e.g. school certificates, medical certificates, etc.).</p> <p>UNHCR has signed a protocol with the Italian Ministry of Interior providing for technical cooperation on statelessness procedures.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>"Information acquired by UNHCR during the meeting of the TAVOLO APOLIDIA"</p> <p>Source: UNHCR shared this new practice during the meetings of the TAVOLO APOLIDIA)</p> |
| SDS.4.i | | Is there a time limit on access to the SDP? | <p>UNHCR, Good Practices Papers – Action 6 (2020): Access to the SDP must be guaranteed and not subject to time limits.</p> | <p>No, there is no time limit to access either the administrative or judicial procedure.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17:</p> |

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| | | | ENS (2013) : There is no basis in the 1954 Convention to set time limits for individuals to claim statelessness status. | | http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) |
| SDS.4.j | | Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination? | UNHCR, Good Practices Papers – Action 6 (2020) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice. UNHCR and NGOs are advocating for a referral mechanism among relevant authorities. | The asylum determining authorities may inform stateless people about the SDP but there is no standardised procedure for referral or cooperation. UNHCR and NGOs are advocating for a referral mechanism among relevant authorities | Consiglio Italiano per i Rifugiati (CIR) practice |
| SDS.5.a | Assessment (Group 1) | Who has the burden of proof in the SDP in law and practice? | UNHCR, Handbook on Protection (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR, Good Practices Papers – Action 6 (2020) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR, Geneva Conclusions (2010) : In statelessness determination procedures, the burden of proof should therefore be shared between the applicant and the authorities responsible for making the determination. Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. ECtHR, Hoti v. Croatia (2018) : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness. | The burden of proof in the administrative procedure is on the applicant who must provide all required documentary evidence for the application to be processed. In the judicial procedure, caselaw has underlined that the burden of proof is shared between the applicant and the authority. The applicant should make all possible efforts to clarify their condition of statelessness and support their declarations with evidence. If the applicant does not manage to provide evidence, despite all efforts, the judge can use <i>ex officio</i> powers to assist them. In the case law, a judgment of the Ordinary Court of Florence IV sez.civ. 29.11.21 reaffirmed that the burden of proof on the applicant for statelessness status is mitigated, and any gaps that emerge from their personal story, can be filled with the investigative powers of the judge, by requesting information from the public authorities of the State of origin or the State to which a significant connection is detected. This approach, endorsed by the Court of Cassation in its judgment No. 4262/2015, is also referred to in the UNHCR Handbook for the Protection of Stateless Persons. In 2023, the Ordinary Court of Rome (n.r.g 72509/2022)), in its reasoning, reaffirmed the principle that an applicant for statelessness status is not required to provide proof (which in practice would be impossible) that they are not entitled to any nationality of any country. The applicant should demonstrate their connection with the State in which they are applying for statelessness status (i.e. habitual residence in Italy through documentary evidence or witnesses) and of the factual circumstances which, according to the law of their country of origin, led to the loss or non-acquisition of their first nationality. Note: this case concerned the recognition of Italian nationality by birth of a daughter born in Italy to a stateless mother. | DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) UNHCR, MANUALE PER LA PROTEZIONE DELLE PERSONE APOLIDI IN BASE ALLA CONVENZIONE DEL 1954 SULLO STATUS DELLE PERSONE APOLIDI, GINEVRA, 2014 https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=57b6bff14 Perin G., La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 12-13 https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT) Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 162 Corte Cassazione, Sentenza 4262/2015 http://www.apolidia.org/index.php/giurisprudenza/44-corte-di-cassazione/100-cassazione-civile-sentenza-n-4262-del-03-03-2015 Corte di Cassazione, sez. I Civile, sentenza n. 28153 del 24/11/2017: http://briguglio.asgi.it/immigrazione-e-asilo/2017/dicembre/sent-cass-28153-2017.pdf (IT) Cass. civ. Sez. I, 18/01/2018, no. 1183 https://caselaw.statelessness.eu/sites/default/files/decisions/Cass.%2520Civ.%2520n.%25201183_2018.pdf Corte di Cassazione, I sez. civile, Ordinanza n. 16114/2019: http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=.%20190614/snciv@s10@a2019@n16114@tO.clean.pdf (IT) NB: il link nn va e l'Ordinanza non si trova sul sito della Cassazione Tribunale ordinario di Torino Ordinanza 4 giugno 2020 https://www.dirittoimmigrazionecittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/634-2-tribunale-di-torino-4-6-2020/file Tribunale ordinario di Firenze Ordinanza 22 luglio 2020: https://www.dirittoimmigrazionecittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/635-3-tribunale-di-firenze-22-7-2020/file (IT) |

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| SDS.5.b | | <p>What is the standard of proof, in law and in practice? Is it the same as in refugee status determination procedures?</p> | <p>UNHCR, Handbook on Protection (2014): States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). UNHCR, Good practices in nationality laws (2018): The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence. ECtHR, Hoti v. Croatia (2018): If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p> | <p>The standard of proof is the same as in the asylum procedure. The reduced standard of proof is the result of case law. For example, in 2017, the Cassation Court stated that formal proof of loss of nationality is not required to be granted statelessness status. Statelessness can be inferred from other facts, such as the refusal to grant the person rights usually linked to nationality.</p> | <p>Bittoni G., Statelessness determination procedure in Italy: who bears the burden of proof? ENS Blog, 6 May 2015: https://www.statelessness.eu/blog/statelessness-determination-procedure-italy-who-bears-burden-proof</p> <p>Corte Cassazione, Sentenza 4262/2015 http://www.apolidia.org/index.php/giurisprudenza/44-corte-di-cassazione/100-cassazione-civile-sentenza-n-4262-del-03-03-2015</p> <p>Corte di Cassazione, Sentenza n. 28153/2017: https://www.csm.it/documents/21768/2432356/cass++civ++sentenza+24-11-2017+n++28153.pdf/4a44ba6c-5436-2a04-f450-04871e40a37c</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 166</p> <p>Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 12: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT)</p> <p>UNHCR, MANUALE PER LA PROTEZIONE DELLE PERSONE APOLIDI IN BASE ALLA CONVENZIONE DEL 1954 SULLO STATUS DELLE PERSONE APOLIDI, GINEVRA, 2014 https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=57b6bff14</p> |
| SDS.5.c | | <p>What measures are in place to guarantee substantive equality for women, children and other groups (e.g. disabled people, older people, LGBTQI people, etc.) at risk of discrimination in the SDP? In particular, what measures are in place to ensure respect for the best interests of the child in the procedure</p> | <p>UNHCR, Handbook on Protection (2014): Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children and persons with disabilities 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. Additional safeguards for child claimants include priority processing of their claims, appropriately trained</p> | <p>There are no such provisions specific for stateless people.</p> | |

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| | | (burden of proof, guardianship, child-friendly procedures, etc.)? | <p>professionals and a greater share of the burden of proof by the State.</p> <p>CEDAW, Gen. Rec. 32 (2014): 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.</p> <p>CRC: Articles 2, 3, 7 and 8</p> <p>CRPD: Article 18</p> <p>UNHCR, Best Interests Procedure Guidelines (2021): The best interests principle applies to all children within the territory of the State, irrespective of their status.</p> <p>UNHCR, Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement (2021)</p> <p>Global Compact for Safe, Orderly and Regular Migration: Objective 7</p> <p>UN Women, Policies and practice: A guide to gender-responsive implementation of the Global Compact for Migration (2021): States should put in place measures to regularise the status of migrants leading to permanent residence, with specific attention to migrant women and girls who are stateless.</p> <p>European Parliament, Resolution on LGBTIQ rights in the EU (2021): Calls on Commission and Member States to overcome discrimination against rainbow persons and families.</p> <p>UNHCR, Discussion Paper: LGBTIQ+ persons in forced displacement and statelessness (2021)</p> | | |
| SDS.5.d | | Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, accurate and reliable country of origin information relating to statelessness, etc.)? | <p>ENS (2013): Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.</p> <p>Asylos, Principles for Conducting Country of Origin Information Research on Statelessness (2023)</p> | There is no public information on this. It is possible that the Ministry of Interior has distributed internal guidance for their decision makers, but this is not publicly available. Accurate and reliable national country-of-origin information on statelessness is not available. In the judicial procedure, judges can refer to country-of-origin information on statelessness provided by a number of institutions and NGOs. | |
| SDS.5.e | | Is there any evidence of significant errors in decision-making? | | No. | Consiglio Italiano per i Rifugiati (CIR) practice |
| SDS.6.a | Procedural safeguards (Group 1) | Is free legal aid available during the procedure? | <p>UNHCR, Handbook on Protection (2014): Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p>ENS (2013): If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.</p> | It is not necessary to have the assistance of a lawyer for the administrative procedure and the law does not provide for legal aid in this matter. NGOs may assist applicants to complete the form. In the judicial procedure free legal aid can be obtained by law if the applicant can fulfil specific income requirements (annual income of EUR 12,838.01 - NB. amount is modified every year) and no assets. The main problems concern the availability and quality of legal aid, which vary considerably, depending on the region where an applicant resides. | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172</p> <p>Corte Costituzionale, ordinanza n. 144 del 14/05/2004 https://giurcost.org/decisioni/2004/0144o-04.html</p> <p>D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spese-di-justizia (IT)</p> |

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| SDS.6.b | Is an interview always offered (unless granting without interview)? | UNHCR, Handbook on Protection (2014) : The right to an individual interview [is] essential. | In the administrative procedure, an individual interview is not foreseen. In the judicial procedure, the judge arranges the hearing according to the complexity of the case. However, applicants may submit a written statement to supplement their application, but they must still include documentation to prove their lack of nationality. | Consiglio Italiano per i Rifugiati (CIR) practice DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 as converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT) Art. 702 bis of the Civil Procedural Law: https://www.brocardi.it/codice-di-procedura-civile/libro-quarto/titolo-i/capo-iii/sezione-v/art702bis.html (IT) Articolo abrogato dal D. Lgs. 10 ottobre 2022, n. 149 (c.d. "Riforma Cartabia"), come modificato dalla L. 29 dicembre 2022, n. 197. DECRETO-LEGGE 12 settembre 2014, n. 132, Misure urgenti di degiurisdizionalizzazione ed altri interventi per la definizione dell'arretrato in materia di processo civile, (14G00147) (GU Serie Generale n.212 del 12-09-2014): http://www.gazzettaufficiale.it/eli/id/2014/09/12/14G00147/sg (IT) |
| SDS.6.c | Is free interpreting offered for statelessness determination interviews? | UNHCR, Handbook on Protection (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation. | No, in the administrative procedure there is no individual interview. In the judicial procedure, claimants can be heard, but interpreters are usually not provided in practice. | Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 175. |
| SDS.6.d | Are there quality assurance audits of the SDP? | UNHCR, Good Practices Papers – Action 6 (2020) : Quality assurance audits of SDPs are considered good practice. | No. | |
| SDS.6.e | What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training, applicant's access to UNHCR as a safeguard in the procedure)? | UNHCR, Handbook on Protection (2014) : States are encouraged to guarantee access to UNHCR as a safeguard in the procedure. | Since June 2023, UNHCR may review case files. UNHCR staff do not take part in the final decision, which is made by the official, but participate in all stages of the investigation. Moreover, UNHCR is the main actor providing (non-compulsory) training and guidelines. | Consiglio Italiano per i Rifugiati (CIR) practice Source: UNHCR shared this new practice during the meetings of the TAVOLO APOLIDIA) |
| SDS.6.f | Are decisions (refusals and grants) given in writing with reasons? | UNHCR, Handbook on Protection (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons. | Administrative decisions are notified to the persons concerned in writing with reasons, but these are usually very brief. The recognition provided by the Civil Court in the judicial procedure gives the reasons on which the judgment is based. | Bianchini K., Protecting Stateless Persons, International Refugee Law Series, V. II, 2018, pp. 170-171 Codice di procedura civile, Libro I, Titolo VI, Art. 132 & 133: http://www.altalex.com/documents/news/2014/10/29/disposizioni-generali-degli-atti-processuali (IT) |
| SDS.6.g | Is there a timeframe for the SDP set in law or policy and is it complied with in practice? | UNHCR, Handbook on Protection (2014) : It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months. | A maximum timeframe of 350 days - or 895 days in case the opinion of a foreign authority or Ministry of Foreign Affairs is requested - is set for the administrative procedure, but it is seldom respected in practice. Some clients assisted by CIR have waited for five years for a decision in the administrative procedure and in one case, the person concerned waited approximately 13 years. | Decreto Ministeriale 18 aprile 2000 n.142, p.46: https://www.gazzettaufficiale.it/eli/id/2000/06/05/000G0190/sg Bianchini K., The Implementation of the Convention Relating to the Status of Stateless Persons: Procedures and Practice in Selected EU States, Phd thesis, University of York, 2015, p. 100: http://etheses.whiterose.ac.uk/11243/1/PhD%20thesis%20-%20Katia%20Bianchini.pdf |

