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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?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes.	Instrumento de adhesión de España a la Convención sobre el Estatuto de los Apátridas, hecha en Nueva York el 28 de septiembre de 1954. Publicado en: «BOE» núm. 159, de 4 de julio de 1997, páginas 20745 a 20753: http://cort.as/-KBSz (SP) United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: http://cort.as/-KBT2 (EN)
IOB	1	b		If yes, when was ratification/accession?		Acceded on 12 May 1997.	Instrumento de adhesión de España a la Convención sobre el Estatuto de los Apátridas, hecha en Nueva York el 28 de septiembre de 1954. Publicado en: «BOE» núm. 159, de 4 de julio de 1997, páginas 20745 a 20753: http://cort.as/-KBSz (SP) United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: http://cort.as/-KBT2 (EN)
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	Yes: "The Government of the Kingdom of Spain, according to Article 38.1 of the Convention, makes a reservation to article 29, paragraph 1, and considers itself bound by the provisions of that paragraph only in the case of stateless persons residing in the territory of any of the Contracting States"	Instrumento de adhesión de España a la Convención sobre el Estatuto de los Apátridas, hecha en Nueva York el 28 de septiembre de 1954. Publicado en: «BOE» núm. 159, de 4 de julio de 1997, páginas 20745 a 20753: http://cort.as/-KBSz (SP) United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: http://cort.as/-KBT2 (EN)
IOB	1	d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	Yes.	Instrumento de adhesión de España a la Convención sobre el Estatuto de los Apátridas, hecha en Nueva York el 28 de septiembre de 1954. Publicado en: «BOE» núm. 159, de 4 de julio de 1997, páginas 20745 a 20753: http://cort.as/-KBSz (SP)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes.	Instrumento de adhesión a la Convención para reducir los casos de apatridia, hecha en Nueva York el 30 de agosto de 1961. Publicado en: «BOE» núm. 274, de 13 de noviembre de 2018, páginas 110084 a 110101: http://cort.as/-KBSz (SP) United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: http://cort.as/-KBT2 (EN)
IOB	2	b		If yes, when was ratification/accession?		Acceded on 25 September 2018.	Instrumento de adhesión a la Convención para reducir los casos de apatridia, hecha en Nueva York el 30 de agosto de 1961. Publicado en: «BOE» núm. 274, de 13 de noviembre de 2018, páginas 110084 a 110101: http://cort.as/-KBTk (SP) United Nations Treaty Collection. <i>Convention on the Reduction of Statelessness</i> . New York, 30 August 1961: http://cort.as/-KBT0 (EN)
IOB	2	c		Are there reservations in place? Please list them.	As above	Yes: "Declarations and Reservations: Declaration on the local nature of the authorities of Gibraltar: Considering the scope of the application of the present Convention, Spain wishes to formulate the following declaration: 1. Gibraltar is a Non-Self-Governing Territory for whose international relations the Government of the United Kingdom is responsible, and which is subject to a process of decolonisation in accordance	Instrumento de adhesión a la Convención para reducir los casos de apatridia, hecha en Nueva York el 30 de agosto de 1961. Publicado en: «BOE» núm. 274, de 13 de noviembre de 2018, páginas 110084 a 110101: http://cort.as/-KBTk (SP) United Nations Treaty Collection. <i>Convention on the Reduction of</i>

						<p>with the relevant decisions and resolutions of the General Assembly.</p> <p>2. The authorities of Gibraltar are local in character, and exercise competences exclusively over domestic affairs that originate in and are based on the powers allocated to and conferred on them by the United Kingdom, in accordance with its domestic legislation and in its capacity as the sovereign State upon which depends the said Non-Self-Governing Territory.</p> <p>3. Consequently, any involvement by the Gibraltarian authorities in the implementation of this Treaty shall be understood to take place exclusively within the framework of the domestic jurisdiction of Gibraltar and shall not be considered to affect in any way the content of the two preceding paragraphs.</p> <p>4. The procedure envisaged in the Arrangements relating to Gibraltar authorities in the context of Mixed Agreements (2007), which was agreed by Spain and the United Kingdom on 19 December 2007 and notified to the Secretary-General of the Council of the European Union, applies to this Convention.")</p> <p>"Declaration pursuant to article 8: Under article 8 (3) (a), the Government of Spain declares that it reserves the right to deprive a person of Spanish nationality when he enters voluntarily the service of the armed forces, or holds political office, in a foreign State against the express prohibition of the Government.")</p> <p>"Objections: The Government of Spain has examined the declaration made by the Government of the Republic of Tunisia upon its accession to the Convention on the Reduction of Statelessness. The Government of Spain considers that such declaration intends to limit the obligation of a State not to deprive a person of his nationality if such deprivation entails a situation of statelessness in cases not covered by the exceptions of article 8 (3) of the Convention. The declaration therefore restricts one of the essential obligations of the Convention in a way contrary to its essence. It is thus incompatible with the object and purpose of the Convention. This objection shall not preclude the entry into force of the Convention between the Kingdom of Spain and the Republic of Tunisia."</p>	<p><i>Statelessness</i>. New York, 30 August 1961: http://cort.as/-KBTO (EN)</p>
IOB	2	d		Does the Convention have direct effect?	As above	Yes.	<p>Instrumento de adhesión a la Convención para reducir los casos de apatridia, hecha en Nueva York el 30 de agosto de 1961. Publicado en: «BOE» núm. 274, de 13 de noviembre de 2018, páginas 110084 a 110101: http://cort.as/-KBTK (SP)</p>
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	No.	<p>Council of Europe. Chart of signatures and ratifications of Treaty 166, European Convention on Nationality 1997. Status as of 13/06/2019: http://cort.as/-KBiW (EN)</p>
IOB	3	b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	Yes. Ratified and entered into force on 4 October 1979.	<p>Instrumento de Ratificación del Convenio para la Protección de los Derechos Humanos y de las Libertades Fundamentales, hecho en Roma el 4 de noviembre de 1950, y enmendado por los Protocolos adicionales números 3 y 5, de 6 de mayo de 1963 y 20 de enero de 1966, respectivamente. Publicado en: «BOE» núm. 243, de 10 de octubre de 1979, páginas 23564 a 23570: http://cort.as/-IU0w (SP)</p> <p>Council of Europe. Chart of signatures and ratifications of Treaty 005,</p>

							Convention for the Protection of Human Rights and Fundamental Freedoms 1950. Status as of 13/06/2019: http://cort.as/-KBiy (EN)
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	No.	Council of Europe. Chart of signatures and ratifications of Treaty 200, Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006. Status as of 13/06/2019: http://cort.as/-KBiv (EN)
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)	Yes. By Royal Decree 162/2014, of March 14 (partially) and by Organic Law 2/2009, of December 11.	Directive 2008/115/CE of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Published in: OJ L 348, 24.12.2008, p. 98-107: http://cort.as/-S_vp (EN) Real Decreto 162/2014, de 14 de marzo, por el que se aprueba el reglamento de funcionamiento y régimen interior de los centros de internamiento de extranjeros. Publicado en: «BOE» núm. 64, de 15 de marzo de 2014, páginas 23236 a 23264: http://cort.as/-KBij (SP) Ley Orgánica 2/2009, de 11 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social. Publicado en: «BOE» núm. 299, de 12 de diciembre de 2009, páginas 104986 a 105031: http://cort.as/-KBio (SP)
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child 1989	Yes. Ratified on 6 December 1990. "Declarations: 1. Spain understands that article 21, paragraph (d), of the Convention may never be construed to permit financial benefits other than those needed to cover strictly necessary expenditure which may have arisen from the adoption of children residing in another country. 2. Spain, wishing to make common cause with those States and humanitarian organizations which have manifested their disagreement with the contents of article 38, paragraphs 2 and 3, of the Convention, also wishes to express its disagreement with the age limit fixed therein and to declare that the said limit appears insufficient, by permitting the recruitment and participation in armed conflict of children having attained the age of fifteen years."	Instrumento de Ratificación de la Convención sobre los Derechos del Niño, adoptada por la Asamblea General de las Naciones Unidas el 20 de noviembre de 1989. Publicado en: «BOE» núm. 313, de 31 de diciembre de 1990, páginas 38897 a 38904: http://cort.as/-DSFI (SP) United Nations Treaty Collection. <i>Convention on the Rights of the Child</i> New York, 20 November 1989: http://cort.as/-KBhz (EN)
IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights 1966	Yes. Ratified on 27 April 1977.	Instrumento de Ratificación de España del Pacto Internacional de Derechos Civiles y Políticos, hecho en Nueva York el 19 de diciembre de 1966. Publicado en: «BOE» núm. 103, de 30 de abril de 1977, páginas 9337 a 9343: http://cort.as/yWAS (SP) United Nations Treaty Collection. <i>International Covenant on Civil and Political Rights</i> . New York, 16 December 1966: http://cort.as/-KBTQ (EN)
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights 1966	Yes. Ratified on 27 April 1977.	Instrumento de Ratificación de España del Pacto Internacional de Derechos Económicos, Sociales y Culturales, hecho en Nueva York el 19 de diciembre de 1966. Publicado en: «BOE» núm. 103, de 30 de abril de 1977, páginas 9343 a 9347: http://cort.as/ok9Z (SP) United Nations Treaty Collection. <i>International Covenant on Economic,</i>

							<i>Social and Cultural Rights</i> . New York, 16 December 1966: http://cort.as/-KBiO (EN)
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women 1979 Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness .	Yes. Ratified on 5 January 1984.	Instrumento de Ratificación de 16 de diciembre de 1983 de la Convención sobre la eliminación de todas las formas de discriminación contra la mujer, hecha en Nueva York el 18 de diciembre de 1979. Publicado en: «BOE» núm. 69, de 21/03/1984: http://cort.as/-KBiJ (SP) United Nations Treaty Collection. <i>Convention on the Elimination of All Forms of Discrimination against Women</i> . New York, 18 December 1979: http://cort.as/-KBiH (EN)
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Yes. Ratified on 21 October 1987.	Adhesión de España al Convenio Internacional sobre Eliminación de todas las Formas de Discriminación Racial, aprobado por la Asamblea General de las Naciones Unidas el 21 de diciembre de 1965. Publicado en: «BOE» núm. 118, de 17 de mayo de 1969, páginas 7462 a 7466: http://cort.as/-KBiB (SP) United Nations Treaty Collection. <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> . New York, 7 March 1966: http://cort.as/-KBi4 (EN)
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes. Acceded on 13 September 1968.	Adhesión de España al Convenio Internacional sobre Eliminación de todas las Formas de Discriminación Racial, aprobado por la Asamblea General de las Naciones Unidas el 21 de diciembre de 1965. Publicado en: «BOE» núm. 118, de 17 de mayo de 1969, páginas 7462 a 7466: http://cort.as/-KBiB (SP) United Nations Treaty Collection. <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> . New York, 7 March 1966: http://cort.as/-KBi4 (EN)
IOB	3	k		State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990? Please list any relevant reservations.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	No.	United Nations Treaty Collection. <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</i> . New York, 18 December 1990: http://cort.as/-KBi- (EN)

