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Country context (optional)

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

## International and Regional Instruments

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB.1.a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>	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: <a href="http://cort.as/-KBSz">http://cort.as/-KBSz</a> (SP)  United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: <a href="http://cort.as/-KBT2">http://cort.as/-KBT2</a> (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: <a href="http://cort.as/-KBSz">http://cort.as/-KBSz</a> (SP)  United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: <a href="http://cort.as/-KBT2">http://cort.as/-KBT2</a> (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: <a href="http://cort.as/-KBSz">http://cort.as/-KBSz</a> (SP)  United Nations Treaty Collection. <i>Convention relating to the Status of Stateless Persons</i> . New York, 28 September 1954: <a href="http://cort.as/-KBT2">http://cort.as/-KBT2</a> (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: <a href="http://cort.as/-KBSz">http://cort.as/-KBSz</a> (SP)
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a>	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: <a href="http://boe.es">BOE.es</a> - <a href="http://boe.es">BOE-A-2018-15455</a> <a href="#">Instrumento de adhesión a la Convención para reducir los casos de apatridia, hecha en Nueva York el 30 de agosto de 1961 (ES)</a>  United Nations Treaty Collection. <i>Convention on the Reduction of Statelessness</i> . New York, 30 August 1961: <a href="http://cort.as/-KBTO">http://cort.as/-KBTO</a> (EN)
IOB.2.b		If yes, when was ratification/accession?		Acceded on 25 September 2018, entered into force on 24 December 2018 (art. 18).	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: <a href="http://cort.as/-KBTK">http://cort.as/-KBTK</a> (SP)  United Nations Treaty Collection. <i>Convention on the Reduction of Statelessness</i> . New York, 30 August 1961: <a href="http://cort.as/-KBTO">http://cort.as/-KBTO</a> (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	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: <a href="http://cort.as/-KBTK">http://cort.as/-KBTK</a> (SP)  United Nations Treaty Collection. <i>Convention on the Reduction of Statelessness</i> . New York, 30 August 1961: <a href="http://cort.as/-KBTO">http://cort.as/-KBTO</a> (EN)

				<p>accordance 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 Gibraltar 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>	
IOB.2.d		Does the Convention have direct effect?	As above	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: <a href="http://cort.as/-KBTK">http://cort.as/-KBTK</a> (SP)
IOB.3.a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	<a href="#">European Convention on Nationality, 1997</a>	No.	Council of Europe. Chart of signatures and ratifications of Treaty 166, European Convention on Nationality 1997. Status as of 13/06/2019: <a href="http://cort.as/-KBiW">http://cort.as/-KBiW</a> (EN)
IOB.3.b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	<a href="#">European Convention on Human Rights, 1950</a>	Yes. 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: <a href="http://cort.as/-IU0w">http://cort.as/-IU0w</a> (SP)</p> <p>Council of Europe. Chart of signatures and ratifications of Treaty 005, Convention for the Protection of Human Rights and Fundamental Freedoms 1950. Status as of 13/06/2019: <a href="http://cort.as/-KBiy">http://cort.as/-KBiy</a> (EN)</p>

IOB.3.c	State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	<a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a>	No.	Council of Europe. 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: <a href="http://cort.as/-KBiv">http://cort.as/-KBiv</a> (EN)
IOB.3.d	Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)? Please list any relevant reservations.	<a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)</a>	Yes. By Royal Decree 162/2014, of March 14 (partially) and by Organic Law 2/2009, of December 11.	<p>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: <a href="http://cort.as/-S_vp">http://cort.as/-S_vp</a> (SP)</p> <p>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: <a href="http://cort.as/-KBii">http://cort.as/-KBii</a> (SP)</p> <p>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: <a href="http://cort.as/-KBio">http://cort.as/-KBio</a> (SP)</p>
IOB.3.e	State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	<a href="#">Convention on the Rights of the Child, 1989</a>	<p>Yes. Ratified on 6 December 1990.</p> <p>"Declarations:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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."</li> </ol>	<p>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: <a href="http://cort.as/-DSFI">http://cort.as/-DSFI</a> (SP)</p> <p>United Nations Treaty Collection. <i>Convention on the Rights of the Child</i> New York, 20 November 1989: <a href="http://cort.as/-DSFI">UNTC</a> (EN)</p>
IOB.3.f	State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Civil and Political Rights, 1966</a>	Yes. Ratified on 27 April 1977, entered into force on 27th July 1977.	<p>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: <a href="http://cort.as/yWAS">http://cort.as/yWAS</a> (SP)</p> <p>United Nations Treaty Collection. <i>International Covenant on Civil and Political Rights</i>. New York, 16 December 1966: <a href="http://cort.as/-KBTQ">http://cort.as/-KBTQ</a> (EN)</p>
IOB.3.g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Economic, Social and Cultural Rights, 1966</a>	Yes. Ratified on 27 April 1977, entered into force on 27th July 1977.	<p>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: <a href="http://cort.as/ok9Z">http://cort.as/ok9Z</a> (SP)</p> <p>United Nations Treaty Collection. <i>International Covenant on Economic, Social and Cultural Rights</i>. New York, 16 December 1966: <a href="http://cort.as/-KBiO">http://cort.as/-KBiO</a> (EN)</p>

IOB.3.h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	<a href="#">Convention on the Elimination of all Forms of Discrimination Against Women, 1979</a> <a href="#">CEDAW, Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness</a>	Yes. Ratified on 5 January 1984, entered into force on 4th February 1977.	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: <a href="http://cort.as/-KBij">http://cort.as/-KBij</a> (SP)  United Nations Treaty Collection. <i>Convention on the Elimination of All Forms of Discrimination against Women</i> . New York, 18 December 1979: <a href="#">UNTC</a> (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.	<a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984</a>	Yes. Ratified on 21 October 1987, entered into force 20th November 1987.	Instrumento de ratificación de la Convención contra la tortura y otros tratos o penas crueles, inhumanos o degradantes, hecha en Nueva York el 10 de diciembre de 1984. Publicado en el «BOE» núm. 268, de 9 de noviembre de 1987, páginas 33430 a 33436 (7 págs.): <a href="https://bit.ly/37jSB9b">https://bit.ly/37jSB9b</a> (SP).  United Nations Treaty Collection. <i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> . New York, 10 December 1984: <a href="#">UNTC</a> (EN).  United Nations Treaty Collection. <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> . New York, 7 March 1966: <a href="#">UNTC</a> (EN)
IOB.3.j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	<a href="#">International Convention on the Elimination of All Forms of Racial Discrimination, 1965</a>	Yes. 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: <a href="http://cort.as/-KBiB">http://cort.as/-KBiB</a> (SP)  United Nations Treaty Collection. <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> . New York, 7 March 1966: <a href="#">UNTC</a> (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.	<a href="#">International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990</a>	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: <a href="http://cort.as/-KBi-">http://cort.as/-KBi-</a> (EN)
IOB.3.l	State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	<a href="#">Convention on the Rights of Persons with Disabilities, 2006</a>	Yes. Ratified on 3 December 2007, entered into force on 3rd may 2008.	Instrumento de ratificación de la Convención sobre los derechos de las personas con discapacidad, hecho en Nueva York el 13 de diciembre de 2006. Publicado en: «BOE» núm. 96, de 21 de abril de 2008, páginas 20648 a 20659: <a href="https://bit.ly/3m7hEjZ">https://bit.ly/3m7hEjZ</a> (SP).  United Nations Treaty Collection. <i>Convention on the Rights of Persons with Disabilities</i> . New York, 13 December 2006: <a href="https://bit.ly/3m4Nr52">https://bit.ly/3m4Nr52</a> (EN).

## Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the State have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p><a href="#">CEDAW, Gen. Rec. 32 (2014)</a>: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p><a href="#">Council of the European Union, Conclusions on Statelessness (2015)</a>: Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p><a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a>: Improve quantitative and qualitative data on stateless populations.</p> <p><a href="#">ISI, The World's Stateless (2014)</a>: States should strengthen measures to count stateless persons on their territory.</p>	<p><b>Yes.</b> 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>The National Statistics Institute offers updated figures on the number of foreigners in Spain disaggregated by nationality. According to its data, 2,812 people in Spain were stateless in 2020, 3,156 in 2021, and 2,399 in 2022.</p>	<p>2011 Population and Housing Census form: <a href="http://cort.as/-KmW">http://cort.as/-KmW</a> (SP)</p> <p>2011 Population and Housing Census (Collective accommodation establishments): <a href="http://cort.as/-KmWG">http://cort.as/-KmWG</a> (SP)</p> <p>2011 Census data: <a href="http://cort.as/-KmWU">http://cort.as/-KmWU</a> [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): <a href="http://cort.as/-KmWg">http://cort.as/-KmWg</a> [National results – 3.8 Foreign population by sex, age (5-year groups) and country of nationality]</p> <p>Estadística del Padrón Continuo. Principales series de población desde 1988. Tabla "Población extranjera por nacionalidad, provincias, sexo y año": <a href="https://bit.ly/31Fp8TB">https://bit.ly/31Fp8TB</a>.</p> <p>Cifras de Población. Población residente por fecha, sexo, edad, nacionalidad (agrupación de países) y lugar de nacimiento (agrupación de países): <a href="https://bit.ly/31kpgyQ">https://bit.ly/31kpgyQ</a>.</p>
POP.1.b		Do public authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	<p><b>Yes.</b> 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.</p> <p>The annual report on international protection and statelessness from the Ministry of Interior includes disaggregated data on statelessness status applicants by sex, age and country of origin. The "Asilo en cifras 2020" report lists the following countries of origin: Algeria, Morocco, Mauritania, Côte d'Ivoire, Somalia, Guinea, Cape Verde, Angola, Cuba, Armenia, Pakistan, Qatar, Uzbekistan, Iran, China, Kazakhstan, Spain, Italy, Ukraine, Lithuania, France, Germany and the non-recognised States of Sahara and Palestine EONU ("EONU" stands for "Estado Observador de las Naciones Unidas", that is, United Nations Observer State).</p>	<p>2011 Census data (Stateless): <a href="http://cort.as/-KmWg">http://cort.as/-KmWg</a> [National results – 3.8 Foreign population by sex, age (5-year groups) and country of nationality]</p> <p>Ministerio del Interior (2021). Asilo en cifras 2020: <a href="https://www.interior.gob.es">Asilo en cifras 2020 (interior.gob.es)</a> (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	UNHCR records 6,489 stateless people in Spain, according to the last mid-year report (2022) and following UNCHR'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. UNCHR 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.	Refugee Data Finder UNHCR (2023) <a href="https://www.unhcr.org/refugee-statistics/download?url=iDjG4">https://www.unhcr.org/refugee-statistics/download?url=iDjG4</a>
POP.1.d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	No. Different institutions provide different figures from the stateless population in Spain. According to Eurostat, there were 2,150 stateless people in Spain in 2021. According to the National	Eurostat. Population on 1 January by age group, sex and nationality: <a href="http://cort.as/-KmXm">http://cort.as/-KmXm</a>

