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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes, promulgated by Act II of 2002	Act II of 2002 (HU)
IOB	1	b		If yes, when was ratification/accession?		Entry into force: 19 February 2002	
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons.	No reservations currently in force.	Act II of 2002 (HU)
IOB	1	d		Does Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on legal regime.	No, as Hungary applies a dualist system of international and domestic law. The Convention, however, has the force of law in Hungary, through the promulgating act.	Act II of 2002 (HU)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes, promulgated by Act XV of 2009	Act XV of 2009 (HU)
IOB	2	b		If yes, when was ratification/accession?		Entry into force: 4 April 2009	
IOB	2	c		Are there reservations in place? Please list them.	As above	Hungary did not make reservations.	Act XV of 2009 (HU)
IOB	2	d		Does Convention have direct effect?	As above	No, as Hungary applies a dualist system of international and domestic law. The Convention, however, has the force of law in Hungary, through the promulgating act.	Act XV of 2009 (HU)
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there	European Convention on Nationality, 1997	Yes, the Convention entered into force on 1 January 2007. Hungary made reservations to the following articles:	Act III of 2002 (HU)

				reservations in place? Please list them.		<ul style="list-style-type: none"> • 11) No written reasoning shall be provided to decisions on the acquisition of nationality; • 12) No administrative or judicial remedy shall be provided in cases regarding the acquisition of nationality • 21 (3) a) Only men living on the territory of Hungary shall be obliged to do military service. Those bearing more than one citizenship and who do not live in Hungary cannot be obliged to serve in the military and they cannot do it on a voluntary basis either. Those bearing more than one citizenship are not exempt from military service if they live in Hungary. 	
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	European Convention on Human Rights, 1950	Yes , the Convention entered into force on 15 April 1993 through the promulgating act. There are no reservations in place.	Act XXXI of 1993 (HU)
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	Yes , the Convention entered into force on 1 May 2009 through the promulgating act. There are no reservations in place.	Act XCVIII of 2008 (HU)
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)	Yes , no reservations.	

IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	Convention on the Rights of the Child 1989	Yes , the Convention entered into force on 22 November 1991 through the promulgating act. There are no reservations in place.	Act LXIV of 1991 (HU)
IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.	International Covenant on Civil and Political Rights 1966	Yes , the Convention entered into force on 22 April 1976 through the promulgating act. There are no reservations in place.	Law-Decree 8 of 1976 (HU)
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.	International Covenant on Economic, Social and Cultural Rights 1966	Yes , the Convention entered into force on 22 April 1976 through the promulgating act. There are no reservations in place.	Law-Decree 9 of 1976 (HU)
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.	Convention on the Elimination of all Forms of Discrimination Against Women 1979 Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness .	Yes , the Convention entered into force on 30 May 1982 through the promulgating act. There are no reservations in place. Having ratified the Convention and the Optional Protocol, Gen. Rec. 32 has the status of soft law.	Law-Decree 10 of 1982 (HU) Act LX of 2001 (HU)
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Yes , the Convention entered into force on 18 March 1988 through the promulgating act. There are no reservations in place.	Law-Decree 3 of 1988 (HU)

IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Are there reservations in place? Please list them.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes , the Convention entered into force on 27 April 1969 through the promulgating act. There are no reservations in place.	Law-Decree 8 of 1969 (HU)
IOB	3	k		State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990? Are there reservations in place? Please list them.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	Hungary is not state party to this Convention.	

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<p>Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends...</p> <p>European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons...</p> <p>UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations...</p> <p>Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory...</p>	<p>Yes. Census data is merely based on self-identification as stateless, which raises doubts about the completeness/accuracy of the data collected. The last census (2011) found 113 stateless persons, of which 53 men and 60 women. Other statistical data published by the Central Statistical Office of Hungary (KSH), such as the yearly updates on non-Hungarian-national population, do not include any specific stock of flow figure on the country's stateless population (only major countries of nationality are specified).</p> <p>The Immigration and Asylum Office (the authority competent in statelessness determination) does not publish any specific data on the country's stateless population.</p> <p>Between 2008 (the entry into force of the legal framework for the Hungarian statelessness-specific protection regime) and 2017, the competent Hungarian immigration authority granted stateless status to 138 persons (data by courtesy of UNHCR).</p> <p>Research by the Hungarian Helsinki Committee revealed in 2016 (based on official data received from the Office of Immigration and Nationality, the then competent authority in nationality-related matters) that between 1 January 2011</p>	<p>2011 census data (table 1.1.27), Central Statistical Office of Hungary (KSH) (HU)</p> <p>Data shared by the Regional Representation of UNHCR for Central Europe</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary, Hungarian Helsinki Committee, 2015, p. 21</p>

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						and 31 October 2015, 38 stateless persons could naturalise as Hungarian citizens.	
POP	1	b		Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	Data from the last census (2011) did not include any relevant category (unknown or undetermined nationality, etc.). No data could be retrieved from statistics published by the Central Statistical Office of Hungary (KSH) and the Immigration and Asylum Office (BMH).	
POP	1	c		What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?	As above	<p>The UNHCR Population Statistics website reports 139 persons under the UNHCR's statelessness mandate in Hungary for 2017. This figure corresponds to that of persons having received stateless status at first instance in Hungary between 2008 (the entry into force of the legal framework for the Hungarian statelessness-specific protection regime) and 2017. The reason for the minor difference between the two figures (139 and 138, respectively) is unknown.</p> <p>In addition, the UNHCR Population Statistics website reports 79 persons under the UNHCR's refugee (and persons in refugee-like situations) mandate in Hungary for 2017.</p>	UNHCR Population Statistics website
POP	1	d		Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian	As above	The Immigration and Asylum Office collects asylum data disaggregated by nationality, age and sex, but they only publish a simplified summary with no disaggregation. It is possible to receive this information through freedom of information requests.	Hungarian Helsinki Committee