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>Gen. Rec. 32, CEDAW: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>Institute on Statelessness and Inclusion (2014): States should strengthen measures to count stateless persons on their territory.</p>	<p>Yes. The 2011 Population and Housing Census form, in the nationality section, includes both "Spanish" and "Another country". The latter is followed by an empty field where respondents can write down their nationality or their statelessness. According to the census data, there were 160 stateless people. Also, in the 2011 Census for people who do not live in regular housing, but in collective accommodation establishments, such as centres for elderly people, convents, barracks, hospitals, prisons, etc., the form includes the box "Stateless" within the nationality field. The data shown in "Basic demographic data" is disaggregated by "Sex", "Age", "Civil status", "Nationality", and "Birthplace". The data for stateless people is disaggregated by "Sex" and "Age".</p>	<p>2011 Population and Housing Census form: http://cort.as/-KmW (SP)</p> <p>2011 Population and Housing Census (Collective accommodation establishments): http://cort.as/-KmWG (SP)</p> <p>2011 Census data: http://cort.as/-KmWU [Step 1 – Create tables; Step 2 – National; Step 3 – Persons (Resident in main dwellings); Step 4 – Choose desired filters]</p> <p>2011 Census data (Stateless): http://cort.as/-KmWg [National results – 3.8 Foreign population by sex, age (5-year groups) and country of nationality]</p>
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. Palestinian)? Please explain and provide any available figures.	As above	<p>Yes. The "Stateless" category may overlap with the following Census categories: "African countries without diplomatic relations" (47 men and 19 women), "American countries without diplomatic relations" (3 men and 7 women), "Asian countries without diplomatic relations" (256 men and 104 women), "European countries without diplomatic relations" (23 men and 13 women), "Ocean countries without diplomatic relations" (21 men and 11 women). There is no 'unknown nationality' category in the Census data, but this category is used in asylum data sets. The "Asilo en cifras 2018" report includes the categories "stateless", "unknown nationality", "non-recognised States" (for Kosovo, Sahara, Kurds, Tibet) and "Palestine EONU". EONU stands for 'Estado Observador de las Naciones Unidas'.</p>	<p>2011 Census data (Stateless): http://cort.as/-KmWg [National results – 3.8 Foreign population by sex, age (5-year groups) and country of nationality]</p> <p>Ministerio del Interior (2019). Asilo en cifras 2018: http://cort.as/-RRQL (SP)</p>
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	<p>1,596 stateless people in Spain, following UNHCR's international definition of a 'stateless person': a person who is not recognised as a national by any State under the operation of its law. UNHCR states that the information is generally provided by States, based on their own definition and data collection methodologies. It also remarks that, in some countries, the figure includes people with unknown nationality.</p>	<p>UNCHR (2018). Global Trends. Forced Displacement in 2017. http://cort.as/-KmXK</p>
POP	1	d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	<p>According to Eurostat, there were 1,276 stateless people in Spain in 2018. This figure does not match the one offered in 2011 by the National Statistics Institute (160), nor the one provided by UNCHR in 2018 (1,596).</p>	<p>Eurostat. Population on 1 January by age group, sex and nationality: http://cort.as/-KmXm</p>
POP	1	e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	<p>Between 2008 and 2019, the Ministry of Interior has published annual reports on the number of applications and recognition rate of stateless status. According to the last report, between 2009 and 2018, 10,144 applications were submitted. The same report notes that, in 2018, 932 applications were decided upon: 859 granting stateless status, and 71 rejecting the applications. In addition, the report shows that in 2018 two people were recognised as stateless persons by the courts. Also, the same Ministry published a report on migration in Spain, which showed that 1,232 stateless persons were living in Spain in 2017.</p>	<p>Ministerio del Interior (2019). Asilo en cifras 2018: http://cort.as/-RRQL (SP)</p> <p>Ministerio del Interior (2019). Informe la inmigración en España: efectos y oportunidades: http://cort.as/-RRTJ (SP)</p>
POP	1	f		Are there issues with the reliability of data or indications that the stateless population may be over/under	As above	<p>There is nothing to suggest that the data provided both by the National Statistics Institute and the Ministry of the Interior is not reliable. However, the fact that there is no official data since 2016 should be considered. Nor is there any information</p>	

				reported? If yes, please describe.		available about the origins of the stateless population in Spain.	
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 stateless population (i.e. to avoid under/over-reporting).	As above	The last official statistics published by the Ministry of the Interior relating to 2018 show 2,079 international protection applications submitted by citizens of “unrecognised States”, which include Palestine, Kosovo, Western Sahara, Kurdistan and Tibet, and 14 applications made by people with “unknown nationality”. According to the same report, during 2018, Spain granted international protection to 89 people from “unrecognised States” (Palestine and Western Sahara), and subsidiary protection to 119 from Palestine. The publication includes data related to rejections and judicial decisions that reviewed appeals against them. However, the information does not show whether the asylum seekers or beneficiaries of international protection from “unrecognised States” or of unknown nationality were also recognised as stateless under the stateless statute.	Ministerio del Interior (2019). Asilo en cifras 2018: http://cort.as/-RRQL (SP)
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.	The Government records how many stateless people it holds in immigration detention, but it does not publish this data. Following an information request made in October 2019, the Ministry of Interior stated that no stateless people were held in immigration detention.	Correspondence between Fundación Cepaim and Ministry of the Interior, October 2019.
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	The Government does not publish any figures on people released from immigration detention due to un-removability.	Fundación Cepaim

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.	UN Convention Relating to the Status of Stateless Persons, 1954 : Articles 1(1) & 1(2).	Yes. The definition is almost identical. The 1954 Convention defines a stateless person as “a person who is not considered as a national by any State under the operation of its law”. Spain’s Royal Decree 865/2001 (Status Determination Procedure) establishes that a stateless person is “every person who is not considered as a national by any State, under the operation of its law, and who expresses their lack of nationality”. Regarding exclusions, the Royal Decree states that “under no circumstances will the status be granted to those included within any of the cases set forth in Article 1.2 of the Convention”.	Real Decreto 865/2001, de 20 de julio, por el que se aprueba el Reglamento de reconocimiento del estatuto de apatridia. Publicado en: «BOE» núm. 174, de 21 de julio de 2001, páginas 26603 a 26606 (4 págs.). Art. 1: http://cort.as/-K_ZY (SP)
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. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a) . 2. There is no dedicated SDP but there are other administrative procedures through which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures) (proceed to Question 10a) . 3. There is a dedicated Stateless Status but no formal procedure for determining this (proceed to Question 15a) . 4. None of the above. Are there other possibilities for stateless people to regularise their stay without their statelessness being determined (proceed to Question 16a) ?	UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR (2016) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	#1: Royal Decree 865/2001 (Status Determination Procedure).	Real Decreto 865/2001: http://cort.as/-K_ZY (SP)
SDS	2	a	Access to procedure (SDP)	Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise. UNHCR (2016) : It is important that examiners develop expertise while ensuring that the procedures are accessible.	Yes. The <i>Oficina de Asilo y Refugio</i> -OAR- (Asylum and Refuge Office), in Madrid, reviews applications and conducts the administrative proceedings. Applications can be submitted either at the OAR, or in any of the Police Stations or Immigration Offices across the territory (there is at least one in each of the 50 provinces, as well as in Ceuta and Melilla).	Cuerpo Nacional de Policía. Oficinas de tramitación para ciudadanos extranjeros: http://cort.as/-KmZb (SP) Cuerpo Nacional de Policía. Apatridia: http://cort.as/-KmZh (SP)
SDS	2	b		Are there clear, accessible instructions on how to make a claim of statelessness?	UNHCR (2014) : For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). UNHCR (2016) : Information on the procedure and counselling services must be available to potential	The standardised application form can be found on the Ministry of the Interior’s website, in the <i>Oficina de Asilo y Refugio</i> section (Statelessness subsection). The first search results after googling the terms “statelessness statute application form (“ <i>solicitud estatuto de apatridia formulario</i> ”) lead to the form. Although basic, this requires	Application form: http://cort.as/-KmZr (SP) Brochure: http://cort.as/-KmaF (SP) [it is also available in English, French and Arabic: http://cort.as/-RVZx (SP)]