				Statistics Institute there were 3,156, and UNCHR puts the figure at 6,197 in 2021.	Estadística del Padrón Continuo. Principales series de población desde 1988. Tabla "Población extranjera por nacionalidad, provincias, sexo y año": <a href="https://bit.ly/31Fp8TB">https://bit.ly/31Fp8TB</a> .  UNCHR (2021), <a href="https://bit.ly/31Fp8TB">UNHCR - Global Trends in Forced Displacement – 2020</a>
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	Between 2001 and 2021, the Ministry of Interior has published annual reports on the number of applications and recognition rate of statelessness status. According to the last report, between 2001 and 2020, 13,992 applications were submitted. The same report notes that, in 2020, 3,601 applications were decided upon: 1.803 granting statelessness status, and 352 rejecting the applications. In addition, the report shows that in 2020 nobody was recognised as a stateless person by the courts. Also, the same Ministry published in 2019 a report on migration in Spain, which showed that 1,232 stateless persons were living in Spain in 2017 (this report was not published in 2020).  Also, the Ministry of Interior published the OAR's (Office of Asylum and Refuge) activity report for 2020 showing the same figures.	Ministerio del Interior (2021). Asilo en cifras 2020: <a href="https://bit.ly/31GGqCO">https://bit.ly/31GGqCO</a> (SP)  Ministerio del Interior (2019). Informe la inmigración en España: efectos y oportunidades: <a href="https://bit.ly/3ppAL9S">https://bit.ly/3ppAL9S</a> (SP) (not published in 2021)  <a href="https://bit.ly/3Fa1mjh">Informe de actividad de la Subdirección General de Protección Internacional/Oficina de Asilo y Refugio (Ministerio del Interior), 2021: https://bit.ly/3Fa1mjh</a> (SP)
POP.1.f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	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, there are serious inconsistencies between the different data sources on the exact number of stateless persons in the territory. For instance, Eurostat publishes its stats based on the information provided by the National Statistics Institute and they do not always match.	
POP.1.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the State also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above. <a href="#">EASO/EUAA, Practical guide on registration (2021)</a> : States should collect information from applicants for international protection about their nationality(ies) and potential lack of nationality. When registering families, it is important to collect this data for each family member.	The last official statistics published by the Ministry of the Interior relating to 2020 show 668 international protection applications submitted by citizens of “unrecognised States” (10), Palestine (171), 5 applications made by people with "unknown nationality", and 7 by stateless persons. According to the same report, during 2019, Spain granted international protection to 128 people from “unrecognised States” (all Palestinians).  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 where also recognised as stateless under the stateless statute.	Ministerio del Interior (2020). Asilo en cifras 2019: <a href="https://bit.ly/31GGqCO">Asilo en cifras 2020 (interior.gob.es)</a> (SP)
POP.2.a	Stateless in detention data	Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.	<a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a> : Improve quantitative and qualitative data on stateless populations. <a href="#">CEDAW, Gen. Rec. 32 (2014)</a> : State parties should gather, analyse and make available sex-disaggregated statistical data and trends. <a href="#">ISI, The World's Stateless (2014)</a> : States should strengthen measures to count stateless persons on their territory. <a href="#">Equal Rights Trust, Guidelines (2012)</a> : States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. <a href="#">Council of the European Union, Conclusions on Statelessness (2015)</a> : Recognise the importance of	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. Another information request was submitted in November 2020 and the authorities replied stating that no stateless person had been held in immigration detention in 2020.	Correspondence between Fundación Cepaim and Ministry of the Interior, October 2019 and November 2020.



			exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.		
POP.2.b		Does the State 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. When asked about whether the authorities will publish regular reports with data on migrants held in detention facilities, in its response to the information request in November 2020, the Ministry of Interior stated that it cannot provide an answer to that question as this inquiry cannot be framed within what the law considers as public information.	Fundación Cepaim

## Statelessness Determination and Status

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS.1.a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<a href="#">1954 Convention</a> : Articles 1(1) & 1(2).	<b>Yes.</b> 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”. While the definition provided by the Royal Decree is in line with international law, there are concerns regarding the application of the definition of a stateless person by the courts. The definition of a stateless person in the Spanish version of the 1954 Convention is different than the versions in English and French (the three versions are official), and defines a stateless person as someone who is not recognised as a national by any State “according to its law”. The wording is more restrictive as it only focuses on the law (in theory), but not on its application (in practice). Therefore, some courts have issued judgments stating that a stateless person is not a person who lacks a nationality, but rather a person who does not have the right to acquire one.	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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  National High Court ruling [Sentencia (Sala de lo Contencioso-Administrativo) nº. 68/2020, de 5 de febrero de 2020 (recurso nº. 265/2019)]: <a href="https://bit.ly/2ZkvLcf">https://bit.ly/2ZkvLcf</a> (SP)
SDS.2.a	Training	Is there training to inform different public authorities about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	<a href="#">UNHCR Executive Committee, Conclusion No. 106 (LVII) (2006)</a> : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	Yes, UNHCR Spain and NGOs organise events and trainings on statelessness, 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 events held in 2019, 2020 and 2021. OAR workers are supposed to receive specific training on statelessness, but we cannot confirm that this is happening currently	UNHCR Spain  Fundación Cepaim
SDS.2.b		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. <a href="#">UNHCR, Geneva Conclusions (2010)</a> : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	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.	Catalan Commission for Refugees (CCAR) - Facing statelessness. Introduction to the situation of people without nationality (online course): <a href="http://cort.as/-K_Vd">http://cort.as/-K_Vd</a> (SP, CAT)  Catalan Commission for Refugees (CCAR) practice.  Fundación Cepaim - Two trainings: (1) Basic training on international protection; (2) Periodic training and specialisation course on international protection. Information available at: <a href="#">Formaciones   Fundación Cepaim</a> (SP)

<p>SDS.3.a</p>	<p>Existence of a dedicated SDP</p>	<p>Which of the following best describes the situation in your country? <b>Choose only one and then proceed to question indicated.</b></p> <p><b>1.</b> There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated statelessness status (<b>answer Question SDS.3.b. and proceed to Question 4a).</b></p> <p><b>2.</b> There is no dedicated SDP leading to a dedicated statelessness status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their rights (<b>answer Question SDS.3.b. and proceed to Question 10a).</b></p> <p><b>3.</b> There is a dedicated statelessness status but no formal procedure for determining this (<b>answer Question SDS.3.b. and proceed to Question 15a).</b></p>	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.</p> <p><a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a>: Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.</p>	<p>#1: Royal Decree 865/2001 (Status Determination Procedure).</p>	<p>Real Decreto 865/2001: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)</p>
<p>SDS.3.b</p>	<p>Temporary protection for people fleeing war</p>	<p>Does the State offer a temporary form of protection to stateless people and people at risk of statelessness from Ukraine? Please describe any barriers for stateless people or people at risk of statelessness in accessing the territory or receiving protection (e.g. for people who cannot fulfil eligibility requirements in line with the EU Temporary Protection Directive, if applicable).</p>	<p><a href="#">EU Temporary Protection Directive (2001)</a> <a href="#">EU Council Implementing Decision (2022) establishing the existence of a mass influx of displaced persons from Ukraine &amp; European Commission, Operational guidelines ENS, Briefings on access to protection for stateless people fleeing Ukraine</a>: Everyone fleeing the war in Ukraine should be guaranteed access to the territory. European countries must extend temporary forms of protection to all stateless people and those with undetermined nationality who cannot meet current eligibility requirements, due to their statelessness or documentation status. Lack of documentation should not prevent access to international protection or other forms of protection.</p>	<p>Spain is implementing the EU Temporary Protection Directive for people fleeing Ukraine. Stateless persons who were beneficiaries of international protection or equivalent national protection in Ukraine (including people recognised as stateless in Ukraine), and their family members, and stateless persons who had permanent or temporary 'legal residence' in Ukraine on the basis of a valid legal residence permit, are protected by Spain's Order implementing the TPD (Orden PCM/170/2022).</p> <p>Temporary Protection results in a right to reside for one year (automatically renewed for one more year unless it ceases); right to work; travel documents; right to re-enter Spain from other EU countries; social assistance; and family reunification.</p> <p>People fleeing Ukraine are generally allowed to enter Spain. The Ministry of Inclusion, Social Security and Migration set up four centres for reception, care and referral (CREADEs) for people arriving from Ukraine (in Madrid, Barcelona, Alicante, and Málaga). There are also emergency centres across the country managed by Fundación CEPAIM (in Aragón, Andalucía, Valencia, Madrid, and Murcia) as well as information points in each of these centres. Legal assistance is provided to access temporary protection, as well as psychological assistance and assistance on accessing the reception system for those who do not have financial resources. There is also an initial reception centre in Alicante to assist all applicants for international protection.</p>	<p>Orden PCM/170/2022, de 9 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 8 de marzo de 2022, por el que se amplía la protección temporal otorgada en virtud de la Decisión de Ejecución (UE) 2022/382 del Consejo de 4 de marzo de 2022 a personas afectadas por el conflicto de Ucrania que puedan encontrar refugio en España. <a href="https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-3716">https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-3716</a></p> <p>European Network on Statelessness, Country Briefing, Spain: Information for stateless people and those at risk of statelessness fleeing Ukraine, June 2022: <a href="https://www.statelessness.eu/statelessness-ukraine-crisis">https://www.statelessness.eu/statelessness-ukraine-crisis</a></p>

