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## International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>	No	Polish Ministry of Foreign Affairs, InternetowaBazaTraktatowa (online treaty database): <a href="https://traktaty.msz.gov.pl/">https://traktaty.msz.gov.pl/</a> (Polish (PL))  Polish text of the Conventions available at: <a href="http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=54c0b8844">http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=54c0b8844</a> (PL)
IOB	1	b		If yes, when was ratification/ accession?		Does not apply	
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.	Does not apply	
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.	Does not apply	
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a>	No	Polish Ministry of Foreign Affairs, InternetowaBazaTraktatowa (online treaty database): <a href="https://traktaty.msz.gov.pl/">https://traktaty.msz.gov.pl/</a> (PL)
IOB	2	b		If yes, when was ratification/ accession?		Does not apply	
IOB	2	c		Are there reservations in	As above	Does not apply	

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				place? Please list them.			
IOB	2	d		Does the Convention have direct effect?	As above	Does not apply	
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	<a href="#">European Convention on Nationality, 1997</a>	Poland signed the Convention but has not acceded to it. No reservations were made.	Council of Europe website, Chart of signatures and ratifications: <a href="http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures">http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures</a>
IOB	3	b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	<a href="#">European Convention on Human Rights, 1950</a>	Yes, Poland is party to the Convention. No reservations were made.	Council of Europe website, Chart of signatures and ratifications: <a href="http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/005/signatures?p_auth=cOI2D9Yu">http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/005/signatures?p_auth=cOI2D9Yu</a>
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.	<a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a>	No.	Council of Europe website, Chart of signatures and ratifications: <a href="http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/200/signatures?p_auth=cOI2D9Yu">http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/200/signatures?p_auth=cOI2D9Yu</a>
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant	<a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a>	Yes. No reservations.	EUR-Lexdatabase : <a href="http://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A32008L0115">http://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A32008L0115</a>

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				reservations.			
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	<a href="#">Convention on the Rights of the Child 1989</a>	Yes. No reservations, but Poland has made two declarations: 1. The Republic of Poland considers that a child's rights as defined in the Convention, in particular the rights defined in Articles 12-16, shall be exercised with respect for parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the family; 2. With respect to Article 24(2)(f), of the Convention, the Republic of Poland considers that family planning and education services for parents should be in keeping with the principles of morality.	UN Treaties Database: <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-11&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-11&amp;chapter=4&amp;lang=en</a>
IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Civil and Political Rights 1966</a>	Yes. No reservations.	UN Treaties Database: <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-4&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-4&amp;chapter=4&amp;lang=en</a>
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Economic, Social and Cultural Rights 1966</a>	Yes. No reservations.	UN Treaties Database: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-3&amp;chapter=4&amp;lang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-3&amp;chapter=4&amp;lang=en</a>

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IOB	3	h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	<a href="#">Convention on the Elimination of all Forms of Discrimination Against Women 1979</a> Gen. Rec. 32 <a href="#">on the gender-related dimensions of refugee status, asylum, nationality and statelessness.</a>	Yes. No reservations.	UN Treaties Database: <a href="https://treaties.un.org/pages/viewdetails.aspx?src=treaty&amp;mtdsg_no=iv-8&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/viewdetails.aspx?src=treaty&amp;mtdsg_no=iv-8&amp;chapter=4&amp;lang=en</a>
IOB	3	i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	<a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a>	Yes. Two reservations were made upon signature: 1. Under Article 28, the Polish People's Republic does not consider itself bound by Article 20 of the Convention. 2. The Polish People's Republic does not consider itself bound by Article 30(1) of the Convention.	UN Treaties Database: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;lang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;lang=en</a>
IOB	3	j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	<a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a>	Yes. No reservations.	UN Treaties Database: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;lang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;lang=en</a>
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?	<a href="#">International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990</a>	No.	UN Treaties Database: <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-13&amp;chapter=4&amp;clang=_en">https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-13&amp;chapter=4&amp;clang=_en</a>

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				Please list any relevant reservations.			
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Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Government have a '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><a href="#">Gen. Rec. 32, CEDAW</a>: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p><a href="#">Council of the European Union (2015)</a>: 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><a href="#">UNHCR (2014)</a>: Improve quantitative and qualitative data on stateless populations.</p> <p><a href="#">Institute on Statelessness and Inclusion (2014)</a>: States should strengthen measures to count stateless persons on their territory.</p>	The use and the interpretation of the term 'stateless' is not consistent in records held by different authorities. In the last census, two relevant categories were applied: 'stateless' (understood as a person without any nationality) and 'undetermined nationality'. Both categories may have significance in estimating the stateless population in Poland, as the census results were based on self-declared answers by interviewees and no additional verification followed. In the census (2011), 2,020 persons residing in Poland declared they were stateless while in relation to 8,805 no nationality was established (mostly due to the fact that over 75% of those persons were homeless and lacked any documentation). The census data is disaggregated by gender and place of birth (Poland or abroad).	Statistics Poland, Population: demographic and social status and structure, 2013: <a href="http://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki/ludnosc-stan-i-struktura-demograficzno-spoeczna-nsp-2011,16,1.html">http://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki/ludnosc-stan-i-struktura-demograficzno-spoeczna-nsp-2011,16,1.html</a> (PL)
POP	1	b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g.	As above	The last Polish census used the category 'undetermined nationality' as well as 'stateless'. The Office for Foreigners uses the term 'without nationality' and 'undefined nationality'. The Polish Border Guard in its records applies several other terms. According to the Border Guard Headquarters (BG HQ): 'a stateless person' is defined as 'a foreigner of no state affiliation [descriptive term that	Statistics Poland, Population: demographic and social status and structure, 2013: <a href="http://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki/ludnosc-stan-i-struktura-demograficzno-spoeczna-nsp-2011,16,1.html">http://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki/ludnosc-stan-i-struktura-demograficzno-spoeczna-nsp-2011,16,1.html</a> (PL) Information provided by the Border



Statelessness Population Data – 2019

				<p>Palestinian)? Please explain and provide any available figures.</p>		<p>could also be translated simply as stateless], a foreigner stripped of nationality or claiming to be a national of the so-called unrecognised state’. The second category used by the BG HQ, persons of ‘unknown nationality’ is defined as: ‘persons that are not defined as stateless, those that do not claim being national of any state, claim potential affiliation with many states or – even though they indicate a state affiliation - were not recognised by that state as a national’. A third category used by BG HQ is persons whose ‘nationality was not confirmed’, understood as ‘persons with no identity documents, whose personal details (including nationality) are accepted based on oral statements, which are subsequently verified’. According to information provided by the Ministry of Digital Affairs in 2016, there were 1,328 people registered in the <i>Powszechny Elektroniczny System Ewidencji Ludności</i> (PESEL) (universal electronic population register) holding the status of a stateless person. None of the quoted data sources make an estimation on the number of stateless persons who are undocumented in Poland. As of 2018 (December) the Office for Foreigners reported the total number of “stateless persons” and persons of “unknown nationality” holding a valid residence permit as 435, of whom 390 are registered as stateless, and 45 of unknown nationality. In 2017 these number were: 397 stateless and 41</p>	<p>Guard Headquarters, Management Board of Department for Foreigners, in reply to an information request about statistics on stateless persons and definitions used, submitted by the Halina Niec Legal Aid Center in 2016.</p> <p>Statistics from PESEL: written answer to a formal information request by Halina Niec Legal Aid Center in 2016.</p> <p>Statistics Poland:  <a href="https://stat.gov.pl/en/">https://stat.gov.pl/en/</a></p> <p>Urząd do Spraw Cudzoziemców (Office for Foreigners), Statistics:  <a href="https://udsc.gov.pl/en/statystyki/">https://udsc.gov.pl/en/statystyki/</a></p> <p>Office for Foreigners Migration Statistics: <a href="http://www.migracje.gov.pl">www.migracje.gov.pl</a></p> <p>Urząd do Spraw Cudzoziemców (Office for Foreigners), Information of the Head of the Office for Foreigners on implementation of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (uniform text in Journal of Law of 2016, item 1836) in the scope of performing the obligations of the Republic of Poland under the Geneva Convention Relating to the Status of Refugees and the New York Protocol Relating to the Status of Refugees in 2017, March 2018:</p>
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Statelessness Population Data – 2019