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| | | | | | Consiglio Italiano per i Rifugiati (CIR) practice |
| SDS.6.h | | Is statelessness identified in asylum procedures? Is there any guidance for officials relating to identification or determination of statelessness within asylum procedures? Is there a referral mechanism from asylum procedures to the SDP (either during or at the conclusion, if the applicant is refused asylum)? | <p>UNHCR, Good Practices Papers – Action 6 (2020): Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants.</p> <p>EASO/EUAA, Practical guide on registration (2021): The country or countries of former habitual residence should be recorded in applications for international protection to facilitate follow-up and referral to a dedicated statelessness determination procedure. Statelessness determination should be carried out only by a competent decision-making authority at an appropriate point in time following the final assessment of an asylum claim.</p> <p>ENS (2013): Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.</p> | <p>In practice, statelessness is rarely identified during asylum procedures. There is no guidance for the authorities relating to identification or determination of statelessness within asylum procedures. A referral mechanism is not established, but UNHCR and NGOs are advocating for a referral mechanism among relevant authorities</p> <p>However, in a judgment the Court of Florence recognised the statelessness status of an asylum seeker who had been denied refugee status. The lawyer lodged an appeal against the denial of international protection and asked the judge for a preliminary assessment of the applicant's statelessness status. The Court, considering the connection between the statelessness status and asylum requests, decided to handle them in the same procedure, recognising the statelessness status.</p> | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Tribunale ordinario di Firenze, IV sez. civile Ordinanza 6558/2021 del 29.11.2021 https://images.go.wolterskluwer.com/Web/WoltersKluwer/%7B74f06f91-6e8d-4ae5-b8eb-b77027b2e563%7D_tribunale-firenze-decreto-6558-2021.pdf?_ga=2.159985470.2069666759.1718289928-871034738.1718289927</p> |
| SDS.7.a | Protection during SDP (Group 1) | Does the applicant have automatic legal admission while their claim for statelessness status is assessed or is there a risk of expulsion? | <p>UNHCR, Handbook on Protection (2014): An individual awaiting a decision is entitled, at a minimum, to all rights based on presence and being 'lawfully in' the territory (including identity documents, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that applicants for statelessness status receive the same treatment as asylum-seekers.</p> <p>ENS (2013): States should refrain from expelling or removing an individual pending the outcome of the determination process.</p> | <p>People who apply for recognition of statelessness status to the Ministry of the Interior or Civil Court may apply and are generally granted temporary permission to stay, renewable while their application is being processed. However, practice shows that the issuance of a residence permit pending the judicial procedure is discretionary to the judge who decides the case and to the Police. It is possible that pending the judicial procedure applicants may be stopped by the police and asked about their status. If the applicant is already in possession of a residence permit (e.g. for study) when applying for statelessness status, a specific temporary residence permit is issued pending the SDP. Article 31 of the 1954 Convention provides that a stateless person cannot be expelled except in cases of well-documented reasons related to national security and public order. In 2019, the Court of Cassation held that this rule shall also apply to people at risk of statelessness and/or pending the SDP, when the statelessness situation of the person emerges clearly from the information or documentation of the competent public authorities of the Italian State, of the State of origin or of the State with which it is established the person has a significant link.</p> | <p>CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p> <p>ASGI Project, Out of Limbo: Promoting the right of undocumented and stateless Roma migrants to a legal status in Italy, May 2015: http://www.asgi.it/progetti/out-of-limbo-english-version/</p> <p>D.P.R. n. 394/1999, Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, Art. 11, comma, 1 lett c): https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:presidente.repubblica:decreto:1999-08-31:394 vig=%20</p> <p>Court of Cassation, n. 16489, 19/06/2019: http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=.%20190619/snciv@s10@a2019@n16489@tS.clean.pdf</p> |
| SDS.7.b | | Do applicants for statelessness status have permission to work and access to assistance to meet their basic needs? | <p>UNHCR, Handbook on Protection (2014): Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.</p> | <p>The law does not specify the right to work pending the procedure. In practice, different sources report different and inconsistent practice in relation to the temporary permit and the right to work. The law does not specify the right to assistance for applicants to meet their basic needs. The temporary residence permit issued to applicants that were already in possession of another residence permit allows the right to work. In practice, it is quite unusual for a person to hold a residence permit before applying for statelessness status.</p> | <p>Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 166-167</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>D.P.R. n. 394/1999, Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, Art. 11, comma, 1 lett c): https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:presidente.repubblica:decreto:1999-08-31:394 vig=%20</p> |
| SDS.7.c | | Do applicants for statelessness status face a risk of detention? | <p>UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Detention is 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</p> | <p>In the administrative procedure applicants are issued with a temporary residence permit, so they are not detained. In the judicial procedure, if applicants are not in possession of a residence permit, there is a risk of detention.</p> | <p>CIR, IN THE SUN, Survey on the phenomenon of statelessness among Rom communities living in Italy, February 2013, pp.16-17: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p> |

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| | | | the lawful governmental objective pursued by detention. | | Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 168 Tavolo apolidia (coalition of civil society organisations in Italy working together to protect stateless people): https://tavoloapolidia.org/apolidia-italia/diritti/ (IT) |
| SDS.8.a | Appeals (Group 1) | Is there an automatic right of appeal? | UNHCR, Handbook on Protection (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP. | In the case of a negative outcome in the administrative procedure it is possible to undertake the judicial procedure before the Civil Court. In the judicial procedure it is possible to appeal before the Court of Appeal and then before the Court of Cassation. | DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT) As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT) |
| SDS.8.b | | Is legal aid available for appeals? | UNHCR, Handbook on Protection (2014) : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : Applicants should have access to legal counsel both at first instance and on appeal. | In a court procedure free legal aid can be obtained if the applicant can fulfil specific income requirements (annual total income, which is updated every year, for 2024 the amount is EUR 12,838.01) and no assets. The main problems concern the availability and quality of legal aid, which vary considerably, depending on the region where an applicant resides. | Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172 D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spesi-di-justizia (IT) |
| SDS.8.c | | Is there a fee for the appeal application? | UNHCR, Handbook on Protection (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard. | If free legal aid is provided there is no fee to lodge the appeal. If the applicant does not qualify for legal aid, they should pay a fee for the judicial procedure, which is usually EUR 518 (+ EUR 27 as taxes) for first instance courts. If the first instance claim is rejected by the Judge, the applicant may lodge a further appeal. Legal aid is available for eligible applicants, otherwise the fee for proceedings before the Appeal Court is usually EUR 777 (+ EUR 27 as taxes). | D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spesi-di-justizia (IT) Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT) |
| SDS.9.a | Statelessness status (Group 1) | Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements, admissibility criteria, grounds for refusal or other steps required to access protection. | UNHCR, Handbook on Protection (2014) : The status granted to a stateless person in a State Party must reflect 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. | Recognition of statelessness by the Ministry of the Interior or a civil court allows the person to immediately apply for a residence permit. As there is no law or decree providing detailed rules on this matter, the issuing of the residence permit is based on the 1954 Convention. Once recognised as stateless, there are no additional requirements. The duration of the residence permit depends on each police office, due to lack of regulation on the matter. | Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 241 Tavolo Apolidia Settembre 2021 https://tavoloapolidia.org/app/uploads/2021/09/Advocacy-Paper-Tavolo-Apolidia_2021_def.pdf Consiglio Italiano per i Rifugiati (CIR) practice |
| SDS.9.b | | How long is initial status granted for and is it renewable? | UNHCR, Handbook on Protection (2014) : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable. | Legally recognised stateless persons are normally granted a permit to stay that is valid for two years and is renewable. However, in practice, the duration of the residence permit is at the discretion of the Police, so there is huge variation. As there is no law or decree providing detailed rules on this matter, the issuing of the residence permit is based on the 1954 Convention. | Consiglio Italiano per i Rifugiati (CIR) practice Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT) |
| SDS.9.c | | Is a travel document and an identity document issued to people recognised as stateless and are those documents subject to any conditions? Please add a copy of an anonymised travel and/or identity document to question RES.4.a. (last page). | 1954 Convention : Articles 25(1) & 28. | Individuals recognised as stateless may apply for a 1954 Convention travel document for stateless persons. The Travel Document for Stateless Persons, Refugees and Foreigners is a document equivalent to a passport and is issued to those who are unable to obtain a valid travel document from the authorities of their country of nationality. The travel document is subject to the payment of taxes and submission of photos. | Convention relating to the Status of Stateless Persons. New York, 28 September 1954 Art. 18 - Travel Documents: https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf DECRETO 7 maggio 2015, Caratteristiche di sicurezza ed elementi biometrici dei documenti di viaggio di apolidi, rifugiati e stranieri. (15A03553) (GU Serie Generale n.111 del 15-05-2015): |

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| | | | | <p>The application form for a travel document can be collected from the Questura. Once the application has been submitted, the applicant will receive a receipt pending the issue of the travel document.</p> <p>As regards identity documents, stateless people have the right to request and obtain an identity card issued by the municipality. To request the identity card, the stateless person should register with an address at the municipality.</p> | <p>http://www.gazzettaufficiale.it/eli/id/2015/05/15/15A03553/sg (IT)</p> <p>Paolo Farci, "Apolidia" Il diritto di famiglia e delle persone, Giuffrè editore, pag 324 e segg.</p> |
| SDS.9.d | Do people recognised as stateless have a right to family reunification? | UNHCR, Handbook on Protection (2014) : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunification of those with recognised statelessness status in their territory with their spouses and dependents. | There are no specific family reunion provisions for stateless people, so the same family reunion rules for lawfully resident non-EU nationals apply. | Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 29: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1998-08-18&atto.codiceRedazionale=098G0348&atto.articolo.numero=0&qId=&tabID=0.19486159481372678&title=lbl.dettaglioAtto (IT) | |
| SDS.9.e | On what grounds (if any) may residence status granted to stateless people be revoked? Is a proportionality assessment undertaken prior to the revocation decision, e.g. to consider respect for the right to private and family life (if applicable)? | UNHCR, Handbook on Protection (2014) : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954 Convention. This may justify the cancellation of a residence permit on the basis of statelessness, although proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account. | Although reference to the withdrawal of residence status is not explicitly provided for stateless people, by analogy, the provisions in place for refugees should be applied to stateless people. According to general principles and case-law on Article 8 of the ECHR, a proportionality assessment should be undertaken prior to a revocation decision, but no case has been reported. | Decreto legislativo 19 novembre 2007, n. 251 come modificato dal Decreto legislativo 21 febbraio 2014, n. 18, Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta testo in vigore dal: 19-1-2008: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2008-01-04&atto.codiceRedazionale=007G0259&atto.articolo.numero=0&qId=&tabID=0.8111905677267223&title=lbl.dettaglioAtto (IT) | |
| SDS.9.f | Do people granted statelessness status have permission to work? | 1954 Convention : Article 17 UNHCR, Handbook on Protection (2014) : The right to work must accompany a residence permit. | Persons with recognised statelessness status are granted permission to stay, which allows employment and self-employment on the basis of the relevant provisions in the 1954 Convention. | Perin G., La Tutela degli apolidi in Italia, Scheda Pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT) | |
| SDS.9.g | Do people granted statelessness status have access to primary, secondary, and higher education? | 1954 Convention : Article 22 | Yes, in line with other lawful residents. | Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1998-08-18&atto.codiceRedazionale=098G0348&atto.articolo.numero=0&qId=&tabID=0.9017785551523968&title=lbl.dettaglioAtto (IT) | |
| | | | | <p>The Constitution of the Italian Republic, Art. 34: http://www.quirinale.it/page/costituzione (ENG available)</p> <p>1954 Convention relating to the Status of Stateless Persons https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf</p> <p>Paolo Farci, "Apolidia" Il diritto di famiglia e delle persone, Giuffrè editore, pag 324 e segg.</p> | |

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| SDS.9.h | | Do people granted statelessness status have access to social security and healthcare? | 1954 Convention : Articles 23 & 24 UNHCR, Handbook on Protection (2014) : The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit. | Yes, in line with other lawfully resident foreigners. Practice shows that access to the social pension is more complex for stateless persons, mainly due to the lack of information available to officers in relation to the situation of stateless people. In May 2020, UNHCR warned of the impact of COVID-19 on stateless populations. | Consiglio Italiano per i Rifugiati (CIR) practice Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1998-08-18&atto.codiceRedazionale=098G0348&atto.articolo.numero=0&qId=&tabID=0.9017785551523968&title=lbl.dettaglioAtto (IT) Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 166-167 UNHCR (2020) The impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices, https://www.refworld.org/docid/5eb2a72f4.html |
| SDS.9.i | | Are stateless people allowed to vote in local and/or national elections? If yes, are there any additional requirements for stateless people to vote (e.g. permanent residence, identification documents, etc.)? | 1954 Convention : Article 7, States shall accord to stateless persons at least the same treatment as is accorded to foreign nationals. | Stateless people and non-EU nationals cannot vote in national elections in Italy. | DECRETO DEL PRESIDENTE DELLA REPUBBLICA 17 agosto 2005 Annullamento straordinario a tutela dell'unita' dell'ordinamento, a norma dell'articolo 2, comma 3, lettera p), della legge 23 agosto 1988, n. 400, della deliberazione del consiglio comunale di Genova n. 105 del 27 luglio 2004, in materia di elettorato attivo e passivo per gli immigrati. (GU n. 205 del 3-9-2005): http://www.osservatorioantigone.it/new/cosa-facciamo/la-rivista/76-archivio/220-dpr-17-agosto-2005-qannullamento-straordinario-a-tutela-dellunita-dellordinamento-a-norma-dellarticolo-2-comma-3-lettera-p-della-legge-23-agosto-1988-n-400-della-deliberazione-del-consiglio-comunale-di-genova-n-105-del-27-luglio-2004-in-materia-di-elettor (IT) |
| SDS.9.j | | Are stateless people habitually resident in the State able to access consular protection abroad? | 1967 European Convention on Consular Functions : Article 46 International Law Commission's 2006 Draft Articles on Diplomatic Protection : Article 8(1) | There is no evidence of stateless people being able to access consular protection abroad and there are no specific provisions in this regard. | |
| SDS.10.a | Temporary protection for people fleeing war (Group 1) | Does the State guarantee access to the territory to everyone fleeing Ukraine, regardless of nationality, documentation, or residence status? Please describe any barriers for stateless people, people with undetermined nationality, or undocumented people in accessing the territory. | EU Temporary Protection Directive (2001) EU Council Implementing Decision (2022) establishing the existence of a mass influx of displaced persons from Ukraine & European Commission, Operational guidelines ENS, Briefings on access to protection for stateless people fleeing Ukraine : Everyone fleeing the war in Ukraine should be guaranteed access to the territory. | All people fleeing the war in Ukraine who can prove a connection with Ukraine will be allowed to enter Italy. To enter Italy, undocumented people can prove their connection with Ukraine through non-documentary proof (e.g. testimony from other people travelling with the person). Italy guarantees protection to people fleeing the war in Ukraine, including stateless people. People fleeing Ukraine, including recognised stateless people, need to register with the local authorities, in particular the Provincial Police Headquarters (Questura), to start the procedure to apply for protection. | |
| SDS.10.b | | Does the State offer a temporary form of protection to stateless people, people with undetermined nationality, or undocumented people from Ukraine (through the EU Temporary Protection Directive or another mechanism)? | EU Temporary Protection Directive (2001) EU Council Implementing Decision (2022) establishing the existence of a mass influx of displaced persons from Ukraine & European Commission, Operational guidelines ENS, Briefings on access to protection for stateless people fleeing Ukraine : European countries must extend temporary forms of protection to all stateless | Eligibility for temporary protection is on the basis of a Decree from 28 March 2022 implementing the EU Temporary Protection Directive. Stateless persons are eligible if they left Ukraine after 24 February 2022, and if (i) they benefitted from international protection or equivalent national protection in Ukraine; or (ii) if they had a permanent residence permit in Ukraine before 24 | Presidential Decree on temporary protection provision for individuals fleeing Ukraine (Decreto del Presidente del Consiglio dei Ministri del 28 marzo 2022 recante misure di protezione temporanea per le persone provenienti dall'Ucraina) https://www.gazzettaufficiale.it/eli/id/2022/04/15/22A02488/sg POSIZIONE DELL'UNHCR SUI RIMPATRI IN UCRAINA |