Stateless Determination and Status – 2019

				applicants in a language they understand.	computer and internet skills in order to access it. Information is available in some police stations and immigration offices, but it is usually offered in the form of a brochure, which provides details of the international protection procedure in different languages.	
SDS	2	c		Can submissions be made orally and/or in writing in any language?	ENS (2013) : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.	Submissions can only be made in written form through a standardised form, which is only available in Spanish. Application form: http://cort.as/-KmZr (SP)
SDS	2	d		Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements.	ENS (2013) : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.	Yes. The form is only available in Spanish; it includes complex legal questions, such as “¿Le reconocen los derechos y obligaciones inherentes a la posesión de la nacionalidad en algún país?” (“Do you enjoy the rights and obligations attached to the possession of the nationality of any State?”); also, the field where applicants must write down the reasons for their application is restricted to four lines (on p.3 of the form). On a computer, the space to write continues indefinitely, but only four lines are shown when the form is printed. If the document is sent online, the hidden text can be copied and pasted in order to see it all. However, this does not solve the serious problem of lacking space to express the reasons why an applicant is seeking stateless status. Application form: http://cort.as/-KmZr (SP)
SDS	2	e		Are competent authorities authorised to initiate SDPs <i>ex officio</i> ?	UNHCR (2016) : It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i> . UNHCR (2014) : Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.	Yes. The <i>Oficina de Asilo y Refugio</i> can initiate, <i>ex officio</i> , the procedure when “it becomes aware of facts, data or information which indicates the concurrence of circumstances determining statelessness ”. In practice, this has been used only exceptionally. The National High Court (<i>Audiencia Nacional</i>) reviewed a case where an applicant was refused international protection and an SDP was proposed <i>ex officio</i> . Real Decreto 865/2001, Art. 2.2: http://cort.as/-k_ZY (SP) Sentencia de la Audiencia Nacional n.º 151/2017, de 20 de enero: http://cort.as/-JyBb (SP)
SDS	2	f		Are there obligations in law on authorities to consider the application?	UNHCR (2016) : Access to the SDP must be guaranteed.	Once the application is submitted, the <i>Oficina de Asilo y Refugio</i> has the obligation to review and process it (RD 203/1995) and the Ministry of the Interior shall decide upon the application within 3 months (RD 865/2001). However, the deadline is not complied with in practice. Real Decreto 203/1995, de 10 de febrero, por el que se aprueba el Reglamento de aplicación de la Ley 5/1984, de 26 de marzo, reguladora del derecho de asilo y de la condición de refugiado, modificada por la Ley 9/1994, de 19 de mayo. Publicado en: «BOE» núm. 52, de 2 de marzo de 1995, páginas 7237 a 7246 (10 págs.). Art.3: http://cort.as/-KmaQ (SP) Real Decreto 865/2001, Art. 11.1: http://cort.as/-k_ZY (SP)
SDS	2	g		Is there an application fee?	UNHCR (2016) : Access to the SDP must be guaranteed.	No. Submitting an application does not require the payment of a fee. However, there is a mandatory fee of 21.44 EUR when a Foreigner's Identity Card (Tarjeta de Identidad de Extranjero (TIE)) is issued if Stateless Status is granted , and the documentation recognising the person as stateless or stateless ID costs 10.82 EUR (accurate as at Sept 2019). Immigration Law, Arts. 43 & 44: http://cort.as/-Kmf7 (SP) Fundación Cepaim casework
SDS	2	h		Is there a lawful stay requirement to access the SDP?	UNHCR (2016) : Access to the procedure needs to be open to anyone regardless of lawful stay or residence. ENS (2013) : There is no basis in the 1954 Convention for requiring lawful stay.	No, but the law sets a maximum of one month of irregular stay before submitting applications. After a month of irregular stay, the application is presumed as manifestly unfounded. However, this is not applied in practice, and people can access the SDP regardless of that deadline. Real Decreto 865/2001, Art. 4: http://cort.as/-k_ZY (SP) Fundación Cepaim casework
SDS	2	i		Is there a time limit on access to the SDP?	UNHCR (2016) : Access to the SDP must be guaranteed and not subject to time limits. ENS (2013) : There is no basis in the 1954 Convention to set time limits for individuals to claim stateless status.	Yes. People must submit their applications during their regular stay in Spain or within the first month of irregular stay. Real Decreto 865/2001, Art. 4: http://cort.as/-k_ZY (SP)

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SDS	2	j		Is there training to inform different government bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee (2006) : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	UNHCR Spain organises events and trainings for civil society organisations and relevant stakeholders, and the Office of Asylum and Refuge attends some of them. They did in 2017, in a seminar co-organised with ENS, and they also participated in the event held in 2018. OAR workers are supposed to receive specific training on statelessness, but we cannot confirm that this is happening currently	UNHCR Spain
SDS	2	K		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	UNHCR (2016) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	The law establishes that the competent Public Administrations shall inform the Office of Asylum and Refuge about any procedure or fact that may affect applicants of the statelessness statute.	Real Decreto 865/2001, Art. 7.5: http://cort.as/-K_ZY (SP)
SDS	3	a	Assessment (SDP)	Who has the burden of proof in the SDP in law and practice?	UNHCR (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR (2016) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR Expert Meeting (2010) : 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. Hoti v. Croatia ECtHR (2018) : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.	The burden of proof is shared. The law mandates that 'during the proceedings, the party can produce as much evidence and complementary information it considers relevant' and that the procedure can incorporate 'reports from legally constituted associations whose objectives, among others, are helping and giving advice to stateless people'; and that, 'within its investigating powers, the Office of Asylum and Refuge can collect, both from the state administration bodies and from other national or international entities, as many reports as it deems necessary'. The Supreme Court has stated that the burden of proof is shared, in the sense that there is an 'obvious obligation of cooperation on the part of the Administration' as the law mandates that the competent body shall, ex officio, collect any evidence and reports it deems necessary.	Real Decreto 865/2001, Arts. 8.1 & 8.2: http://cort.as/-K_ZY (SP) Sentencia del Tribunal Supremo n.º 8948/2007, de 20 de noviembre: http://cort.as/-Kmaa (SP)
SDS	3	b		What is the standard of proof? Is it the same as in refugee status determination procedures?	UNHCR (2014) : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). Inter-Parliamentary Union (2018) The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence. Hoti v. Croatia ECtHR (2018) : If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.	The Royal Decree 865/2001 does not cover this issue. It only states that, in order to be granted status, stateless persons must "express the lack of nationality" and comply with the requirements and procedure in place. A Supreme Court landmark decision addressed this issue. It stated that, in terms of standard of proof, it is enough that applicants "manifest their lack of nationality". It also established that the burden of proof is shared, as there is an "obvious obligation of cooperation on the part of the Administration" as the law mandates that the competent body shall, ex officio, collect any evidence and reports it deems necessary.	Real Decreto 865/2001, Arts. 1.1 (standard of proof) & 8 (burden of proof): http://cort.as/-K_ZY (SP) Sentencia del Tribunal Supremo n.º 8948/2007, de 20 de noviembre: http://cort.as/-Kmaa (SP)
SDS	3	c		What measures are in place to guarantee substantive equality for women, children and other groups (e.g. disabled people, older people, LGBTQI people, etc.) at risk of discrimination in the SDP?	UNHCR (2014) : Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of the best interests of the child. Gen. Rec. 32, CEDAW : Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women.	The Royal Decree 865/2001 does not cover this issue and it is not clear whether there are any particular safeguards within the SDP. In the international protection procedure, there is a safeguard to protect children: they are not interviewed when they are part of a family unit. However, the recommendations from EASO, for example, are not implemented: women persecuted on grounds of their sex are often interviewed by male police officers.	Fundación Cepaim
SDS	3	d		Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	Nothing has been published in this regard. The Office of Asylum and Refuge does not use public guidelines; instead, they have their own handbooks, especially for the Saharawi issue. For the rest of nationalities, they use UNHCR's Handbook, and certain instructions on access to nationality issued by the Directorate General of Registries and Notaries.	UNHCR Spain

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SDS	4	a	Procedural Safeguards (SDP)	Is free legal aid available during the procedure?	<p>UNHCR (2014): Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p>ENS (2013): If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.</p>	No. However, applicants for stateless status can enter the national Reception System for asylum seekers, refugees, stateless persons and applicants for stateless statute. The system, operated by NGOs includes free legal aid, among other elements, for its beneficiaries.	<p>Real Decreto 865/2001: http://cort.as/-K_ZY (SP)</p> <p>Sistema de Acogida e Integración para solicitantes y beneficiarios de protección internacional. Manual de gestión. (Mayo 2017 – versión 3.1): http://cort.as/-HOIX (SP)</p> <p>Article 16.2 of Ley Orgánica 12/2009 provides for free legal aid for the asylum procedure.</p>
SDS	4	b		Is an interview always offered (unless granting without interview)?	<p>UNHCR (2014): The right to an individual interview [is] essential.</p>	No. Applicants are not interviewed, unless the person in charge of deciding upon their application deems it essential for their understanding of the case, based on the law provision which states that an interview 'may be required' (Art. 7(4)).	Real Decreto 865/2001, Art. 7.4: http://cort.as/-K_ZY (SP)
SDS	4	c		Is free interpreting offered for statelessness determination interviews?	<p>UNHCR (2014): The right to assistance with interpretation/translation [is] essential.</p> <p>ENS (2013): Assistance should be available for translation and interpretation.</p>	Yes.	Real Decreto 865/2001: Art. 7.3 http://cort.as/-K_ZY (SP)
SDS	4	d		Are there quality assurance audits of the SDP?	<p>UNHCR (2016): Quality assurance audits of SDPs are considered good practice.</p>	The Royal Decree 865/2001 does not mention it, and we are not aware of them in practice.	Fundación Cepaim
SDS	4	e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	<p>UNHCR (2014): States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.</p>	Unlike the Law on Asylum, the law establishing the SDP in Spain does not assign any specific role to UNHCR in the procedure. In practice (and taking into account the UN General Assembly's resolutions from 1996 onwards), UNHCR enjoys a supervisory role (such as the one stated in Article 35 of the Convention Relating to the Status of Refugees). In Spain, UNHCR can access case files when requested by the applicants, and if they deem it necessary, they monitor certain cases.	UNHCR Spain
SDS	4	f		Are decisions (refusals and grants) given in writing with reasons?	<p>UNHCR (2014): States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.</p>	Yes.	<p>Constitución Española. Publicado en: «BOE» núm. 311, de 29 de diciembre de 1978, páginas 29313 a 29424 (112 págs.). Art. 24.1: http://cort.as/Dlgt (SP)</p> <p>Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas. Publicado en: «BOE» núm. 236, de 02/10/2015. Art. 35: http://cort.as/-D3NQ (SP)</p> <p>Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social. Publicado en: «BOE» núm. 10, de 12/01/2000. Art. 20: http://cort.as/ZhSP (SP)</p>
SDS	4	g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	<p>UNHCR (2014): It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months.</p>	The law sets a 3-month deadline. If no decision has been taken within that timeframe, the application is rejected by reason of the absence of a reply ('negative silence' rule), although, in practice, it is not this way. Decisions are rarely taken during those first three months and the 'negative silence' rule is not followed. There is also a delay at the start of the procedure when issuing identification documents for applicants: on several occasions, they submit their claims and wait months before being documented.	<p>Real Decreto 865/2001, Art. 11.1: http://cort.as/-K_ZY (SP)</p> <p>Fundación Cepaim casework and case law. The following recent National High Court decisions show the delay in the decision-making process:</p> <ul style="list-style-type: none"> - Sentencia de la Audiencia Nacional nº 2057/2019, de 13 de mayo: it took 28 months for the Ministry of the Interior to decide. - Sentencia de la Audiencia Nacional nº 2052/2019, de 14 de mayo: 23 months. - Sentencia de la Audiencia Nacional nº 2139/2019, de 14 de mayo: 19 meses.