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				Kurds)? Please provide explanation and figures.			
POP	1	e		Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10	No	
POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	No	
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	Yes. Census data is based merely on self-identification as stateless, which raises doubts about the completeness/accuracy of the data collected. Summary flow data regarding the number of stateless persons who have received stateless, refugee or subsidiary protection status in past years is also a questionable indicator of the actual stateless population living in the country, due to the frequent secondary migration typically to Western Europe of those granted international protection in Hungary. Also, this data does not capture the stateless population outside the international protection context. An important population at risk of statelessness that has so far been out of the scope of targeted reporting is the children of refugees and stateless persons born in Hungary, most of whom are registered at birth and then permanently remain of “unknown nationality”, with no mechanism in place to determine the actual nationality or statelessness of these children.	2014 research report by the Hungarian Helsinki Committee

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POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	There is currently no sufficiently reliable comprehensive data about the stateless population of Hungary. Yet, no historical, social or demographic factor indicates that Hungary would have a significant non-reported stateless population and the existing figures (e.g. census) are not expected to differ massively from the actual size of the population. Improved focus and data collection methods at the following national census, or targeted demographic mapping (focusing also on persons at risk of statelessness) could fill the current information gap.	
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	The UNHCR Population Statistics website reports 79 persons under the UNHCR's refugee (and persons in refugee-like situations) mandate in Hungary for 2017.	UNHCR Population Statistics website Official data provided by the Immigration and Asylum Office and the UNHCR Regional Representation for Central Europe
POP	2	a	Stateless in detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	The Police collect and hold data on detention, but it is not clear how this is disaggregated, and it is not published.	Hungarian Helsinki Committee
POP	2	b		Are there statistics on individuals released from immigration detention who were unremovable, their country of origin and length of detention? If yes, please provide.	As above	As above	

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	UN Convention Relating to the Status of Stateless Persons, 1954 : Article 1(1) and 1(2).	Yes. Article 1 (1): Both Act II of 2002 that promulgates the 1954 Convention and Act II of 2007 on the entry and stay of third-country nationals include an erroneous translation of the “stateless person” definition, similarly to numerous other language versions around the world. While the authentic definition includes “...under the operation of its law” (“... <i>sous l’application de sa loi</i> ” in French), the Hungarian translations include only “...based on its law” (“... <i>saját joga alapján</i> ” – Act II of 2002) and “...according to its law” (“... <i>saját joga szerint</i> ” – Act II of 2007). Missing out the term “operation” is a fundamental difference that alters the meaning of the definition in Hungarian, as compared to the authentic drafting languages of English and French. Article 1 (2) is properly translated and included in Act II of 2002 that promulgates the 1954 Convention. Section 78 (1) (b) of Act II of 2002 sets forth an additional exclusion ground (not included in the 1954 Convention), when stipulating that a claim for stateless status shall be rejected if “[...] <i>the applicant renounced her/his nationality on purpose, with the intention to obtain stateless status</i> ”. According to the Act’s official justification by the Minister of Justice and Law Enforcement, this provision was based on Recommendation No. R (99) 18 of the	Act II of 2002 (HU) Act II of 2007 on the entry and stay of third-country nationals (HU)

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						Committee of Ministers of the Council of Europe on the avoidance and reduction of statelessness. However, this reference can only be based on a misunderstanding or mistranslation, as the document in question does not set forth any recommendation that would support the problematic provision. There is no information about the actual use of this provision, and no such cases have become known to the Hungarian Helsinki Committee.	
IDP	1	b	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a).	UNHCR (2014), Handbook on Protection of Stateless Persons : ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. UNHCR (Good Practices Paper 6) : Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention.	#1 – There is a dedicated statelessness determination procedure (SDP) established in law.	
IDP	2	a		You have identified that your country has a dedicated SDP established in law, administrative guidance or judicial procedure. Which authority is responsible for	ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : There is no general rule for appointing the most appropriate authority for statelessness determination... the structure must be evaluated in light	The Immigration and Asylum Office (BMH). Seven regional directorates of the alien policing authority are in charge (<i>not</i> the asylum branch of the same office).	Act II of 2007 on the entry and stay of third-country nationals , Section 76 (1) (HU)

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				determining statelessness?	of the specific national circumstances.		
IDP	2	b	Access to procedure (SDP)	Must an application for statelessness status be made on a specific form? Are there clear instructions on how to make a claim for statelessness or how to fill in the relevant forms?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: For procedures to be fair and efficient, access to them must be ensured. Dissemination of information, including through targeted information campaigns... counselling on the procedures ... Given that individuals are sometimes unaware of SDPs or hesitant to apply...procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</p> <p>UNHCR (Good Practices Paper 6): ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: Bureaucratic difficulties (such as complicated application forms, inflexible procedures, strict language requirements, limited places where claims can be submitted, high costs, etc.) can encumber, or even impede access to SDPs.</p> <p>ENS (2016), Protecting Stateless Persons from Arbitrary Detention in the United Kingdom: Any application form to apply for stateless status should be simplified and offered in a variety of languages... [and] made freely available, including in immigration detention centres.</p>	A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement. In the latter case, the authority has to prepare a written record of the statement. There are no further formal requirements concerning the form of the application and there is no specific guidance on how to “recognise” claims for stateless status. This regulation is identical to that in force with regard to asylum applications in Hungary and is considered an important procedural guarantee.	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 76 (1)-(2) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Section 159 (1) (HU)</p>
IDP	2	c		Do submissions and/or other written evidence have to be submitted in an official language?	UNHCR (Good Practices Paper 6) : As above.	No. Applicants are entitled to submit their claim orally, and Section 159 (3) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry	Act II of 2007 on the entry and stay of third-country nationals , Section 76 (1) (HU)