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| | | <p>Is temporary protection accessible to all stateless people who have fled Ukraine, regardless of their documentation status? If the State grants temporary protection more broadly than required by the EU TPD, or to people fleeing from another country other than Ukraine, please state so. Please describe any other barriers for stateless people, people with undetermined nationality, or undocumented people in receiving temporary protection, asylum, or other protection.</p> | <p>people and those with undetermined nationality who cannot meet current eligibility requirements, due to their statelessness or documentation status. Lack of documentation should not prevent access to international protection or other forms of protection. European countries and the European Commission should be vigilant and take action to address any segregation, discrimination, and antigypsyism, and ensure equal access to rights and protection for all those fleeing Ukraine.</p> | <p>February 2022. If a stateless person is a family member of an eligible person, they are also entitled to temporary protection. Stateless people or people at risk of statelessness who cannot demonstrate that they resided in Ukraine before fleeing (in accordance with the criteria above) will be unable to acquire temporary protection. Undocumented people will also face similar challenges in evidencing that they resided in Ukraine. In such cases, people may apply for another form of protection (e.g. asylum or subsidiary protection).</p> | <p>Marzo 2022 Returns-to-Ukraine-2-March-2022-Clean-Final-ITA_SR.pdf">https://www.unhcr.org/it/wp-content/uploads/sites/97/2022/03/Position-on>Returns-to-Ukraine-2-March-2022-Clean-Final-ITA_SR.pdf</p> <p>Opuscolo informativo sulla protezione temporanea in Italia , ministero dell'Interno, EUAA, Protezione Civile https://www.protezionecivile.gov.it/static/a6466bfbcf85cef38780bad07cb62ed1/opuscolo-informativo-protezione-temporanea-ita.pdf</p> <p>European Network on Statelessness, Country Briefing, Italy: Information for stateless people and those at risk of statelessness fleeing Ukraine, February 2023: https://www.statelessness.eu/statelessness-ukraine-crisis</p> |
| <p>SDS.10.c</p> | | <p>Are there longer-term solutions providing adequate protection for stateless people and/or others who were receiving temporary protection? [Section complete, proceed to DET]</p> | <p>ENS, Briefings on access to protection for stateless people fleeing Ukraine: The EU and European countries should ensure that longer-term solutions, including after the expiry of the EU TPD, are found and designed, including to provide adequate protection for stateless people and people with undetermined nationality. ECRE, Transitioning out of the Temporary Protection Directive (2024): Exit strategies from the TPD regime should ensure that no one, including stateless persons, is left behind after March 2025.</p> | <p>With the Budget Law n.213 of 30 December 2023, the Italian Parliament extended until 31 December 2024 the validity of residence permits expiring on 31 December 2023, issued to people fleeing from Ukraine. It also introduced the possibility of conversion of residence permits for temporary protection into work permits if the person has carried out regular employment or self-employment activities while residing in Italy on a temporary protection status. Moreover, the measures of assistance already in place for previous years were prolonged for 2024: the reception measures; financial support for those who have found independent accommodation; contribution to the regions for health care; and additional forms of assistance coordinated by the regions.</p> <p>On 25 June 2024, the Council of the European Union adopted a decision to extend temporary protection for people fleeing Ukraine, including stateless people, until 4 March 2026. In Italy, no measures have been taken to extend the residence permits of beneficiaries of temporary protection, as the renewal is automatic until that date.</p> | <p>Legge n. 213 del 30 dicembre 2023, legge di bilancio, art. 1, commi 395-396: https://www.camera.it/leg19/126?tab=&leg=19&idDocumento=1627&sede=&tipo=</p> <p>Decision of the Council of the European Union of 25 June 2024: https://www.consilium.europa.eu/en/press/press-releases/2024/06/25/ukrainian-refugees-council-extends-temporary-protection-until-march-2026/</p> |

Detention

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| DET.1.a | Immigration detention | <p>Please provide a brief overview of whether immigration detention powers are provided for in law and applied in practice, and whether alternatives to detention are considered.</p> <p>Please provide the legal source(s) and, if available, refer to other publications and sources of information about the law, policy, and practice on immigration detention.</p> | <p>ICCPR: Article 9 ECHR: Article 5 EU Return Directive: Article 15 UNHCR, Handbook on Protection (2014): Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. HRC, Report of the Special Rapporteur (2012): The obligation to always consider alternatives before resorting to detention should be established by law. International Detention Coalition (2015): 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> | <p>Immigration detention is provided for in the Consolidated Immigration Act, which, although amended 18 times in 26 years, constitutes the main legislation relevant to immigration detention. The last reforms were in Law 46/2017, Law 132/2018, Law 173/2020, Law 50/2023, Law 162/2023 and Law 176/2023. Detention takes place in so called C.P.R.s (Centri di permanenza per i rimpatri, e.g. Pre-Removal Detention Centres).</p> <p>Additionally, there are provisions for detention of asylum seekers in Decree 142/2015. Law 132/2018, subsequently amended by Law 173/2020 and Law 50/2023, introduced an additional article for the detention of asylum seekers in C.P.R.s and/or hotspots for the sole purpose of identification and verification of nationality.</p> <p>Furthermore, Law 50/2023 added the possibility to detain asylum seekers whose application is processed under the so-called "border procedure", entailing a fast, low-guarantees legal framework based on the legal fiction of "non-entry" into the country. This detention takes place in hotspots and/or C.P.R.s.</p> <p>Finally, the same Law 50/2023 introduced an extra kind of detention targeting asylum seekers whose application has to be processed by another EU member State under the "Dublin Regulation".</p> <p>In practice there are blatant violations of ECHR highlighted by caselaw (not necessarily referring to stateless people) related to widespread practice of detaining migrants and asylum seekers in hotspots, due to the lack of a clear and accessible legal basis, the absence of any order giving reasons for the detention and subjection to inhuman and degrading treatment (J.A. and Others v. Italy, application no. 21329/18, M.A. v. Italy, application no. 13110/18, A.B. v. Italy, application no. 13755/18, A.S. v. Italy, application no. 20860/20). It is also highly disputable whether de facto detention of migrants aboard "quarantine boats" represents an instance of unlawful deprivation of liberty.</p> <p>The principle of the State being obliged to consider all less coercive measures prior to issuing a decision to detain is incorporated in art. 14, para. 1-bis, DECRETO LEGISLATIVO n. 286/1998, that foresees the following measures: the obligation to hand over passport to the police until departure; the obligation to reside in a specific domicile where the person can be contacted; the obligation to report to police authorities following police instructions. The same measures are foreseen in the case of detention of asylum seekers (art. 6, para. 5, DECRETO LEGISLATIVO n. 142/15), even if subjected to a transfer order pursuant the Dublin Regulation (Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013), except for asylum seekers subjected to the "border procedure". However, alternative measures to detention are rarely implemented (968 cases in 2021, 343 cases in 2022, according to LASCIADECENTRARE).</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14 (IT)</p> <p>DECRETO LEGISLATIVO n. 142, of 18 August 2015, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, Art. 6.8. and 7.3-bis (IT)</p> <p>LEGGE n. 46, of 13 April 2017, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale. (IT)</p> <p>LEGGE n. 173 of 18 December 2020, Conversione in legge, con modificazioni, del decreto-legge 21 ottobre 2020, n. 130. (IT)</p> <p>Global detention project, "Italy Detention Data Profile", 2020</p> <p>ECHR, Grand Chamber Judgment "Khlaifia and Others v. Italy", 15 December 2016</p> <p>European Court of Human Rights, "Migrants in detention", April 2018.</p> <p>Global Detention Project and Access Info Europe, "THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe", December 2015.</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, "Rapporto Sui Centri di Identificazione ed Espulsione in Italia", January 2017. (IT)</p> <p>ECRE in collaboration with CIR and others, "Strengthening NGO involvement and capacities around EU 'hotspots': Update on the implementation of the hotspots in Greece and Italy", 2017.</p> <p>ECRE in collaboration with CIR and others, "The implementation of the hotspots in Italy and Greece: A study" December 2016.</p> <p>ASGI, "Ombre in Frontiera - Politiche informali di detenzione e selezione dei cittadini stranieri", 2020 (IT)</p> <p>ASGI, "Illegali e discriminatori i trasferimenti coercitivi sulle 'navi quarantena'", 9 October 2020 (IT)</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, "Rapporto Sui Centri di Identificazione ed Espulsione in Italia", January 2017. (IT)</p> |

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| | | | | <p>A foreigner who received an expulsion order may ask the Prefecture for the possibility to benefit from voluntary departure if:</p> <ol style="list-style-type: none"> 1. No expulsion order for state security and public order grounds has been issued against them; 2. There is no risk of absconding; 3. The request of permit to stay has not been rejected as manifestly unfounded or fraudulent. <p>If the prefecture authorises voluntary departure, the Chief of Police Headquarters applies one or more of the following measures:</p> <ol style="list-style-type: none"> a) handing over a valid national passport or an equivalent document; b) residing at a specific domicile; c) reporting to the police. <p>The timeline for voluntary departure is from to 30 days, which can be prolonged in specific circumstances and on a case by case basis (e.g. family related-needs). Note that the measure a) handling over a valid national passport also inhibits the possibility for stateless people to be granted this alternative.</p> | <p>ASGI, ECRE, Asylum Information Database (AIDA), Country report Italy 2021: https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-IT_2021update.pdf</p> <p>CILD, "Buchi neri: La detenzione senza reato nei CPR": CILD REPORT 2021 (IT)</p> <p>Associazione per gli Studi Giuridici sull'Immigrazione (ASGI) and others, Guida per la persona straniera privata della libertà personale, 2021.</p> |
| DET.1.b | | Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice. | <p>ICCPR: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment (Article 7).</p> <p>ECtHR, Auad v. Bulgaria (2011): In cases of detention with a view to deportation, lack of clarity as to the destination country could hamper effective control of the authorities' diligence in handling the deportation.</p> <p>EU Return Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p> | <p>There is no explicit requirement in the law to identify the country of removal before a person is detained for the purpose of removal. Nationality information can be provided initially by the detainee. Identification or confirmation of country of removal is not a condition to authorise detention. Rather, detention aims at either identifying the foreigner or obtaining travel documents.</p> <p>Administrative immigration detention is subject to judicial review 60 days (asylum seekers) or three months (all other foreigners) from the first judicial validation of detention. If assessing the person's identity or nationality or obtaining travel documents pose significant hurdles, detention can be extended for a further three months. Detention is subject to one or more extensions of three months, up to a further period of 12 months, in cases where, despite all reasonable efforts having been made, the removal operation has lasted longer because of the detainee's lack of cooperation or delays in obtaining the necessary documentation from third countries.</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14. (IT)</p> <p>LEGGE n. 173 of 18 December 2020, Conversione in legge, con modificazioni, del decreto-legge 21 ottobre 2020, n. 130. (IT)</p> |
| DET.1.c | | Is there a clear obligation on authorities to release a person when there is no reasonable prospect of removal? Please describe the situation in law and in practice. | <p>EU Return Directive: When it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified and the person concerned shall be released immediately.</p> <p>UN Working Group on Arbitrary Detention (2018): When the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary.</p> <p>ECtHR, Auad v. Bulgaria (2011), Mikolenko v. Estonia (2009), Mardonshoyev v. Russia (2019), Gashkov and Satirov v. Russia (2022)</p> | <p>In the current Italian legal framework, whenever it appears that a reasonable prospect of removal no longer exists detention should cease, and the foreigner should be notified with an order to leave the territory within the next seven days.</p> <p>Practical implementation of this provision in the merit case-law is quite inconsistent, as first instance judges often validate and extend detention of migrants who already underwent previous detention periods without deportation.</p> <p>However, detention review is granted at any time and under no condition (Court of Cassation, n. 24721/21).</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14.</p> <p>DECRETO LEGISLATIVO n. 142, of 18 August 2015, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, Art. 6 (IT)</p> <p>EU Directive 2008/115/CE - "Returns Directive", Art. 15</p> |
| DET.2.a | Identification of statelessness | Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention. | <p>ECtHR, Auad v. Bulgaria (2011)</p> <p>ECtHR, Mikolenko v. Estonia (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence.</p> | <p>Yes, statelessness is relevant in administrative immigration detention decisions because it affects the prospects of removability.</p> <p>Administrative detention cannot be applied to a recognised stateless person because they are considered as legally resident on</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero (IT)</p> |

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| | | | <p>UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.</p> <p>CMW, General comment No. 5 (2021): States should avoid detaining migrants who have specific needs, which includes stateless persons. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention.</p> <p>Equal Rights Trust, Guidelines (2012): 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.</p> <p>ICJ, Migration and International Human Rights Law (2014): The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p> | <p>Italian territory and thus cannot be detained for the purpose of removal.</p> <p>If lacking documents and/or a residence permit, the situation of a person without their nationality confirmed/determined is similar to that of someone with irregular residence status. Authorities must verify the nationality of foreign nationals on arrival, during detention, and in the course of each periodic review of the lawfulness of detention. Referral to an SDP is theoretically possible from detention but there is no specific information provided or referral mechanism in place.</p> <p>Importantly, in June 2019, the Court of Cassation issued a judgment affirming that "de facto" stateless people must enjoy the same guarantees ensured to recognised stateless people, and therefore they cannot be deported unless they pose a threat to security and public order. The claimant had undergone three previous detention periods in C.P.R., all of which had ended without obtaining travel documents, since Bosnia Herzegovina's authorities denied his nationality. The Court upheld the appeal, annulled the new deportation order and found that "Article 31 of the New York Convention, which provides that a stateless person may not be expelled except in cases of documented existence of reasons of national security and public order, extends by analogy to situations of de facto statelessness and/or pending the procedure to ascertain statelessness, when the situation of the person emerges clearly from the information or documentation provided by the competent public authorities of the Italian State, the State of origin or of the State to which a significant connection with the person concerned may be established". The ruling had an important impact to counter the repeated detention of Romani people, in particular, and (other) foreigners who are stateless or without their nationality confirmed/determined in Italy.</p> | <p>CIR, "In the Sun - Survey on the phenomenon of statelessness among Roma communities living in Italy", February 2013, p. 52 (footnote 73)</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Corte di Cassazione, judgment n. 16489/19 of 19 June 2019 (IT)</p> <p>Melting Pot Europa, "Non è espellibile l'apolide di fatto", 4 July 2019 (IT)</p> <p>ASGI and others, Guida per la persona straniera privata della libertà personale, 2021.</p> |
| DET.2.b | | <p>Is there a definition of vulnerability in law? If yes, does it explicitly include statelessness? If not, please note whether statelessness is considered to be a factor increasing vulnerability.</p> | <p>PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): Statelessness should be explicitly included in the definition of vulnerability. Vulnerability should always be determined and assessed on an individual basis.</p> | <p>The Italian legal system does not recognise statelessness or risk of statelessness as a vulnerability factor.</p> <p>Vulnerable asylum seekers cannot be detained in pre-removal centres. The law defines as vulnerable: minors, unaccompanied minors, pregnant women, single parents with minor children, victims of trafficking, disabled, elderly people, persons affected by serious illness or mental disorders, persons for whom it has been proved they have experienced torture, rape or other serious forms of psychological, physical or sexual violence or violence due to their sexual orientation/gender identity, and victims of genital mutilation (art. 17, para. 1, DECRETO LEGISLATIVO n. 142/2015). Statelessness is not considered as a vulnerability factor per se.</p> <p>The unified sections of the Court of Cassation stated that the condition of vulnerability must be assessed on a case-by-case basis and may be relevant to substantiate the foreign person's right to remain in Italy so as not to violate his/her right to private and family life under Art. 8 ECHR. While statelessness itself is not expressly considered as a vulnerability factor, vulnerability may arise because of the lack of ties of the person with another country where he/she may enjoy the right to private/family life. Stable residence, the lack of nationality, the risk of statelessness, history of requests for residence permits and international protection, all</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero. Art. 19.</p> <p>DECRETO LEGISLATIVO n. 142, of 18 August 2015, Art. 7.5.</p> <p>LEGGE n. 173, of 18 December 2020, Conversione in legge, con modificazioni, del decreto-legge 21 ottobre 2020, n. 130. (IT)</p> <p>Court of Cassation decision n. 24413/2021</p> |