				<p>People fleeing Ukraine may be eligible for three forms of protection: international protection (refugee status and subsidiary protection), exceptional protection for humanitarian reasons (humanitarian protection), and temporary protection in accordance with EU law. Stateless persons may apply for all forms of protection, subject to eligibility criteria. Temporary protection is the fastest route to protection as it is granted within 24 hours, although protection is granted for a shorter period of time compared to other forms of protection.</p> <p>Alternatively, stateless persons who have fled Ukraine may be eligible to apply under the statelessness determination procedure.</p>	
SDS.4.a	Access to the procedure (Group 1)	Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise.</p> <p><a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a>: It is important that examiners develop expertise while ensuring that the procedures are accessible.</p>	<p>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).</p>	<p>Cuerpo Nacional de Policía. Oficinas de tramitación para ciudadanos extranjeros: <a href="#">Dependencias. Sitio web de la Policía Nacional España (policia.es)</a></p> <p>Cuerpo Nacional de Policía. Apatridia: <a href="#">Apátridas. Sitio web de la Policía Nacional España (policia.es)</a> (SP)</p>
SDS.4.b		Are there clear, accessible instructions on how to make a claim of statelessness?	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p> <p><a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a>: Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	<p>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 computer and internet skills in order to access it.</p> <p>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.</p> <p>Recently the "Oficina de Asilo y Refugio" has issued a clarifying instruction on the appointment systems for statelessness applications.</p>	<p>Application form: <a href="http://cort.as/-KmZr">http://cort.as/-KmZr</a> (SP)</p> <p>Brochure: <a href="http://cort.as/-KmaF">http://cort.as/-KmaF</a> (SP) [it is also available in English, French and Arabic: <a href="http://cort.as/-RVZx">http://cort.as/-RVZx</a> (SP)]</p> <p>OAR Instruction: (attached in email)</p>
SDS.4.c		Can submissions be made orally and/or in writing in any language?	<p><a href="#">ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013)</a>: Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>Submissions can only be made in written form through a standardised form, which is only available in Spanish.</p>	<p>Application form: <a href="http://cort.as/-KmZr">http://cort.as/-KmZr</a> (SP)</p>
SDS.4.d		Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements.	<p><a href="#">ENS (2013)</a>: Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>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 statelessness status.</p>	<p>Application form: <a href="http://cort.as/-KmZr">http://cort.as/-KmZr</a> (SP)</p>

SDS.4.e		Are competent authorities authorised to initiate SDPs <i>ex officio</i> ?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i> . <a href="#">UNHCR, Handbook on Protection (2014)</a> : 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Sentencia de la Audiencia Nacional n.º 151/2017, de 20 de enero: <a href="http://cort.as/-JyBb">http://cort.as/-JyBb</a> (SP)
SDS.4.f		Are there obligations in law on authorities to consider the application?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : 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: <a href="http://cort.as/-KmaQ">http://cort.as/-KmaQ</a> (SP)  Real Decreto 865/2001, Art. 11.1: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.4.g		Is there an application fee?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : 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 21.87 EUR when a Foreigner's Identity Card ( <i>Tarjeta de Identidad de Extranjero</i> (TIE)) is issued if statelessness status is granted, and the documentation recognising the person as stateless or stateless ID costs 11.04 EUR (accurate as of January 2022).	Immigration Law, Arts. 44 & 45: <a href="#">BOE.es - BOE-A-2000-544 Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social</a> (SP)  Public Fees: <a href="#">Extranjeros - Ministerio del Interior</a> Fundación Cepaim casework
SDS.4.h		Is there a lawful stay requirement to access the SDP?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : Access to the procedure needs to be open to anyone regardless of lawful stay or residence. <a href="#">ENS (2013)</a> : 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Fundación Cepaim casework
SDS.4.i		Is there a time limit on access to the SDP?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : Access to the SDP must be guaranteed and not subject to time limits. <a href="#">ENS (2013)</a> : There is no basis in the 1954 Convention to set time limits for individuals to claim statelessness 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.4.j		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.5.a	Assessment (Group 1)	Who has the burden of proof in the SDP in law and practice?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). <a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : SDPs must take into consideration the difficulties inherent in proving statelessness. <a href="#">UNHCR, Geneva Conclusions (2010)</a> : In statelessness determination procedures, the burden of proof should therefore be shared between the applicant and the authorities responsible for making the determination. Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence.	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, <i>ex officio</i> , collect any evidence and reports it deems necessary.	Real Decreto 865/2001, Arts. 8.1 & 8.2: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Sentencia del Tribunal Supremo n.º 8948/2007, de 20 de noviembre: <a href="http://cort.as/-Kmaa">http://cort.as/-Kmaa</a> (SP)

			<a href="#">ECtHR, Hoti v. Croatia (2018)</a> : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.		
SDS.5.b		What is the standard of proof? Is it the same as in refugee status determination procedures?	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').</p> <p><a href="#">UNHCR, Good practices in nationality laws (2018)</a>: The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence.</p> <p><a href="#">ECtHR, Hoti v. Croatia (2018)</a>: If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p>	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): <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Sentencia del Tribunal Supremo nº 8948/2007, de 20 de noviembre: <a href="http://cort.as/-Kmaa">http://cort.as/-Kmaa</a> (SP)
SDS.5.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? In particular, what measures are in place to ensure respect for the best interests of the child in the procedure (burden of proof, guardianship, child-friendly procedures, etc.)?	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children and persons with disabilities may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of pursuing the best interests of the child. Additional safeguards for child claimants include priority processing of their claims, appropriately trained professionals and a greater share of the burden of proof by the State.</p> <p><a href="#">CEDAW, Gen. Rec. 32 (2014)</a>: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women.</p> <p><a href="#">CRC</a>: Articles 2, 3, 7 and 8</p> <p><a href="#">CRPD</a>: Article 18</p> <p><a href="#">UNHCR, Best Interests Procedure Guidelines (2021)</a></p> <p><a href="#">UNHCR, Roundtable on Protection and Solutions for LGBTQI+ People in Forced Displacement (2021)</a></p> <p><a href="#">Global Compact for Safe, Orderly and Regular Migration</a>: Objective 7</p> <p><a href="#">UN Women, Gender-responsive implementation of the Global Compact (2021)</a>: States should put in place measures to regularise the status of migrants leading to permanent residence, with specific attention to migrant women and girls who are stateless.</p> <p><a href="#">European Parliament, Resolution on LGBTIQ rights in the EU (2021)</a>: Calls on Commission and Member States to overcome discrimination against rainbow persons and families.</p>	<p>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.</p> <p>The recent "Comprehensive Protection of Children and Adolescents Law (8/2021)" does not cover this issue specifically within the SDP. However, this newly enacted legislation represents a step forward in the protection of minors in many aspects of the international protection procedure.</p>	Fundación Cepaim  <a href="#">Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia</a> : <a href="https://bit.ly/3f4icpj">https://bit.ly/3f4icpj</a> (SP).
SDS.5.d		Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	<a href="#">ENS (2013)</a> : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	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

SDS.5.e		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 judgments 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.6.a	Procedural safeguards (Group 1)	Is free legal aid available during the procedure?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. <a href="#">ENS (2013)</a> : 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.	No. However, applicants for statelessness 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.	Real Decreto 865/2001: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  <a href="#">Sistema de Acogida e Integración para solicitantes y beneficiarios de protección internacional. Manual de gestión. (June 2021 – versión 5.0)</a> : (SP)  Article 16.2 of <a href="#">Ley Orgánica 12/2009</a> provides for free legal aid for the asylum procedure.
SDS.6.b		Is an interview always offered (unless granting without interview)?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : The right to an individual interview [is] essential.	<b>No.</b> 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.6.c		Is free interpreting offered for statelessness determination interviews?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : The right to assistance with interpretation/translation [is] essential. <a href="#">ENS (2013)</a> : Assistance should be available for translation and interpretation.	<b>Yes.</b>	Real Decreto 865/2001: Art. 7.3 <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.6.d		Are there quality assurance audits of the SDP?	<a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : Quality assurance audits of SDPs are considered good practice.	The Royal Decree 865/2001 does not mention it, and we are not aware of them in practice.	Fundación Cepaim
SDS.6.e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.	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.6.f		Are decisions (refusals and grants) given in writing with reasons?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Yes.	Constitución Española. Publicado en: «BOE» núm. 311, de 29 de diciembre de 1978, páginas 29313 a 29424 (112 págs.). Art. 24.1: <a href="http://cort.as/Dlgt">http://cort.as/Dlgt</a> (SP)  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: <a href="http://cort.as/-D3NQ">http://cort.as/-D3NQ</a> (SP)  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: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)
SDS.6.g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : 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.	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	Real Decreto 865/2001, Art. 11.1: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Fundación Cepaim casework and case law. The following recent National High Court decisions show the delay in the decision-making process:

				identification documents for applicants: on several occasions, they submit their claims and wait months before being documented.	<p>- Sentencia de la Audiencia Nacional nº 2057/2019, de 13 de mayo: it took 28 months for the Ministry of the Interior to decide.</p> <p>- Sentencia de la Audiencia Nacional nº 2052/2019, de 14 de mayo: 23 months.</p> <p>- Sentencia de la Audiencia Nacional nº 2139/2019, de 14 de mayo: 19 meses.</p>
SDS.6.h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	<p><a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a>: Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants.</p> <p><a href="#">EASO/EUAA, Practical guide on registration (2021)</a>: The country or countries of former habitual residence should be recorded in applications for international protection to facilitate follow-up and referral to a dedicated statelessness determination procedure. Statelessness determination should be carried out only by a competent decision-making authority at an appropriate point in time following the final assessment of an asylum claim.</p> <p><a href="#">ENS (2013)</a>: Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.</p>	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.7.a	Protection during SDP (Group 1)	Does the applicant have automatic legal admission while their claim for statelessness status is assessed or is there a risk of expulsion?	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: An individual awaiting a decision is entitled, at a minimum, to all rights based on presence and being 'lawfully in' the territory (including identity documents, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that applicants for statelessness status receive the same treatment as asylum-seekers.</p> <p><a href="#">ENS (2013)</a>: States should refrain from expelling or removing an individual pending the outcome of the determination process.</p>	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).	<p>Real Decreto 865/2001, Arts. 4.2 &amp; 5: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)</p> <p>Fundación Cepaim casework</p>
SDS.7.b		Do applicants for statelessness status have permission to work and access to assistance to meet their basic needs?	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.</p>	<p>Applicants for statelessness 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. The reception system provides support for up to 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 and to pay rent. They all have an individual pathway of integration and they are supported by the staff during their stay.</p> <p>Until recently, stateless applicants were excluded from reception 'Stage 0' of the three-stage reception system (unlike asylum-seekers). However, since the approval of the Royal Decree</p>	<p>Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional. <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2022-4978">https://www.boe.es/buscar/act.php?id=BOE-A-2022-4978</a></p> <p>Instrucción de la Secretaria de Estado de Migraciones, de 15 de diciembre de 2022, por la que se detallan los requisitos de acceso y permanencia en el sistema de acogida de protección internacional: <a href="http://www.migrarconderechos.es/legislationMastertable/legislacion/ISEM_15_12_2022;jsessionid=63A5FB8CDDFF70662FF5B6FF4F8A436AD">http://www.migrarconderechos.es/legislationMastertable/legislacion/ISEM_15_12_2022;jsessionid=63A5FB8CDDFF70662FF5B6FF4F8A436AD</a></p>



				220/2022, stateless persons are included in all phases of the reception system, including the phase of autonomy.	
SDS.7.c		Do applicants for statelessness status face a risk of detention?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : 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 statelessness 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Fundación Cepaim casework
SDS.8.a	Appeals (Group 1)	Is there an automatic right of appeal?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : 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: <a href="http://cort.as/-K_Zg">http://cort.as/-K_Zg</a> (SP)  Ley 39/2015, Arts. 123-4 & 125: <a href="http://cort.as/-D3NQ">http://cort.as/-D3NQ</a> (SP)
SDS.8.b		Is legal aid available for appeals?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. <a href="#">ENS (2013)</a> : 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: <a href="http://cort.as/-KmbV">http://cort.as/-KmbV</a> (SP)  Real Decreto 865/2001: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.8.c		Is there a fee for the appeal application?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : 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): <a href="http://cort.as/-Kmba">http://cort.as/-Kmba</a> (SP)  Ley 29/1998, Art. 139: <a href="http://cort.as/-RYqa">http://cort.as/-RYqa</a> (SP)
SDS.9.a	Statelessness status (Group 1)	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements, admissibility criteria, grounds for refusal or other steps required to access protection.	<a href="#">UNHCR, Handbook on Protection (2014)</a> : The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.	Yes. 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (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: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)
SDS.9.b		How long is initial status granted for and is it renewable?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	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: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)
SDS.9.c		Is a travel document issued to people recognised as stateless?	<a href="#">1954 Convention</a> : Article 28.	Yes. It is valid for two years.	Real Decreto 865/2001, Art.13.2: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)
SDS.9.d		Do people recognised as stateless have a right to family reunification?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunification of those with recognised statelessness status in their territory with their spouses and dependents.	Yes, in line with the Immigration Law ( <i>Ley de Extranjería</i> ) (general regime for foreigners in Spain).	Real Decreto 865/2001, Art. 14: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Ley Orgánica 4/2000, Art. 17.1: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)
SDS.9.e		On what grounds (if any) may residence status granted to stateless people be revoked?	<a href="#">UNHCR, Handbook on Protection (2014)</a> : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954	<b>Revocation of residence under Art. 166 RD 577</b> : Residence may be revoked in the following cases: a) When authorisation has been obtained in a fraudulent manner.	Real Decreto 865/2001, Arts. 15 & 16: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Real Decreto 577/2011, Art. 166: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)

			<p>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.</p>	<p>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 international protection in another Member State, and the authorities of said state have ceased or revoked that protection or denied its renewal.  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><b>Revocation of statelessness status under Art. 15 RD 865:</b> The OAR may initiate a procedure to revoke the decision to grant statelessness 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. Statelessness 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><b>Cessation of statelessness status under Art. 16 RD 865:</b> Statelessness status will cease automatically in the following cases:  a) If the stateless person has obtained Spanish nationality.  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.  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.9.f	Do people granted statelessness status have permission to work?	<p><a href="#">1954 Convention</a>: Article 17  <a href="#">UNHCR, Handbook on Protection (2014)</a>: 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: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)  Ley Orgánica 4/2000, Art. 32.1 &amp; 36.1: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p>	
SDS.9.g	Do people granted statelessness status have access to primary, secondary, and higher education?	<p><a href="#">1954 Convention</a>: 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</p>	<p>Ley Orgánica 4/2000, Art. 9: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p>	

				corresponding certificates, and to the public scholarship/support system on the same basis as nationals.	
SDS.9.h		Do people granted statelessness status have access to social security and healthcare?	<a href="#">1954 Convention</a> : Articles 23 & 24 <a href="#">UNHCR, Handbook on Protection (2014)</a> : The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.	Yes. Recognised stateless people have the right to social security and healthcare in line with law.	Ley Orgánica 4/2000, Arts. 10.1, 14.1 & 12: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)
SDS.9.i		Are stateless people allowed to vote in local and/or national elections? If yes, are there any additional requirements for stateless people to vote (e.g. permanent residence, identification documents, etc.)? <b>[Section complete, proceed to DET]</b>	<a href="#">1954 Convention</a> : Article 7, States shall accord to stateless persons at least the same treatment as is accorded to foreign nationals.	In theory, stateless persons and any other foreign national can vote in local elections, but subject to the principle of reciprocity; that is, if their country of nationality grants this very same right to Spanish nationals on their territory. In practice, the principle of reciprocity cannot be applied in the case of stateless persons, as they do not have the nationality of a country which could grant that right to Spanish nationals. Therefore, they face insurmountable barriers to vote in local elections, even if they are allowed by law.	Spanish Constitution, Arts. 13.2 and 23. <a href="https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229">https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229</a>  Immigration Law, Art. 6. <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2000-544">https://www.boe.es/buscar/act.php?id=BOE-A-2000-544</a>  Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General. BOE núm. 147, de 20 de junio de 1985, páginas 19110 a 19134 (25 págs.), Arts. 176 and 177. <a href="https://www.boe.es/buscar/act.php?id=BOE-A-1985-11672">https://www.boe.es/buscar/act.php?id=BOE-A-1985-11672</a>

Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Immigration detention	<p>Please provide a brief overview of whether immigration detention powers are provided for in law and applied in practice, and whether alternatives to detention are considered.</p> <p>Please provide the legal source(s) and, if available, refer to other publications and sources of information about the law, policy, and practice on immigration detention.</p>	<p><a href="#">ICCPR</a>: Article 9  <a href="#">ECHR</a>: Article 5  <a href="#">EU Return Directive</a>: Article 15  <a href="#">UNHCR, Handbook on Protection (2014)</a>: Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient.  <a href="#">UN General Assembly (2009)</a>: Calls upon all States to adopt alternative measures to detention.  <a href="#">HRC, Report of the Special Rapporteur (2012)</a>: The obligation to always consider alternatives before resorting to detention should be established by law.  <a href="#">International Detention Coalition (2015)</a>: Immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>	<p>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.</p> <p>On many occasions, immigration detention is not followed by the execution of the expulsion order. According to statistics from the Spanish Ministry of Interior, during the year 2020 and despite the COVID19 situation, a total of 2,224 people were placed in the different Immigration Detention Centres (CIE) and only 1,248 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.</p> <p>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.</p> <p>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.</p>	<p>Ley Orgánica 4/2000, Art. 61, 62: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017, pages 127 - 130: <a href="http://cort.as/-KB14">http://cort.as/-KB14</a> (SP)</p> <p>Informe CIE- Servicio Jesuita al Migrante (2021) <a href="https://sime.org/wp-content/uploads/2022/05/Informe-CIE-2021-SJM_reduc.pdf">https://sime.org/wp-content/uploads/2022/05/Informe-CIE-2021-SJM_reduc.pdf</a></p> <p>Circular Dirección General de Policía -Comisaría General de Extranjería y Fronteras Nº 6/2014. Criterios para solicitar el ingreso de ciudadanos extranjeros en CIE: <a href="http://cort.as/-KB1i">http://cort.as/-KB1i</a> (SP)</p> <p>Sentencia del Tribunal Constitucional Nº 115/1987, de 7 de julio: <a href="http://cort.as/-KB1l">http://cort.as/-KB1l</a> (SP)</p> <p>European Commission (DG Home Affairs), «Evaluation on the application of the Return Directive (2008/115/EC)», October 22nd, 2013, pages 29-34: <a href="http://cort.as/-KBmG">http://cort.as/-KBmG</a> (EN)</p>
DET.1.b		<p>Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.</p>	<p><a href="#">ICCPR</a>: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment (Article 7).  <a href="#">ECtHR, Auad v. Bulgaria (2011)</a>: In cases of detention with a view to deportation, lack of clarity as to the destination country could hamper effective control of the authorities' diligence in handling the deportation.  <a href="#">EU Return Directive</a>: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	<p>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.</p>	<p>Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017. Pages 123 - 127: <a href="http://cort.as/-KB14">http://cort.as/-KB14</a> (SP)</p>