						<p>and stay of third-country nationals stipulates that “If the claim is submitted orally and the applicant does not speak Hungarian, the regional directorate [of the immigration authority] provides an interpreter who speaks the mother tongue of the applicant or another language understood by her/him. The authority may refrain from providing an interpreter, if the proceeding officer speaks the applicant’s mother tongue or another language understood by her/him, and if the applicant gives her/his consent to this in writing.” There is no information about the actual use in practice of this important legal safeguard.</p>	<p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Section 159 (3) (HU)</p>
IDP	2	d		<p>Can an application for stateless status be made orally to a public official?</p>	<p>UNHCR (Good Practices Paper 6): As above. UNHCR (2014), Handbook on Protection of Stateless Persons: Given that individuals are sometimes unaware of SDPs or hesitant to apply for statelessness status, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</p>	<p>Yes. A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement. In the latter case, the authority has to prepare a written record of the statement. There are no further formal requirements concerning the form of the application and there is no specific guidance on how to “recognise” claims for stateless status. This regulation is identical to that in force with regard to asylum applications in Hungary and is considered an important procedural guarantee. The submission of a claim for stateless status is free of charge.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 76 (1)-(2) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Section 159 (1) (HU)</p>
IDP	2	e		<p>Are there obligations in law on authorities to consider the application?</p>	<p>UNHCR (Good Practices Paper 6): access to the SDP must be guaranteed.</p>	<p>Yes. Since Constitutional Court Resolution 6/2015 (II.25.) the Immigration and Asylum Office can no longer refuse to admit statelessness claims submitted by irregularly/unlawfully staying persons.</p>	<p>Constitutional Court Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof</p>

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IDP	2	f		Are government authorities authorised to initiate SDPs ex officio?	UNHCR (Good Practices Paper 6) : ...it is recommended that governmental authorities be authorised to initiate these procedures ex officio... ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : as above.	No. However, Government Decree 114/2007. (V. 24.) stipulates that “ <i>If the possibility that a third-country national is stateless arises in any of the procedures under the scope of this Act, the alien policing authority shall inform the person concerned about the possibility of submitting a request for stateless status, the related proceedings, as well as the rights and obligations attached to stateless status. The foreigner shall be asked to sign a record that she/he has received this information.</i> ” This provision constitutes an important procedural guarantee, as it foresees an active role for immigration authorities in promoting access to protection for stateless persons. However, there is hardly any information about the practical use of this rule. It is difficult to imagine a widespread use of this procedural guarantee without concentrated efforts to furnish immigration and asylum officers with relevant training on statelessness.	Section 160 (1) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals (HU)
IDP	2	g		Is there an application fee?	UNHCR (Good Practices Paper 6) : access to the SDP must be guaranteed.	No. The submission of a claim for stateless status is free of charge.	Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals , Section 159 (1) (HU)
IDP	2	h		Is there a requirement for lawful stay to access the SDP?	UNHCR (Good Practices Paper 6) : Access to the procedure needs to be open to anyone who claims to be stateless, regardless of...lawful stay or residence... ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : Everyone in a state’s territory must have access to SDPs. There is no basis in the 1954	No. Since Constitutional Court Resolution 6/2015 (11.25.), the Immigration and Asylum Office can no longer refuse to admit statelessness claims submitted by irregularly/unlawfully staying persons. The judgment concluded that the previous lawful stay requirement was not merely a procedural rule (as argued by the immigration authority), but a material one that modifies the definition of a stateless person in Article 1(1) of the 1954	Constitutional Court Resolution 6/2015 (11.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof , para. 23 & 27

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					Convention for requiring that applicant ... be lawfully within a state.	Convention, to which no reservations or modifications are allowed, and thus it unduly narrowed the personal scope of the Convention. In the Court's view, this conclusion is further supported by the fact that under the Convention certain rights are to be accorded only to lawfully staying stateless persons, while other rights to all of them, and this distinction indicates that the drafters did not see a general need for a lawful stay condition. The Court therefore agreed with the petitioner first-instance court and the third-party interveners (the Hungarian Helsinki Committee and the UNHCR) and quashed the lawful stay requirement.	See more analysis of this judgement on the blog of the European Network on Statelessness.
IDP	2	i		Is there a time limit beyond which a person cannot access the SDP? If so, what is this and can the requirement be waived?	UNHCR (Good Practices Paper 6) : For procedures to be fair and efficient... access to the SDP must be guaranteed and not subject to time limits. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : There is... no basis in the 1954 Convention to set time limits for individuals to claim stateless status...	No.	
IDP	2	j		Is the examination of statelessness claims conducted by a dedicated centralised body with relevant expertise? If yes, please specify.	UNHCR (2014), Handbook on Protection of Stateless Persons : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise... UNHCR (Good Practices Paper 6) : Where to situate SDPs institutionally is a matter of State discretion and can vary from one country to the	Statelessness claims are conducted by 7 regional directorates of the alien policing authority of the Immigration and Asylum Office. This lack of centralisation makes it difficult to accumulate significant practical experience, given the low number of cases.	Hungarian Helsinki Committee