						unknown nationality (total: 438). No information about their origin is available. According to statistics published by the Office for Foreigners, in 2017 there were only 11 applications for international protection lodged by stateless people and 4 by people of unknown nationality. In the same year 4 stateless people received refugee status and 1 stateless person was granted subsidiary protection. Similarly, in 2018 there were 11 applications for international protection lodged by stateless people and 2 by people of unknown nationality. 7 stateless people were granted refugee status while 4 received subsidiary protection. The Office for Foreigners publishes statistics on international protection requests by people recorded as 'Palestinian' (2 applicants in 2017), for example, and other countries of origin where stateless people may be more highly represented.	<a href="https://udsc.gov.pl/en/statystyki/raporty-okresowe/raport-roczny-ochrona-miedzynarodowa/2017-2/">https://udsc.gov.pl/en/statystyki/raporty-okresowe/raport-roczny-ochrona-miedzynarodowa/2017-2/</a>
POP	1	c		What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	UNHCR relies on data from the last Polish Census of 2011 and does not have other estimates.	Information provided by UNHCR Country Office in Poland.
POP	1	d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	UNHCR Poland commissioned a mapping study of statelessness in Poland that was published in September 2019.	UN High Commissioner for Refugees (UNHCR), Mapping Statelessness in Poland, September 2019, available at: <a href="https://www.refworld.org/docid/5da58e7e4.html">https://www.refworld.org/docid/5da58e7e4.html</a>

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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	There are no other estimates available.	
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	Poland does not apply a uniform definition of the term stateless. The Border Guard applies a multitude of terms, partially overlapping which may blur the overall understanding of the size of this population. The data collected during the last census is based on self-declared answers, which means that the actual status of the interviewees was not verified. There are no estimates of the number of stateless undocumented persons. The available statistical sources provide an overview of stateless people who either hold valid legal residence permits or who are subject to one of the protection or legalisation procedures. Undocumented stateless persons are not reflected in these statistics, which gives grounds to believe that the overall population of persons without nationality in Poland is actually higher.	
POP	1	g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Govt also counts these groups in figures for the	As above	There are no general statistics for stateless persons so there is no case of over-reporting. Separate data sources quote the number of stateless asylum seekers, recognised refugees, and persons with other types of residence. In June 2017, there were 52 recognised refugees who were stateless. In 2017, there were	Information on recognised refugees who are stateless, Office for Foreigners Migration Statistics: <a href="http://www.migracje.gov.pl">www.migracje.gov.pl</a>  Information on asylum applications, Office for Foreigners: <a href="http://www.udsc.gov.pl">www.udsc.gov.pl</a>

Statelessness Population Data – 2019

				stateless population (i.e. to avoid under/over-reporting).		<p>11 applications for international protection lodged by stateless persons and 4 by persons of unknown nationality. In the same year 4 stateless persons received refugee status and 1 stateless person was granted subsidiary protection. Similarly, in 2018 there were 11 applications for international protection lodged by stateless persons and 2 by persons of unknown nationality. 7 stateless persons were granted refugee status while 4 received subsidiary protection. In 2019, there were 12 applications for international protection lodged by stateless persons. 1 stateless person was granted refugee status. Information on valid residence permit holders, who were issued the permit based on their refugee or subsidiary protection status indicates that in 2017 there were 55 stateless persons with valid residence permits as recognised refugees and 3 stateless persons holding subsidiary protection; in 2018, there were 49 stateless persons with valid residence permits as recognised refugees and 8 stateless persons holding subsidiary protection. In 2019, there were 36 stateless persons with valid residence permits as recognised refugees and 13 stateless persons holding subsidiary protection.</p>	
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Statelessness Population Data – 2019

POP	2	a	Stateless in detention data	Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.	As above and see also norms in Detention section.	This information is not publicly available. The Border Guard is the agency responsible for managing immigration detention (guarded centre for foreigners) but does not publish statistical data about the nationality of the detainees. Information about the nationality and/or country of origin is however collected and processed and it is possible to receive this information upon a formal request	ENS, 2015, Protecting stateless persons from arbitrary detention in Poland: <a href="http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland">http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland</a>
POP	2	b		Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	This information is not publicly available.	

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
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.	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Articles 1(1) & 1(2).	There is no legal definition of a stateless person in Polish national law.	
SDS	1	b	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated.  <b>1.</b> There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure ( <b>proceed to Question 2a</b> ).  <b>2.</b> There is no dedicated SDP but there are other	<a href="#">UNHCR (2014)</a> : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. <a href="#">UNHCR (2016)</a> : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	Group 2 - There is no dedicated SDP but there are other administrative procedures in which statelessness can be identified.	

			<p>administrative procedures through which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures) <b>(proceed to Question 10a).</b></p> <p><b>3.</b> There is a dedicated Stateless Status but no formal procedure for determining this <b>(proceed to Question 16a).</b></p> <p><b>4.</b> None of the above. Are there other possibilities for stateless people to regularise their stay without their statelessness being determined <b>(proceed to Question 17a)?</b></p>			
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SDS	10	a	Alternative administrative procedures through which statelessness can be identified	<p><b>If there is no dedicated SDP</b>, are there other administrative procedures through which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures)</p> <p><b>If yes, provide details and then proceed to question 11a.</b></p> <p><b>If no, proceed to question 15a.</b></p>	<p><a href="#">ENS (2013)</a>: For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</p> <p><a href="#">Hoti v. Croatia ECtHR (2018)</a>: [the State has a] positive obligation to provide an effective and accessible procedure or a combination of procedures enabling the applicant to have the issues of [their] further stay and status determined.</p>	<p>Statelessness may come up as a legally relevant fact in many proceedings, but none of them is tailored to make a determination of statelessness as a status. These procedures include primarily:</p> <ol style="list-style-type: none"> <li>1. International protection procedure</li> <li>2. Return proceedings as these typically include a component of identification, including nationality assessment and determining the country of origin/return.</li> <li>3. Legalisation proceedings may also be of relevance but have limited scope.</li> <li>4. Amnesty proceedings for undocumented stateless persons but these are not accessible on a regular basis.</li> </ol>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p> <p>Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p> <p>NB: available translated versions of these acts are not in line with the currently binding versions.</p>
SDS	11	a	Access to procedures	<p>How is statelessness identified through other procedures?</p>	<p><a href="#">UNHCR (2016)</a>: Efficient referral mechanisms should be established, while officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels.</p>	<p>The identification of statelessness is part of the more general identification process and the assessment of nationality. There are no legally set criteria for this process and they are understood as technical steps taken by the authorities aimed at ensuring that the administrative proceedings may be continued.</p>	<p>National Contact Point to the European Migration Network in Poland, Establishing Foreigners' Identity for International Protection. Challenges and Practices (2013), available in English at: <a href="https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/establishing-identity/20a_poland_national_report_establishing_identity_for_international_protection_final_en_oct2012_en.pdf">https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/establishing-identity/20a_poland_national_report_establishing_identity_for_international_protection_final_en_oct2012_en.pdf</a></p>