DET.1.c		Is there a clear obligation on authorities to release a person when there is no reasonable prospect of removal?	<p><a href="#">EU Return Directive</a>: When it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified and the person concerned shall be released immediately.</p> <p><a href="#">UN Working Group on Arbitrary Detention (2018)</a>: When the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary.</p> <p><a href="#">ECtHR, Auad v. Bulgaria (2011)</a></p> <p><a href="#">ECtHR, Mikolenko v. Estonia (2009)</a></p>	<p>Yes. According with the art. 37 of the Real Decreto 162/2014: " The cessation of admission will be adopted by the director in the following cases (...)</p> <p>c) When there is evidence that the expulsion, return or return may not take effect.</p>	<p>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.</p> <p><a href="https://www.boe.es/buscar/act.php?id=BOE-A-2014-2749">https://www.boe.es/buscar/act.php?id=BOE-A-2014-2749</a></p>
DET.2.a	Identification of statelessness	Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p><a href="#">ECtHR, Auad v. Bulgaria (2011)</a></p> <p><a href="#">ECtHR, Mikolenko v. Estonia (2009)</a>: Detention may only be justified as long as deportation proceedings are being conducted with due diligence.</p> <p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.</p> <p><a href="#">CMW, General comment No. 5 (2021)</a>: States should avoid detaining migrants who have specific needs, which includes stateless persons. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention.</p> <p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights.</p> <p><a href="#">ICJ, Migration and International Human Rights Law (2014)</a>: The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	<p>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. 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).</p>	<p>Real Decreto 865/2001, Arts. 13 &amp; 18: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)</p> <p>Mecanismo Nacional de Prevención de la Tortura - Informe anual 2017. Pages 123 - 127: <a href="http://cort.as/-KBl4">http://cort.as/-KBl4</a> (SP)</p>
DET.2.b		Is there a definition of vulnerability in law? If yes, does it explicitly include statelessness? If not, please note whether statelessness is considered to be a factor increasing vulnerability.	<p><a href="#">PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021)</a>: Statelessness should be explicitly included in the definition of vulnerability. Vulnerability should always be determined and assessed on an individual basis.</p>	<p>No, there is no definition that delimits the concept of vulnerability in detention procedures.</p> <p>Spain transposed the definition of the Return Directive in the Asylum Law 81 (Article 46) and in the Regulation governing detention centres (CIE Regulation, Article 1 (4)).</p> <p>The only vulnerability profiles considered in the art. 62 of Law 4/2000 refer to minors (with exceptions) and people with a situation of serious illness, and the art. 46 of the Asylum Law refer minors and unaccompanied minors.</p> <p>Nevertheless, the 2012 Report of the former UN Special Rapporteur on the human rights of migrants, François Crépeau, found that "migrants who are detained find themselves in an especially vulnerable situation, thus highlighting the inherent vulnerability of all immigration detainees".</p> <p>Amongst the different groups of vulnerability, statelessness is considered as one of them by the UN Special Rapporteur on the human rights of migrants. Their exclusion from consular or diplomatic protection, their frequent lack of documents and the absence of a country to which they can return, make stateless</p>	<p><a href="#">Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria. (boe.es)</a></p> <p><a href="#">Disposición 2749 del BOE núm. 64 de 2014</a></p> <p><a href="#">Informe del Relator Especial sobre los derechos humanos de los migrantes</a></p> <p><a href="#">Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.</a></p>

				persons a group particularly vulnerable to the risk of prolonged detention.	
DET.2.c		Are individual vulnerability assessments carried out before a decision to detain (or soon after)?	<p><a href="#">ENS, Protecting Stateless Persons From Arbitrary Detention (2015)</a>: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p><a href="#">EU Return Directive</a>: Article 16(3)</p> <p><a href="#">EU Return Handbook (2017)</a>: Attention should be paid to the specific situation of stateless persons.</p> <p><a href="#">Council of the European Union, Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons (2013)</a>: European entities should assess the situation of LGBTI persons in detention.</p> <p><a href="#">PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021)</a>: There should be a clear legal obligation to screen and assess individuals' vulnerability before a decision to detain is taken and before individuals are placed into situations of deprivation or restriction of liberty.</p>	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).	<p>Ley Orgánica 4/2000, Arts. 57.6, 62.1, 62.4: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>Real Decreto 557/2011, Art. 246.1: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)</p> <p>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: <a href="http://cort.as/gXdr">http://cort.as/gXdr</a> (SP)</p> <p>Servicio Jesuita Migrante (SJM) - Informe CIE 2020 Link here (<a href="http://sjme.org">sjme.org</a>)</p>
DET.2.d		Are stateless people detained in practice?	As above.	Yes. Although no official data is published on the detention of stateless people, cases have been reported by NGOs working on the field. The number of detentions decreased dramatically in 2020, as detention centres were emptied during the COVID-19 pandemic between March and November 2020.	<p>Servicio Jesuita Migrante - Informe CIE 2016. Page 50: <a href="http://cort.as/-KBIO">http://cort.as/-KBIO</a> (SP)</p> <p>Fundació Migrastudium: Informe 2016 Centre d'internament d'estrangers (CIE) Zona Franca. Pages 6, 7: <a href="http://cort.as/-KBIR">http://cort.as/-KBIR</a> (SP)</p> <p>Fundació Migrastudium: Informe 2018 Centre d'internament d'estrangers (CIE) Zona Franca. Page 12: <a href="http://cort.as/-KBIV">http://cort.as/-KBIV</a> (SP)</p> <p>Cuartopoder (28 December 2020). El año en el que se cerraron los CIE (y se volvieron a abrir). <a href="https://bit.ly/3dj203Q">https://bit.ly/3dj203Q</a> (SP)</p>
DET.3.a	Procedural safeguards	Are there adequate procedural safeguards in place for individuals in immigration detention (e.g. maximum period of detention, automatic release at the end, decisions in writing, regular periodic reviews, judicial oversight, legal aid, etc.)?	<p><a href="#">ICCPR</a>: Article 9(4)</p> <p><a href="#">ECHR</a>: Article 5(4)</p> <p><a href="#">EU Return Directive</a>: Articles 12, 13 and 15(5)</p> <p><a href="#">HRC, Report of the Working Group on Arbitrary Detention (2010)</a>: A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p><a href="#">CMW, General comment No. 5 (2021)</a>: States parties are obligated to adopt legislative and other measures, allocate adequate resources, and provide relevant training to comply with the CMW. There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status.</p> <p><a href="#">UNHCR, Detention Guidelines (2012)</a>: To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means.</p>	<p>The maximum length of detention under the Immigration Law is 60 days. Detainees are automatically released at the end of the maximum period of detention and the Immigration Detention Centres (CIE) must report the release to the court. Undocumented migrants may not be detained for the same reason.</p> <p>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.</p> <p>There are no regular periodic reviews of detention unless the circumstances justifying the detention disappear or new circumstances arise.</p> <p>The detainee can appeal the detention order to the higher court. The appeal might have suspensive effects. However, it rarely happens.</p> <p>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, on several occasions both lawyers and</p>	<p>Ley Orgánica 4/2000, Art. 62: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>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: <a href="http://cort.as/-KBii">http://cort.as/-KBii</a> (SP)</p> <p>Ley Orgánica 4/2000, Arts. 57.6, 62.3: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>Ley de Enjuiciamiento Criminal, Art. 766: <a href="http://cort.as/-NHO">http://cort.as/-NHO</a> (SP)</p> <p>Fundación Cepaim/Catalan Commission for Refugees (CCAR) casework</p> <p>Ley Orgánica 4/2000, Art. 63.3: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>Real Decreto 557/2011, Art. 227.3: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)</p> <p>Ley de Enjuiciamiento Criminal, Art. 520: <a href="http://cort.as/-NHO">http://cort.as/-NHO</a> (SP)</p>

			<p><a href="#">UNGA, Body of Principles (1988)</a>: Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: Stateless detainees shall receive their order of detention in writing and in a language they understand. To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. Detention should always be for the shortest time possible.</p> <p><a href="#">International Commission of Jurists, Migration and International Human Rights Law: A Practitioners' Guide (2014)</a>: The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.</p> <p><a href="#">ECtHR, Kim v. Russia (2014)</a>: The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p>	<p>specialised NGOs have denounced difficulties to 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.</p>	<p>Ley 1/1996: <a href="http://cort.as/-K_Zi">http://cort.as/-K_Zi</a> (SP)</p> <p>Servicio Jesuita Migrante (SJM) - Informe CIE 2017: <a href="http://cort.as/-KBmC">http://cort.as/-KBmC</a> (SP)</p>
DET.3.b		<p>Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?</p>	<p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>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.</p>	<p>Ley Orgánica 4/2000, Art. 63.3: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p> <p>Real Decreto 557/2011, Art. 227.3: <a href="http://cort.as/-KBlu">http://cort.as/-KBlu</a> (SP)</p> <p>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: <a href="http://cort.as/-NHO">http://cort.as/-NHO</a> (SP)</p> <p>Real Decreto 162/2014, Art. 29: <a href="http://cort.as/-KBii">http://cort.as/-KBii</a> (SP)</p>
DET.3.c		<p>Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?</p>	<p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p><a href="#">ENS, Protecting Stateless Persons From Arbitrary Detention (2015)</a>: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.</p>	<p>Not to our knowledge.</p>	<p>Catalan Commission for Refugees (CCAR) practice</p>
DET.4.a	<p>Protections on release</p>	<p>Are people released from detention issued with identification documents (including confirmation of their statelessness status) and protected from re-detention?</p>	<p><a href="#">1954 Convention</a>: Article 27</p> <p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Being undocumented cannot be used as a general justification for detention.</p> <p><a href="#">CMW, General comment No. 5 (2021)</a>: There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Detaining stateless persons when there is no real prospect of removal would render the detention arbitrary, and the detained stateless person must therefore be immediately released.</p> <p><a href="#">ENS, Protecting Stateless Persons From Arbitrary Detention (2015)</a>: State parties to the 1954</p>	<p>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.</p>	<p>Real Decreto 162/2014, Art. 38: <a href="http://cort.as/-KBii">http://cort.as/-KBii</a> (SP)</p>