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					next. Regardless...it is important that examiners develop expertise... while ensuring that the procedures are accessible...		
IDP	2	k		Is there training to inform different government bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom and how often?)	UNHCR Executive Committee, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) – 2006 : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons. UNHCR (Good Practices Paper 6) : Training sessions for officials and meetings between the various decentralised bodies, UNHCR and civil society take place on a regular basis, allowing for an exchange of information and discussion...	No.	
IDP	2	l		Is there cooperation between agencies that may have contact with stateless people? If so, how are cases referred to the appropriate authority for determination?	UNHCR (Good Practices Paper 6) : cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	No information available. Hungarian law does not regulate such cross-referrals or forms of cooperation, not even between the asylum and alien policing branch of the Immigration and Asylum Office. Yet, the fact that the statelessness determination and the asylum authority are parts (even if distinct parts) of the same authority may allow for better communication between them, as compared to separate authorities. Birth registration and statelessness determination are completely separate processes (conducted by different authorities), with no reported connections or cross-referrals.	Hungarian Helsinki Committee

IDP	3	a	Assessment (SDP)	<p>Who has the burden of proof in the SDP? Is this shared in practice, even if not in law?</p>	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: ...the burden of proof is in principle shared, in that both the applicant and examiner must cooperate to obtain evidence and to establish the facts.</p> <p>UNHCR (Good Practices Paper 6): SDPs must... take into consideration the difficulties inherent in proving statelessness. UNHCR recommends that SDPs provide for a shared burden of proof...</p> <p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: The applicant has a duty to provide as full and truthful account...as possible and to submit all evidence reasonably available. Similarly, the determination authority is required to obtain and present all relevant evidence reasonably available to it... authorities need to... [give] sympathetic consideration to testimonial explanations regarding the absence of certain kinds of evidence.</p> <p>UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is incumbent on individuals to cooperate to establish relevant facts. If an individual can demonstrate, on the basis of all reasonably available evidence, that he or she is evidently not a national, then the burden should shift to the State to prove</p>	<p>In principle, the burden of proof lies with the applicant (the applicant has the duty to “prove or substantiate” her/his statelessness). Government Decree 114/2007 (V. 24) obliges the applicant to attach to the application all documents that may facilitate the stateless status determination process. At the same time, Act II of 2007 stipulates that the alien policing authority provides administrative assistance in the establishment of facts through Hungarian diplomatic representations, if the applicant so requests. In addition, general rules regulating administrative procedures state that the immigration authority has in the statelessness determination process the obligation to conduct an “evidentiary procedure”, if the information at its disposal is insufficient for decision-making. In this process, it can consider any evidence that is suitable to establish the facts and circumstances of the case. Considering all these rules, it can be summarised that the burden of proof principally lies on the applicant, but in practice, the authority shall also actively contribute to the establishment of facts. The experience of the Hungarian Helsinki Committee confirms the <i>de facto</i> sharing of the duty to obtain evidence in practice.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 79 (1)- (2) (HU)</p> <p>Act CL of 2016 on the Code of General Administrative Procedure, Section 62 (1)-(2) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Section 160 (3) (HU)</p>
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					that the individual is a national of a State.		
IDP	3	b		What is the standard of proof? Is it the same as in asylum applications?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: States are...advised to adopt the same standard of proof as ... in refugee status determination, namely... to a “reasonable degree” ...</p> <p>UNHCR, Nationality and Statelessness, Handbook for Parliamentarians No. 22, 2014: Because of the difficulties inherent in proving statelessness, the threshold of evidence required ... should not be too high. States are therefore advised to adopt the same standard of proof as in refugee status determination.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals sets a lowered standard of proof in statelessness determination, by stipulating that “<i>In the statelessness determination procedure, the applicant shall prove or substantiate her/his statelessness [...]</i>”. The term “substantiate” (<i>valószínűsít</i>) was copied from the similar Hungarian provision referring to asylum procedures, and it reflects the UNHCR terminology describing the applicable standard in refugee status determination. By doing so, the law-maker explicitly acknowledged the practical difficulty of establishing statelessness and the protection-oriented objective of the procedure.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 79 (1) (HU)</p>
IDP	3	c		Is there respect for specific protection needs and evidentiary challenges presented by women, children and people with disabilities in the SDP?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: As a result of discrimination, women might face additional barriers in acquiring relevant documentation, such as birth certificates or other identification documents that would be pertinent to establishing their nationality status... Children, especially unaccompanied children, may face acute challenges in communicating basic facts with respect to their nationality. States...must follow the principle of pursuing the best interests of the child ...</p> <p>Gen. Rec. 32 of CEDAW: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender</p>	<p>The law allows for the oral submission of statelessness claims, which constitutes a safeguard for illiterate persons. In such cases, the authority has to prepare a written record of the claim, which needs to be signed by the applicant. Government Decree 114/207 explicitly exempts illiterate applicants from this obligation; in these cases, the authority shall prepare an official record of the fact that the applicant is unable to sign the claim. It also stipulates that appointed case guardians shall proceed instead of unaccompanied minor applicants; and that persons of limited legal capacity (such as children) may participate independently in the statelessness determination procedure. The Hungarian Helsinki Committee has no information about the practical implementation of these safeguards and</p>	<p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Sections 159 (2), 163 (1) and 163 (2) (HU)</p>