Statelessness Determination and Status – 2019

SDS	11	b	Are there obligations in law on authorities to consider a claim for statelessness made within another procedure?	<a href="#">UNHCR (2016)</a> : Access to the procedure must be guaranteed.	No.	
SDS	11	c	Are there clear, accessible instructions on how to make a claim for statelessness?	<a href="#">UNHCR (2014)</a> : For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). <a href="#">UNHCR (2016)</a> : Information on the procedure and counselling services must be available to potential applicants in a language they understand.	No.	
SDS	11	d	Is the examination of statelessness claims conducted by a centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	<a href="#">UNHCR (2014)</a> : 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. <a href="#">UNHCR (2016)</a> : It is important that examiners develop expertise while ensuring that the procedures are accessible.	It depends on the type of procedure: the international protection procedure is run by a centralised body (Office for Foreigners); the legalisation procedures and return proceedings are run locally by the Voivode's Office (for the former) and the Commander in Chief of the relevant Border Guard division (the latter).	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
SDS	11	e	Is there training to inform different government bodies about statelessness? If yes, please provide details (e.g. who provides training to	<a href="#">UNHCR Executive Committee (2006)</a> : 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.	There are no such dedicated trainings available to governmental bodies and public officials.	

				whom/how often?)			
SDS	11	f		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	<a href="#">UNHCR (2016)</a> : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	The authorities responsible for carrying out administrative procedures in the case of stateless persons (protection or return proceedings) cooperate with the Border Guard for the identification of the person and their nationality.	National Contact Point to the European Migration Network in Poland, Establishing Foreigners' Identity for International Protection. Challenges and Practices (2013), available in English at: <a href="https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/establishing-identity/20a_poland_national_report_establishing_identity_for_international_protection_final_en_oct2012_en.pdf">https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/establishing-identity/20a_poland_national_report_establishing_identity_for_international_protection_final_en_oct2012_en.pdf</a>
SDS	12	a	Assessment	Who has the burden of proof when determining statelessness (in law and practice)?	<a href="#">UNHCR (2014)</a> : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). <a href="#">UNHCR (2016)</a> : SDPs must take into consideration the difficulties inherent in proving statelessness. <a href="#">UNHCR Expert Meeting (2010)</a> : 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. <a href="#">Hoti v. Croatia ECtHR (2018)</a> : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.	There is no 'stateless status' in Polish law, but in the process of identification, which includes the assessment of nationality, the burden of proof is shared between the individual and the authorities.	

SDS	12	b		<p>What is the standard of proof? Is it the same as in refugee status determination procedures?</p>	<p><a href="#">UNHCR (2014)</a>: States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').</p> <p><a href="#">Inter-Parliamentary Union (2018)</a> 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.</p> <p><a href="#">Hoti v. Croatia ECtHR (2018)</a>: 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>	Yes.	
SDS	12	c		<p>Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?</p>	<p><a href="#">ENS (2013)</a>: Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.</p>	There are no such guidelines prescribed by law. The process of identification, which includes the assessment of nationality, is carried out by the Border Guard relying on their internal procedures.	
SDS	13	a	Procedural safeguards	<p>Is free legal aid available during the procedure?</p>	<p><a href="#">UNHCR (2014)</a>: Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p><a href="#">ENS (2013)</a>: If state funded legal aid is available, it should be provided to stateless claimants. If there is no state</p>	Free legal aid (state funded) is provided at the appeal stage of the international protection procedure and at the judicial review stage of administrative proceedings. There is no such legal aid granted by state in return proceedings and at present (August 2017) such aid is also not provided by NGOs.	Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)

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					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.		
SDS	13	b		Is an interview always offered (unless granting without interview)?	<a href="#">UNHCR (2014)</a> : The right to an individual interview [is] essential.	Interviewing the applicant in the international protection procedure is mandatory (except for manifestly unfounded applications). There is no obligation to interview in return proceedings.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
SDS	13	c		Is free interpreting offered for interviews?	<a href="#">UNHCR (2014)</a> : The right to assistance with interpretation/translation [is] essential. <a href="#">ENS (2013)</a> : Assistance should be available for translation and interpretation.	An interpreter is provided free of charge in return proceedings and international protection proceedings whenever necessary.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
SDS	13	d		Are decisions (refusals and grants) given in writing with reasons?	<a href="#">UNHCR (2014)</a> : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Decisions are delivered in writing and include a justification.	Code of Administrative Procedure, Act of 14 June 1960 Journal of Laws 1960 No. 30, item 168: <a href="http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555">http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555</a> (PL)
SDS	14	a	Stateless status	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional	<a href="#">UNHCR (2014)</a> : 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	Identification of a person as stateless in Poland does not result in automatic permission to stay nor rights. If a person is identified as unreturnable during return proceedings a permit for tolerated stay may be issued, provided that it has been established that the country of former habitual residence will not accept the	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176:

				requirements.	the object and purpose of the treaty.	<p>returnee. A permit for tolerated stay legalises the stay of the foreigner in Poland but does not entitle them to cross the border. People with this type of permit are entitled to work without the need to obtain a permit. They have access to healthcare and social assistance. A person granted tolerated stay is obliged to report to the Commander in Chief of the Border Guard Division in their current place of residence, as well as notify of any change to place of residence.</p> <p>A permit to stay may also be issued on humanitarian grounds if obliging the person to return:</p> <ol style="list-style-type: none"> <li>1) may result only in them going to a country where, according to the Convention for the Protection of Human Rights and Fundamental Freedoms, drawn up in Rome on 4 November 1950:             <ol style="list-style-type: none"> <li>a) their right to life, freedom and personal safety would be endangered or</li> <li>b) they could be subjected to torture, inhuman or degrading treatment or punishing, or</li> <li>c) they could be forced to work, or</li> <li>d) they could be deprived of the right to a fair trial or punished without legal basis, or</li> </ol> </li> <li>2) would breach their right to family or private life, as defined by the regulations of the Convention for the Protection of Human Rights and Fundamental Freedoms, drawn up in Rome on 4 November 1950, or</li> </ol>	<p><a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>
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						3) would breach the child’s rights, defined in the Convention on the Rights of a Child, adopted by the General Assembly of the United Nations on 20 November 1989, and thus substantially pose a threat to their psychophysical development.	
SDS	14	b		How long is initial status granted for and is it renewable?	<p><a href="#">UNHCR (2014)</a>: 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.</p>	<p>The decision giving consent for tolerated stay does not have any time limit. The consent is valid until the conditions for issuing it still apply. The same rule applies to humanitarian status. These permits are associated with certain documents, proving legal stay, which must be renewed over time.</p> <p>1) Humanitarian stay: a residence card valid for 2 years may be issued by the Border Guard. Fingerprints must be provided, and the document collected in person (if over 13 years). It can be renewed before it expires. Whilst valid, the residence card confirms the holder’s identity and authorises them to cross the border multiple times without the need for a visa (if they also hold a travel document).</p> <p>2) Tolerated stay: the Border Guard issues a document entitled ‘permit for tolerated stay’, which confirms the holder’s identity (not nationality) but does not entitle the holder to cross the border. It is valid for 2 years and can be renewed before expiry. Fingerprints are required and the document must be collected in person (if over 13 years).</p>	