			<p>Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>		
DET.4.b		<p>If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?</p>	<p><a href="#">CJEU, Kadzoev, C-357/09 PPU (2009)</a>: After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p><a href="#">Equal Rights Trust, Guidelines (2012)</a>: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	<p>Generally, the person is released with an 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.</p>	<p>Ley Orgánica 4/2000: <a href="http://cort.as/ZhSP">http://cort.as/ZhSP</a> (SP)</p>
DET.5.a	Return and readmission agreements	<p>Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?</p>	<p><a href="#">UNHCR, Handbook on Protection (2014)</a>: Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p> <p><a href="#">UNCRC, MKAH v Switzerland, no 95/2019 (2021)</a>: The State in which a stateless child applies for international protection has an obligation under Article 7 CRC to consider whether, if the child was returned to another country, their right to a nationality would be fulfilled (as well as other rights under the CRC).</p>	<p>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.</p>	<p>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): <a href="http://cort.as/-GzBe">http://cort.as/-GzBe</a> (SP)</p> <p>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): <a href="http://cort.as/-KBn8">http://cort.as/-KBn8</a> (SP)</p> <p>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): <a href="http://cort.as/-KBnC">http://cort.as/-KBnC</a> (SP)</p> <p>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): <a href="http://cort.as/-KBnE">http://cort.as/-KBnE</a> (SP)</p> <p>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): <a href="http://cort.as/-KBnF">http://cort.as/-KBnF</a> (SP)</p> <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): <a href="http://cort.as/-KBnL">http://cort.as/-KBnL</a> (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): <a href="http://cort.as/-KBnW">http://cort.as/-KBnW</a> (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): <a href="http://cort.as/-KBnZ">http://cort.as/-KBnZ</a> (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):  <a href="http://cort.as/-KBnb">http://cort.as/-KBnb</a> (SP)</p> <p>Agreements for the readmission of people in an irregular situation published by the Government:  <a href="https://extranjeros.inclusion.gob.es/es/normativa/internacional/readmision/index.html">https://extranjeros.inclusion.gob.es/es/normativa/internacional/readmision/index.html</a></p>
DET.5.b		Are you aware of cases of stateless people being returned under such agreements?		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.	Catalan Commission for Refugees (CCAR) practice.

## Prevention and Reduction

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS.1.a	Naturalisation	In what timeframe do stateless people who are residing on the territory acquire the right to apply for naturalisation, and how does this compare to others with a foreign nationality?	<a href="#">1954 Convention</a> : Article 32 <a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. <a href="#">CoE Committee of Ministers, Recommendation No. R (99) 18 (1999)</a> : Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. <a href="#">ENS (2013)</a> : The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.	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 for people from Latin American countries, Sephardic Jews, Andorra, the Philippines, Equatorial Guinea and Portugal, it is 2 years.	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: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.1.b		Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from naturalising? If yes, please describe.	<a href="#">CoE Committee of Ministers, Recommendation No. R (99) 18 (1999)</a> : 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.	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 judgment 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.	Código Civil, Arts. 21.2 & 22.4: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)  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): <a href="http://cort.as/-RYzN">http://cort.as/-RYzN</a> (SP)  Sentencia de la Audiencia Nacional n.º 21/2016, de 3 de diciembre: <a href="http://cort.as/-KmoQ">http://cort.as/-KmoQ</a> (SP)  Sentencia del Tribunal Supremo n.º 7489/2002, de 12 de noviembre.
PRS.1.c		Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements for naturalisation? Please describe the requirements and cost of the procedure for stateless adults and children, and any direct or indirect barriers to naturalisation caused by discriminatory laws, policies, or practices.	<a href="#">1954 Convention</a> : Article 32 <a href="#">UNHCR, Good Practices Papers – Action 6 (2020)</a> : It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. <a href="#">CoE Committee of Ministers, Recommendation No. R (99) 18 (1999)</a> : Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. <a href="#">UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness (2021)</a> : States should remove or amend discriminatory legal provisions, rules, policies, or practices that directly or indirectly act as barriers to naturalisation.	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 - 103,02 EUR. Regarding the nationality of minors, there are minor differences if the applicant is more or less than 14 years old. In neither case the CCSE and DELE exams will be requested. Instead, a certificate from a "training centre, residence, reception, care or special education will be required in order to prove the sufficient degree of integration, which is mandatory in the case of school-age children". Since June 2021, there are some novelties regarding the authorization of the minor's parents to apply for nationality. A law passed in June 2021 states that minors under 14 who apply for the Spanish nationality no longer need the authorisation of the Civil Registry to do so.	Código Civil, Art. 22.4: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)  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: <a href="http://cort.as/-RYxQ">http://cort.as/-RYxQ</a> (SP)  CSEE <a href="#">Cultural Test</a>  <a href="#">TLC Denia Language School</a>  Ministry of Justice, <a href="#">Naturalisation</a>  <a href="#">Ley 8/2021</a> , de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica: <a href="https://bit.ly/3Gp55e4">https://bit.ly/3Gp55e4</a> (SP)

PRS.2.a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to acquire nationality? <b>[If yes, continue to PRS2b. If no, proceed to PRS2i]</b>	<a href="#">1961 Convention</a> : Article 1 <a href="#">ECN</a> : Article 2 <a href="#">CRC</a> : Article 7 <a href="#">Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC</a> : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. <a href="#">HRC, CCPR General comment No. 17 (1989)</a> : States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. <a href="#">European Parliament resolution (2018)</a> : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.	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.  A judgment from May 2022 recognised for the first time the Spanish nationality of a child born on a boat <i>en route</i> to Spain, in order to prevent a situation of statelessness. The Court held that the safeguard established in the Spanish Civil Code to prevent statelessness of children born in Spain should be applied broadly and by analogy, as this is the only interpretation in compliance with international treaties to which Spain is a party and with the principle of the best interests of the child.	Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)  Sentencia 341/2022 de la Audiencia Provincial de Gipuzkoa: <a href="https://www.poderjudicial.es/cgpi/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Pais-Vasco/Oficina-de-Comunicacion/Archivo-de-notas-de-prensa/La-Audiencia-Provincial-de-Guipuzcoa-reconoce-por-primera-vez-la-nacionalidad-espanola-a-una-nina-nacida-en-patera-cuando-se-dirigia-a-la-costa-gaditana">https://www.poderjudicial.es/cgpi/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Pais-Vasco/Oficina-de-Comunicacion/Archivo-de-notas-de-prensa/La-Audiencia-Provincial-de-Guipuzcoa-reconoce-por-primera-vez-la-nacionalidad-espanola-a-una-nina-nacida-en-patera-cuando-se-dirigia-a-la-costa-gaditana</a>
PRS.2.b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application. <a href="#">ENS, No Child Should Be Stateless (2015)</a> : The 1961 Convention and the European Convention on Nationality oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.	Automatic.	Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.2.c		Are parents provided with information about their child's nationality rights and relevant procedures, including where the child would otherwise be stateless or has undetermined nationality?	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : Contracting States are obliged to provide detailed information to parents of children who would otherwise be stateless or of undetermined nationality about the possibility of acquiring the nationality, how to apply and about the conditions which must be fulfilled. If the child concerned can acquire the nationality of a parent immediately after birth, States that opt to not grant nationality to children in these circumstances must assist parents in initiating the relevant procedure with the authorities of their State or States of nationality.	Not to our knowledge. There is not an automatic procedure for providing such information to the parents, although it could be provided by the territorial civil registries and the Ministry of Justice. However, all births are registered in Spain and it is incumbent on the hospital or health centre management and staff, the parents, the closest relatives or (if none of the above are available) any adult present at the birth, to register the birth of a child. All children are issued with birth certificates upon registration. Late registration is possible without any fee or penalty being incurred.	Servicio Información al Ciudadano: <a href="https://www.mjusticia.gob.es/es/ciudadania/nacionalidad/informacion-nacionalidad">https://www.mjusticia.gob.es/es/ciudadania/nacionalidad/informacion-nacionalidad</a>
PRS.2.d		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : The test is not an inquiry into whether a child's parents are stateless. <a href="#">ENS, No Child Should Be Stateless (2015)</a> : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.	No.	Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.2.e		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State's nationality laws. The burden of proof must be shared between the claimant and the authorities, but in the case of children the State assumes a greater share of the burden of proof. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate	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

			standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.		
PRS.2.f		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	<p><a href="#">1961 Convention</a>: Article 1(2)</p> <p><a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a>: States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all.</p> <p><a href="#">CRC</a>: Articles 3 &amp; 7</p> <p><a href="#">Committee on the Rights of the Child, Concluding observations on the Netherlands (2015)</a>: Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions.</p> <p><a href="#">ECN</a>: Article 6(2)(b)</p>	No.	Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.2.g		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	<p><a href="#">Committee on the Rights of the Child, Concluding observations on Czech Republic (2011)</a>: The outcome of an application by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State.</p> <p><a href="#">ENS, No Child Should Be Stateless (2015)</a>: Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.</p>	No.	Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.2.h		What are the age limits and fees (if any) for making an application for nationality for a stateless person born on the territory?	<p><a href="#">1961 Convention</a>: Article 1(2)</p> <p><a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a>: Contracting States need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21. Where Contracting States grant nationality to individuals who would otherwise be stateless upon application, they are encouraged to accept such applications free of charge.</p> <p><a href="#">ENS, No Child Should Be Stateless (2015)</a>: Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.</p>	There is no age limit and the procedure is free of charge.	<p>Código Civil, Art. 17.1(c): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)</p> <p>Application Form: <a href="https://abogadosextranjeria.org/wp-content/uploads/2020/07/Modelo-de-solicitud-de-nacionalidad-espanola-por-valor-de-simple-presuncion-AbogadoExtranjeria.pdf">https://abogadosextranjeria.org/wp-content/uploads/2020/07/Modelo-de-solicitud-de-nacionalidad-espanola-por-valor-de-simple-presuncion-AbogadoExtranjeria.pdf</a></p>
PRS.2.i		Are there specific provisions to protect the right to a nationality of children born to refugees?	<p><a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a>: Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.</p>	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): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.3.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	<p><a href="#">1961 Convention</a>: Article 2</p> <p><a href="#">ECN</a>: Article 6(1)(b)</p>	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	Código Civil, Art. 17.1(d): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)

				considered; but if this does not attribute a nationality to the child, then Article 17.1.c would apply.	
PRS.3.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	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: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.3.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	<a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : 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.4.a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	<a href="#">1961 Convention</a> : Article 5 <a href="#">ENS, No Child Should Be Stateless (2015)</a> : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	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: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.4.b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	<a href="#">ECN</a> : Article 6(4)(d) <a href="#">Committee on the Rights of the Child, Concluding Observations on Switzerland (2015)</a> : 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: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.5.a	Ius sanguinis	Can children born to nationals abroad acquire nationality by descent ( <i>ius sanguinis</i> ) in general and/or if they would otherwise be stateless?	<a href="#">1961 Convention</a> : Article 4 <a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	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 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."	Código Civil, Art. 17.1(a): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.5.b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	<a href="#">ECtHR, Genovese v. Malta (2011)</a> : The state must ensure that the right to nationality is secured without discrimination. <a href="#">CEDAW, Gen. Rec. 32 (2014)</a> : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any	No.	

			obstacles to practical implementation of such laws are removed. <a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a> : Action 4		
PRS.6.a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the migration or residence status, sexual and/or gender identity of their parents?	<a href="#">CRC</a> : Article 7 <a href="#">ICCPR</a> : Article 24(2) <a href="#">CoE, Recommendation CM/Rec(2009)13 (2009)</a> : Member states should register the birth of all children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown. <a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a> : Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. <a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a> : Action 7 <a href="#">UN Sustainable Development Goal 16.9</a> <a href="#">European Parliament, Resolution on LGBTIQ rights in the EU (2021)</a> : Calls on States to overcome discrimination against rainbow persons and families. <a href="#">UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021)</a> : All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.	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).  In October 2021, a first instance court issued a landmark judgment on the registration of children born abroad who have not yet been registered in any other country. The court held that, to respect the child's right to be registered as soon as possible after birth, the Spanish authorities should register the child's birth. The court noted that, even though the child was born abroad, they had not been registered in any other country and the registration of birth is essential for the child to have a legal identity, acquire a nationality, and prevent a violation of their fundamental rights.	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: <a href="http://cort.as/-Kmx3">http://cort.as/-Kmx3</a> (SP)  <a href="#">Auto Juzgado de Primera Instancia de Montilla, de 15 de octubre de 2021</a>
PRS.6.b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<a href="#">HRC, Resolution A/HRC/RES/20/4 (2012)</a> : Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members. <a href="#">Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC</a> : Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.	Yes.	
PRS.6.c		Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.)	<a href="#">CRC</a> : 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): <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)  Ley 20/2011, Art. 96.2: <a href="http://cort.as/-Kmx3">http://cort.as/-Kmx3</a> (SP)

PRS.6.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, competent authority, and whether the child's best interests are taken into consideration.	<p><a href="#">CRC</a>: Articles 3 &amp; 7  <a href="#">1961 Convention</a>: Articles 1 &amp; 4  <a href="#">UNHCR, Guidelines on Statelessness No. 4 (2012)</a>: States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years.  <a href="#">HRC, CCPR General comment No. 17 (1989)</a>: States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born.  <a href="#">UNHCR, Best Interests Procedure Guidelines (2021)</a>  <a href="#">HRC, D.Z. v. Netherlands (2021)</a></p>	There is no legal framework to determine the child's nationality, but there is a procedure, as stated in the response to question PRS.5.c. by which minors born in Spain to foreign parents who lack a nationality or are unable to confer nationality to their child can request Spanish nationality as a rebuttable presumption, by virtue of the Law on Civil Registry.	Ley 20/2011, Art. 96.2: <a href="http://cort.as/-Kmx3">http://cort.as/-Kmx3</a> (SP)
PRS.6.e		Are there credible reports to suggest that, in practice, children are prevented from registering their birth (or their birth certificate issued abroad is not recognised) because of parents' migration or residence status, sexual and/or gender identity, because they were born as a result of a surrogacy agreement, or other reasons (please specify)?	<p><a href="#">Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC</a>: Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.  <a href="#">Global Compact for Safe, Orderly and Regular Migration</a>: States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration.  <a href="#">Global Compact on Refugees</a>: States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents.  <a href="#">European Parliament Resolution (2018)</a>: Calls on Member States to take immediate corrective measures to stop discriminatory birth registration.  <a href="#">European Parliament, Resolution on LGBTIQ rights in the EU (2021)</a>: Emphasises the importance of the recognition of birth certificates in all EU Member States regardless of the sex of the parents.  <a href="#">UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021)</a>: All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.  <a href="#">Court of Justice of the European Union, V.M.A. v Bulgaria, Case C-490/20 (2021)</a>: Domestic authorities of an EU Member State are required to issue a birth certificate and identity documents to a child who is a national of that state and was born in another EU Member State, including when the birth certificate contains two parents of the same sex.</p>	Not to our knowledge.	

PRS.6.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)? If not, is there a clear firewall to prohibit the sharing of information by other entities with immigration authorities?	<a href="#">Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC</a> and <a href="#">Joint General Comment No. 3 (2017) CMW and No. 22 (2017) CRC</a> : Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children's personal data, in particular biometric data, should only be used for child protection purposes. <a href="#">CoE, ECRI General Policy Recommendation No. 16(2016)</a> : States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.	No. The legislation on data protection prohibits the massive transfer of data between administrations when the purpose is different from the objective for which it is recognized, for instance, the transfer of health data for immigration purposes is prohibited by the Organic Law on Data Protection.  Furthermore, after an unconstitutionality appeal registered by the Basque Parliament, the High Court validated the access of the migration authorities to the data of the municipal register of inhabitants as long as this is carried out "in a timely manner by whoever is expressly authorised to do so" and in relation to "specific data whose need must also be expressly justified".	<a href="#">Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales.</a>  <a href="#">Sentencia 17/2013, de 31 de enero</a>
PRS.6.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.	<a href="#">Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC</a> : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. <a href="#">HRC, Resolution A/HRC/RES/20/4 (2012)</a> : 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: <a href="http://cort.as/-Kmx3">http://cort.as/-Kmx3</a> (SP)
PRS.6.h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	As above, the only additional requirement is the need to file for an out of time registration before the competent authority.	
PRS.7.a	Reducing <i>in situ</i> statelessness	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a> : Action 7	No.	
PRS.7.b		Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information.	<a href="#">1961 Convention</a> : Article 9 <a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a> : Action 4 <a href="#">HRC, Recommendations of the Forum on Minority Issues (2019)</a> : 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 statelessness 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 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.	Sentencia del Tribunal Supremo n.º 994/2017, de 21 de marzo: <a href="http://cort.as/-RZbX">http://cort.as/-RZbX</a> (SP)  EIPaís.com (22 July 2019): Los invisibles en busca de patria: <a href="http://cort.as/-RZXF">http://cort.as/-RZXF</a> (SP) [info on the situation of some stateless persons in Ceuta and Melilla]



PRS.7.c		Has the State implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<p><a href="#">1961 Convention</a>  <a href="#">UNHCR, Global Action Plan to End Statelessness 2014-24 (2014)</a>: Actions 1 &amp; 8  <a href="#">UNHCR, Good Practices Paper - Action 1 (2022)</a>: States generally address and resolve situations of statelessness through law and policy reform enabling stateless persons to acquire nationality automatically by operation of law, through a simple registration process, or through naturalisation. Non-automatic procedures are generally a less effective way to resolve statelessness because they require the person concerned to take certain steps to acquire nationality.</p>	<p>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: <a href="http://cort.as/-RZh2">http://cort.as/-RZh2</a> (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: <a href="http://cort.as/-RZhW">http://cort.as/-RZhW</a> (SP).</p>
PRS.8.a	Deprivation of nationality	Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).	<p><a href="#">1961 Convention</a>: Article 8 &amp; 9  <a href="#">ECN</a>: Article 7(3)  <a href="#">UDHR</a>: Article 15(2)  <a href="#">Principles on Deprivation of Nationality</a> and the <a href="#">Draft Commentary</a>: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 &amp; 6  <a href="#">HRC, Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009)</a>: para. 23  <a href="#">UNHCR Guidelines on Statelessness No.5 (2020)</a>: the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification).  <a href="#">ILEC Guidelines (2015)</a>: Deprivation of nationality must have a firm legal basis, should not be interpreted extensively or applied by analogy and deprivation-provisions must be predictable.</p>	<p>Yes. Under the Civil Code there are several ways in which Spanish nationality may be lost. There is a safeguard against statelessness in some cases, but not all.</p> <p>A person cannot be deprived of Spanish nationality when it was acquired by origin. Under Art. 24.1 of the Civil Code, 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>Deprivation of nationality resulting in statelessness is only possible in the case of naturalised persons and in specific circumstances. Article 25.1 covers different situations in which nationality (not by origin) may be lost, including when the person exclusively uses the nationality they renounced in order to acquire Spanish nationality for three years (25.1(a)); when the person voluntarily enters the armed forces or exercises political office in a foreign state against the express prohibition of the Government (25.1(b)); 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 (25.2).</p>	<p>Código Civil, Arts. 24 &amp; 25: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)</p>