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					neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women...	has not received any complaint related thereto.	
IDP	3	d		Are decision makers presented with clear guidance on how to determine statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.	<p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: determining authorities can benefit significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances...</p>	<p>Yes, Hungarian legislation offers a positive model of setting detailed procedural and evidentiary rules regarding statelessness determination in legislation. Act II of 2007 stipulates that: “<i>In the statelessness determination procedure, the applicant shall prove or substantiate her/his statelessness in particular with regard to</i></p> <ul style="list-style-type: none"> • <i>the country where she/he was born;</i> • <i>the country of her/his former place of stay or residence;</i> • <i>the country of nationality of her/his family members and parents.</i>” <p>Based on the experience of the Hungarian Helsinki Committee, this provision constitutes useful guidance for decision-makers and it is generally applied. In all cases known to the HHC, the states of interest were determined according to the above rule and thus limited to two or three countries. Government Decree 114/2007 specifies that the proceeding authority shall take its decision with regard to the information concerning the nationality regulation and registers of the states in question (see above), considering in particular:</p> <ul style="list-style-type: none"> • the opinion of the UNHCR; • the information provided by Hungarian diplomatic representations abroad (that the authority shall contact upon request of the applicant); 	<p>Section 79 (1) of Act II of 2007 on the entry and stay of third-country nationals (HU)</p> <p>Hungarian Helsinki Committee</p> <p>Section 164 (1) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals (HU)</p>

						<ul style="list-style-type: none"> • the information provided by foreign state authorities; and • the evidence submitted by the applicant. 	
IDP	4	a	Procedural Protections (SDP)	Is there free legal aid available during the application?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means.</p> <p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants.</p>	<p>Yes. The authority has the duty to ensure the applicant's access to legal assistance. Applicants for stateless status are entitled to state-funded legal aid, without the examination of their financial situation (based on the simple declaration of the person concerned that she/he is in need of this form of support). There is no information about whether applicants for stateless status use this opportunity in practice. At the same time, the specifically trained lawyers of the Hungarian Helsinki Committee offer professional free-of-charge legal assistance and representation in statelessness determination procedures, with the financial support of UNHCR. The applicant's authorised representative is entitled to be present at the interviews and shall be informed about the time of the interview five days in advance. According to the experience of the Hungarian Helsinki Committee, the representative is permitted to make comments or ask questions during the interviews.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 77 (3) (HU)</p> <p>Act LXXX of 2003 on Legal Aid, Section 5 (2) (d) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals, Section 163 (3) (HU)</p> <p>Hungarian Helsinki Committee</p>
IDP	4	b		Is an interview always offered (unless granting without interview)?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential ...</p>	<p>Yes, the interview is mandatory in all cases.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 77 (1) (HU)</p>

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IDP	4	c		Are interpreters provided for statelessness determination interviews? Are they free of charge?	ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).	Yes , the applicant has the right to use her/his mother tongue or another language she/he understands in the procedure, and the proceeding authority provides the interpreter. In addition, the proceeding authorities can accept foreign-language documents submitted by the applicant in support of her/his claim without a certified translation and an apostil.	Act II of 2007 on the entry and stay of third-country nationals , Section 77 (2) (HU) Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals , Section 164 (2) (HU)
IDP	4	d		Are there quality assurance audits of the SDP? Does UNHCR participate in the proceedings? Can they access files? Do they play a quality monitoring or training role?	UNHCR (2014), Handbook on Protection of Stateless Persons : States are encouraged... to incorporate the following safeguards: [...] access to UNHCR is guaranteed. UNHCR (Good Practices Paper 6) : Quality assurance audits of SDPs are considered good practice.	Yes . Hungary was the first country in the world to introduce a quality monitoring mechanism for statelessness determination procedures, in cooperation with (and upon the incentive of) the UNHCR. Annual activities include joint quality audit of a sample of decisions by a UNHCR expert and a senior focal point by the immigration authority, as well as a yearly information provision day with the participation of alien policing officers involved in deciding statelessness claims.	Hungarian Helsinki Committee
IDP	4	e		Are decisions (refusals and grants) given with reasons? And in writing?	UNHCR (2014), Handbook on Protection of Stateless Persons : States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons.	Yes , based on the general rules of administrative procedures.	Act CL of 2016 on the general rules of administrative procedures , Section 81 (1) (HU)