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SDS	4	h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	UNHCR (2016) : Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants. ENS (2013) : Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.	No official referral mechanism exists. If international protection is rejected, the <i>Oficina de Asilo y Refugio</i> can initiate ex officio the statelessness determination procedure, but, except for exceptional cases, it does not do so in practice.	Fundación Cepaim casework
SDS	5	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for stateless status is assessed or is there a risk of expulsion?	UNHCR (2014) : An individual awaiting a decision is entitled, at a minimum, to all rights based on presence in the territory as well as 'lawfully in' rights (including identity papers, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that individuals receive the same treatment as asylum-seekers. ENS (2013) : States should refrain from expelling or removing an individual pending the outcome of the determination process.	The law mandates that an authorisation for temporary stay can be granted for those who are not subject to deportation proceedings, but deems any application submitted by people subject to deportation proceedings as manifestly unfounded. Applicants receive an identity card (known as a 'green card'), but it often takes months before they are effectively in possession of that document. They are not allowed to work (neither self-employed nor employed), and there is no specific protection against deportation. They have freedom of movement within Spanish territory. They do not receive the same treatment as asylum seekers, who have the right to work from six months after the date of their interview; they also receive identity documents from even before lodging their application (although there are also delays here these mostly relate to renewals and are shorter).	Real Decreto 865/2001, Arts. 4.2 & 5: http://cort.as/-K_ZY (SP) Fundación Cepaim casework
SDS	5	b		Do applicants for stateless status have permission to work and access to assistance to meet their basic needs?	UNHCR (2014) : Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.	Applicants for stateless status do not have the right to work. They have the right to enter the national reception system for asylum seekers, refugees, and stateless people; however, unlike in the case of asylum seekers, stateless applicants are excluded from reception 'Stage 0' of the three-stage system. The reception system provides support for 18 months (renewable up to 24 months in cases of extreme vulnerability). People in the reception system are assisted free of charge by lawyers, psychologists, employment consultants, trainers and tutors; they are accommodated in regular housing facilities overseen by technical staff composed of social workers and mediators. During their first six months in the system, they are provided with accommodation, food, clothing, and cash assistance to cover their most basic needs. From the seventh month onwards and up until the eighteenth, they receive economic grants for basic needs (350 EUR/month) and get a maximum of 376 EUR/month to pay rent. They all have an individual pathway of integration and they are supported by the staff during their stay.	Sistema de Acogida e Integración para solicitantes y beneficiarios de protección internacional. Manual de gestión. (Mayo 2017 – versión 3.1): http://cort.as/-HOIX (SP) Sistema de Acogida e Integración para solicitantes y beneficiarios de protección internacional. Procedimiento de gestión de ayudas. (Enero 2016 - versión 1.0), page 12: http://cort.as/-RYnS (SP)
SDS	5	c		Do applicants for stateless status face a risk of detention?	UNHCR (2014) : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.	Applicants who hold a temporary stay permit cannot be detained; however, there are applicants who have submitted their claims for stateless status but are yet to be identified as such, so they cannot prove that they lodged their applications for protection as a stateless person. Also, the law states that applicants <i>can be</i> granted a temporary stay authorisation; that is, it is not automatic, and it does not exist by default. In practice, applicants are not detained and are not subjected to deportation proceedings.	Real Decreto 865/2001: Art. 5: http://cort.as/-K_ZY (SP) Fundación Cepaim casework
SDS	6	a	Appeals (SDP)	Is there an automatic right of appeal?	UNHCR (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	Yes. There is a two-month deadline for an administrative appeal (Law 29/1998); a one-month deadline for an optional appeal for reconsideration (Law 39/2015); and a four-year deadline or a three-month deadline, depending on the circumstances of the case for an extraordinary appeal for review (Law 39/2015).	Ley 29/1998, de 13 de julio, reguladora de la Jurisdicción Contencioso-administrativa. Publicado en: «BOE» núm. 167, de 14/07/1998. Arts. 25 & 46: http://cort.as/-K_Zg (SP) Ley 39/2015, Arts. 123-4 & 125: http://cort.as/-D3NQ (SP)

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SDS	6	b		Is legal aid available for appeals?	UNHCR (2014) : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : Applicants should have access to legal counsel both at first instance and on appeal.	Yes, it is mandatory and free for applicants without financial means (Law 1/1996). However, legal aid is only available on appeal (judicial review). During the first instance (administrative proceedings), legal aid is not provided for by law, even for those without economic resources.	Ley 1/1996, de 10 de enero, de asistencia jurídica gratuita. Publicado en: «BOE» núm. 11, de 12 de enero de 1996, páginas 793 a 803 (11 págs.). Arts. 1&2: http://cort.as/-KmbV (SP) Real Decreto 865/2001: http://cort.as/-K_ZY (SP)
SDS	6	c		Is there a fee for the appeal application?	UNHCR (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard.	The appeal application is free. The Law excludes natural persons from paying fees in the administrative jurisdiction of national courts. However, the costs of the proceedings are not covered. This can be a barrier to accessing an appeal right in practice.	Ley 10/2012, de 20 de noviembre, por la que se regulan determinadas tasas en el ámbito de la Administración de Justicia y del Instituto Nacional de Toxicología y Ciencias Forenses. Publicado en: «BOE» núm. 280, de 21/11/2012. Art. 4.2(a): http://cort.as/-Kmba (SP) Ley 29/1998, Art. 139: http://cort.as/-RYqa (SP)
SDS	6	d		Is there any evidence of significant errors in decision-making?		The Ministry of the Interior is yet to completely incorporate the Supreme Court and National High Court's criteria, especially regarding Saharawi people, which prolongs in an arbitrary and unjustifiable way the already lengthy process that stateless people must endure in order to get their rights recognised.	Recent judgements that overturned decisions by the Ministry of Interior based on criteria that it is not in line with the case law: - Sentencia de la Audiencia Nacional nº 959/2019, de 11 de marzo. - Sentencia de la Audiencia Nacional nº 350/2019, de 18 de enero. - Sentencia de la Audiencia Nacional nº 3789/2018, de 27 de septiembre.
SDS	7	a	Stateless Status (SDP)	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements.	UNHCR (2014) : The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.	Under Royal Decree 865/2001, recognised stateless people shall have the right to reside in Spain as well as to undertake professional, employment and business activities in line with the Immigration Law. Royal Decree 557/2011 determines that long-term residence will be granted to stateless people on the territory of Spain who have been recognised as stateless under Spanish law.	Real Decreto 865/2001, Art. 13: http://cort.as/-K_ZY (SP) Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009. Publicado en: «BOE» núm. 103, de 30/04/2011. Art. 148.3: http://cort.as/-KBlu (SP)
SDS	7	b		How long is initial status granted for and is it renewable?	UNHCR (2014) : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	Long-term residence is granted indefinitely. The foreigner's identity card (<i>Tarjeta de Identidad de Extranjero</i>) must be renewed every five years, but the authorisation itself is permanent.	Real Decreto 577/2011, Art. 147 & Art. 150: http://cort.as/-KBlu (SP)
SDS	7	c		Is a travel document issued to people recognised as stateless?	UN Convention Relating to the Status of Stateless Persons, 1954 , Article 28.	Yes. It is valid for two years.	Real Decreto 865/2001, Art.13.2: http://cort.as/-K_ZY (SP)
SDS	7	d		Do people recognised as stateless have a right to family reunification?	UNHCR (2014) : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised stateless status in their territory with their spouses and dependents.	Yes, in line with the Immigration Law (<i>Ley de Extranjería</i>) (general regime for foreigners in Spain).	Real Decreto 865/2001, Art. 14: http://cort.as/-K_ZY (SP) Ley Orgánica 4/2000, Art. 17.1: http://cort.as/ZhSP (SP)
SDS	7	e		On what grounds (if any) may residence status granted to stateless people be revoked?	UNHCR (2014) : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954 Convention. This may justify the cancellation of a residence permit on the basis of statelessness, although proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account.	Revocation of residence under Art. 166 RD 577 : Residence may be revoked in the following cases: a) When authorisation has been obtained in a fraudulent manner. b) When an order of expulsion has been issued in the situations foreseen by law. c) When the person is absent from the territory of the European Union for 12 consecutive months. Unless the person holds temporary residence authorisation and work connected to an employment relationship with an NGO, foundation or association inscribed in the relevant general register and officially recognised as cooperating for the public good, and who realises, on behalf of such an organisation, research, development cooperation or humanitarian aid projects abroad. d) When the person has acquired long-term EU residence in another Member State. e) When residence has been obtained by a person recognised as a beneficiary of	Real Decreto 865/2001, Arts. 15 & 16: http://cort.as/-K_ZY (SP) Real Decreto 577/2011, Art. 166: http://cort.as/-KBlu (SP)

					<p>international protection in another Member State, and the authorities of said state have ceased or revoked that protection or denied its renewal.</p> <p>2. Additionally, long term residence authorisation will be cancelled following an absence from Spanish territory of six years. The Director General of Immigration, unless otherwise advised by the Commissioner General for Foreigners and Borders, may determine the non-cancellation of an authorisation in exceptional circumstances.</p> <p>Revocation of stateless status under Art. 15 RD 865: The OAR may initiate a procedure to revoke the decision to grant stateless status when this has been obtained by way of information, documents or declarations that are later evidenced to be false and found to be essential to the final decision. Stateless status will also be revoked where, after recognition, there are well-founded grounds to consider that beneficiaries find themselves involved in one of the causes set out in paragraphs i), ii) and iii) of Art. 1.2 of the 1954 Convention.</p> <p>Cessation of stateless status under Art. 16 RD 865: Stateless status will cease automatically in the following cases:</p> <p>a) If the stateless person has obtained Spanish nationality.</p> <p>b) If the stateless person has been considered a national of another state, or the state where the person has fixed their residence recognises them rights and obligations analogous to the possession of the nationality of that state.</p> <p>c) If their stay and permanence in the territory of another state has been recognised and this state has documented them as a stateless person.</p>		
SDS	7	f		Do people granted stateless status have permission to work?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 17 UNHCR (2014): The right to work must accompany a residence permit.</p>	<p>Yes, recognised stateless people have, in addition to the right to reside in Spain, the right to undertake employment, professional and business activities in line with the Immigration Law, which provides those holding long term residence the right to reside and work in Spain indefinitely under the same conditions as nationals (except in the case of foreign offenders and other exceptional cases set out in law).</p>	<p>Real Decreto 865/2001, Art. 13.1: http://cort.as/-K_ZY (SP)</p> <p>Ley Orgánica 4/2000, Art. 32.1 & 36.1: http://cort.as/ZhSP (SP)</p>
SDS	7	g		Do people granted stateless status have access to primary, secondary, and higher education?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 22</p>	<p>Yes, minors under 16 years-old have the right to education including access to free, obligatory, primary education. Foreigners under 18 years-old also have the right to post-obligatory education. This right includes the right to obtain corresponding academic certificates and access to the public system of scholarships and support on the same basis as nationals. If the person reaches 18 years of age during the school year, they maintain the right until the year-end. Foreigners over 18, have the right to education set out in education law, but in any case, they have the right to access post-obligatory education, obtain corresponding certificates, and to the public scholarship/support system on the same basis as nationals.</p>	<p>Ley Orgánica 4/2000, Art. 9: http://cort.as/ZhSP (SP)</p>
SDS	7	h		Do people granted stateless status have access to social security and healthcare?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Articles 23 & 24 UNHCR (2014): The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.</p>	<p>Yes. Recognised stateless people have the right to social security and healthcare in line with law.</p>	<p>Ley Orgánica 4/2000, Arts. 10.1, 14.1 & 12: http://cort.as/ZhSP (SP)</p>
SDS	8	a	Access to nationality (SDP)	In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32 UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p>	<p>Under the Civil Code, continuous, legal residence immediately prior to an application for naturalisation is required. For stateless people, the timeframe is 10 years, the same as for foreigners in general. For refugees it is 5 years, and</p>	<p>Real Decreto de 24 de julio de 1889 por el que se publica el Código Civil. Publicado en: «Gaceta de Madrid» núm. 206, de 25/07/1889. Art. 22: http://cort.as/7T42 (SP)</p>