				There is no explicit safeguard to prevent statelessness in the case of loss under Articles 25.1(b) and 25.2.	
PRS.8.b	Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, decision in writing with reasoning, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p><a href="#">1961 Convention</a>: Article 8(4)  <a href="#">ECN</a>: Articles 10 to 13  <a href="#">Principles on Deprivation of Nationality</a>: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation.  <a href="#">ILEC Guidelines (2015)</a>: The consequences of a decision to deprive somebody of his nationality must be assessed against the principle of proportionality. Adequate procedural safeguards are essential. Decisions should only take effect when the (judicial) decision cannot be challenged anymore.</p>		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>Ley 39/2015, Art. 123 (appeal for reversal): <a href="http://cort.as/Y1r1">http://cort.as/Y1r1</a> (SP)</p> <p>Ley 29/1998, Art. 25 (judicial administrative appeal): <a href="http://cort.as/-k_Zg">http://cort.as/-k_Zg</a> (SP)</p>
PRS.8.c	Are provisions on deprivation of nationality applied in practice? Have they been applied even where it results in (risk of) statelessness? If available, please provide any sources of data or information on cases that resulted in statelessness.			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.	Lawyers/NGOs casework practice.
PRS.8.d	Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	<p><a href="#">1961 Convention</a>: Article 7  <a href="#">ECN</a>: Articles 7 and 8</p>		See PRS.8.a. There is a safeguard against statelessness in some cases, but not all. Also, Article 24.2 of the Civil Code states that emancipated Spanish nationals may lose their Spanish nationality if they expressly renounce it, but only if they hold another nationality and live abroad.	Código Civil, Art. 24.2: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)
PRS.8.e	Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice.	<p><a href="#">Principles on Deprivation of Nationality</a> Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards.  <a href="#">UNHCR Guidelines on Statelessness No.5 (2020)</a>: Laws that permit deprivation of nationality on the grounds of terrorism should be publicly available and precise enough to enable individuals to understand the scope of impermissible conduct.</p>		No.	
PRS.8.f	Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice.	<p><a href="#">ICCPR</a>: Article 26  <a href="#">1961 Convention</a>: Article 9  <a href="#">ECN</a>: Article 5  <a href="#">Principles on Deprivation of Nationality</a>: Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status,</p>		Article 25 of the Civil Code includes some grounds on which Spanish nationality may be lost, but only if that nationality is not of origin. Two of those grounds may result in statelessness, whereas there are always safeguards against statelessness in case of Spanish nationality of origin.	Código Civil, Art. 25: <a href="http://cort.as/7T42">http://cort.as/7T42</a> (SP)

			characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals.		
PRS.8.g		Are there safeguards to prevent derivative loss of nationality (i.e., loss of nationality on the basis that a parent or a spouse has been deprived of that nationality)? Please describe the potential impact of deprivation on children and spouses.	<p><a href="#">CRC</a>: Articles 2(2), 7 and 8</p> <p><a href="#">CEDAW</a>: Article 9(1)</p> <p><a href="#">Principles on Deprivation of Nationality</a>: States must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Principle 9.7). The derivative loss of nationality is prohibited (Principle 9.8).</p>	Yes. Spouses or children do not lose their Spanish nationality if the other spouse or parent loses theirs. However, problems may arise when the spouse or parent acquired their Spanish nationality by fraud or dishonesty as this is a ground for the loss of Spanish nationality that may lead to statelessness. In this case, the spouse or children are safeguarded against their respective loss of Spanish nationality if they acted on good faith.	Código Civil: <a href="https://www.boe.es/buscar/act.php?id=BOE-A-1889-4763">https://www.boe.es/buscar/act.php?id=BOE-A-1889-4763</a>

## Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Please list the most relevant judgments relating to statelessness and include links to the cases (where available).		<p>Although the majority of statelessness claims are rejected by both the Administration and the courts, there are many significant judgments adjudicating statelessness in Spain. Most of them refer to the situation of Saharawi people.</p> <ul style="list-style-type: none"> <li>– Sentencia del Tribunal Supremo n.º 8948/2007 of 20 Nov. was the leading case regarding the recognition of statelessness 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 statelessness status. It also states that Saharawi people cannot be forced to accept Moroccan nationality against their will. After this pioneering judgment, many others following recognised statelessness status to Saharawi people.</li> </ul> <p>There are also other judgments adjudicating statelessness not specifically related to the particular situation of the Saharawi people. Some of them include:</p> <ul style="list-style-type: none"> <li>– 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.</li> <li>– 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.</li> </ul> <p>Statelessness has been addressed in a high number of judgments, mainly in terms of grounds for asylum, acquisition of Spanish nationality and the SDP itself. A selection of these can be found here:</p> <ul style="list-style-type: none"> <li>– 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 statelessness status under the Spanish SDP.</li> <li>– Sentencia del Tribunal Supremo n.º 6566/2004, of 12 May. The court states that the recognition of statelessness 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.</li> <li>– 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</li> </ul>	<p>Sentencia del Tribunal Supremo n.º 8948/2007 of 20 Nov:  <a href="https://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/STS_20-11-2007.pdf">https://www.usc.es/export9/sites/webinstitucional/gl/institutos/ceso/descargas/STS_20-11-2007.pdf</a></p> <p>Sentencia de la Audiencia Nacional n.º 5776/2008, of 2 April:  <a href="#">LINK HERE</a></p> <p>Sentencia de la Audiencia Nacional n.º 4103/2009, of 21 Sept:  <a href="#">LINK HERE</a></p> <p>Sentencia del Tribunal Supremo n.º 4089/2008, of 18 July:  <a href="#">LINK HERE</a></p> <p>Sentencia del Tribunal Supremo n.º 6566/2004, of 12 May:  <a href="#">LINK HERE</a></p> <p>Sentencia del Tribunal Supremo n.º 994/2017, of 21 March:  <a href="#">LINK HERE</a></p>

				<p>statelessness status to all its nationals, especially 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.</p> <ul style="list-style-type: none"> <li>– 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.</li> <li>– Auto Juzgado de Primera Instancia de Montilla, de 15 de octubre de 2021 In October 2021, a first instance court held that, to respect the child’s right to be registered as soon as possible after birth, the Spanish authorities should register the child’s birth, as even though the child had been born abroad they had not been registered in any other country.</li> <li>– Sentencia 341/2022 de la Audiencia Provincial de Gipuzkoa The judgment recognises for the first time the Spanish nationality of a child born on a boat <i>en route</i> to Spain, in order to prevent a situation of statelessness. The Court held that the safeguard established in the Spanish Civil Code to prevent statelessness of children born in Spain should be applied broadly and by analogy, as this is the only interpretation in compliance with international treaties to which Spain is a party and with the principle of the best interests of the child.</li> </ul>	<p>Sentencia de la Audiencia Nacional n.º 151/2017, of 20 Jan: <a href="#">LINK HERE</a></p> <p>Auto Juzgado de Primera Instancia de Montilla, de 15 de octubre de 2021: <a href="#">LINK HERE</a></p> <p>Sentencia 341/2022 de la Audiencia Provincial de Gipuzkoa, of 11 May: <a href="#">LINK HERE</a></p>
RES.2.a	Free Legal Assistance	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	<a href="#">UNHCR, Handbook on Protection (2014)</a> : Applicants must have access to legal counsel.	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>Real Decreto 865/2001: <a href="http://cort.as/-K_ZY">http://cort.as/-K_ZY</a> (SP)</p> <p>Ley 29/1998 Arts. 23 &amp; following: <a href="http://cort.as/-K_Zg">http://cort.as/-K_Zg</a> (SP)</p> <p>Ley 1/1996: <a href="http://cort.as/-K_Zj">http://cort.as/-K_Zj</a> (SP)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR): <a href="https://www.cear.es/">https://www.cear.es/</a></p> <p>Catalan Commission for Refugees (CCAR): <a href="http://www.ccar.cat/?lang=es">http://www.ccar.cat/?lang=es</a></p> <p>Fundación CEPAIM: <a href="http://cepaim.org/">http://cepaim.org/</a></p> <p>ACCEM: <a href="https://www.accem.es/">https://www.accem.es/</a></p> <p>Spanish Red Cross: <a href="https://www2.cruzroja.es/">https://www2.cruzroja.es/</a></p>
RES.3.a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		Yes. Domestic literature mainly focuses on the acquisition of Spanish nationality and immigration issues, but nevertheless provides important and useful insights regarding statelessness.	<p>J. Soroeta Licerias. «La problemática de la nacionalidad de los habitantes de los territorios dependientes y el caso del Sáhara Occidental». Universidad de Navarra, 1999: <a href="http://cort.as/-K_b6">http://cort.as/-K_b6</a> (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: <a href="http://cort.as/-K_gf">http://cort.as/-K_gf</a> (SP)</p> <p>J. Roldán Barbero, Jurisprudencia en materia de derecho internacional público. Revista Española de Derecho Internacional, 2012: <a href="http://cort.as/-K_jG">http://cort.as/-K_jG</a> (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: <a href="http://cort.as/-Bo29">http://cort.as/-Bo29</a> (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>
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