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IDP	4	f		Is there a referral mechanism if an individual has been refused asylum but may be stateless?	UNHCR (Good Practices Paper 6): Efficient referral mechanisms should be established... officials who may be in contact with stateless persons need to be trained to identify potential applicants ...and refer them to appropriate channels. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: The regulation should... guarantee that proper cross-referral systems exist for cases where the two determination procedures are not conducted in a joint framework...	No.	
IDP	5	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for stateless status is assessed? Is expulsion possible during the process? If yes, are there verified reports of expulsions?	UNHCR (2014), Handbook on Protection of Stateless Persons: An individual awaiting a decision is entitled, at a minimum, to all rights based on jurisdiction or presence in the territory as well as “lawfully in” rights... inter alia, identity papers, the right to self-employment, freedom of movement and protection against expulsion... it is recommended that individuals... receive the same standards of treatment as asylum-seekers... ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: States should refrain from expelling or removing an individual from their territory pending the outcome of the determination process.	Act II of 2007 explicitly stipulates that the immigration authority <i>shall</i> issue the applicant for stateless status a temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) for the duration of the statelessness determination procedure, unless the applicant already has any other type of valid residence entitlement. The maximum validity is 6 months and can be renewed for maximum 6-month periods (Section 30 (2) (d)). In practice, the immigration authority does not issue this permit to those in an expulsion procedure and immigration detention. The HHC in 2017 assisted the case of a stateless man who applied for stateless status while in immigration detention and who was kept in immigration detention while his case was processed, and later, he was even deported to Lebanon before a final decision was reached in his statelessness determination procedure.	Act II of 2007 on the entry and stay of third-country nationals , Sections 30 (1) (i) and 30 (2) (d) (HU) Hungarian Helsinki Committee

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IDP	5	b		Do applicants for stateless status who are awaiting a decision have permission to work, if they have no other permission to stay in the country?	UNHCR (2014), Handbook on Protection of Stateless Persons : Allowing individuals...to engage in wage-earning employment...may reduce the pressure on State resources and contributes to the dignity and self-sufficiency of the individuals concerned.	No. The temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) does not entitle its holder to engage in gainful employment in Hungary.	Act II of 2007 on the entry and stay of third-country nationals , Section 20 (4) (HU)
IDP	5	c		Do applicants for stateless status with limited means have access to assistance to meet their basic needs (shelter and welfare support)? Please describe.	UNHCR (2014), Handbook on Protection of Stateless Persons : The status of those awaiting statelessness determination must also reflect applicable human rights such as... assistance to meet basic needs.	No specific provisions in place.	
IDP	5	d		Is it possible to detain an applicant while they are in the SDP?	UNHCR (2014), Handbook on Protection of Stateless Persons : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.	Yes. While the law explicitly stipulates that the immigration authority <i>shall</i> issue the applicant for stateless status a temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) for the duration of the statelessness determination procedure, the submission of a claim for stateless status is not perceived as an automatic ground for release from immigration detention. For instance, the HHC in 2017 assisted the case of a stateless man who applied for stateless status while in immigration detention and who was kept in immigration detention while his case was processed (and later even deported to Lebanon).	Act II of 2007 on the entry and stay of third-country nationals , Section 30 (1) (i) (HU) Hungarian Helsinki Committee

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IDP	5	e		Does law or policy set out a timeframe for the SDP? If so, is it complied with? Can the decision maker extend the timeframe?	<p>UNHCR (Good Practices Paper 6): Some of the most fundamental guarantees reflected in current State practice include: a time limit for a decision following submission of a statelessness status application.</p> <p>UNHCR (2014), Handbook on Protection of Stateless Persons: In general, it is undesirable for a first instance decision to be issued more than six months from the submission of an application... in exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months...</p>	The authority shall take a decision within 60 days (Section 50 (2) (c)), as a general rule for administrative procedures (note that until 2015, the same timeframe applied but based on a specific rule for statelessness determination procedures). The immigration authority can suspend the procedure if it needs to contact a foreign authority (Section 48 (1) (b)), and the time during which the procedure is suspended is not included in the calculation of the time limit (Section 50 (5) (a)). This means that, in principle, the statelessness determination procedure can be prolonged legally for several months or even years, if the Immigration and Asylum Office is waiting for responses by foreign authorities.	Act CL of 2016 on the general rules of administrative procedures , Sections 48 (1) (b), 50 (2) (c) and 50 (5) (a) (HU)
IDP	6	a	Appeals (SDP)	Is there an automatic right of appeal in the case of refusal (on grounds of both law and fact)?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.</p>	Yes. The applicant has 15 days to submit a motion for judicial review. The Budapest Administrative and Labour Law Court (<i>Budapesti Közigazgatási és Munkaügyi Bíróság</i>) has exclusive competence in these cases and has 90 days to decide. The Court can (but is not obliged to) order the personal hearing of the applicant. The Court can grant stateless status itself, can quash the administrative decision and return the case to the administrative authority and can reject the motion and confirm the administrative rejection. Further appeal is possible (unlike in asylum cases), before the Budapest Regional Court (<i>Fővárosi Törvényszék</i>), and at 3 rd instance before the Supreme Court (<i>Kúria</i>).	Act II of 2007 on the entry and stay of third-country nationals , Section 80 (2)-(3) (HU)
IDP	6	b		Is legal aid available for appealing/applying to review a negative determination?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: The applicant is to have access to legal counsel and, where free legal assistance is available, it is to be</p>	Yes. The applicant has the right to legal assistance during the entire procedure.	Act II of 2007 on the entry and stay of third-country nationals , Section 77 (3) (HU)

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					<p>offered to applicants without financial means.</p> <p>ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: Applicants are to have access to legal counsel both at first instance and upon appeal.</p>		
IDP	6	c		Is there a fee for the appeal application?	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: An effective right to appeal against a negative first instance decision is an essential safeguard.</p>	<p>The law explicitly stipulates that the statelessness determination procedure, including its judicial review phase, is free of charge for the applicant.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 80 (4) (HU)</p>
IDP	6	d		Is there evidence of significant errors in decision making? If so, is there a publicly available source (e.g. audits, independent reports, academic research etc.)? If yes, please provide this. If anecdotal, please describe.		<p>The main shortcoming of the Hungarian statelessness-specific protection regime, namely the requirement of lawful stay, was eliminated by the Constitutional Court in 2015. Since then, there are no systemic errors in decision-making. To prevent and later challenge occasional errors, the HHC provides legal representation to applicants for stateless status. For example, between 1 January 2017 and 30 June 2018, the HHC provided legal representation in the administrative phase of statelessness determination in 15 cases, and in the judicial review phase in 4 cases. Crucial debates in such cases are centred on evidence assessment and the interpretation of the stateless person definition.</p>	<p>Constitutional Court Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term "lawfully" in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof</p> <p>Hungarian Helsinki Committee</p>