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| | | | | are taken into account in the Italian system as indicated by the unified sections of the Court of Cassation decision n. 24413/2021. | |
| DET.2.c | Are individual vulnerability assessments carried out before a decision to detain (or soon after)? | <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p>EU Return Directive: Article 16(3)</p> <p>EU Return Handbook (2017): Attention should be paid to the specific situation of stateless persons.</p> <p>Council of the European Union, Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons (2013): European entities should assess the situation of LGBTI persons in detention.</p> <p>PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): There should be a clear legal obligation to screen and assess individuals' vulnerability before a decision to detain is taken and before individuals are placed into situations of deprivation or restriction of liberty.</p> | <p>The Ministerial regulation requires an individual medical assessment performed by a National Health System doctor aimed at identifying noticeable pathologies "such as contagious and dangerous infectious diseases for the community, psychiatric disorders, acute or chronic degenerative pathologies - detected through anamnestic or symptomatic investigation, as well as through health documentation available - who cannot receive adequate care in restricted communities".</p> <p>In practice, the health policy within the Centres appears to be characterised by a strong degree of informality, especially regarding the assessment of the compatibility of the health status of the foreigner with the restrictive measure – both on entry and during the period of detention – as well as the decision to arrange hospitalisation, during which inhomogeneous and impromptu practices are reported (for example, the lack of interpreters or mediators).</p> <p>Concerning asylum seekers, the law prohibits the detention of vulnerable persons, although in practice shortcomings regarding identification and age-assessment procedures mean that this is not always ensured. According to the law, an assessment of vulnerability situations requiring specific assistance should be periodically provided inside C.P.R. However, legal assistance and psychological support are not systematically provided. As of March 2024, no protocol on early identification of and assistance to vulnerable persons, and on the referral system to specialised services and/or reception centres was adopted. Although standards of services in C.P.R. centres are planned pursuing the national regulation on management of the centres, they are insufficient and inadequate, especially for vulnerable categories of individuals. Moreover, the quality of services may differ from one C.P.R. to another.</p> | <p>DECRETO LEGISLATIVO n. 142, of 18 August 2015, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, Art. 7.5. (IT)</p> <p>ASGI, ECRE, "Country Report: Italy", Asylum Information Database (AIDA), 2019.</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, "Rapporto Sui Centri di Identificazione ed Espulsione in Italia", Jan 2017. (IT)</p> <p>Ministero dell'Interno, "Regolamento recante criteri per l'organizzazione e la gestione dei CIE", Note of 20 October 2014 (IT)</p> | |
| DET.2.d | Are stateless people detained in practice? | As above. | <p>Yes, people without their nationality confirmed/determined can be detained in practice as a direct consequence of their lack of documents and their irregular residence status in Italy. Although no official data is published on the detention of stateless people, the Human Rights Committee of the Italian Senate in 2017 noted the detention of a number of people at risk of statelessness, many from Romani communities living in Italy for many years. There is also a 2015 judgment concerning a woman with five children detained in a Pre-Removal Centre despite it being clear that repatriation was impossible because of the impossibility to identify a 'country of origin'. The judge ruled in favour of the family, reasoning that in the absence of the actual possibility to be removed, detention in pre-removal centres is illegal.</p> <p>There are reports stating that stateless people have been detained in recent years, in particular members of the Romani community who have been repeatedly detained. A 2019 judgment by the Court of Cassation (see above, under DET.1.e) stated that detention of "de facto" stateless people needs to follow the same rules as that of people whose statelessness has been determined,</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, art. 14. (IT)</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, "Rapporto Sui Centri di Identificazione ed Espulsione in Italia", Jan 2017. (IT)</p> <p>ASGI, "Cassazione: se mancano le prospettive di rimpatrio, il trattenimento nel CIE è illegittimo" (Cass.civ.sez. VI, ord. 7.7.2015, n. 19201). (IT)</p> <p>ASGI, "Out of limbo: Verso uno status legale per le persone rom prive di documenti, apolidi o a rischio di apolidia", May 2015 (IT)</p> <p>Annalisa Camilli, "Chi sono le donne rinchiusi nel centro di espulsione di Roma", Internazionale, 11 February 2019 (IT)</p> | |

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| | | | | i.e., they cannot be expelled unless they pose a threat to security and public order. | |
| DET.3.a | Procedural safeguards | <p>Are there adequate procedural safeguards in place for individuals in immigration detention (e.g. maximum period of detention, automatic release at the end, decisions in writing, regular periodic reviews, judicial oversight, legal aid, etc.)?</p> | <p>ICCPR: Article 9(4) ECHR: Article 5(4) EU Return Directive: Articles 12, 13 and 15(5) HRC, Report of the Working Group on Arbitrary Detention (2010): A maximum period of detention must be established by law and upon expiry the detainee must be automatically released. CMW, General comment No. 5 (2021): States parties are obligated to adopt legislative and other measures, allocate adequate resources, and provide relevant training to comply with the CMW. There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. UNHCR, Detention Guidelines (2012): To guard against arbitrariness, maximum periods of detention should be set in national law. UNHCR, Handbook on Protection (2014): Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. UNGA, Body of Principles (1988): Anyone who is arrested shall be informed at the time of the reason for their arrest. Equal Rights Trust, Guidelines (2012): Stateless detainees shall receive their order of detention in writing and in a language they understand. 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. Detention should always be for the shortest time possible. International Commission of Jurists, Migration and International Human Rights Law: A Practitioners' Guide (2014): The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it. ECtHR, Kim v. Russia (2014): The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. ECtHR, Mardonshoyev v. Russia (2019): The length of the detention should not exceed that reasonably required for the purpose pursued.</p> | <p>Detention is always ordered by the District Police Chief and needs to be validated by a judge (Tribunal, for asylum seekers; Justice of Peace for all others), located in the same District as the pre-removal centre, within 96 hours of issuing the detention order.</p> <p>For asylum seekers, detention can be imposed for 60 days and subsequently extended for additional 60 days periods. The maximum time limit is 12 months. For non-asylum seekers, detention can be imposed initially for three months and can be subsequently extended for additional three months periods. The maximum length is 18 months Detainees are automatically released at the end of the maximum time limit. Cumulative time spent in detention does not count towards the maximum time limit. In theory, a person could be detained for 18 months (as a non-asylum seeker) and, by applying for asylum on the last day of this period, be detained for up to other 12 months.</p> <p>Regular periodic reviews are provided for in the Consolidated Immigration Act (for non-asylum seekers) and in Decree Law 142/2015 (for asylum seekers).</p> <p>Judicial control by Justices of Peace is mostly formal and often consists in rubber-stamping detention requests by the Police Chief. This is confirmed by several investigations, from Lexilium - Osservatorio sulla giurisprudenza in materia di immigrazione del Giudice di pace to the Sub-Committee on the Prevention of Torture (SPT), which, after a visit to Italy in 2016, reported the perception among migrants that judicial hearings regarding detention and expulsion "were a pro forma exercise and did not take the individual circumstances of migrants adequately into account". According to findings (ASGI, La giurisdizione apparente, see in Source), most decisions from Justice of the Peace lack sufficient reasoning and, in a significant number of cases, do not provide any reasoning at all, only resorting to standard clauses.</p> <p>Detainees must be informed in writing of the reasons for detention, their rights and obligations, in a language they are reasonably supposed to understand. Translation for less commonly spoken languages however is not ensured, being limited to vehicular languages.</p> <p>Detainees can only appeal to the Court of Cassation against the initial validation and subsequent extensions of detention. The remedy can only challenge violations of law (not the merits of the claim) and the appeal does not have suspensive effect (i.e., the person remains in detention). The remedy is partly ineffective as it ordinarily takes the Court of Cassation approximately one year to issue a decision, often long after the detainee has been repatriated or released for reaching the maximum detention timeframe. The detainee can at any time apply for a re-</p> | <p>DECRETO LEGISLATIVO n. 286, of 25 July 1998, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 13 and 14 (IT)</p> <p>DECRETO LEGISLATIVO n. 142, of 18 August 2015, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, Art. 6.8 (IT)</p> <p>LEGGE n. 173, of 18 December 2020, Conversione in legge, con modificazioni, del decreto-legge 21 ottobre 2020, n. 130. (IT).</p> <p>Sub-committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Report on the visit made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Italy," 23 September 2016, CAT/OP/ITA/1.</p> <p>Associazione per gli Studi Giuridici sull'Immigrazione (ASGI) practice</p> <p>Global Detention Project, "Italy Immigration Detention Profile," 2020</p> <p>Global Detention Project, "Immigration Detention in Italy: Complicit in Grave Human Rights Abuses?" October 2019.</p> <p>ASGI, ECRE, "Country Report: Italy", Asylum Information Database (AIDA), 2019.</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>ASGI, ECRE, "Country Report: Italy", Asylum Information Database (AIDA), 2019.</p> <p>Ministero dell'Interno, "Criteri per l'organizzazione e la gestione dei Centri di identificazione ed Espulsione di cui all'art 14 del TU 286/98 e successive modificazioni", 19 May 2022, Art. 5.</p> |

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| | | | | <p>examination of the previous detention order (validation or extension) where circumstances have arisen warranting release.</p> <p>Assistance by a lawyer is compulsory in all hearings, and if the detainee does not have one, an ex officio lawyer is appointed. The right to free legal aid is provided by law for all foreigners subjected to a removal procedure, regardless of income. In principle, organisations running the centres provide legal assistance, but legal operators are few, generally inexperienced and often have part-time contracts. In practice, it is often difficult for lawyers to contact clients in detention.</p> <p>All pre-removal centres have adopted a practice of confiscating mobile phones from detainees upon their admission, which makes it extremely difficult to maintain a communication channel with their clients. Public telephones are available but are not operating inbound, which prevents phone calls from outside (including lawyers) to reach the centre, and detainees receive scratch cards to place phone calls.</p> <p>The new Ministry of Interior's regulation on C.P.R. management, of May 2022, allow detainees to access their mobile phone to retrieve stored numbers, but using a smartphone with photo/video capabilities remains prohibited.</p> | |
| DET.3.b | | Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP? | <p>Equal Rights Trust, Guidelines (2012): Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p> | <p>The Law and the Pre-removal centres regulation provides for an obligation to inform all detainees of their rights and duties in an understandable language, and a list of lawyers. However, there is no specific SDP referral mechanism or information for detainees.</p> | <p>Ministero dell'Interno, "Criteri per l'organizzazione e la gestione dei Centri di identificazione ed Espulsione di cui all'art 14 del TU 286/98 e successive modificazioni", 19 May 2022, Art. 2.</p> |
| DET.3.c | | Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal? | <p>Equal Rights Trust, Guidelines (2012): The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.</p> | <p>Not to our knowledge.</p> | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Associazione per gli Studi Giuridici sull'Immigrazione (ASGI) practice</p> |
| DET.4.a | Protections on release | Are people released from detention issued with identification documents (including confirmation of their statelessness status) and protected from re-detention? | <p>1954 Convention: Article 27</p> <p>UNHCR, Handbook on Protection (2014): Being undocumented cannot be used as a general justification for detention.</p> <p>CMW, General comment No. 5 (2021): There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Detaining stateless persons when there is no real prospect of removal would render the detention arbitrary, and the detained stateless person must therefore be immediately released.</p> <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): State parties to the 1954</p> | <p>People who are released from detention without any identification or confirmation of their statelessness do not have any guarantee against re-detention and are not routinely issued with documentation. Furthermore, the law imposes a seven-day order to leave the country on release from a C.P.R., alongside a criminal charge, and in case of violation a new deportation order (with possible detention order) has to be issued.</p> | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Associazione per gli Studi Giuridici sull'Immigrazione (ASGI) practice</p> |

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| | | | <p>Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p> | | |
| DET.4.b | | <p>If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?</p> | <p>CJEU, Kadzoev, C-357/09 PPU (2009): After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p>Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p> | <p>Generally, the person is released with an order to voluntarily leave Italian territory within seven days. In the absence of residence status, they have only basic rights including access to emergency medical care.</p> | <p>DECRETO LEGISLATIVO 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero. Art. 13 and 14. (IT)</p> |
| DET.5.a | <p>Return and readmission agreements</p> | <p>Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements? Please also describe whether the child's right to a nationality, and their enjoyment of other fundamental rights in the country of return, are taken into consideration before a decision to return a child is made.</p> | <p>UNHCR, Handbook on Protection (2014): Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p> <p>UNCRC, MKAH v Switzerland, no 95/2019 (2021): The State in which a stateless child applies for international protection has an obligation under Article 7 CRC to consider whether, if the child was returned to another country, their right to a nationality would be fulfilled (as well as other rights under the CRC).</p> | <p>Scarce information is available on the content of bilateral return or readmission agreements. However, there are examples of agreements stipulating the readmission of stateless individuals, such as the 2014 agreement with Kosovo. In this agreement, statelessness is not considered from a protection perspective and Art. 13 stipulates the possibility of returning stateless people from Italy to Kosovo (under certain conditions).</p> | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Accordo fra il Governo della Repubblica Italiana e il Governo della Repubblica del Kosovo sulla riammissione delle persone che soggiornano senza autorizzazione, Roma, 15 Aprile 2014. Available in law review "Diritto, Immigrazione e Cittadinanza", 2016.</p> |
| DET.5.b | | <p>Are you aware of cases of stateless people being returned under such agreements?</p> | | <p>Not to our knowledge.</p> | <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> |