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				others with a foreign nationality?	<p>Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p>ENS (2013): The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.</p>	for people from Latin American countries, Sephardic Jews, Andorra, the Philippines, Equatorial Guinea and Portugal, it is 2 years.	
SDS	8	b		Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe.	<p>Council of Europe Committee of Ministers (1999): States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p>	Yes. Art. 21.2 of the Civil Code establishes that the Ministry of Justice may deny nationality for reasons related to public order or national interest and Art. 22.4 indicates that the applicant must justify good civic conduct and a sufficient level of integration into Spanish society. Good civic conduct is an unclear legal concept developed through jurisprudence. In its sentence of 12 Nov 2002, the Supreme Court indicates that 'good civic conduct' is 'an average standard of conduct capable of being achieved by any culture or individual'. It also establishes that the application for nationality must indicate if the applicant has criminal convictions. A judgement from the High National Court from 2015 indicates that although a previous conviction cannot present an insurmountable obstacle to obtaining nationality, it is true that the presence of criminal convictions makes establishing 'good civic conduct' more difficult.	<p>Código Civil, Arts. 21.2 & 22.4: http://cort.as/7T42 (SP)</p> <p>Decreto de 14 de noviembre de 1958 por el que se aprueba el Reglamento de la Ley del Registro Civil. Publicado en: «BOE» núm. 296, de 11/12/1958. Art. 220(3): http://cort.as/-RYzN (SP)</p> <p>Sentencia de la Audiencia Nacional n.º 21/2016, de 3 de diciembre: http://cort.as/-KmoQ (SP)</p> <p>Sentencia del Tribunal Supremo n.º 7489/2002, de 12 de noviembre. </p>
SDS	8	c		Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements? Please describe the requirements and cost of the procedure for stateless people. [Section complete, proceed to DET].	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32</p> <p>UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p>	A 'sufficient level of integration into Spanish society' is required for naturalisation under the Civil Code. According to Royal Decree 1004/2015, an integration exam (CCSE), cultural test (CSEE) and a language test (DELE A2) must be passed to acquire nationality by residence. Fees apply, for the CSEE it is 85 EUR, for the language test, fees vary depending on the centre (e.g. in Denia the registration fee to sit the exam is 130 EUR). The only exemptions are for minors and people with legal incapacity, who still need to present a series of reports from institutions or entities with which they are linked in order to justify the exemption. There is also a fee for naturalisation - 102 EUR.	<p>Código Civil, Art. 22.4: http://cort.as/7T42 (SP)</p> <p>Real Decreto 1004/2015, de 6 de noviembre, por el que se aprueba el Reglamento por el que se regula el procedimiento para la adquisición de la nacionalidad española por residencia. Publicado en: «BOE» núm. 267, de 7 de noviembre de 2015, páginas 105523 a 105535 (13 págs.). Art. 6: http://cort.as/-RYxQ (SP)</p> <p>CSEE Cultural Test</p> <p>TLC Denia Language School</p> <p>Ministry of Justice, Naturalisation </p>

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).	ICCPR Article 9(1) ECHR Article 5 (1)	Yes, the Immigration Law provides that the competent judge can place third country nationals in detention to guarantee compliance with an expulsion order. The detention must be maintained for the minimum period necessary to execute the expulsion and it cannot exceed 60 days under any circumstances.	Ley Orgánica 4/2000, Art. 62: http://cort.as/ZhSP (SP)
DET	1	b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	ECHR Article 5(1)(f)	No. However, on many occasions, immigration detention is not followed by the execution of the expulsion order. According to statistics from the Spanish Ombudsperson, during the year 2017 a total of 8,237 people were placed in the different Immigration Detention Centres (CIE) and only 3,041 were actually expelled from the country (last statistics available at the date of preparation of this report). A similar trend took place in the previous years. This data appears to suggest excessive and unjustified use of deprivation of liberty regarding immigration detention.	Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017: http://cort.as/-KBI4 (SP)
DET	1	c		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.	ICCPR Article 7 : Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment. Auad v Bulgaria ECtHR (2011) : The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. EU Returns Directive : Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.	There is no specific provision in law on the obligation to identify the country of removal before a person is placed in immigration detention. But, since the purpose of the detention is to ensure the removal, the lack of a proposed country of removal should be taken into account by the competent judge before ordering detention. However, in practice, immigration detention is not used for that purpose in every case. For example, the Spanish Ombudsperson has denounced that people arriving across the maritime borders are placed in detention almost automatically, without taking into account the personal circumstances of the detainees or the likelihood that the expulsion will be carried out.	Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017. Pages 123 - 127: http://cort.as/-KBI4 (SP)
DET	1	d		Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	Auad v Bulgaria ECtHR (2011) Mikolenko v. Estonia ECtHR (2009) : Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR (2014) : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Equal Rights Trust (2012) : States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. International Commission of Jurists (2014) : The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.	Although there is not a specific provision on this matter, statelessness is juridically relevant in administrative immigration detention decisions. Firstly, recognised stateless people enjoy legal residence, so an expulsion may only be proposed if reasons of national security or public order exist (Art. 31, 1954 Convention). In such cases, detention may be considered, but there would be good arguments to reject it. Statelessness affects the prospects of removability, so even when the affected person is not recognised as such, the lack of a country of removal should be considered before ordering detention (see DET 1 c). However, as it was mentioned above, immigration detention is usually ordered automatically, which implies that the authorities "were not identifying people in need of international protection, minors and victims of trafficking, among other situations of vulnerability", according to the Spanish Ombudsperson. No protocol is foreseen to detect the risk of statelessness inside the Immigration Detention Centres, nor does the regulation on statelessness include the possibility of formulating an application from detention centres.	Real Decreto 865/2001, Arts. 13 & 18: http://cort.as/-K_ZY (SP) Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017. Pages 123 - 127: http://cort.as/-KBI4 (SP)
DET	1	e		Are stateless people detained in practice?		Yes. Although no official data is published on the detention of stateless people, cases have been	Servicio Jesuita Migrante - Informe CIE 2016. Page 50: http://cort.as/-KBIO (SP)

						reported by NGOs working on the field.	Fundació Migrastudium: Informe 2016 Centre d'internament d'estrangers (CIE) Zona Franca. Pages 6, 7: http://cort.as/-KBlR (SP) Fundació Migrastudium: Informe 2018 Centre d'internament d'estrangers (CIE) Zona Franca. Page 12: http://cort.as/-KBlV (SP)
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?	UNHCR (2014) : Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. EU Returns Directive : Article 15(1)	The Immigration Law states that the competent judge to decide on immigration detention must make their decision based on the principle of proportionality. According to the Constitutional Court, immigration detention must be considered as an "exceptional measure". In practice, it means that a request of administrative detention by the police may be rejected by the judge if the detainee is sufficiently integrated, which includes circumstances such as the possession of a passport or the existence of a known address, family ties and/or minor dependent children on the Spanish territory. Circumstances like the risk of not showing up when called or the existence of criminal records, administrative sanctions or previous detentions must also be taken into account.	Ley Orgánica 4/2000, Art. 62: http://cort.as/ZhSP (SP) Circular Dirección General de Policía - Comisaría General de Extranjería y Fronteras Nº 6/2014. Criterios para solicitar el ingreso de ciudadanos extranjeros en CIE: http://cort.as/-KBlI (SP) Sentencia del Tribunal Constitucional Nº 115/1987, de 7 de julio: http://cort.as/-KBlI (SP)
DET	1	g		Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability.	ENS (2015) : Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Returns Directive : Article 16(3) EU Returns Handbook (2017) : Attention should be paid to the specific situation of stateless persons. Council of the European Union (2013) : European entities should assess the situation of LGBTI persons in detention.	The Immigration Law specifically bans the expulsion (and, consequently, the detention) of pregnant women, asylum seekers and migrants in charge of school-age children, until completion of the academic year. It also prohibits the detention of unaccompanied minors. Besides, it contains special provisions on people with certain health conditions. Regarding recognised stateless people, see DET 1d. Otherwise, it does not make any mention regarding other vulnerabilities, such as statelessness or risk of statelessness. In practice, detention of people with vulnerability assessments is constantly reported. This affects also those people specifically protected by the law against that kind of measure, such as unaccompanied minors, and, as mentioned above, stateless people and people at risk of statelessness (see DET 1e).	Ley Orgánica 4/2000, Arts. 57.6, 62.1, 62.4: http://cort.as/ZhSP (SP) Real Decreto 557/2011, Art. 246.1: http://cort.as/-KBlU (SP) Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria. Publicado en: «BOE» núm. 263, de 31/10/2009. Art. 18: http://cort.as/gXdr (SP) Servicio Jesuita Migrante (SJM) - Informe CIE 2017 (pages 6, 22, 38, 43): http://cort.as/-KBmC (SP)
DET	2	a	Alternatives to immigration detention	Are alternatives to detention established in law and considered prior to any decision to detain?	ICCPR Article 9 FKAG v Australia HRC (2013) : Any decision relating to detention must consider less invasive means of achieving the same ends. UN General Assembly (2009) : Calls upon all States to adopt alternative measures to detention. UNHCR (2014) : Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient. Human Rights Council (2012) : The obligation to always consider alternatives before resorting to detention should be established by law. EU Returns Directive : Article 15(1) Equal Rights Trust (2012) : States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive. International Detention Coalition (2015) : Immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.	The Immigration Law provides several alternatives to detention to ensure the compliance of an expulsion order and even authorises the competent judge to order any measure not provided in the law that may be considered appropriate and sufficient. Nevertheless, these measures have not been developed and, in practice, except for the withdrawal of the passport, they are barely used.	Ley Orgánica 4/2000, Art. 61: http://cort.as/ZhSP (SP) European Commission (DG Home Affairs), «Evaluation on the application of the Return Directive (2008/115/EC)», October 22nd, 2013, pages 29-34: http://cort.as/-KBmG (EN) Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017. Pages. 127 - 130: http://cort.as/-KBl4 (SP)
DET	2	b		Is there evidence that immigration detention is used in	As above.	Yes. According to the European Commission, the absence of available information on alternative measures	European Commission (DG Home Affairs), «Evaluation on the application of the Return Directive