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SDS	14	c		<p>What other rights are granted to recognised stateless people (e.g. travel document, work, healthcare, social security, education, housing, family reunion etc.)?</p>	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>  <a href="#">UNHCR (2014)</a>: The status granted to a stateless person in a State Party must reflect international standards.</p>	<p>People with a permit for tolerated or humanitarian stay are entitled to work without the need to obtain a permit. They have access to healthcare and social assistance. A person granted tolerated stay is obliged to report to the Commander in Chief of the Border Guard Division in their current place of residence, as well as notify of any change to place of residence.</p>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p> <p>Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>
SDS	15	a	Access to nationality	<p>In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality? Please describe the procedure and note whether this is facilitated for stateless people (e.g. exemption from nationality/language tests, fee waiver).</p>	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Article 32  <a href="#">UNHCR (2016)</a>: It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.  <a href="#">Council of Europe Committee of Ministers (1999)</a>: Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.  <a href="#">ENS (2013)</a>: 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>A stateless person may acquire nationality (after birth) in the procedure for granting nationality by the President of Poland or in the procedure for recognition of nationality by the Voivode. However, there is no definition in law of a 'stateless person'.</p> <p>The procedure before the President is discretionary. The terms of the 2009 Polish Citizenship Act are very general and indicate that the President has the power to confer Polish nationality on foreigners (Art.18). The second possibility for a stateless person is to use the procedure before the Voivode, which is non-discretionary. The Voivode shall recognise as a Polish national a person who has resided uninterrupted on a legal and permanent basis for at least two years in Poland.</p> <p>In both procedures the stateless person's residence in Poland must be legal and confirmed by documents (residence permit, ID) which is often a serious</p>	<p>Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161:  <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a></p> <p>Additional source of information on the procedures (in English):  <a href="https://www.mazowieckie.pl/en/for-foreigners-1/citizenship/1376,Citizenship.html">https://www.mazowieckie.pl/en/for-foreigners-1/citizenship/1376,Citizenship.html</a></p>

					<p>obstacle for stateless people. In the procedure before the President, this condition is not formulated in the Polish Citizenship Act, but the sub-statutory regulations require a residence permit to be presented together with the application for conferral of nationality. In the procedure before the Voivode, the required length of stay is shorter than the standard three years, but it must be permanent residence, which is a more stringent condition. Moreover, this procedure also requires the applicant to submit official confirmation of knowledge of the Polish language and the person must not pose a threat to national security.</p> <p>There is no application fee for acquisition of Polish nationality in the procedure before the President. There is a fee of 17 PLN (3.70 EUR) if a proxy is appointed, unless they are the person’s spouse, parent, child or sibling (which should be proven by documents). In the procedure before the Voivode, the application fee is 219 PLN (48 EUR). If the application is refused a refund may be requested.</p> <p>The procedure before the President is very lengthy and can take up to 12 months or longer. There is no appeal right in case of rejection. If the procedure before the voivode can be concluded on the basis of evidence presented by the applicant, it should be immediate. If a</p>	
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						<p>case requires an investigation, it should be resolved within a month, or within two months in complex cases (unless the applicant is at fault). An appeal may be submitted to the Minister of Interior within 14 days against a decision of the Voivode, and a further appeal may be filed against a decision of the Minister at the Provincial Administrative Court in Warsaw.</p>	
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## Detention

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law? Please provide the legal source(s).	<a href="#">ICCPR</a> Article 9(1) <a href="#">ECHR</a> Article 5 (1)	<p>According to Polish law, a foreigner may be placed in detention only on the basis of a court decision delivered in writing. The relevant principles are prescribed within the Act on Foreigners and the Code of Criminal Procedure. The application for placing a foreigner in detention or prolongation of detention is submitted by the Border Guard.</p>	<p>Code of Criminal Procedure, Act of 6 June 1997, Journal of Laws Item 1997, Item 555:  <a href="http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555">http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555</a>            (PL)            Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a>            (PL)</p>
DET	1	b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	<a href="#">ECHR</a> Article 5(1)(f)	<p>According to the Act on Foreigners, immigration detention can be ordered in the following situations:</p> <ol style="list-style-type: none"> <li>1. it is probable that a return decision without a possibility of voluntary departure period will be issued;</li> <li>2. a return decision without a possibility of voluntary departure period has been issued;</li> <li>3. the foreigner has not left Poland within the voluntary departure period and his immediate removal is not possible;</li> <li>4. it is necessary to ensure transfer of a person to a non-EU or Schengen country, under the EU Dublin Regulation or based on international agreement and an immediate transfer is not feasible;</li> <li>5. the foreigner does not comply with the duties imposed on him by the decision ordering alternatives to detention.</li> </ol> <p>If the foreigner has lodged an application for international protection, detention is permissible in the following situations:</p> <ol style="list-style-type: none"> <li>1. when it is necessary to establish his</li> </ol>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a>            (PL)            Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a>            (PL)</p>

					<p>identity;</p> <p>2. in order to collect information necessary to determine the reasons on which the application for international protection is based where this information could not be obtained in the absence of detention, in particular when there is a high risk of absconding;</p> <p>3. if the foreigner is in pre-removal detention in accordance with the EU Returns Directive and the foreigner had the opportunity to apply for protection before and it can be substantiated that the application for international protection is submitted merely in order to delay or frustrate the enforcement of the return order;</p> <p>4. for reasons of state security or public order; or</p> <p>5. according to the Dublin Regulation, where there is a serious risk of absconding and an immediate transfer is not possible.</p> <p>The risk of absconding is interpreted as a situation, when the asylum applicant, inter alia:</p> <p>1. Is not in the possession of identity documents when submitting the asylum application</p> <p>2. Has crossed or attempted to cross the border contrary to the law, unless he/she is arriving directly from a territory where their life or freedom has been threatened with persecution or there was a risk of serious harm and the applicant has presented credible reasons for irregular</p>	
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						<p>entry to the territory of Poland and has submitted asylum application immediately after crossing the border, or;</p> <p>3.Has entered Poland during the period for which their data were entered to the list of undesirable foreigners in Poland or to Schengen Information System in order to refuse entry.</p> <p>The analysis of the above-mentioned detention grounds indicates that they are in line with the standard of ECHR article 5(1)(f). The only doubt concerns the first of the enumerated grounds mentioning the probability of issuing a return decision without a possibility of voluntary departure period. The mere possibility of issuing such a decision seems an excessive interpretation of the premises of ECHR 5(1)(f).</p>	
DET	1	c		<p>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>	<p><a href="#">ICCPR Article 7</a>: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment.</p> <p><a href="#">Auad v Bulgaria ECtHR (2011)</a>: The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <p><a href="#">EU Returns Directive</a>: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	<p>Detention for the purpose of removal can be ordered even where it is merely probable that a return decision without a possibility of voluntary departure period will be issued. A final assessment of the country of removal is thus not a precondition of ordering detention.</p>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>
DET	1	d		<p>Is statelessness juridically relevant in decisions to detain? Please describe how (risk</p>	<p><a href="#">Auad v Bulgaria ECtHR (2011)</a> <a href="#">Mikolenko v. Estonia ECtHR (2009)</a>: Detention may only be justified as long as deportation proceedings are being conducted with due diligence.</p>	<p>There are no explicit legal grounds determining the results of finding that the foreigner to be detained (or already placed in detention) is stateless. Identifying statelessness may however</p>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>