Prevention and Reduction

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| PRS.1.a | Naturalisation | In what timeframe do stateless people who are residing on the territory acquire the right to apply for naturalisation, and how does this compare to others with a foreign nationality? | <p>1954 Convention: Article 32</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p>ENS (2013): The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.</p> <p>Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023): States should lower legal and practical hurdles to citizenship and establish pathways for naturalisation that are equally accessible to women and men.</p> | <p>Persons with statelessness status may apply for naturalisation after five years (reduced from 10 years for other non-EU nationals) of uninterrupted lawful residence if other requirements are also met (i.e. income, good character, etc.)</p> <p>The first civil section of the Court of Cassation, in its judgment no. 22991 of 29 May 2024, clarified the declaratory nature of the recognition of statelessness in accordance with the 1954 Convention. According to the Supreme Court, in accordance with Article 1 of the Convention defining the concept of statelessness, both the judicial decision and the administrative decision on the recognition of statelessness are of a declaratory nature, with the consequence that the status is acquired at the moment of pronouncement. Consequently, the Court ruled that it was not necessary to wait for five years of lawful residence on Italian territory from the moment the status was recognised by a judicial decision in order to obtain Italian nationality. In fact, the status of stateless person is a legal status, a subjective right, with the consequence that all the measures taken by the competent bodies in this matter are merely declaratory and not constitutive. Therefore, the Ministry of Interior must certify the status of statelessness, which it does not grant, but only recognises and certifies.</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9(1)(e): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>Ordinanza Corte di Cassazione del 29 maggio 2024: https://i2.res.24o.it/pdf2010/S24/Documenti/2024/08/26/AllegatiPDF/22991.pdf</p> |
| PRS.1.b | | Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from naturalising? If yes, please describe. | <p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p> | <p>Yes, criminal records are grounds for exclusion from obtaining Italian nationality, but the person interested in applying for nationality can submit the request even in possession of any criminal records. The Ministry of Interior then decides on the merit of the claim.</p> <p>Case law issued by the Council of State in 2014 established that nationality cannot be denied only because the applicant has committed a crime.</p> <p>The new Nationality Law introduces the possibility for revocation of nationality in the event of a final sentence for the following crimes: terroristic acts; subversion of the constitutional order; subversive association; constitution, promotion or participation to armed groups; assistance and training of members of armed groups; assistance of members of subversive associations and of terroristic associations; misappropriation of properties and funds seized in order to prevent from financially supporting terroristic activities.</p> <p>The Nationality Law does not include any specific requirements to "good character".</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, art 10 bis come modificato dalla Legge 132/18 https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>Sentenza n. 5544 del 11 novembre 2014 Consiglio di Stato: http://briguglio.asgi.it/immigrazione-e-asilo/2014/dicembre/sent-cds-5544-2014.pdf (IT)</p> <p>Cons. Stato, sez. III, sent. n. 5262 del 06.09.2018 and Cons. Stato, sez. III, Sent. n. 3121 del 14.05.2019: https://www.cgil.lombardia.it/wp-content/uploads/2019/05/consiglio-di-stato-14-05-2019-reato-accoglimento-cittadinza.pdf(IT)</p> |
| PRS.1.c | | Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements for naturalisation? Please describe the requirements and cost of the procedure for stateless adults and children. Are there any direct or indirect barriers to naturalisation caused by | <p>1954 Convention: Article 32</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p>UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness (2021): States</p> | <p>No, there are no exemptions for stateless people. All applicants who have not adhered to the integration contract as provided by the Immigration Law, and are not beneficiaries of a long-term EU residence permit, must demonstrate a B1 level of Italian language. In addition, applicants must demonstrate an annual income of approximately EUR 8,263 (plus approximately EUR 516 for each child or family dependants). The income to be taken into account is that of the three years preceding the application for citizenship, within the following annual limits:</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9.1, come modificato dalla L. 132/2018: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9bis(2), come modificato dall'art. 14 della L. 132/2018 :</p> |

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| | | discriminatory laws, policies, or practices? | should remove or amend discriminatory legal provisions, rules, policies, or practices that directly or indirectly act as barriers to naturalisation. HRC, Resolution 53/16 on the right to a nationality (2023) : States should refrain from enacting or maintaining discriminatory nationality legislations, policies, and practices with a view to avoiding statelessness, and eliminating discrimination against all women and girls in the acquisition of nationality. | - EUR 8,263 for applicants without dependants; - EUR 11,362.05 for applicants with a dependent spouse, increased by EUR 516 for each additional dependent. The cost to initiate the procedure is EUR 250, and additional bureaucratic expenses may have to be paid (e.g., stamps). Barriers to naturalisation include restrictive criteria from the Ministry of Interior and the lengthy procedure (three years according to the law, around four years in practice). | https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT) Cittadinanza italiana, il portale informativo sulla cittadinanza italiana |
| PRS.2.a | Stateless born on territory | Is there a provision in law for stateless children born on the territory to acquire nationality, regardless of sex, gender, or residence status of their parents? [If yes, continue to PRS2b. If no, proceed to PRS2i] | 1961 Convention : Article 1 CRC : Article 7 ECN : Article 2 Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. HRC, CCPR General comment No. 17 (1989) : States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. HRC, Resolution 53/16 on the right to a nationality (2023) : States should facilitate the acquisition of nationality by children born on their territories or to their nationals abroad who would otherwise be stateless. Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023) : States should implement the CEDAW and uphold their obligations under the CRC, to ensure the child's right to acquire their parents' nationality without discrimination on the basis of sex or residency status, and review and reform nationality laws and practices relating to nationality that discriminate on any prohibited grounds, including on the basis of sex or gender. European Parliament resolution (2018) : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC. European Parliament Resolution (2019) : States should find a solution to the issue of stateless children within and outside the EU. The European Commission should promote the child's right to acquire a nationality. Human Rights Committee, D.Z. v. Netherlands (2020) : States must adopt every appropriate measure to ensure that every child has a nationality when they are born. UNCRC, MKAH v Switzerland, no 95/2019 (2021) : Article 7 CRC requires States to take positive action to implement the right to acquire a nationality. | In the Italian system, nationality is regulated by Law 91/1992 and implementing decrees 572/1993 and 362/1994. Generally, the acquisition of nationality is based on the jus sanguinis principle. The criterion of jus soli is applied exclusively in a residual manner. An Italian national at birth is anyone "(...) who is born on the territory of the Republic if both parents are unknown or stateless, or if the child does not follow the nationality of his/her parents in accordance with the laws of their State of origin". In practice, children born in Italy to stateless parents acquire nationality: 1. When both parents are unknown or recognised as stateless by law; 2. When under the law of the parents' country of origin, children born abroad do not acquire their parents' nationality (e.g. because ius soli is applied). Italian Nationality is also recognised at birth to a child found on the Italian territory, whose parents are both unknown. However, a further requirement must be fulfilled in that "it has not been proven [that the person concerned] possesses any other nationality". A recent decision of the Ordinary Court of Rome (n.r.g 72509/2022) declared the Italian nationality in favour of the daughter of a "de facto" stateless woman (the only parent to have recognised the applicant at birth). In the absence of the formal recognition of the parent's statelessness status, the daughter applied directly for the declaration of the Italian nationality in her favour (claim "per saltum"). Firstly, the Court ascertained that the mother, born in Italy to Yugoslavian parents, was a "de facto" stateless person, so was not able to transmit any nationality to her daughter. Consequentially, the judge correctly applied the above-described principles on the acquisition of Italian nationality for a child born in Italy to stateless parents and recognised her Italian nationality. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Arts. 1(1)(b) & (2): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.22518485625575413&title=lbl.dettaglioAtto (IT) DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994): https://www.refworld.org/docid/46b84a1f2.html (IT) Decreto del Presidente della Repubblica di 18 aprile 1994, n. 362, Regolamento recante disciplina dei procedimenti di acquisto della cittadinanza italiana, G.U. No. 136, June 13, 1994, https://perma.cc/ZF3K-U6XM (IT) Ministry of the Interior, Circular K.60.1 of 5 Jan 2007; Circular N.22/07 of 7 Nov 2007; Circular N.9 of 7 Aug 2009. CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy Tribunale ordinario di Roma, Sez Diritti della persona e immigrazione civile, ordinanza 72509/2022 del 26.10.2023 https://www.meltingpot.org/2024/02/cittadinanza-italiana-in-favore-della-figlia-di-una-persona-apolide-de-facto/ |
| PRS.2.b | | Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)? | UNHCR, Guidelines on Statelessness No. 4 (2012) : The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: | It is automatic by law, but non-automatic in practice. Italian law states that children born in Italy obtain Italian nationality at birth by operation of the law when born to stateless parents or to parents who cannot transmit their nationality according to the law of their country of origin. However, in practice, parents must | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT) |

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| | | | <p>either automatic acquisition upon birth or upon application.</p> <p>ENS, No Child Should Be Stateless (2015): The 1961 Convention and the European Convention on Nationality oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.</p> | <p>provide relevant supporting documents to the municipal Nationality Office for their children to obtain Italian nationality (e.g. in the case of a child born in Italy to Cuban parents where jus soli applies), parents are often requested to provide a declaration from the Cuban Embassy to confirm this).</p> | <p>15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p> |
| PRS.2.c | | Are parents provided with information about their child's nationality rights and relevant procedures, including where the child would otherwise be stateless or has undetermined nationality? | <p>UNHCR, Guidelines on Statelessness No. 4 (2012): Contracting States are obliged to provide detailed information to parents of children who would otherwise be stateless or of undetermined nationality about the possibility of acquiring the nationality, how to apply and about the conditions which must be fulfilled. If the child concerned can acquire the nationality of a parent immediately after birth, States that opt to not grant nationality to children in these circumstances must assist parents in initiating the relevant procedure with the authorities of their State or States of nationality.</p> | No, there is no specific procedure for this. | |
| PRS.2.d | | Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality? | <p>UNHCR, Guidelines on Statelessness No. 4 (2012): The test is not an inquiry into whether a child's parents are stateless.</p> <p>ENS, No Child Should Be Stateless (2015): Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.</p> | <p>No. Children born in Italy to stateless parents or parents who cannot confer a nationality to the child are Italian. However, with the exception of the recent decision of the Ordinary Court of Rome (n.r.g. 72509/2022), only parents recognised as stateless are considered as such for the purposes of the law and, if the statelessness of the parents is not recognised, there is no safeguard and the child remains stateless.</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>Tribunale ordinario di Roma, Sez Diritti della persona e immigrazione civile, ordinanza 72509/2022 del 26.10.2023</p> <p>https://www.meltingpot.org/2024/02/cittadinanza-italiana-in-favore-della-figlia-di-una-persona-apolide-de-facto/</p> |
| PRS.2.e | | Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice. | <p>UNHCR, Guidelines on Statelessness No. 4 (2012): A Contracting State 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. The burden of proof must be shared between the claimant and the authorities, but in the case of children the State assumes a greater share of the burden of proof. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.</p> <p>Human Rights Committee, D.Z. v. Netherlands (2020): The burden of proof must be shared between the claimant and the authorities of the contracting State to obtain evidence and to establish the facts as to whether an individual would otherwise be stateless.</p> | <p>The provision is automatic in law, but in practice parents must provide relevant supporting document. At the registration of birth, parents are required to provide a declaration of birth and an identification document (e.g. a permit to stay or a passport). Documentation can be substituted by two witnesses in the case of undocumented migrants. In this situation, the child is registered with the nationality of their parents based on their alleged origin. In the case of statelessness, undetermined or uncertain nationality (e.g. Romani people facing problems acquiring evidence from their 'country of origin'), or parents who cannot transmit their nationality due to the law in their country of nationality, they must be proactive in filing a request and supporting it with relevant documentation for the acquisition of Italian nationality at birth to the municipal Nationality Office. Practice shows for example that parents are required to provide a declaration by their country of origin stating that the child is not a national under domestic law. When the evidence is seemed insufficient, the child will not be granted Italian nationality, even if they do not acquire another nationality.</p> <p>The safeguards do not apply in favour of children who can acquire nationality through purely bureaucratic formalities (e.g. registration at the consulate).</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p> |

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| PRS.2.f | | Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence. | <p>1961 Convention: Article 1(2) UNHCR, Guidelines on Statelessness No. 4 (2012): States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. CRC: Articles 3 & 7 Committee on the Rights of the Child, Concluding observations on the Netherlands (2015): Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. ECN: Article 6(2)(b)</p> | No, but there is a further safeguard in law based on residence without interruption until the age of majority for otherwise stateless children who, albeit born on Italian territory, do not obtain Italian nationality at birth under Art. 1 Law 91/92. | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qid=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994): https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>Art. 33 Testo del decreto-legge 21 giugno 2013, n. 69 (in S.O. n. 50/L alla Gazzetta Ufficiale - Serie generale - n. 144 del 21 giugno 2013), coordinato con la legge di conversione 9 agosto 2013, n. 98 (in questo stesso S.O. alla pag. 1), recante: «Disposizioni urgenti per il rilancio dell'economia». (13A07086) (GU Serie Generale n.194 del 20-08-2013 - Suppl. Ordinario n. 63), (known as 'Decreto del Fare'): http://www.gazzettaufficiale.it/eli/id/2013/08/20/13A07086/sg (IT)</p> |
| PRS.2.g | | Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence. | <p>Committee on the Rights of the Child, Concluding observations on Czech Republic (2011): The outcome of an application 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. ENS, No Child Should Be Stateless (2015): Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.</p> | No. | |
| PRS.2.h | | What are the age limits and fees (if any) for making an application for nationality for a stateless person born on the territory? | <p>1961 Convention: Article 1(2) UNHCR, Guidelines on Statelessness No. 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. Where Contracting States grant nationality to individuals who would otherwise be stateless upon application, they are encouraged to accept such applications free of charge. ENS, No Child Should Be Stateless (2015): Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.</p> | <p>In addition to situations where nationality is granted at birth, Italian legislation provides another mode of acquisition of nationality based on conditional jus soli. This criterion is applied to otherwise stateless children who, albeit born on Italian territory do not obtain Italian nationality at birth since they do not fall in the legal situations enshrined in art 1 of law 91/92. Article 4 paragraph 2 of Law n. 91/1992 states that "the foreign person born in Italy, who has been legally resident without interruption on its territory until the age of majority, becomes a national upon application, filed within one year from turning 18, where (s)he expresses the willingness to acquire Italian nationality". This rule must be considered as a safeguard for children born in Italy whose parents are at risk of statelessness. If the child remains stateless on reaching the age of majority, they may submit an application for Italian nationality up to the age of 19 if they can meet certain conditions, including a declaration of will (dichiarazione di volontà) to the competent authority, and uninterrupted residence proven through residence permits, school reports, vaccination records, medical certificates etc.</p> <p>In this specific case a fee of EUR 250 is required.</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Arts. 4(2) & 1(1)(b): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qid=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>Read in conjunction with: DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994), Art. 3(4): https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>Art. 33 Testo del decreto-legge 21 giugno 2013, n. 69 (in S.O. n. 50/L alla Gazzetta Ufficiale - Serie generale - n. 144 del 21 giugno 2013), coordinato con la legge di conversione 9 agosto 2013, n. 98 (in questo stesso S.O. alla pag. 1), recante: «Disposizioni urgenti per il rilancio dell'economia». (13A07086) (GU Serie Generale n.194 del 20-08-2013 - Suppl. Ordinario n. 63), (known as 'Decreto del Fare'): http://www.gazzettaufficiale.it/eli/id/2013/08/20/13A07086/sg (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p> |