				practice prior to all alternatives being considered?		to detention, except in the case of the withdrawal of the passport, evidences its lack of use. See also section DET 1b.	(2008/115/EC)», October 22nd, 2013, pages 29-34: http://cort.as/-KBmG (EN)
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	UN Human Rights Council (2010) : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released. UNHCR (2012) : To guard against arbitrariness, maximum periods of detention should be set in national law. EU Returns Directive : Article 15(5) Equal Rights Trust (2012) : Detention should always be for the shortest time possible.	Yes. The maximum length of detention under the Immigration Law is 60 days.	Ley Orgánica 4/2000, Art. 62: http://cort.as/ZhSP (SP)
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	UN General Assembly (1988) : Anyone who is arrested shall be informed at the time of the reason for his arrest. EU Returns Directive : Detention shall be ordered in writing with reasons being given in fact and in law. Equal Rights Trust (2012) : Stateless detainees shall receive their order of detention in writing and in a language they understand. International Commission of Jurists (2014) : The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.	Yes, the Immigration Law provides that the competent judge will decide on the detention request in a motivated manner and will communicate it in writing to the affected person. However, the Law does not specify that this communication must be done in a language known by the detainee. Normally it is written in Spanish. The Immigration Detention Centres (CIE) Regulation establishes that every detainee has the right to be informed in every moment about their situation in a language they understand.	Ley Orgánica 4/2000, Art. 62: http://cort.as/ZhSP (SP) Real Decreto 162/2014, de 14 de marzo, por el que se aprueba el reglamento de funcionamiento y régimen interior de los centros de internamiento de extranjeros. Publicado en: «BOE» núm. 64, de 15 de marzo de 2014, páginas 23236 a 23264 (29 págs.). Art. 16: http://cort.as/-KBii (SP)
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?	Equal Rights Trust (2012) : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.	As soon as a person is detained or an expulsion procedure starts, they have the right to be assisted by a lawyer and an interpreter in a language they understand. This lawyer is entitled to defend the detainee's best interest before the judge competent to decide about the immigration detention and to appeal the expulsion order as well. The immigration detention centre regulations provide for an obligation to inform all detainees of their rights and duties in an understandable language, but there is no specific reference to the SDP in the context of immigration detention.	Ley Orgánica 4/2000, Art. 63.3: http://cort.as/ZhSP (SP) Real Decreto 557/2011, Art. 227.3: http://cort.as/-KBlu (SP) Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal. Publicado en: «BOE» núm. 260, de 17/09/1882. Art. 520: http://cort.as/-NHO (SP) Real Decreto 162/2014, Art. 29: http://cort.as/-KBii (SP)
DET	3	d		Are there regular periodic reviews of detention before a court or independent body, which can order release?	Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Equal Rights Trust (ERT) (2012) : 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.	No, unless the circumstances justifying the detention disappear or new circumstances arise.	Ley Orgánica 4/2000, Arts. 57.6, 62.3: http://cort.as/ZhSP (SP)
DET	3	e		What remedies are available to challenge detention? Please any obstacles to accessing effective remedies in practice.	ICCPR Article 9(4) ECHR: Article 5(4) Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Alimuradov v. Russia ECtHR (2019) : The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.	The detainee can appeal the detention order to the higher court. The appeal might have suspensive effects. However, it rarely happens.	Ley de Enjuiciamiento Criminal, Art. 766: http://cort.as/-NHO (SP) Fundación Cepaim/Catalan Commission for Refugees (CCAR) casework
DET	3	f		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.	Not to our knowledge.	Catalan Commission for Refugees (CCAR) practice
DET	3	g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	UNHCR (2014) : Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. EU Returns Directive : Article 13(3)	See DET 3c - the right to legal aid to challenge detention is provided by law. It will be free in cases where the affected person lacks enough financial means. However, in several occasions both, lawyers and specialised NGOs, have denounced difficulties to	Ley Orgánica 4/2000, Art. 63.3: http://cort.as/ZhSP (SP) Real Decreto 557/2011, Art. 227.3: http://cort.as/-KBlu (SP)

						communicate with clients in detention. Besides, sometimes the communications between them are not very effective: lawyers are based in those cities where the arrest took place and Detention Centres are not always located in these same cities.	Ley de Enjuiciamiento Criminal, Art. 520: http://cort.as/- NHO (SP) Ley 1/1996: http://cort.as/-K_Zj (SP) Servicio Jesuita Migrante (SJM) - Informe CIE 2017: http://cort.as/-KBmC (SP)
DET	4	a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	UN Convention Relating to the Status of Stateless Persons, 1954 : Article 27 UNHCR (2014) : Being undocumented cannot be used as a general justification for detention. ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	Except for asylum seekers, whose applications are submitted to the OAR, people released from detention do not receive any identification document. Regarding re-detention, it can only happen until the maximum length provided by the detention order, which cannot exceed the term of 60 days. That means that a person who has been under detention for that long is totally protected against re-detention.	Real Decreto 162/2014, Art. 38: http://cort.as/-KBii (SP)
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?	Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešnite raboti ECJ (2009) : After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	Generally, the person is released with an expulsion order. There is no special status provided by the Immigration Law for those people in that situation: in the absence of legal status, they have only the basic rights, same as any other irregularly staying migrant.	Ley Orgánica 4/2000: http://cort.as/ZhSP (SP)
DET	4	c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	Equal Rights Trust (2012) : 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.	Yes. See DET 4a.	Real Decreto 162/2014, Art. 38: http://cort.as/-KBii (SP)
DET	5	a	Return & readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	Information about bilateral return or readmission agreements is not always public. Among the agreements that we have been able to consult (Morocco, Algeria, Guinea Bissau, Mauritania, Gambia, Guinea-Conakry, Cabo Verde, Niger and Mali) there are no specific provisions on statelessness.	Acuerdo de 13 de febrero de 1992 entre el Reino de España y el Reino de Marruecos relativo a la circulación de personas, el tránsito y la readmisión de extranjeros entrados ilegalmente (B.O.E. nº 100 de 25/4/1992 y Corrección de Erratas, B.O.E. nº 130, de 30/5/1992): http://cort.as/-GzBe (SP) Protocolo entre el Gobierno de España y el Gobierno de la República Argelina Democrática y Popular sobre circulación de personas, hecho en Argel el 31 de julio de 2002 (B.O.E. nº 37 de 12/2/2004): http://cort.as/-KBn8 (SP) Acuerdo de Cooperación en materia de inmigración entre el Reino de España y la República de Guinea Bissau, hecho «ad referendum» en Bissau el 27 de enero de 2008 y Canje de Notas de fechas 11 de julio y 29 de septiembre de 2008, efectuando rectificaciones (BOE nº 134 de 03/06/2009): http://cort.as/-KBnC (SP) Convenio entre el Reino de España y la República Islámica de Mauritania sobre cooperación en materia de seguridad, hecho ad referendum en Madrid el 26 de mayo de 2015 (BOE nº 118 de 15 de mayo de 2018): http://cort.as/-KBnE (SP) Acuerdo Marco de Cooperación en materia de inmigración entre el Reino de España y la República de Gambia, hecho «ad referendum» en Banjul el 9 de octubre de 2006 (B.O.E. nº 310 de 28/12/2006): http://cort.as/-KBnF (SP)

						<p>Acuerdo de Cooperación en materia de inmigración entre el Reino de España y la República de Guinea, hecho “ad referendum” en Conakry el 9 de octubre de 2006 (B.O.E. nº 26, de 30/1/2007 y Corrección de Erratas, B.O.E. nº 80, de 3/4/2007): http://cort.as/-KBnL (SP)</p> <p>Acuerdo Marco de Cooperación en materia de inmigración entre el Reino de España y la República de Cabo Verde, hecho “ad referendum” en Madrid el 20 de marzo de 2007 (B.O.E. nº 39, de 14/2/2008): http://cort.as/-KBnW (SP)</p> <p>Acuerdo marco de cooperación en materia de inmigración entre el Reino de España y la República de Níger (BOE nº 160 de 03/07/2008): http://cort.as/-KBnZ (SP)</p> <p>Acuerdo Marco de Cooperación en materia de inmigración entre el Reino de España y la República de Mali, hecho en Madrid el 23 de enero de 2007 (BOE nº 135, de 4 de junio de 2008): http://cort.as/-KBnb (SP)</p>
DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		<p>We have had knowledge of Sahrawi people returned to Morocco or to Algeria in application of the corresponding readmission agreements (See DET 5a). However, since these people are considered by the official statistics as Moroccan and Algerian nationals, there is no reliable data corroborating this.</p> <p>Catalan Commission for Refugees (CCAR) practice.</p>

Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? [If yes, continue to PRS1b. If no, proceed to PRS1h]	UN Convention on the Reduction of Statelessness, 1961 : Article 1 European Convention on Nationality, 1997 : Article 2 Convention on the Rights of the Child 1989 : Article 7 Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. European Parliament (2018) : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.	Yes. Although Spain only recently acceded to the 1961 Convention (on 13 Nov 2018), its nationality law has complied with the convention standards for some time. The Civil Code attributes Spanish nationality by birth to all those born in Spain to foreign parents 'if both parents lack a nationality or if the legislation of both of their countries of origin does not attribute a nationality to the child', which in theory prevents statelessness at birth.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)
PRS	1	b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	UNHCR (2012) : 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. ENS (2015) : The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.	Automatic.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)
PRS	1	c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	UNHCR (2012) : The test is not an inquiry into whether a child's parents are stateless. ENS (2015) : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.	No.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)
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.	UNHCR (2012) : A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State's nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	In principle, there is no legal requirement for children to prove they cannot access another nationality. However, although not legally enforceable, in certain specific circumstances, civil registrars may require this, at least initially.	Lawyers/NGOs casework practice
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.	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. Convention on the Rights of the Child, 1989 : Articles 3 & 7 Committee on the Rights of the Child (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. European Convention on Nationality, 1997 : Article 6(2)(b)	No.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)
PRS	1	f		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.	Committee on the Rights of the Child (2011) : The outcome of an application by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State. ENS (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)
PRS	1	g		What are the age limits (if any) for making an application for nationality for a	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : Contracting States need to accept applications lodged at a time	There is no age limit.	Código Civil, Art. 17.1(c): http://cort.as/7T42 (SP)

				stateless person born on the territory?	beginning not later than the age of 18 and ending not earlier than the age of 21. ENS (2015) : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.		
PRS	1	h		Are there specific provisions to protect the right to a nationality of children born to refugees?	UNHCR (2012) : Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.	Yes. A child born in Spain to refugee parents may naturalise as Spanish after one year of residence in the country.	Código Civil, Art. 22.2(a): http://cort.as/7T42 (SP)
PRS	2	a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	UN Convention on the Reduction of Statelessness, 1961 : Article 2 European Convention on Nationality, 1997 : Article 6(1)(b)	Yes. The Civil Code attributes Spanish nationality to those born in Spain whose filiation is undetermined. In the case of minors whose place of birth is unknown, the law establishes that 'it will be presumed that minors whose first known place of residence is on the territory of Spain were born on the territory of Spain'. Once this is established, the above provision applies regarding acquisition of nationality. If the birthplace is known to be another country, the nationality law of that other country must first be considered; but if this does not attribute a nationality to the child, then Article 17.1.c would apply.	Código Civil, Art. 17.1(d): http://cort.as/7T42 (SP)
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?	UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	Up to 18 years-old, the application for Spanish nationality can be presented at any moment and automatic acquisition will apply. Upon reaching the age of majority, the person will have two years in which to opt for Spanish nationality from the moment of determining parenthood or fact of birth in Spain.	Código Civil, Arts. 17.1(d) & 17.2: http://cort.as/7T42 (SP)
PRS	2	c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	No.	UN Convention on the Reduction of Statelessness, 1961, Art. 5.1.
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?	UN Convention on the Reduction of Statelessness, 1961 : Article 5 ENS (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No. The original nationality can only be lost if the adopted person is an adult (or emancipated) and is not from a Latin American country, Andorra, Philippines, Equatorial Guinea or Portugal, and any loss is subject to procedural guarantees.	Código Civil, Art. 24.1: http://cort.as/7T42 (SP)
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.	European Convention on Nationality, 1997 : Article 6(4)(d) Committee on the Rights of the Child (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Under the Civil Code, a foreign minor who is adopted by a Spanish national, 'acquires, upon adoption, Spanish nationality by origin'. If the adopted person is an adult, they 'can opt for Spanish nationality by origin within two years of the adoption being constituted'.	Código Civil, Arts. 19.1 & 19.2: http://cort.as/7T42 (SP)
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?	UN Convention on the Reduction of Statelessness, 1961 : Article 4 UNHCR (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	Historically, Spain has operated a legal regime founded on <i>ius sanguinis</i> for the acquisition of nationality. Perhaps the motive for this was the fact that many Spaniards migrated abroad, and this was a way of ensuring that their descendants did not lose Spanish nationality. These criteria are retained today. Whilst the attribution of nationality by birthplace, although by origin, is subsidiary - assuming the parents cannot confer the child a nationality -, the attribution of nationality by descent is automatic, as provided for by Article 17.1.a of the Civil Code. "1. Spanish nationals by origin are a) Those born to a Spanish father or mother." This provision is reinforced by Article 17.1.b, which attributes Spanish	Código Civil, Art. 17.1(a): http://cort.as/7T42 (SP)

						nationality by origin to minors born in Spain "to foreign parents if at least one of them was also born in Spain. The children of diplomatic or consular officials accredited in Spain are excluded from this provision."	
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.)?	Genovese v. Malta ECtHR (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW Gen. rec. No. 32, 2014 : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR (2014) : Action 4	No.	
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?	Convention on the Rights of the Child, 1989 : Article 7 International Covenant on Civil and Political Rights, 1966 : Article 24(2) Council of Europe (2009) : Member states should register the birth of all children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown. UNHCR (2012) : Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR (2014) : Action 7 UN Sustainable Development Goal 16.9	Yes, in principle, all births on Spanish territory are registered. The Law on the Civil Registry establishes that births shall be inscribed in the Civil Registry (Art. 4.1), and that everyone shall have an individual registration in which the facts and relevant acts of identity, civil status and other circumstances under the provisions of the law are established, which will be opened upon birth registration (or first registerable act) (Arts. 5.1&2). New rights arise upon registration, such as the right to be notified, the right to use the Civil Registry in any of the official languages, or the right to access information on the content of the Registry, with the limitations set forth in the Law (Art.11). Moreover, in the case of birth registration, there is an obligation to register the birth on the part of hospital management, clinics and health centres; medical personnel present at the birth if it took place outside of a medical establishment; the parents (except in the case where the mother renounces the child at birth, in which case the obligation falls on the relevant public institution); the closest relative, or if none is available, any adult present at the birth (Art. 45).	Ley 20/2011, de 21 de julio, del Registro Civil. Publicado en: «BOE» núm. 175, de 22/07/2011. Arts. 4.1, 5.1, 5.2, 11 & 45: http://cort.as/-Kmx3 (SP)
PRS	5	b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	UN Human Rights Council, Resolution A/HRC/RES/20/4 : 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. Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : 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.	Yes.	
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.)	Convention on the Rights of the Child, 1989 : Articles 3 & 7	The child's nationality is recorded at birth registration only in the cases of minors born in Spain to a Spanish parent; minors born in Spain to foreign parents where at least one of them was born in Spain; and minors born in Spain whose parentage is undetermined. In the case of minors born in Spain to foreign parents who lack a nationality or are unable to confer nationality to their child, it would be necessary to undertake a procedure for requesting nationality as a rebuttable presumption, relying on the Law on Civil Registry.	Código Civil, Art. 17.1.(a-d): http://cort.as/7T42 (SP) Ley 20/2011, Art. 96.2: http://cort.as/-Kmx3 (SP)

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.	Convention on the Rights of the Child, 1989 : Articles 3 & 7		
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)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : 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.	No.	
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)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : 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.	No.	
PRS	5	g		Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. UN Human Rights Council, Resolution A/HRC/RES/20/4 : Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	No. Although deadlines for registration exist (72 hours, 10 days and 30 days), even when these are surpassed, it is possible to file for an out of time registration before the civil registry. In no case would a birth remain unregistered.	Ley 20/2011, Art. 46: http://cort.as/-Kmx3 (SP)
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	As above, the only additional requirement is the need to file for an out of time registration before the competent authority.	
PRS	6	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR (2014) : Action 7	No.	
PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of statelessness? Please provide details and source of information.	UN Convention on the Reduction of Statelessness, 1961 : Article 9 UNHCR (2014) : Action 4 UN Human Rights Council (2019) : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	Yes. The Saharawi population is the main group affected by statelessness in the Spanish context. The largest proportion of stateless status applications are lodged by Saharawi. Palestinians are also present in Spain, and there are some cases in which certain groups are stateless or at risk: Romanian children born in Spain, some people in Ceuta y Melilla who were never properly registered, and Syrian children born in Spain or abroad to Syrian women. Regarding Palestinians, the Ministry of Interior and the courts follow the criteria set forth by the Supreme Court in 2017: the fact that Spain does not	Sentencia del Tribunal Supremo n.º 994/2017, de 21 de marzo: http://cort.as/-RZbX (SP) ElPaís.com (22 July 2019): Los invisibles en busca de patria: http://cort.as/-RZXF (SP) [info on the situation of some stateless persons in Ceuta and Melilla]

						recognise the State of Palestine does not mean that Palestinians are stateless. The Court argued that the non-recognition is irrelevant, because such State grants protection to their citizens; therefore, they are not stateless. The Court added that the State of Palestine has been recognised by more than 130 countries and holds the status of a non-member observer state in the United Nations.	
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.)	<p>UN Convention on the Reduction of Statelessness, 1961 UNHCR (2014): Actions 1 & 8 UNHCR (2015): States parties to the 1954 Convention are required to help stateless persons become naturalised citizens.</p>	<p>Yes. Spain has recently solved a problem faced by Romanian children in Spain and who lacked any documentation. Some of them were born in Spain, whereas others arrived in the country with the proper documentation, but it was not renewed in time. Spain reached an agreement with the Romanian Government to amend their law in order to provide a case-by-case solution to this issue. This will also apply to future cases.</p> <p>The Spanish Government co-hosted the regional preparatory meeting for the High-Level Segment on Statelessness with UNHCR in April 2019. The goal was to contribute to the midterm review of UNHCR’s “I Belong” campaign that aims to end statelessness by 2024. It did so by building on the experience and good practices of the participants (European Union, Member states, Council of Europe, European Migration Network, Organisation for Security and Co-operation in Europe, European Network on Statelessness, civil society organisations, and academics).</p>	<p>ElPaís.com, 19 July 2019: Rumanía desbloquea la situación de los 200 niños sin papeles que tutela España: http://cort.as/-RZh2 (SP)</p> <p>Ministerio de Asuntos Exteriores, Unión Europea y Cooperación. Nota de prensa 077 (26/04/2019): Conferencia Internacional sobre la Apatridia en Europa: http://cort.as/-RZhW (SP).</p>
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.	<p>UN Convention on the Reduction of Statelessness, 1961: Article 8 European Convention on Nationality, 1997: Article 7(3) Universal Declaration of Human Rights: Article 15(2)</p>	<p>Under the Civil Code there are several ways in which Spanish nationality may be lost.</p> <p>Under Art. 24.1, Spanish nationality is lost by independent persons habitually resident abroad, who voluntarily acquire another nationality or exclusively use another nationality acquired while still a dependent. Loss occurs after three years from the acquisition of the other nationality or from independence. However, loss can be prevented if the person declares their wish to retain Spanish nationality within a designated timeframe to the head of the Civil Registry. Loss does not apply to Spanish nationals by origin if they acquire the nationality of Latin American countries, Andorra, the Philippines, Equatorial Guinea or Portugal.</p> <p>Under Article 24.3 those people who were born and live abroad, whose Spanish parents were also born abroad, and the country they live in attributes them a nationality, will also lose Spanish nationality unless they declare their wish to retain it before the head of the Civil Registry within three years of reaching adulthood or independence. In this case, there are no exceptions for Latin American etc. nationalities.</p> <p>If Spain is at war, none of the above loss clauses apply (Art. 24.4).</p> <p>There is an explicit safeguard to prevent statelessness in all cases of loss under Article 24.</p> <p>Article 25.1 covers different situations in which nationality (not by origin) may</p>	<p>Código Civil, Arts. 24 & 25: http://cort.as/7T42 (SP)</p>