				of) statelessness is identified and whether referral to an SDP is possible from detention.	<p><a href="#">UNHCR (2014)</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.</p> <p><a href="#">Equal Rights Trust (2012)</a>: 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><a href="#">International Commission of Jurists (2014)</a>: The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	render the decision of removal unenforceable and thus lead to granting a permit for tolerated stay (and release from detention). There is no dedicated SDP.	
DET	1	e		Are stateless people detained in practice?		There is no publicly available data on detention and the status of detainees. However, the practice of the Halina Niec Legal Aid Center in providing legal assistance in migration detention corroborates the view that stateless persons or those at risk of statelessness may be found in detention.	European Network on Statelessness, 2015, Protecting stateless persons from arbitrary detention in Poland: <a href="http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland">http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland</a>
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	<p><a href="#">UNHCR (2014)</a>: 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.</p> <p><a href="#">EU Returns Directive</a>: Article 15(1)</p>	According to the Act on Foreigners and the Act on Granting Protection, when deciding on a detention order in relation to a foreigner in international protection proceedings as well as in return proceedings, the court is obliged to consider non-custodial measures. There is no provision in either of these acts that explicitly establishes the rule that detention should be used as a measure of last resort.	<p>Article 401(5), Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p> <p>Article 88(b)(2), Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>



					<p><a href="#">UNHCR (2014)</a>: Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p><a href="#">Human Rights Council (2012)</a> : The obligation to always consider alternatives before resorting to detention should be established by law.</p> <p><a href="#">EU Returns Directive</a>: Article 15(1)</p> <p><a href="#">Equal Rights Trust (2012)</a>: States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive.</p> <p><a href="#">International Detention Coalition (2015)</a> : 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>	travel documents.	<p>within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176:</p> <p><a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>
DET	2	b		<p>Is there evidence that immigration detention is used in practice prior to all alternatives being considered?</p>	As above.	<p>In a comprehensive study of court detention orders between 2014–2015, the Rule of Law Institute Foundation found that in 939 analysed cases, the courts ordered detention as requested by the Border Guard 869 times. This means that in 92.5% of cases the courts decided in favour of detention. Worryingly, in the majority of analysed decisions, it was impossible to find to what extent the court had considered the feasibility of non-custodial measures. Often no reference to alternatives was made in the justification of the detention order. The same report quotes statistics proving that</p>	<p>Sieniow, T. (2016), Report: Monitoring the use of alternatives to detention of foreigners in Poland: 2014–2015, The Rule of Law Institute Foundation:</p> <p><a href="http://panstwoprawa.org/wp-content/uploads/2016/09/Stosowanie-alternatyw-do-detencji-cudzoziemcow_ca%C5%82o%C5%9B%C4%87.pdf">http://panstwoprawa.org/wp-content/uploads/2016/09/Stosowanie-alternatyw-do-detencji-cudzoziemcow_ca%C5%82o%C5%9B%C4%87.pdf</a> (PL)</p>

						since alternative measures were introduced, the number of persons placed in detention has dropped.	
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p><a href="#">UN Human Rights Council (2010)</a> : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p><a href="#">UNHCR (2012)</a> : To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p><a href="#">EU Returns Directive</a>:Article 15(5)</p> <p><a href="#">Equal Rights Trust (2012)</a> : Detention should always be for the shortest time possible.</p>	The Law on Foreigners specifies that the maximum length of migration detention is 18 months.	Article 403, Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p><a href="#">UN General Assembly (1988)</a> : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p><a href="#">EU Returns Directive</a>:Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p><a href="#">Equal Rights Trust (2012)</a> : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p><a href="#">International Commission of Jurists (2014)</a>: 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.</p>	Yes. A decision to order the placement of a foreigner in detention is delivered in writing and includes reasoning.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)



Detention – 2019

DET	3	c		Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<a href="#">Equal Rights Trust (2012)</a> : 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.	Yes, all detainees are provided with written information in a language they understand on their rights, obligations, contact details of NGOs providing assistance as well as UNHCR.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
DET	3	d		Are there regular periodic reviews of detention before a court or independent body, which can order release?	<a href="#">Kim v Russia ECtHR(2014)</a> : 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. <a href="#">Equal Rights Trust (ERT) (2012)</a> : 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 can only be ordered and extended by decision of a court, at the request of the Border Guard. The extension of detention by a court constitutes a de facto periodic review of detention. If removal to the country of origin is deemed unenforceable, the person is granted a permit for tolerated stay and released but there are no set deadlines prescribed in law nor evident from practice that are understood as “reasonable time”.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  Helsinki Foundation for Human Rights (HFHR), Country report: Poland: fourth update, Asylum Information Database (AIDA), 2015, <a href="http://www.asylumineurope.org/reports/country/poland">http://www.asylumineurope.org/reports/country/poland</a>

DET	3	e		<p>What remedies are available to challenge detention? Please any obstacles to accessing effective remedies in practice.</p>	<p><a href="#">ICCPR Article 9(4)</a>  <a href="#">ECHR: Article 5(4)</a>  <a href="#">Kim v Russia ECtHR(2014)</a>: 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.  <a href="#">Alimuradov v. Russia ECtHR (2019)</a>: The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.</p>	<p>Detainees have a right to appeal the detention order and the decision on extension of this measure to the court. The appeal should be filed within seven days of receiving the order (or its translation) and the court has seven days to examine the request. In practice the courts take approximately three weeks to decide the appeal. A detainee can also file an application for release to the Border Guard under the Act on Foreigners (e.g. if detention would threaten life or health) or to the Head of the Office for Foreigners under the Act on Protection if there is a high probability that international protection will be granted. If these applications are refused, the decision of the Border Guard or Head of Office for Foreigners can be appealed to court. Under the Act on Protection, the initial detention period of an applicant for international protection is 60 days. If the individual files an application for protection from detention (following a court order under the Act on Foreigners), and there are valid reasons for detention under the Act on Protection, it can be extended by 90 days. In both cases, if asylum proceedings have not been concluded during the period of 60 or 90 days and the grounds justifying detention still exist; detention can be extended up to six months.</p>	<p>Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p> <p>Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176:  <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)</p>
DET	3	f		<p>Are there guidelines in place governing the process of re-</p>	<p><a href="#">Equal Rights Trust (2012)</a> : The inability of a stateless person to cooperate with removal proceedings</p>	<p>Under the Act on Foreigners, if a return order is issued for someone without valid documentation, the Border Guard should</p>	<p>Arts. 268(2), 325&amp; 351, Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650:</p>