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| PRS.2.i | | Are there specific provisions to protect the right to a nationality of children born to refugees? | UNHCR, Guidelines on Statelessness No. 4 (2012) : 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. UNHCR, Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child (2021) : The best interests principle applies to all children within the territory of the State, irrespective of their status. | No, but the tendency of the Ministry of Interior is to consider favourably applications for nationality of children of refugees born in Italy who cannot inherit the nationality of their parents because the latter cannot go to the consular authorities to register the birth. | |
| PRS.3.a | Foundlings | Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure. | 1961 Convention : Article 2 ECN : Article 6(1)(b) | By law, a person found on the Italian territory is an Italian national at birth. However, a further requirement is that 'it has not been proven [that the person concerned] possesses any other nationality'. This criterion is impossible to satisfy so the provision is interpreted to mean the child acquires Italian nationality unless there is proof that (s)he has obtained another. If an unrecognised child is abandoned in a hospital or other institution, or anywhere on Italian territory, the child is automatically granted Italian nationality at the moment of registration at the Population Registry Office. The civil officer who receives the communication of abandonment, drafts a report, gives a name and surname to the child, immediately informs the competent authorities, and registers the child in the Municipality as an Italian national. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(2): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT) CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy |
| PRS.3.b | | Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality? | UNHCR, Guidelines on Statelessness No. 4 (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth. | There is no reference to an age limit in the nationality law. In the Civil Code, the word 'foundling' is connected to the birth of the child. A order of the Court of Naples (2 March 2022) granted Italian nationality at birth to a foundling at the age of 12. The applicant first applied for formal recognition as a stateless person (which was granted) and then applied for Italian nationality at birth under Article 1(2) of Law 91/1992. The civil municipal official rejected his application on the grounds that in its interpretation the aforementioned provision only applies when the foundling is a new-born child. In the course of the proceedings, the Ministry of Interior intervened in support of the registrar's position by producing an opinion stating that a person can only be considered a foundling if he is a new-born child or in any case a child not yet able to speak. The judge rejected the argument arguing that the law only provides that there is no evidence available on the foundling's nationality. Although such cases are extremely limited in practice, this is a relevant decision that addresses the Ministry of Interior's strict interpretation of Article 1(2) of Law 91/1992 and aligns with UNHCR's Guidelines on Statelessness No. 4. It remains to be seen whether the Ministry of the Interior will change its position accordingly. On the basis of the information acquired by CIR the strict interpretation of the Ministry of Interior is confirmed. | D.P.R. 3 novembre 2000, n. 396 (1), Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, a norma dell'articolo 2, comma 12, della L. 15 maggio 1997, n. 127, Art. 38: https://www.normattiva.it/uris/res/N2Ls?urn:nir:stato:decreto:2000-11-03:396lvig Tribunale ordinario di Napoli, XIII Sezione Civile, Ordinanza del 02/03/2022 https://www.dirittoimmigrazionecittadinanza.it/allegati/fascicolo-2-2022/cittadinanza-4/953-10-trib-napoli-2-3-2022-1/file |

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| PRS.3.c | | Can nationality be withdrawn from foundlings if this leads to statelessness? | UNHCR, Guidelines on Statelessness No. 4 (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality. | Not to our knowledge. | Consiglio Italiano per i Refugiati (CIR) practice |
| PRS.4.a | Adoption | Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired? | 1961 Convention : Article 5 European Convention on the Adoption of Children (2008) : Article 12 ENS, No Child Should Be Stateless (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin. | No. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 11: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.detttaglioAtto (IT) |
| PRS.4.b | | Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process. | ECN : Article 6(4)(d) European Convention on the Adoption of Children (2008) : Article 12 Committee on the Rights of the Child, Concluding Observations on Switzerland (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption. | Law 91/92 states that any minor adopted by an Italian national is considered an Italian national. The age limit is 18 years-old. In the framework of Italian legislation there is no risk of statelessness for minors during the adoption process. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 3(1): https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.detttaglioAtto (IT) LEGGE 4 maggio 1983, n. 184, Disciplina dell'adozione e dell'affidamento dei minori. (GU Serie Generale n.133 del 17-05-1983 - Suppl. Ordinario), Art. 34: http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1983-05-17&atto.codiceRedazionale=083U0184&elenco30giorni=false (IT) |
| PRS.5.a | Ius sanguinis | Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless? | 1961 Convention : Article 4 UNHCR, Guidelines on Statelessness No. 4 (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child. | Jus sanguinis is the principle determining Italian nationality irrespective of where the child is born. The acquisition of nationality occurs automatically where Italian descent is registered at birth. On 26 November 2024, the Court of Bologna issued an order in which it raised an ex officio objection to the constitutional illegality of the Italian provisions on nationality, in so far as they provide for "recognition of citizenship iure sanguinis without any temporal limit". In particular, the Court asked the Constitutional Court to assess whether it was compatible with the principles deriving from the Constitution to recognise nationality solely on the basis of the existence of an ancestor, even if many generations old, of persons who have no cultural, linguistic or traditional ties or who have no connection with the Italian territory. On 3 October 2024, the Ministry of Interior issued Circolare 43347, providing that if an Italian ancestor naturalised as a foreign national while their children were minors, those children automatically lost their Italian nationality unless they reacquired it between the ages of 21 and 22. Failure to do so results in the automatic loss of nationality for both the ancestor and descendants. This raises challenges in particular for people unaware of this requirement. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.detttaglioAtto (IT) Arts. 231 & 250 of the Civil Code: https://www.altalex.com/documents/news/2014/08/22/della-filiazione (IT) Ordinanza del 26 novembre 2024, Tribunale di Bologna: https://www.questionegiustizia.it/data/doc/4004/2024-trib-bologna-questione-legittimita-costituzionale-legge-cittadinanza.pdf Circolare 43347 of 3 October 2024: https://italyget.com/wp-content/uploads/2024/10/circolare_js_nuove_linee_interpretative_pdf_ored-en.pdf?mc_cid=6fe1357a19&mc_eid=1b24a922b0 Italian Citizenship for Minors Under Circolare 43347: https://www.circolare43347.it/?mc_cid=6fe1357a19&mc_eid=1b24a922b0 |

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| PRS.5.b | | Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)? | <p>ECtHR, Genovese v. Malta (2011): The State must ensure that the right to nationality is secured without discrimination.</p> <p>CEDAW, Gen. Rec. 32 (2014): Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed.</p> <p>UNHCR, Background Note on Gender Equality, Nationality Laws and Statelessness (2024): Nationality laws which do not grant women equality with men in conferring nationality to their children are a cause of statelessness.</p> <p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 4</p> <p>HRC, Resolution 53/16 on the right to a nationality (2023): States should eliminate discrimination against all women and girls in the conferral of nationality on their children.</p> | <p>The law states that for children born in wedlock, the father is the person married to the mother. Whereas, for children born out of wedlock, paternity must be declared.</p> <p>The law however does not provide any different treatment for children and parents.</p> <p>No legislative provisions are in place for the adoption of children by same-sex parents. Moreover, same-sex marriage is not allowed in Italy. Same-sex couples can only be recognised in a civil union.</p> <p>On 16 October 2024, Italy enacted a law criminalising international surrogacy arrangements. The law provides for a fine of up to one million euros and two years' imprisonment. The law may create a risk of statelessness for children born through surrogacy and prevent them from obtaining Italian nationality.</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.7809808931921656&title=lbl.dettaglioAtto (IT)</p> <p>Arts. 231 & 250 of the Civil Code: https://www.altalex.com/documents/news/2014/08/22/della-filiazione (IT)</p> |
| PRS.6.a | Birth registration | Does the law provide that all children are registered immediately upon birth regardless of ethnicity, disability, illness, the migration or residence status, sexual and/or gender identity of their parents, or other characteristics? | <p>CRC: Article 7</p> <p>ICCPR: Article 24(2)</p> <p>ECHR: Article 8</p> <p>CoE, Recommendation CM/Rec(2009)13 (2009): Member states should 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 the parents are unknown.</p> <p>UNHCR, Guidelines on Statelessness No. 4 (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents.</p> <p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7</p> <p>UN Sustainable Development Goal 16.9</p> <p>CRC, General comment No. 15 (2013): Universal free birth registration is a prerequisite for barriers to children's access to health services to be identified and eliminated.</p> <p>Joint general recommendation No. 31 CEDAW and No. 18 CRC (2019): A national system of compulsory, accessible and free birth registration should be established in order to effectively prevent harmful practices.</p> <p>European Parliament, Resolution on LGBTIQ rights in the EU (2021): Calls on States to overcome discrimination against rainbow persons and families.</p> <p>UNHCR, Best Interests Procedure Guidelines (2021): The best interests procedures involve the referral of children to multisectoral services, based on the specific needs of the child and their family, including birth registration.</p> <p>UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021): All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.</p> | <p>Birth registration is compulsory by law. Italian legislation ensures birth registration for every child born on the territory, regardless of nationality and legal status of the parents, as well as to every child born abroad to an Italian national. Children of irregular migrants are not prevented from registering a birth by law. A ministerial circular (19/2009) states that "in order to file a declaration of birth or a document concerning the recognition of filiation for registration in the municipal population registry it is not required to exhibit a permit of stay since the mentioned declarations are made with the purpose of protecting the minor concerned as well as in the public interest of the certainty of factual situations".</p> <p>In the case of same-sex couple, the birth registration is carried out by the biological parent. There are issues with the recognition of the child by the other partner.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, a norma dell'articolo 2, comma 12, della legge 15 maggio 1997, n. 127. (GU Serie Generale n.303 del 30-12-2000-Suppl. Ordinario n. 223): http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT)</p> <p>Ministero dello'Interno, Circolare n.19 del 7 agosto 2009, Legge 15 luglio 2009, n. 94, recante "Disposizioni in materia di sicurezza pubblica". Indicazioni in materia di anagrafe e di stato civile: http://dait.interno.gov.it/servizi-demografici/circolari/circolare-n19-del-7-agosto-2009 (IT)</p> <p>EUI Global Citizenship Observatory, Italy's new surrogacy law could leave children at the risk of statelessness: https://globalcit.eu/italys-new-surrogacy-law-could-leave-children-at-the-risk-of-statelessness/?mc_cid=6fe1357a19&mc_eid=1b24a922b0</p> |

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| | | | <p>HRC, Resolution 52/25 on birth registration (2023): States must register all births without discrimination of any kind. Efforts should be made to register all children as early as possible, but not later than one year after their birth.</p> <p>HRC, Resolution 53/16 on the right to a nationality (2023): States should identify and remove physical, administrative, procedural and any other barriers that impede access to registration, establish or strengthen existing institutions at all levels responsible for birth registration, and remove policies requiring proof of marriage for a parent to register their child's birth.</p> <p>Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023): States should uphold the equal right to register births and access birth certificates without discrimination, including on the basis of sex, gender, or marital status.</p> <p>Standing Committee of European Doctors (2024): Doctors must be enabled to practice free from undue interference of administration.</p> | | |
| PRS.6.b | Are all children issued with birth certificates upon registration, regardless of ethnicity, disability, illness, their or family members' residence status/documentation, or parents' sexual or gender identity? If no, please describe legal status of documentation issued. | <p>HRC, Resolution 20/04 on the right to a nationality (2012): Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members.</p> <p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.</p> <p>CRC, General Comment No. 7 (2005): States parties should take all necessary measures to ensure that all children are registered at birth. This can be achieved through a universal, well-managed registration system that is accessible to all and free of charge. An effective system must be flexible and responsive to the circumstances of families.</p> <p>HRC, Resolution 53/16 on the right to a nationality (2023)</p> <p>HRC, Resolution 52/25 on birth registration (2023)</p> <p>Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023)</p> <p>ECtHR, G.T.B. v. Spain (2023): States have a positive obligation to assist the child in obtaining a birth certificate and identity documents.</p> | Yes, following birth registration, a copy of the birth certificate is issued by the Registry Office. | DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, Art. 30: http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT) https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2000-12-30&atto.codiceRedazionale=000G0442&queryString=%3FmeseProvvedimento%3D%26formType%3Dricerca_semplice%26numeroArticolo%3D%26numeroProvvedimento%3D396%26testo%3D%26giornoProvvedimento%3D%26annoProvvedimento%3D2000&currentPage=1 | |
| PRS.6.c | Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.) | CRC : Articles 3 & 7 | The birth certificate does not contain the nationality of the child, but only that of the parents. The child's nationality is recorded at the time of registration (anagrafica) on the Municipal Population Registry. The nationality is often automatically recorded on the basis of the parents' nationality. If this is unclear, practice shows that the tendency is to record a presumed nationality, such as that of the parents' country of origin. A recent indication by Anusca (the National Association of Civil Status and Registry Officials) establishes that in the absence of documents proving the nationality of the person concerned (e.g. | DECRETO DEL PRESIDENTE DELLA REPUBBLICA 30 maggio 1989, n. 223 Approvazione del nuovo regolamento anagrafico della popolazione Residente, Art. 20: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:1989-05-30;223!vig=2017-12-07 (IT) A.N.U.S.C.A., Associazione Nazionale Ufficiali di Stato Civile e d'Anagrafe: http://www.anusca.it/home | |

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| | | | | <p>passport) the registry officer should indicate in the nationality field 'data not available' and not enter a nationality of which they have no evidence. Once evidence of a nationality is available, parents can go back to the registry office and ask for the insertion of the nationality.</p> <p>According to ANUSCA, more and more registry officers are following this approach (which they indicate in the trainings they organise on the subject), so gradually the problem should be overcome, even if, the practice shows that registry officers do not follow the same indications.</p> | |
| PRS.6.d | | <p>If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines, competent authority, and whether the child's best interests are taken into consideration.</p> | <p>CRC: Articles 3 & 7 1961 Convention: Articles 1 & 4 UNHCR, Guidelines on Statelessness No. 4 (2012): States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years. HRC, CCPR General comment No. 17 (1989): States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. UNHCR, Best Interests Procedure Guidelines (2021) Human Rights Committee, D.Z. v. Netherlands (2020)</p> | <p>Yes, it is possible to ask for the correction/revision or integration of the birth certificate. The claim must be lodged before the Civil Court in the district of the Civil Registry Office where the birth certificate has been registered. There is no timeframe nor deadline to lodge the claim and it is not necessary to be assisted by a lawyer. There is no fee for submitting the claim although applicants can be requested to pay bureaucratic expenses or taxes (e.g., stamps).</p> <p>When a child is registered, the civil officer does not certify the state of origin of the new-born. When the parents cannot prove their nationality, the registrar should, in theory, indicate "undocumented information". Any new development should be registered once it occurs. The parents are responsible for informing the Registry office of any update.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Art. 95: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:2000-11-03:396!vig (IT)</p> <p>City of Rome website, Acquisizione della cittadinanza italiana: https://www.comune.roma.it/web/it/scheda-servizi.page?contentId=INF142975&pagina=6 (IT)</p> |
| PRS.6.e | | <p>Are there credible reports to suggest that, in practice, children are prevented from registering their birth (or their birth certificate issued abroad is not recognised) because of parents' migration or residence status, sexual and/or gender identity, because they were born as a result of a surrogacy agreement, or other reasons (please specify)?</p> | <p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed. Global Compact for Safe, Orderly and Regular Migration: States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration. Global Compact on Refugees: States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents. European Parliament Resolution (2018): Calls on Member States to take immediate corrective measures to stop discriminatory birth registration. European Parliament, Resolution on LGBTIQ rights in the EU (2021): Emphasises the importance of the recognition of birth certificates in all EU Member States regardless of the sex of the parents. HRC, Resolution 52/25 on birth registration (2023) UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021): All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that</p> | <p>There are no current/recent reports to suggest children are prevented from registering in practice.</p> | <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p> |