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IDP	7	a	Stateless Status (SDP)	Does recognition of statelessness result in permission to stay/legal status? Is status granted immediately or automatically upon recognition or identification as stateless?	UNHCR (2014), Handbook on Protection of Stateless Persons : The 1954 Convention ...[grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty...	Yes. Stateless persons recognised as such receive a humanitarian residence permit (<i>humanitárius tartózkodási engedély</i>).	Act II of 2007 on the entry and stay of third-country nationals , Section 29 (2) (a)-(b) (HU)
IDP	7	b		Are there additional requirements beyond meeting the definition of a stateless person and satisfying the exclusion provisions that a stateless person must meet to be granted permission to stay/legal status?	As above.	No.	
IDP	7	c		How long is initial status? Is residence status renewable?	UNHCR (2014), Handbook on Protection of Stateless Persons : It is recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be	Upon first issuance, the residence permit has a maximum validity of 3 years. After expiry, it can only be renewed for 1-year periods. There is no reasonable explanation for this restrictive rule.	Act II of 2007 on the entry and stay of third-country nationals , Section 29 (2) (a)-(b) (HU)

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					renewable, providing the possibility of facilitated naturalisation...		
IDP	7	d		Is a travel document issued to those recognised as stateless?	UN Convention Relating to the Status of Stateless Persons, 1954 , Art. 28: The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory...	Yes.	Act II of 2007 on the entry and stay of third-country nationals , Sections 83-86 (HU)
IDP	7	e		What are the family reunion provisions for individuals recognised as stateless?	UNHCR (2014), Handbook on Protection of Stateless Persons : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised stateless status in their territory with their spouses and dependents. Indeed, some States have obligations arising under relevant international or regional human rights treaties to do so.	Recognised stateless persons, as holders of a humanitarian residence permit, are entitled to family reunification under the general rules stipulated by Act II of 2007 . These strict rules require the family to demonstrate sufficient livelihood, accommodation and health insurance in Hungary, as well as proof of the family link. Family members are also required to lawfully reside in the country where they submit their claim for family reunification (a condition the HHC considers in breach of relevant EU rules). No preferential rules are in place for recognised stateless persons.	Act II of 2007 on the entry and stay of third-country nationals , Section 19 (HU)
IDP	7	f		Is residence status granted to stateless people revocable? If yes, on what grounds?	UNHCR (2014), Handbook on Protection of Stateless Persons : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State... he or she will cease to be stateless in terms of the 1954 Convention. This may justify the cancellation of a residence permit obtained on the basis of statelessness status, although proportionality considerations in relation to acquired rights and factors arising under international human rights	According to the law, stateless status shall be revoked if: a) the stateless person re-acquired her/his previously lost nationality; b) the stateless person acquired a new nationality; c) the stateless person was granted stateless status despite exclusion grounds being applicable that time or if exclusion grounds are applicable against her/him [at the moment]; d) the conditions for recognising the person's statelessness were not met at the time of recognition;	Act II of 2007 , Sections 76-81 (HU)

					law, such as the degree to which the individual has established a private and family life in the State, need to be taken into account.	e) the stateless person, during the statelessness determination procedure, omitted a material fact or facts, or made false declarations regarding a material fact or facts, or used forged documents, provided that this influenced the merits of statelessness determination. The same general evidentiary and procedural rules apply to the revocation procedure as to statelessness determination and the procedural deadline for the Immigration and Asylum Office is 45 days.	
IDP	7	g		Do people granted stateless status have permission to work?	UN Convention Relating to the Status of Stateless Persons, 1954 : The Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, as regards the right to engage in wage-earning employment. UNHCR (2014), Handbook on Protection of Stateless Persons : Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work [...] must accompany a residence permit.	Yes. However, stateless status ensures only limited access to the labour market, as stateless persons need to obtain a work permit (<i>munkavállalási engedély</i>) prior to their employment. A work permit can only be issued for stateless persons, if the employer had already announced her/his need for workers and if no suitable, already registered job-seeker (Hungarian or EEA-citizen, refugee, beneficiary of subsidiary protection, permanent resident third-country national or other third-country national previously in employment for over 6 months in Hungary) has applied for the same post. Far from being a mere technical formality, this limitation may render access to employment particularly burdensome, considering the limited validity of the humanitarian residence permit and the usual procedural delays and difficulties in obtaining a work permit. The HHC has been advocating for a decade for the elimination of this limitation, which – considering the minuscule number of persons granted stateless status per year –	Government Decree 445/2013. (XI. 28.) , Section 3 (1)-(3) (HU) Act IV of 1991 on the promotion of employment and unemployment benefits (HU)