				documentation and ascertaining entitlement to nationality for the purpose of removal?	should not be treated as non-cooperation. <a href="#">ENS (2015)</a> : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.	file a motion for redocumentation to the appropriate diplomatic representation or authority in the country of origin. If redocumentation is impossible, the Commander in Chief of the Border Guard may issue a Temporary Polish Travel Document, valid for seven days, to allow the person to cross the Polish Border. The Act on Foreigners does not further specify the process for assessment of nationality and redocumentation and no deadlines are set. If the removal order cannot be enforced due to reasons beyond the control of the Border Guard and individual, a permit for tolerated stay is granted.	<a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  European Network on Statelessness, 2015, Protecting stateless persons from arbitrary detention in Poland: <a href="http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland">http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland</a>
DET	3	g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	<a href="#">UNHCR (2014)</a> : Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. <a href="#">EU Returns Directive</a> : Article 13(3)	Due to a shortage of funds, Polish NGOs only provide free legal aid in detention to people in the international protection procedure. Foreigners can be granted a state appointed attorney in detention proceedings— here the general rules of the criminal procedures code apply. In practice, this opportunity is almost never accessed by non-national detainees.	Code of Criminal Procedure, Act of 6 June 1997, Journal of Laws Item 1997, Item 555: <a href="http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555">http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19970890555</a> (PL)  Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)  HNLAC casework/practice.
DET	4	a	Protections on release	Are people released from detention issued with identification documents (including	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Article 27 <a href="#">UNHCR (2014)</a> : Being undocumented cannot be used as a general justification for detention. <a href="#">ENS (2015)</a> : State parties to the 1954	If the detention order is lifted due to unenforceability of the removal order, a permit for tolerated stay will be issued, which legalises stay in Poland. There is no practice of officially confirming the fact of statelessness, unless lack of nationality is	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)

				confirmation of their stateless status) and protected from re-detention?	Convention have an obligation to provide stay rights to stateless people who have been released from detention. <a href="#">Equal Rights Trust (2012)</a> : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	part of the written justification of a decision.	
DET	4	b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?	<a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvona vatreshniteraboti ECJ (2009)</a> : 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. <a href="#">Equal Rights Trust (2012)</a> : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	Unenforceability of the removal order is the basis for issuing a permit for tolerated stay. This status grants access to social assistance, education and healthcare and gives the right to work.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
DET	4	c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	<a href="#">Equal Rights Trust (2012)</a> : When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	If re-detention occurs, the cumulative time spent in detention counts towards the maximum time limit only if it was ordered on the same basis and in the same procedure as before.	Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: <a href="http://www.bip.udsc.gov.pl/ustawy">http://www.bip.udsc.gov.pl/ustawy</a> (PL)
DET	5	a	<a href="#">Return and readmission agreements</a>	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	<a href="#">UNHCR (2014)</a> : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	Stateless people are mentioned in readmission agreements concluded by Poland, inter alia, in the agreements between Poland and the Republic of Kazakhstan, Armenia and Moldova. Statelessness is explicitly mentioned in the	Implementing protocol between the Government of the Republic of Poland and the Government of the Republic of Moldova to the Agreement between the European Community and the Republic of

					<p>agreement between Poland and the Republic of Kazakhstan. A stateless person is defined as a person ‘who has no evidence confirming his possession of nationality of any state’. This definition does not comply with the 1954 Convention as it clearly shifts the burden of proof onto the stateless person and equates the lack of evidence in their possession with the absence of nationality. The appendix to the agreement lists documents that are to be recognised as proof of a link of a person to one of the state-parties to the agreement. In case of stateless persons, the type and categories of required documents is very broad and as a result, the agreement may allow for readmission of stateless persons with a merely incidental link to the country in question (e.g. a visa, driving license, service card etc.). There is no prescribed procedure for verifying the status or statelessness of the person in question. Another example is the Protocol for the implementation of the Agreement between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam on transferring and readmitting citizens of both States. The Protocol includes a list of documents for nationality determination and presumption. Interestingly, in the section devoted to documents that may be used as reference in presuming Vietnamese nationality several types of documents indicating only indirectly a link</p>	<p>Moldova on readmission of persons residing without authorization: <a href="http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20150000777/O/D20150777.pdf">http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20150000777/O/D20150777.pdf</a> (PL)</p> <p>Protocol for the implementation of the Agreement between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam on transferring and readmitting citizens of both States, <a href="http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051561306/O/D20051306.pdf">http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051561306/O/D20051306.pdf</a> (PL)</p> <p>Agreement between the European Community and Ukraine on the readmission of persons: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2007.332.01.0046.01.ENG</a></p> <p>Agreement between the Government of the Republic of Poland and the Government of the Republic of Kazakhstan on the readmission of persons: <a href="http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20170001623/O/D20171623.pdf">http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20170001623/O/D20171623.pdf</a> (PL)</p>
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						<p>to Vietnamese nationality are mentioned e.g. Army identity card, ship-crew passport, household registration book, most recent polling card, driving license. There is no prescribed procedure for verifying the status or statelessness of the person in question. In the Implementing protocol between the Government of the Republic of Poland and the Government of the Republic of Moldova to the Agreement between the European Community and the Republic of Moldova on readmission of persons residing without authorisation, one of the documents proving or indicating a presumption of nationality is a marriage certificate. The Agreement between the European Community and Ukraine on the readmission of persons, which is binding also in Polish-Ukrainian relations, defines a stateless person as ‘any person who does not hold a nationality’. The list of documents used to substantiate an application for readmission is similar to the agreements quoted above and is very broad.</p>	
DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		No.	

## Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? <b>[If yes, continue to PRS1b. If no, proceed to PRS1h]</b>	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 2</p> <p><a href="#">Convention on the Rights of the Child 1989</a>: Article 7</p> <p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</p> <p><a href="#">European Parliament (2018)</a>: The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>	The provision grants Polish nationality only to foundlings and children whose parents are stateless or with undetermined nationality. This safeguard does not fully encompass the scope of protection afforded by the 1961 Convention.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	1	b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p><a href="#">UNHCR (2012)</a>: The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.</p> <p><a href="#">ENS (2015)</a>: The 1961 Convention and the ECN obliges the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.</p>	The provision is automatic (for a foundling or child born to stateless parents, or to parents whose nationality is undetermined).	Article 14(2) & 15, Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>

PRS	1	c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<p><a href="#">UNHCR (2012)</a>:The test is not an inquiry into whether a child’s parents are stateless.</p> <p><a href="#">ENS (2015)</a>: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>	Yes, the parents must be stateless or their nationality undetermined.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	1	d		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><a href="#">UNHCR (2012)</a>:A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be statelessbased on its own interpretation of another State’s nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 &amp; 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>	No.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	1	e		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><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1(2)</p> <p><a href="#">UNHCR (2012)</a>: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.</p> <p><a href="#">Convention on the Rights of the Child, 1989</a>: Articles 3 &amp; 7</p>	No – the provision is automatic.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>



					<p><a href="#">Committee on the Rights of the Child (2015)</a>: Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions.</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 6(2)(b)</p>		
PRS	1	f		<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.</p>	<p><a href="#">Committee on the Rights of the Child(2011)</a>: 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.</p> <p><a href="#">ENS (2015)</a>: Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.</p>	No.	<p>Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a></p>
PRS	1	g		<p>What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?</p>	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1(2)</p> <p><a href="#">UNHCR (2012)</a>: 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.</p> <p><a href="#">ENS (2015)</a>: 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>	N/A	<p>Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a></p>