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| | | | <p>only opposite sex parents may register the birth of children should be reformed.</p> <p>Court of Justice of the European Union, V.M.A. v Bulgaria, Case C-490/20 (2021): Domestic authorities of an EU Member State are required to issue a birth certificate and identity documents to a child who is a national of that state and was born in another EU Member State, including when the birth certificate contains two parents of the same sex.</p> <p>ECtHR, Mennesson v. France (2014): States must grant legal recognition of parent-child relationship legally established abroad for children born through surrogacy.</p> <p>ECtHR, D.B. and others v. Switzerland (2022): Domestic law must provide a possibility of recognition of a legal parent-child relationship between the child born abroad through surrogacy to a same-sex couple and the intended parent.</p> | | |
| PRS.6.f | | <p>Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)? If not, is there a clear firewall to prohibit the sharing of information by other entities with immigration authorities?</p> | <p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC and Joint General Comment No. 3 (2017) CMW and No. 22 (2017) CRC: Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children’s personal data, in particular biometric data, should only be used for child protection purposes.</p> <p>CoE, ECRI General Policy Recommendation No. 16(2016): States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.</p> | Not to our knowledge. | CIR casework |
| PRS.6.g | | <p>Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.</p> | <p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration.</p> <p>HRC, Resolution 20/04 on the right to a nationality (2012): Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.</p> <p>HRC, Resolution 52/25 on birth registration (2023) CRC, General Comment No 7 (2005): States should facilitate late registration of birth and ensure that children who have not been registered have equal access to health care, protection, education and other social services.</p> <p>CRC, General comment No. 20 (2016): The lack of birth registration can result in significant additional complications during adolescence. Adolescents who have not been registered at birth or immediately after should be provided with free late birth certificates and civil registration.</p> <p>Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and</p> | <p>The law states that the declaration of birth may be presented either to the municipality within 10 days of the birth, or to the hospital management within three days. Late registration is possible and the reason for the delay should be provided. The reasons for the delay are assessed by the public prosecutor (procuratore della Repubblica). If reasons are not well-founded or supported by reliable documents, the birth certificate can be registered only after an order adopted by the judge. The judge assesses the legality and authorises the registration in the Population Registry.</p> | <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell’ordinamento dello stato civile, a norma dell’articolo 2, comma 12, della legge 15 maggio 1997, n. 127. (GU Serie Generale n.303 del 30-12-2000-Suppl. Ordinario n. 223), Art. 31(2): http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT)</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> |

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| | | | statelessness (2023) : States should reduce or remove administrative and financial barriers, such as late registration fees, that inhibit or delay registration. | | |
| PRS.6.h | | Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines. | As above | The reasons for the delay are assessed by the public prosecutor (procuratore della Repubblica). If reasons are not well-founded or supported by reliable documents, the birth certificate can be registered only after an order adopted by the judge. The judge assesses the legality and authorises the registration in the Population Registry. This provision is considered as a protective measure for children. | |
| PRS.7.a | Reducing <i>in situ</i> statelessness | Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details. | UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 7 | Not to our knowledge. | Consiglio Italiano per i Rifugiati (CIR) practice |
| PRS.7.b | | Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless or without their nationality confirmed/determined? Please provide details and source of information. | 1961 Convention : Article 9 UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 4 HRC, Recommendations of the Forum on Minority Issues (2019) : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities. | Yes. According to estimates currently available, there may be around 3,000 stateless people or people at risk of statelessness in Italy. The majority of stateless people or people at risk of statelessness belong to Romani communities from former Yugoslavia who have been living in Italy for many years. From the information available, it is possible to estimate the presence of approximately 1,710 stateless people or people at risk of statelessness belonging to these communities, living in formal or spontaneous settlements. Taking these situations into account, it is possible to estimate the presence of about 2,250 Roma in total, stateless or at risk of statelessness from the former Yugoslavia. A factor of particular concern is the proportion of minors within this population, which, according to available information, is around 50-55%. The rest of the stateless population in Italy mainly originates from former USSR, Cuba, China (Tibet), and the Occupied Palestinian Territories. Since the dissolution of Yugoslavia, it became difficult (or impossible), for ex-nationals of the former Yugoslavia to obtain nationality from the new states that emerged. The problem disproportionately affected Romani communities who had already arrived in Italy before the dissolution but also those who arrived after. They often lack any documentation and encounter obstacles when seeking to clarify their civil status. Romani children born in Italy to displaced families from the former Yugoslavia are thus disproportionately impacted. They often face difficulties accessing legal status and obtaining Italian nationality, passing on the risk of statelessness from generation to generation. | CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013, p. 52 (footnote 73): http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf ASGI, Out of limbo: Verso uno status legale per le persone rom prive di documenti, apolidi o a rischio di apolidia, maggio 2015: https://www.asgi.it/wp-content/uploads/2014/04/Rapporto-OUT-OF-LIMBO_def.pdf (IT) UNHCR, UNHCR Recommendations on the Relevant Aspects of the Protection of Stateless Persons in Italy, October 2014: https://www.refworld.org/docid/5513cff14.html Associazione 21 luglio ONLUS, Fantasmi urbani, December 2020: https://www.21luglio.org/2018/wp-content/uploads/2021/02/fantasmi-urbani-edit.pdf (IT) Tavolo Apolidia, September 2021: https://tavoloapolidia.org/advocacy/ Presidenza del Consiglio dei Ministri, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine etnica, Strategia Nazionale d'inclusione dei Rom, dei Sinti e dei Caminanti, Attuazione Comunicazione Commissione Europea N.173/2011 https://www.unar.it/portale/strategia-rsc Strategia Nazionale di uguaglianza, inclusione e partecipazione di Rom e Sinti 2021-2030 Attuazione della Raccomandazione del Consiglio dell'Unione Europea del 12 marzo 2021 (2021/C 93/01) https://politichecoesione.governo.it/media/2967/strategia-nazionale-rom-e-sinti_2021-2030.pdf |
| PRS.7.c | | Has the State implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.) | 1961 Convention UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Actions 1 & 8 UNHCR, Good Practices Paper - Action 1 (2022) : States generally address and resolve situations of statelessness through law and policy reform enabling stateless persons to acquire nationality automatically | No. In 2012, a 'National Strategy for the Social Inclusion of Roma People' was introduced, which aimed to reduce statelessness/risk of statelessness by 2020. However, no significant activity or campaign has been undertaken towards achieving this goal. Under the previous National Strategy, a 'Juridical Roundtable' was established with the support of the Italian Ministry of Interior along with other competent ministries and civil society (including | Presidenza del Consiglio dei Ministri, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine etnica, Strategia Nazionale d'inclusione dei Rom, dei Sinti e dei Caminanti, Attuazione Comunicazione Commissione Europea N.173/2011: https://www.unar.it/portale/strategia-rsc (IT) |

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| | | | <p>by operation of law, through a simple registration process, or through naturalisation. Non-automatic procedures are generally a less effective way to resolve statelessness because they require the person concerned to take certain steps to acquire nationality.</p> <p>UN Guiding Principles on Internal Displacement (1998): Principle 20</p> <p>HRC, Resolution 53/16 on the right to a nationality (2023): States should undertake initiatives to ensure that persons belonging to national or ethnic, religious and linguistic minorities, including those in hard-to-reach areas or nomadic persons, are aware of and able to exercise their rights, including the right of everyone to a nationality. Measures taken should be developed, designed, implemented and reviewed with the effective and equal participation of persons belonging to national or ethnic, religious and linguistic minorities.</p> <p>HRC, Resolution 52/25 on birth registration (2023) Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness (2023): States should conduct public awareness-raising campaigns, establish accessible civil registration units, and implement outreach programmes in remote and marginalised communities. States should sensitise and train health workers and civil registry officials with regard to statelessness and in a gender-sensitive manner.</p> <p>ENS, Statelessness and the prohibition on discrimination against Romani communities (2023): States must protect against arbitrary differential treatment and implement non-discriminatory policies to prevent the further marginalisation of persons already in a position of vulnerability. States should adopt and implement effective policies and measures to combat intersecting forms of discrimination, including in relation to Romani people who are also stateless or without their nationality confirmed/determined.</p> | <p>CIR) to elaborate concrete proposals for the reduction of statelessness among Romani communities. However, it has not met for some time. However, the new National Strategy for Equality, Inclusion and Participation of Roma and Sinti 2021-2030 implementing the Recommendation of the Council of the European Union of 12 March 2021 (2021/C 93/01) was published. It contains the main critical issues that emerged in the previous strategic framework, defines national priorities and presents the current situation of Roma and Sinti in Italy, including a reference to the legal situation.</p> <p>During the drafting of this National Strategy, UNHCR provided its contribution. It seems that the above mentioned 'Juridical Roundtable' has been re-activated and a meeting with a Ministry of the Interior is awaited. As of November 2024, there are no updates.</p> | <p>Strategia Nazionale di uguaglianza, inclusione e partecipazione di Rom e Sinti 2021-2030</p> <p>Attuazione della Raccomandazione del Consiglio dell'Unione Europea del 12 marzo 2021 (2021/C 93/01)</p> <p>https://politichecoesione.governo.it/media/2967/strategia-nazionale-rom-e-sinti_2021-2030.pdf</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> |
| <p>PRS.8.a</p> | <p>Deprivation of nationality</p> | <p>Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).</p> | <p>1961 Convention: Article 8 & 9</p> <p>ECN: Article 7(3)</p> <p>UDHR: Article 15(2) Principles on Deprivation of Nationality and the Draft Commentary: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 & 6</p> <p>HRC, Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23</p> <p>UNHCR Guidelines on Statelessness No.5 (2020): the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or</p> | <p>Yes. There is no safeguard to prevent statelessness, therefore provisions on deprivation of nationality can, in theory, render a person stateless. The law sets out when loss and/or deprivation of nationality can occur. Automatic loss occurs when a person joins the army of another state; accepts a public position with another State or public body or an international body that Italy does not recognise; acquires nationality or a government post in a State with which Italy is in a state of war. Additionally, amendments to the Nationality Law in 2018 introduced the possibility to deprive only a naturalised national of their Italian nationality in the event of a final sentence for the following crimes: terrorist acts; subversion of the constitutional order; subversive association; constitution, promotion or participation in armed groups; assistance and training of members of armed groups; assistance of members of subversive associations and of terrorist associations; misappropriation of properties and funds seized in order to prevent from financially supporting terrorist activities.</p> | <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.8150194582286421&title=lbl.detttaglioAtto (IT)</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994): https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 18 aprile 1994, n. 362, Regolamento recante disciplina dei procedimenti di acquisto della cittadinanza italiana, (GU Serie Generale n.136 del 13-06-1994 - Suppl. Ordinario n. 91): http://www.gazzettaufficiale.it/eli/id/1994/06/13/094G0368/sg</p> |

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| | | | <p>renew documents without providing an explanation or justification).</p> <p>ILEC Guidelines (2015): Deprivation of nationality must have a firm legal basis, should not be interpreted extensively or applied by analogy and deprivation-provisions must be predictable.</p> <p>CoE, PACE Resolution 2263 (2019): States should repeal any laws that would allow arbitrary deprivation of nationality; provide for safeguards against statelessness; abolish or refrain from introducing administrative procedures allowing for the deprivation of nationality not based on a criminal conviction; refrain from depriving minors of their nationality.</p> <p>ECtHR, Usmanov v. Russia (2020): A decision on deprivation of nationality must assess the consequences for the person and whether the measure is arbitrary.</p> <p>CJEU, Rottmann (2010): Decisions withdrawing nationality must be afforded a reasonable period of time in order to try to recover the nationality of their Member State of origin.</p> <p>CJEU, JY (2022): Decisions to revoke an assurance that nationality will be granted must be proportionate and consistent with EU law.</p> <p>CJEU, Tjebbes (2019): The loss of nationality must respect the principle of proportionality and national authorities must perform an individual assessment of the consequences for the applicants.</p> | | <p>OHCHR Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination, 28 January –1 February 2019, p. 20: https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf</p> |
| <p>PRS.8.b</p> | | <p>Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, decision in writing with reasoning, judicial oversight, appeal, time limit, subject to prior sentencing)? Please state if deprivation of nationality is only ever carried out in pursuance of a legitimate purpose, is provided for by law, is necessary, proportionate, in accordance with procedural safeguards, and in accordance with the right to respect for private and family life. Please also state if a reasonable period of time is afforded to allow recovery of the nationality of the State of origin in case of withdrawal of nationality.</p> | <p>1961 Convention: Article 8(4) ECN: Articles 10 to 13 ECHR: Article 8 Charter of Fundamental Rights: Article 7 Principles on Deprivation of Nationality: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation.</p> <p>ILEC Guidelines (2015): The consequences of a decision to deprive somebody of their nationality must be assessed against the principle of proportionality. Adequate procedural safeguards are essential. Decisions should only take effect when the (judicial) decision cannot be challenged anymore.</p> <p>CoE, PACE Resolution 2263 (2019): States should abolish or refrain from introducing administrative procedures allowing for the deprivation of nationality not based on a criminal conviction; refrain from depriving nationals of their nationality.</p> <p>ECtHR, Usmanov v. Russia (2020) CJEU, Rottmann (2010) CJEU, JY (2022) CJEU, Tjebbes (2019)</p> | <p>The competent authority is the President of the Republic on the proposal of the Ministry of Interior.</p> <p>As far as cases listed in point PRS 8a are concerned, the deprivation of nationality is adopted within three years after the final judgment.</p> <p>So far no precedents occurred.</p> | <p>Art 10 bis della LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.8150194582286421&title=lbl.dettaglioAtto (IT)</p> |