						<p>be lost, including when the person exclusively uses the nationality they renounced in order to acquire Spanish nationality for three years; when the person voluntarily enters the armed forces or exercises political office in a foreign state against the express prohibition of the Government; or when the person has acquired Spanish nationality by deceit, concealment or fraud, although there shall be no prejudicial effects on any third person acting in good faith, so any children are not affected.</p> <p>There is no explicit safeguard to prevent statelessness in the case of loss under Articles 25.1(b) and 25.2.</p>	
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)?	<p>UN Convention on the Reduction of Statelessness, 1961: Article 8(4) European Convention on Nationality, 1997: Article 11</p>	<p>The civil registries, including those in consulates abroad, under the General Directorate of Registries and Notaries. In case of denial, there is a possibility of submitting an appeal for reversal before the Directorate within a month. If the denial is upheld, it could be appealed through contentious-administrative proceedings before the National High Court, within two months. In this case, it would be possible to receive free legal aid.</p>	<p>Ley 39/2015, Art. 123 (appeal for reversal): http://cort.as/Y1r1 (SP)</p> <p>Ley 29/1998, Art. 25 (judicial administrative appeal): http://cort.as/-K_Zg (SP)</p>
PRS	7	c		Are withdrawal provisions applied in practice?		<p>Not normally, except in very specific cases. Although there have been a series of cases where nationality has been withdrawn under Article 24.3 of the Civil Code: “Those who having been born and resided abroad benefit from Spanish nationality based on being the child of a Spanish father or mother, also born abroad, when the law of the country of residence attributes them a nationality, will lose, in all cases, their Spanish nationality unless they declare their wish to retain it before the person in charge of the civil registry within a period of three years from the date of reaching the age of majority or emancipation.” In most cases, this has been due to the person being unaware of the necessity to declare their wish to retain their Spanish nationality within three years of reaching majority. Many have appealed the decision and received a positive response.</p>	<p>Lawyers/NGOs casework practice.</p>

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.		<p>Even though the majority of statelessness claims are rejected by both the Administration and the courts, there are many significant judgements adjudicating statelessness in Spain. Most of them refer to the situation of Saharawi people.</p> <p>Sentencia del Tribunal Supremo n.º 8948/2007 of 20 Nov. was the leading case regarding the recognition of stateless status to the people of Saharawi origin. The court performs an accurate historic and legal analysis of the situation of Western Sahara and its inhabitants and concludes that the appellant, a Saharawi herself, does not have Spanish, Algerian or Moroccan nationality nor is under the protection of the MINURSO (UN Mission for the Referendum in Western Sahara), circumstance that may have excluded her from the recognition of stateless status. It also states that Saharawi people cannot be forced to accept Moroccan nationality against their will. After this pioneering judgement, many others following recognised stateless status to Saharawi people.</p> <p>There are also other judgements adjudicating statelessness not specifically related to the particular situation of the Saharawi people. Some of them include:</p> <p>Sentencia de la Audiencia Nacional n.º 5776/2008, of 2 April, about an individual born in Libya to Palestinian parents who was not under the effective protection of UNRWA.</p> <p>Sentencia de la Audiencia Nacional n.º 4103/2009, of 21 Sept, about an individual born in Moldova to a Russian father and a Moldovan mother before the dissolution of the USSR and not recognised as a national by either of these two countries.</p>	<p>Sentencia del Tribunal Supremo n.º 8948/2007, de 20 de noviembre: http://cort.as/-JvDC (SP)</p> <p>Sentencia del Tribunal Supremo n.º 3754/2012, de 29 de mayo: http://cort.as/-Jv9n (SP)</p> <p>Sentencia del Tribunal Supremo n.º 3212/2012, de 11 de mayo: http://cort.as/-JvAV (SP)</p> <p>Sentencia del Tribunal Supremo n.º 2824/2012, de 27 de abril: http://cort.as/-JvAr (SP)</p> <p>Sentencia del Tribunal Supremo n.º 6589/2011, de 14 de octubre: http://cort.as/-JvBn (SP)</p> <p>Sentencia del Tribunal Supremo n.º 4083/2008, de 18 de julio: http://cort.as/-JvCT (SP)</p> <p>Sentencia del Tribunal Supremo n.º 6381/2008, from November 11th: http://cort.as/-JvDy (SP)</p> <p>Sentencia de la Audiencia Nacional n.º 5776/2008, from April 2nd: http://cort.as/-Jvf0 (SP)</p> <p>Sentencia de la Audiencia Nacional n.º 4103/2009, from September 21st: http://cort.as/-Jvjb (SP)</p>
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		<p>Statelessness has been addressed in a high number of judgements, mainly in terms of grounds for asylum, acquisition of Spanish nationality and the SDP itself. A selection of these can be found here:</p> <p>Sentencia del Tribunal Supremo n.º 4089/2008, of 18 July, regarding the difference between "de iure" statelessness and "de facto" statelessness. The court states that only "de iure" stateless people can be granted stateless status under the Spanish SDP.</p> <p>Sentencia del Tribunal Supremo n.º 6566/2004, of 12 May. The court states that the recognition of stateless status requires not only the statement of the interested party and the evidence of not having a passport, but also to prove sufficiently that any country recognises the person as a national.</p> <p>Sentencia del Tribunal Supremo n.º 994/2017, of 21 March. The court states that the fact that Spain does not recognise a particular State does not mean that it must grant stateless status to all its nationals, especially</p>	<p>Sentencia del Tribunal Supremo n.º 4089/2008, from July 18th: http://cort.as/-Jvrrp (SP)</p> <p>Sentencia del Tribunal Supremo n.º 6566/2004, from May 12th: http://cort.as/-JvFz (SP)</p> <p>Sentencia del Tribunal Supremo n.º 994/2017, from March 21st: http://cort.as/-Jy4t (SP)</p> <p>Sentencia de la Audiencia Nacional n.º 151/2017, from January 20th: http://cort.as/-JyBb (SP)</p> <p>More Spanish jurisprudence on statelessness can be found in Consejo General del Poder Judicial - Jurisprudencia: http://cort.as/3qLu (SP)</p>

						when that particular State enjoys a majority recognition among the international community. As long as that State provides protection to its nationals, statelessness is excluded.	
						Sentencia de la Audiencia Nacional n.º 151/2017, of 20 Jan. The asylum claim submitted by the interested party is denied and an SDP is proposed ex officio.	
LIT	2	a	Legal training	Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	<p>UNHCR (2016): 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.</p> <p>UNHCR (2010): It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.</p>	<p>Yes, there are trainings and conferences/seminars addressed to professionals and students, which are periodically provided by NGOs, such as the Catalan Commission for Refugees (CCAR), Fundación Cepaim and ENS.</p> <p>OAR workers are supposed to receive specific training on statelessness, but we cannot confirm that this is happening currently.</p>	<p>Catalan Commission for Refugees (CCAR) - Facing statelessness. Introduction to the situation of people without nationality (online course): http://cort.as/-K_Vd (SP, CAT)</p> <p>Catalan Commission for Refugees (CCAR) practice.</p> <p>Fundación Cepaim - Two trainings: (1) Basic training on international protection; (2) Periodic training and specialisation course on international protection. Information available at: http://cort.as/-RZ6s (SP)</p>
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.	<p>UNHCR (2014): Applicants must have access to legal counsel.</p>	<p>Yes. However, legal advice concerning the SDP is not guaranteed by law and it is usually provided only by specialised and pro bono organisations and not by public institutions. In case the interested party desires to appeal a decision on a statelessness claim, they have the right to request a lawyer from a lawyers' professional association which, in case of not having enough financial means, will be free of charge.</p>	<p>Real Decreto 865/2001: http://cort.as/-K_ZY (SP)</p> <p>Ley 29/1998 Arts. 23 & following: http://cort.as/-K_Zg (SP)</p> <p>Ley 1/1996: http://cort.as/-K_Zi (SP)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR): https://www.cear.es/</p> <p>Catalan Commission for Refugees (CCAR): http://www.ccar.cat/?lang=es</p> <p>Fundación CEPAIM: http://cepaim.org/</p> <p>ACCEM: https://www.accem.es/</p> <p>Spanish Red Cross: https://www2.cruzroja.es/</p>
LIT	4	a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		<p>Yes. Domestic literature mainly focuses on the acquisition of Spanish nationality and immigration issues, but nevertheless provides important and useful insights regarding statelessness.</p>	<p>J. Soroeta Liceras. «La problemática de la nacionalidad de los habitantes de los territorios dependientes y el caso del Sáhara Occidental». Universidad de Navarra, 1999: http://cort.as/-K_b6 (SP)</p> <p>A. Alvarez Rodríguez. «Nacionalidad de los hijos de extranjeros nacidos en España». Ministerio de Trabajo y Asuntos Sociales, Observatorio Permanente de la Inmigración, 2009: http://cort.as/-K_gf (SP)</p> <p>J. Roldán Barbero, Jurisprudencia en materia de derecho internacional público. Revista Española de Derecho Internacional, 2012: http://cort.as/-K_iG (SP)</p> <p>J.C. Fernández Rojas. «Ley aplicable a los individuos que carecen de nacionalidad o la tienen indeterminada: artículo 9, apartado 10 del Código Civil». Edersa, 1995: http://cort.as/-Bo29 (SP)</p> <p>M. Aguilar Benítez de Lugo. «La prevención de la apatridia como criterio de la nacionalidad española de origen». Universidad de Sevilla, 2005.</p>