PRS	1	h		Are there specific provisions to protect the right to a nationality of children born to refugees?	<a href="#">UNHCR (2012)</a> : 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.	There are no such provisions in place, but beneficiaries of international protection and stateless persons enjoy a facilitated access to naturalisation (a shorter residency requirement).	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	2	a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 2 <a href="#">European Convention on Nationality, 1997</a> : Article 6(1)(b)	Foundlings are granted nationality by law, automatically.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	2	b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	<a href="#">UNHCR (2012)</a> : 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 age limit imposed, and "newborn" status is not legally defined. In practice cases of foundlings concern primarily newborns.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	2	c		Can nationality be withdrawn from foundlings if this leads to statelessness?	<a href="#">UNHCR (2012)</a> : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	No. A foundling is granted Polish nationality ex officio and there is no decision issued that could be later revoked.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	3	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?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 5 <a href="#">ENS (2015)</a> : 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.	Foreign adoption does not interfere with the Polish nationality of the minor child. If the foreign parents want to confer their nationality to an adopted Polish child and the law on nationality binding in their country of origin does not allow for dual nationality, they may submit an application to the President of Poland	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>

						asking for consent for renunciation of nationality.	
PRS	3	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.	<p><a href="#">European Convention on Nationality, 1997: Article 6(4)(d)</a>  <a href="#">Committee on the Rights of the Child (2015)</a>: Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.</p>	<p>According to the Polish Citizenship Act, a minor child adopted by (a) Polish national(s) acquires Polish nationality if the full adoption has been completed before the child turns 16. In this case, the child is considered as possessing Polish nationality from birth. There are no identified gaps that would lead to statelessness as the adoption leads to obtaining Polish nationality by virtue of the law (Art.16). The child cannot lose their nationality due to annulment of the adoption (there is no explicit provision in the law but there is no legal ground for such loss of nationality). Polish nationality is also not lost due to foreign adoption. If the minor has turned 16 at the time of adoption, they may obtain Polish nationality through a process of ‘acknowledgment’ of Polish nationality (Art. 30). According to this article, the minor foreigner is acknowledged as a Polish national if they are in the parental custody of a Polish national (including adoption) who has resided uninterruptedly within the territory of the Republic of Poland legally under a permit to settle, a long term resident’s EC residence permit, or a right of permanent residence, whereas the other custodial parent is not a Polish national and has duly declared consent to the acknowledgment of Polish nationality of the minor. Children over 16 need to</p>	<p>Arts. 16, 18, &amp; 30, Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a></p>

						consent for the acknowledgement to take effect. Another option for adopted children over 16 is the ‘conferral’ of Polish nationality (Art. 18). Conferral is carried out by the President of Poland at their discretion and there are no specific conditions.	
PRS	4	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?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 4 <a href="#">UNHCR (2012)</a> : 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.	All children with at least one Polish parent are Polish nationals by law ( <i>ius sanguinis</i> ), irrelevant of their place of birth. Nevertheless, there are practical problems concerning children born abroad, which may result in their statelessness.	Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>
PRS	4	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.)?	<a href="#">Genovese v. Malta ECtHR (2011)</a> : The state must ensure that the right to nationality is secured without discrimination. <a href="#">CEDAW Gen. rec. No. 32, 2014</a> : 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. <a href="#">UNHCR (2014)</a> : Action 4	Even though Polish nationality at birth is acquired ex lege (meaning that registration is not a condition for a child to acquire Polish nationality at birth), in practice, registration in Poland (or transcription of the birth certificate) is sometimes made a condition for receiving a passport or Polish ID at the Polish embassy. This means that for a child to avail themselves of nationality in some cases registration in Poland is required. Recent cases of children raised by same-sex partners abroad show that obtaining a passport is sometimes problematic. Poland does not regulate same-sex partnerships and the transcription of a birth certificate where two persons of the same sex are named as parents proves to be impossible.	ENS (2015) Ending Childhood Statelessness: a study on Poland, p.13: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/Poland.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/Poland.pdf</a>  UN High Commissioner for Refugees (UNHCR), Mapping Statelessness in Poland, September 2019, available at: <a href="https://www.refworld.org/docid/5da58e7e4.html">https://www.refworld.org/docid/5da58e7e4.html</a>

PRS	5	a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	<p><a href="#">Convention on the Rights of the Child, 1989: Article 7</a></p> <p><a href="#">International Covenant on Civil and Political Rights, 1966: Article 24(2)</a></p> <p><a href="#">Council of Europe (2009)</a>: 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><a href="#">UNHCR (2012)</a>: Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents.</p> <p><a href="#">UNHCR (2014)</a>: Action 7</p> <p><a href="#">UN Sustainable Development Goal 16.9</a></p>	The Civil Registry Records Act stipulates that all births must be registered within 21 days of a birth card being issued by the hospital, which is then transferred to the local Civil Registry Records Office. Legal residence of parents is not required.	Civil Status Records Act of 28 November 2014, Item 1741: <a href="http://isap.sejm.gov.pl/DetailsServlet?id=WDU20140001741">http://isap.sejm.gov.pl/DetailsServlet?id=WDU20140001741</a> (PL)
PRS	5	b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p><a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: 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><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: 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>	Every child born in Poland, regardless of the nationality (or residence status) of the parents, should be registered at a Civil Registry Office so that the birth certificate can be drawn up. The birth certificate is issued based on the written notification of birth, issued by a doctor, a midwife or a healthcare facility. The institutions have 3 days to forward the information about the birth to the Civil Registry Office. The parents of the child should officially register their child within 21 days following the birth chart preparation date. If they fail to do so, the Civil Registry Office will issue the birth certificate ex officio, choosing a name for the child and informing the parents. Documents required during registration include: ID card or passport of the person reporting	

						the birth and marriage certificate if the parents are married. There are no fees for birth registration.	
PRS	5	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.)	<a href="#">Convention on the Rights of the Child, 1989: Articles 3 &amp; 7</a>	The child's nationality is not determined upon birth registration. The birth certificate does not include information about the nationality or residence status of parents.	
PRS	5	d		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 and competent authority.	<a href="#">Convention on the Rights of the Child, 1989: Articles 3 &amp; 7</a>	A person born to Polish parent(s) outside of Poland and/or who has never possessed any documents proving their Polish nationality (e.g. a Polish passport or ID), can obtain an official certificate confirming their Polish nationality or its loss. The Citizenship Sections of the Voivode Offices in Poland have the power to issue a decision confirming Polish nationality or its loss. The national can apply for a Polish passport at a Polish Consulate with this certificate. This is a procedure designed specifically for the purposes of confirming the existence or lack of a Polish nationality, there is no equivalent possibility in relation to	Chapter 7 Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a>

						persons without declared links to Poland, including children of refugees, migrants or parents of other nationalities.	
PRS	5	e		Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : 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.	There are no such reports.	
PRS	5	f		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)?	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : 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.	There are no such requirements.	
PRS	5	g		Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : Measures should also be taken to facilitate late registration of birth and to avoid	The Civil Registry Records Act stipulates that all births must be registered within 21 days of a birth card being issued by the hospital, which is then transferred to the local Civil Registry Records Office. If the birth is not registered during the	Civil Registry Records Act of 29 September 1986 (Journal of Laws No. 212, Item 1264