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| PRS.8.c | | Are provisions on deprivation of nationality applied in practice? Have they been applied even where it results in (risk of) statelessness? If available, please provide any sources of data or information on cases that resulted in statelessness. | | No information is available. | |
| PRS.8.d | | Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness? | 1961 Convention : Article 7 ECN : Articles 7 and 8 | There are no provisions for voluntary loss or renunciation of nationality that could render a person stateless. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.8150194582286421&title=lbl.dettaglioAtto (IT) |
| PRS.8.e | | Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice. | Principles on Deprivation of Nationality Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards. UNHCR Guidelines on Statelessness No.5 (2020) : Laws that permit deprivation of nationality on the grounds of terrorism should be publicly available and precise enough to enable individuals to understand the scope of impermissible conduct. CoE, PACE Resolution 2263 (2019) : States should review provisions allowing for deprivation of nationality on terrorism grounds in light of international human rights obligations, refrain from applying this measure and envisage and prioritise wider use of other counter-terrorism measures. | Yes. 2018 amendments to the Nationality Law introduced the possibility to deprive naturalised nationals of their Italian nationality in the event of a final sentence for the following crimes: terrorist acts; subversion of the constitutional order; subversive association; constitution, promotion or participation in armed groups; assistance and training of members of armed groups; assistance of members of subversive associations and of terrorist associations; misappropriation of properties and funds seized in order to prevent from financially supporting terrorist activities. The provision is motivated by national security. The law does not provide any remedies if it renders a person stateless. There is no information available on whether the provisions are applied in practice. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.8150194582286421&title=lbl.dettaglioAtto (IT) |
| PRS.8.f | | Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice. | ICCPR : Article 26 1961 Convention : Article 9 ECN : Article 5 Principles on Deprivation of Nationality : Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals. CoE, PACE Resolution 2263 (2019) : States should not discriminate between citizens on the basis of the way in which they have acquired nationality, in order to avoid indirect discrimination against minorities. | Yes. The provisions on deprivation following a criminal conviction (see PR.7.e) apply only to people who acquired Italian nationality by naturalisation, not to Italian nationals by birth. There is no information available on whether the provisions are applied in practice. | LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1992-02-15&atto.codiceRedazionale=092G0162&atto.articolo.numero=0&qId=&tabID=0.8150194582286421&title=lbl.dettaglioAtto (IT) |
| PRS.8.g | | Are there safeguards to prevent derivative loss of nationality (i.e., loss of nationality on the basis that a parent or a spouse has been deprived of that nationality)? Please describe the potential impact of deprivation on children and spouses. | 1961 Convention : Article 6 CRC : Articles 2(2), 7 and 8 CEDAW : Article 9(1) Principles on Deprivation of Nationality : States must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Principle 9.7). The derivative loss of nationality is prohibited (Principle 9.8). | The only case, in theory, would be if a parent had acquired their nationality on the basis of fraudulent declarations. The loss/deprivation of their nationality could affect the children, but there is no evidence so far of any practice in this regard. | |

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| RES.1.a | Published judgments | Please list the most relevant judgments relating to statelessness and include links to the cases (where available). | | <p>There are several significant Supreme Court judgments adjudicating statelessness in Italy. Key issues decided on include:</p> <ul style="list-style-type: none"> · Court of Cassation n.14918, 20/03/2007: Formal proof of loss of nationality is not required to be granted statelessness status; statelessness can be inferred from other facts, such as refusal to grant the person rights usually linked to nationality. · Court of Cassation SU n.28873, 09/12/2008: Stateless persons can access the ordinary jurisdiction for the statelessness determination procedure, instead of the more complicated administrative one. · Court of Cassation n.7614, 04/04/2011: Requests to be granted statelessness status must be presented and decided within the ordinary jurisdiction system, and the adversarial principle needs to be respected. · Court of Cassation n.15679, 21/06/2013: Statelessness determination procedures must consider the provisions regulating nationality in the state with which the applicant has significant legal links. The 1954 Convention applies only to those who do not have any nationality and not to those who, although entitled, did not activate the procedure to obtain it. · Court of Cassation n.25212, 08/11/2013: The condition of statelessness must be evaluated not only formally, but also substantially. · Court of Cassation n.4262, 03/03/2015: The burden of proof on the claimant in statelessness determination procedures should be attenuated and judges may use their investigative powers when intervention is needed. Stateless persons are entitled to the same reduced burden of proof as international protection seekers. · Court of Cassation n.19201, 28/09/2015: When deciding on the validation of a measure to detain a person for the purpose of expulsion, the Justice of the Peace must duly take into account the absence of reasonable prospects of repatriation, such as in cases of stateless persons. · Court of Cassation n.12643, 17/06/2016: A formal act demonstrating loss of nationality is not required in the context of a statelessness determination procedure, since statelessness can also be proven de facto. At the same time, applicants must give proof of such facts from which it is possible to infer that they are deprived of (some of) those prerogatives linked to nationality. · Court of Cassation n.28153, 24/11/2017: The burden of proof is shared between the applicant and the authority. The applicant should make all possible efforts to clarify their condition of statelessness. The declarations provided by the applicant should be supported by evidence. If the applicant, despite all possible efforts, does not manage to provide evidence, the judge can use ex officio powers to assist the applicant. · Court of Cassation n.1183, 18/01/2018: Recognition of statelessness status to a bidoon refugee from Kuwait · Court of Cassation n. 16489, 19/06/2019: Pending the SDP and/or under a condition of persons at risk of statelessness, the stateless person cannot be expelled when the situation of statelessness clearly emerges from the information or documentation provided | <p>Court of Cassation judgments: http://www.itagiure.giustizia.it/</p> <p>Council of State case-law: https://www.giustizia-amministrativa.it/web/guest/dcsnpr?p_p_id=GaSearch_INSTANC E_2NDgCF3zWBwk&p_p_state=normal&p_p_mode=view&GaSearch_INSTANC E_2NDgCF3zWBwk_javax.portlet.action=searchProvvedimenti&p_auth=HiNY4LNR&p_p_lifecycle=0</p> <p>Accertamento dello status di apolide: il richiedente deve allegare i non possedere la cittadinanza dello Stato con cui intrattenga o abbia intrattenuto legami significativi, Cass. civ. Sez. I, 18/01/2018, n.118</p> <p>Progetto Melting Pot, Riconoscimento dello status di apolide a rifugiato proveniente dal Kuwait di etnia Bedoon, Tribunale di Roma, ordinanza del 24 gennaio 2018: http://www.meltingpot.org/Riconoscimento-dello-status-di-apolide-a-rifugiato.html#.W2qu2rh9jl (IT)</p> <p>Case law (IT): https://webcache.googleusercontent.com/search?q=cache:Zkx0P149JEJ:https://www.dirittoimmigrazione cittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/634-2-tribunale-di-torino-4-6-2020+&cd=5&hl=it&ct=clnk&gl=it</p> <p>https://www.dirittoimmigrazione cittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/635-3-tribunale-di-firenze-22-7-2020/file</p> <p>https://www.dirittoimmigrazione cittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/633-1-trib-brescia-9-5-2020/file</p> <p>https://www.dirittoimmigrazione cittadinanza.it/allegati/fascicolo-n-3-2020/cittadinanza-1/637-5-trib-brescia-15-7-2020/file</p> <p>Tribunale ordinario di Firenze, IV sez. civile Ordinanza 6558/2021 del 29.11.2021 https://www.altalex.com/documents/news/2021/12/13/status-di-apolide-ricorso-giurisdizionale#p3</p> <p>Tribunale ordinario di Napoli, XIII Sezione Civile Ordinanza del 02/03/2022 https://www.dirittoimmigrazione cittadinanza.it/allegati/fascicolo-2-2022/cittadinanza-4/953-10-trib-napoli-2-3-2022-1/file</p> |

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| | | | | <p>by the competent public authorities of the Italian State, the State of origin or the State with which a significant link with the person is established.</p> <ul style="list-style-type: none"> · Corte di Cassazione, I sez. civile, Ordinanza n. 16114/2019: Reaffirms the shared burden of proof. <p>Case-law issued by the Council of State establishing that nationality cannot be denied only because the applicant has committed a crime:</p> <ul style="list-style-type: none"> · Sentenza n. 5544 del 11 novembre 2014 Consiglio di Stato · Cons. Stato, sez. III, sent. n. 5262 del 06.11.2018 · Cons. Stato, sez. III, Sent. n. 3121 del 14.05.2019: <p>Order n. 4 giugno 2020 of Civil Court of Turin: And order n. 22 July 2020 Civil Court of Florence Both orders implement, at first instance, the case-laws stated by the judgment of the Court of Cassation n.28153, 24/11/2017 and the judgment of 11 November 2014 of the Council of State.</p> <p>Tribunale ordinario di Firenze, IV sez. civile Ordinanza 6558/2021 del 29.11.2021 the Court of Florence recognised the statelessness status to an asylum seeker who had been denied refugee status. The lawyer lodged an appeal against the denial of international protection and asked the judge for a preliminary assessment of the applicant's statelessness status. The Court, considering the connection between the statelessness and asylum request, decided to handle them in the same procedure, recognising the statelessness status.</p> <p>Court of Naples (2 March 2022): the Court granted Italian nationality at birth to a foundling at the age of 12. The applicant first applied for formal recognition as a stateless person (which was granted) and then applied for Italian citizenship at birth under Article 1(2) of Law 91/1992. The civil municipal official rejected his application on the grounds that in his interpretation the aforementioned provision only applies when the foundling is a new-born child. In the course of the proceedings, the Ministry of Interior intervened in support of the registrar's position by producing an opinion stating that a person can only be considered a foundling if he is a new-born child or in any case a child not yet able to speak. The judge rejected the argument arguing that the law only provides that there is no evidence available on the foundling's nationality. Although such cases are extremely limited in practice, this is a relevant decision that addresses the Ministry of the Interior's strict interpretation of Article 1(2) of Law 91/1992 and aligns with UNHCR's Guidelines on Statelessness No. 4. It remains to be seen whether the Ministry of the Interior will change its position accordingly.</p> <p>Ordinary Court of Florence, 01/06/2022: the judge recognised the statelessness status of a young man born in Ghana to a Liberian mother. At the time of the events, the mother was unable to pass on nationality to her son because Liberia's nationality law did not allow jure sanguinis transmission by the mother and Ghana does not recognise the acquisition of nationality jus soli.</p> | <p>Tribunale Ordinario di Firenze Sezione Protezione Internazionale CIVILE del 01/06/2022 https://www.meltingpot.org/2022/06/la-normativa-liberiana-in-materia-di-cittadinanza-e-fortemente-discriminatoria-status-di-apolide-a-ragazzo-nato-in-ghana-da-madre-liberiana/</p> <p>Tribunale ordinario di Roma, Sez Diritti della persona e immigrazione civile, ordinanza 72509/2022 del 26.10.2023 https://www.meltingpot.org/2024/02/cittadinanza-italiana-in-favore-della-figlia-di-una-persona-apolide-de-facto/Ordinanza-Corte-di-Cassazione-del-29-maggio-2024: https://i2.res.24o.it/pdf/2010/S24/Documenti/2024/08/26/Allegati-PDF/22991.pdf</p> <p>Ordinanza del 26 novembre 2024, Tribunale di Bologna: https://www.questionegiustizia.it/data/doc/4004/2024-trib-bologna-questione-legittimita-costituzionale-legge-cittadinanza.pdf</p> |
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| | | | | <p>A recent decision of the Ordinary Court of Rome (n.r.g 72509/2022) declared the Italian nationality in favour of the daughter of a "de facto" stateless woman (the only parent to have recognised the applicant at birth). In the absence of the formal recognition of the parent's statelessness status, the daughter applied directly for the declaration of the Italian nationality in her favour (claim "per saltum"). Firstly, the Court ascertained that the mother, born in Italy to Yugoslavian parents, was a "de facto" stateless person, so was not able to transmit any nationality to her daughter. Consequentially, the judge correctly applied the above-described principles on the acquisition of Italian nationality for a child born in Italy to stateless parents and recognised her Italian nationality.</p> <p>The first civil section of the Court of Cassation, in its judgment no. 22991 of 29 May 2024, clarified the declaratory nature of the recognition of statelessness in accordance with the 1954 New York Convention. According to the Supreme Court, in accordance with Article 1 of the Convention defining the concept of statelessness, both the judicial decision and the administrative decision on the recognition of statelessness are of a declaratory nature, with the consequence that the status is acquired at the moment of pronouncement. Consequently, the Court ruled that it was not necessary to wait for five years of legal residence on Italian territory from the moment the status was recognised by a judicial decision in order to obtain the Italian Citizenship. In fact, the status of stateless person is a legal status, a subjective right, with the consequence that all the measures taken by the competent bodies in this matter are merely declaratory and not constitutive. Therefore, the Ministry of the Interior must certify the status of statelessness, which it does not grant, but only recognises and certifies.</p> <p>On 26 November 2024, the Court of Bologna issued an order in which it raised an ex officio objection to the constitutional illegality of the Italian provisions on citizenship, in so far as they provide for "recognition of citizenship iure sanguinis without any temporal limit". In particular, the Court asked the Constitutional Court to assess whether it was compatible with the principles deriving from the Constitution to recognise citizenship solely on the basis of the existence of an ancestor, even if many generations old, of persons who have no cultural, linguistic or traditional ties or who have no connection with Italian territory.</p> | |
| RES.2.a | Free legal assistance | Are there specialised lawyers or organisations providing free advice to stateless people or people with undetermined nationality? If yes, please describe. | UNHCR, Handbook on Protection (2014) : Applicants must have access to legal counsel. | Yes, there are several law firms and organisations providing specialist advice, including civil society organisations providing free advice and specialist services. In 2016, UNHCR set up a network of organisations and lawyers working on statelessness. The network - Tavolo Apolidia – aims to elaborate proposals and recommendations on addressing statelessness for governments and authorities and to raise public awareness on the issue. In addition, several members of the network also provide individual counselling to stateless people. | Some examples of organisations providing specialist advice include: <ul style="list-style-type: none"> · Progetto Meltingpot · ASGI – Associazione per gli Studi Giuridici sull’Immigrazione · Consiglio Italiano per I Rifugiati · Association 21 luglio · Council of Europe JUSTROM Programme (legal clinic) Tavolo Apolidia: https://tavoloapolidia.org/ (IT) |

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| RES.3.a | Literature | Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available). | | Yes, there is - it is mostly concerned with jurisprudence, law analysis and application. | <p>Tavolo Apolidia: https://tavoloapolidia.org/advocacy/</p> <p>CIR Onlus website: https://www.cir-onlus.org/tutto-quello-che-devi-sapere-sull-apolidia-in-italia/</p> <p>UNHCR (2020) The impact of COVID-19 on Stateless Populations: Policy Recommendations and Good Practices, https://www.refworld.org/docid/5eb2a72f4.html</p> |
| RES.4.a. | Examples of identity and travel documents | <p>Please insert pictures of anonymised identity and/or travel documents issued to stateless people in your country (if applicable).</p> <p>If the country issues several documents, please specify what each document is.</p> | | | |