				registration is possible in law and practice.	financial penalties for late registration. <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a> : Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	prescribed time limit, the Head of the Civil Registry Records Office records the birth acting ex officio. There are no legal obstacles to late registration nor reports of such obstacles encountered in practice.	
PRS	5	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	No.	
PRS	6	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<a href="#">UNHCR (2014)</a> :Action 7	There are no such programmes.	
PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of statelessness? Please provide	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> :Article 9 <a href="#">UNHCR (2014)</a> :Action 4 <a href="#">UN Human Rights Council (2019)</a> : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	There are no such reports. Cases of statelessness are few and far between and concern various nationality groups and in most situations - persons of migrant background are affected.	European Network on Statelessness, 2015, Protecting stateless persons from arbitrary detention in Poland: <a href="http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland">http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-poland</a>



				details and source of information.			
PRS	6	c		Has the Government 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.)	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> <a href="#">UNHCR (2014):Actions1 &amp; 8</a> <a href="#">UNHCR (2015): States parties to the 1954 Convention are required to help stateless persons become naturalised citizens.</a>	No such measures have been implemented.	
PRS	7	a	Withdrawal of nationality	Are there provisions on loss and/or deprivation of nationality established in law? Please describe and state whether there is a safeguard against statelessness in law and practice.	<a href="#">UN Convention on the Reduction of Statelessness, 1961: Article 8</a> <a href="#">European Convention on Nationality, 1997: Article 7(3)</a> <a href="#">Universal Declaration of Human Rights: Article 15(2)</a>	There is no provision for deprivation of Polish nationality in national law. People who have lost their Polish nationality under regulations in force prior to 1 January 1999 may apply for restitution or granting of Polish nationality. The loss of Polish nationality is governed by the Constitution of the Republic of Poland which provides that a Polish national shall not lose Polish nationality except by renunciation thereof. Therefore, a Polish national cannot lose Polish nationality, except at their own request. According to the Polish Citizenship Act, a Polish national loses Polish nationality at their request, but only after the President of the Republic of Poland has granted consent for the renunciation. Loss of	<p>Article 46, 49, Polish Citizenship Act of 2 April, 2009, Journal of Laws of 2012, Item 161: <a href="http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf">http://eudo-citizenship.eu/NationalDB/docs/POL_Citizenship%20Act%202009_as%20enacted_ENGLISH.pdf</a></p> <p>Article 34(2) of The Constitution of the Republic of Poland of 2nd April, 1997, Journal of Laws of 1997, No. 78, item 483: <a href="http://www.sejm.gov.pl/prawo/konsult/angielski/kon1.htm">http://www.sejm.gov.pl/prawo/konsult/angielski/kon1.htm</a></p>

						<p>Polish nationality shall come into force 30 days from the date of the issuance of a respective decision by the President, or after a shorter period, should the President decide accordingly. The consent to renounce Polish nationality granted to parents, applies to children under their custody. The approval for renouncing Polish nationality by both parents is extended to children under their parental custody. The approval for renouncing Polish nationality by only one parent is extended to children under their parental custody, if a) children are under their sole custody, or b) the other parent declared their consent before the proper authority (e.g. a Consul) that children could renounce Polish nationality. Children over 16 should express their prior consent before a proper authority (e.g. a Consul) for renunciation of Polish nationality. The applicant for renunciation needs to present documentary evidence proving that they hold or have been promised the nationality of another state, but this safeguard is insufficient, as there is no explicit requirement to prove that minor children covered by the application also hold another nationality and will not become stateless as a result of the renunciation procedure.</p>	
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PRS	7	b		Who is the competent authority for withdrawal of nationality and what procedural safeguards are in place (legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?	<a href="#">UN Convention on the Reduction of Statelessness, 1961: Article 8(4)</a> <a href="#">European Convention on Nationality, 1997: Article 11</a>	Polish law does not allow for deprivation of nationality (see above).	
PRS	7	c		Are withdrawal provisions applied in practice?		No such provisions are applied.	

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
LIT	1	a	Published judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		There are no published judgments specifically deciding about statelessness.	
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		<p>Within the framework of Polish law statelessness may be addressed in international protection proceedings and return proceedings, which are administrative procedures (no courts are involved). The matter of statelessness may also be addressed marginally in court decisions regarding the application of administrative detention.</p>	<p>Centralna Baza Orzeczeń Sądów Administracyjnych (National Database of Decisions of the Administrative Courts):  <a href="http://orzeczenia.nsa.gov.pl/cbo/query">http://orzeczenia.nsa.gov.pl/cbo/query</a> (PL)</p> <p>III SA/Kr 1400/1 -Wyrok WSA w Krakowie, Judgment of the Regional Administrative Court in Krakow:  <a href="http://orzeczenia.nsa.gov.pl/doc/431B8D990D">http://orzeczenia.nsa.gov.pl/doc/431B8D990D</a></p> <p>Case concerns the denial of transcription of the birth certificate of the child of a same-sex Polish couple in the UK. The issue of access to a Polish identity document confirming Polish nationality is discussed.</p> <p>II OSK 1020/11 - Wyrok NSA, Judgement of the Supreme Administrative Court:</p>

							<a href="http://orzeczenia.nsa.gov.pl/doc/680560D84F">http://orzeczenia.nsa.gov.pl/doc/680560D84F</a> Case concerns the acquisition of Polish nationality by an applicant originating from Ukraine. The court inter alia states that the subjective conviction of the applicant that he is stateless is not enough to establish statelessness.
LIT	2	a	Legal training	Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	<a href="#">UNHCR (2016)</a> : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels. <a href="#">UNHCR (2010)</a> : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	There is no systematic judicial training nor training for lawyers on statelessness available in Poland. To date the only such trainings were organised by the Halina Niec Legal Aid Center in cooperation with ENS (trainings for Border Guard officials and Office for Foreigners staff.	Halina Niec Legal Aid Center: <a href="http://www.pomocprawna.org">www.pomocprawna.org</a>
LIT	3	a	Pro Bono	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	<a href="#">UNHCR (2014)</a> : Applicants must have access to legal counsel.	Among various entities offering legal advice, only two Polish NGOs (Helsinki Foundation for Human Rights and the Halina Nieć Legal Aid Center) have been actively providing legal assistance to stateless persons or those at risk of statelessness.	Halina Niec Legal Aid Center: <a href="http://www.pomocprawna.org">www.pomocprawna.org</a>  Helsinki Foundation for Human Rights: <a href="http://www.hfhr.pl">www.hfhr.pl</a>

LIT	4	a	Literature	<p>Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).</p>		<p>Przybylska, K. (2012), Sytuacja bezpaństwowców na Bliskim Wschodzie a międzynarodowe standardy ochrony praw człowieka, in: Marcinko, M. (ed), Ochrona praw człowieka w wymiarze regionalnym, Jagiellonian University, Krakow: <a href="http://www.zpmp.law.uj.edu.pl/documents/17903628/4b5d72a8-12e2-46ae-9ee2-441351f62d12">http://www.zpmp.law.uj.edu.pl/documents/17903628/4b5d72a8-12e2-46ae-9ee2-441351f62d12</a> (PL)</p> <p>Dyduch, J. (2014), Bezpaństwowość, in: Florczak, A., Lisowska, A., Organizacje międzynarodowe w działaniu, Wydawnictwo OTO, Wrocław: <a href="http://www.repozytorium.uni.wroc.pl/Content/62930/19_Joanna_Dyduch.pdf">http://www.repozytorium.uni.wroc.pl/Content/62930/19_Joanna_Dyduch.pdf</a> (PL)</p>
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