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						would not have any measurable impact on the labour market.	
IDP	7	h		Do people granted stateless status have access to primary education?	UN Convention Relating to the Status of Stateless Persons, 1954: (Art. 22) The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.	Yes. Children holding a residence permit in Hungary are entitled to state-funded pre-school care (kindergarten) and public primary and secondary education similarly to Hungarian nationals.	Act CXC of 2011 on national public education , Section 92 (1) (c) (HU)
IDP	7	i		Do people granted stateless status have access to secondary and higher education?	UN Convention Relating to the Status of Stateless Persons, 1954: (Art. 22) The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.	Yes. Children holding a residence permit in Hungary are entitled to state-funded pre-school care (kindergarten) and public primary and secondary education similarly to Hungarian nationals. Recognised stateless persons have a right to enrol in state-funded, partly state-funded or self-financed higher education studies, similarly to Hungarian nationals.	Act CXC of 2011 on national public education , Section 92 (1) (c) (HU) Act CCIV of 2011 on national higher education , Section 39 (1) (b) (HU)
IDP	7	j		Do people granted stateless status have access to social welfare and healthcare?	UN Convention Relating to the Status of Stateless Persons, 1954: (Art. 23, 24) UNHCR (2014), Handbook on Protection of Stateless Persons: Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.	Entitlement to social security services (including healthcare) is usually linked to gainful employment or other lucrative or productive activities (employees, private entrepreneurs, corporate entrepreneurs, members of cooperatives, persons following professional education based on an “education contract”, church personnel, etc.). Acquiring stateless status does not, therefore, create an entitlement to social security, unless the stateless person can also fulfil one of these conditions (e.g. is employed). A stateless person staying in Hungary without any such entitlement can	Act LXXX of 1997 on Social Security Services, the Entitlement to Private Pension and the Funding of These Services , Section 5 (1)(HU) Act CLIV of 1997 on Health , Section 142 (2)-(3) (HU)

						<p>benefit from basic public healthcare services (similarly to any person residing on Hungarian territory). However, the scope of these services is limited and covers only:</p> <ul style="list-style-type: none"> • Vaccinations, epidemic examinations, mandatory medical examinations, quarantine, transportation of persons suffering from a contagious disease; • Ambulance services if the person needs immediate help; • Healthcare services in emergency cases and afterwards until the stabilisation of the patient's conditions; • Healthcare services in case of a disaster. <p>Some other public healthcare services (such as pre-natal and maternity care) are only available to those who already have a <i>domicile (lakóhely)</i> in Hungary. However, persons with stateless status are not allowed to establish a <i>domicile</i> (only several – minimum 3 – years after the recognition of their status, when <i>and if</i> they acquire a permanent residence permit).</p>	
IDP	8	a	Access to citizenship (SDP)	Are stateless people able to naturalise as citizens? In what timeframe?	<p>UN Convention Relating to the Status of Stateless Persons, 1954 (Art. 32): The Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings. UNHCR (Good Practices Paper 6): It is recommended that States Parties</p>	<p>Yes. The 1993 Citizenship Act sets forth a variety of conditions for naturalisation, as well as different categories entitled to preferential treatment. For several years, three categories existed, which all required the applicant to have a domicile, livelihood, accommodation and no criminal record in Hungary, as well as to successfully pass a “basic constitutional studies” examination in Hungarian. The only difference between the standard and the two types of preferential naturalisation</p>	<p>Act LV of 1993 on Hungarian citizenship, Section 4 (HU)</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary, Hungarian Helsinki Committee, 2015</p>

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					facilitate, as far as possible, the naturalisation of stateless persons. This may be achieved, e.g. by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.	was the mandatory waiting time before an application could be lodged: 8, 5 and 3 years, respectively. Preferential treatment was motivated both by international obligations (e.g. <i>vis-à-vis</i> refugees) or ethno-cultural preferences. As exemplified by the HHC's 2015 research , Hungary does not effectively fulfil its international obligation to reduce as far as possible the charges and costs associated with the naturalisation of refugees and stateless persons, who are required to pay high fees for passing a mandatory "basic constitutional studies" examination and for presenting an official certified translation of various documents.	
IDP	8	b		If stateless people can naturalise, are there accelerated naturalisation procedures (e.g. reduced qualification periods) which apply to stateless persons? If yes, please provide comparative timeframes for naturalisation in other situations.	UN Convention Relating to the Status of Stateless Persons, 1954 (Art. 32): as above. UNHCR (Good Practices Paper 6) : as above. ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality...	Stateless persons are integrated into the most preferential category with regard to the mandatory minimum <i>domiciled</i> residence requirement before naturalisation (3 years). However, persons with stateless status are not allowed to establish a <i>domicile</i> (only several – minimum 3 – years after the recognition of their status, when <i>and if</i> they acquire a permanent residence permit); therefore, this favourable condition has limited impact in their case. In all other aspects, recognised stateless persons are required to fulfil similar conditions than any other applicant for standard naturalisation.	Act LV of 1993 on Hungarian citizenship , Sections 4 (2) (e) and 23 (1) (HU) Act LXVI of 1992 on the registration of citizens' personal data and residence , Section 4 (1) (HU)
IDP	9	c		Are previous criminal convictions a bar to naturalisation? If yes, please describe the requirement. Is there a good character clause (separate from criminal	Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015 : Each state should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its	An applicant for naturalisation must have no criminal record according to Hungarian law, and there shall be no pending criminal proceedings against her/him before a Hungarian court. In addition, naturalisation of the applicant shall not violate Hungary's national or public security.	Act LV of 1993 on Hungarian citizenship , Section 4 (b) and (d) (HU)

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				record requirement)? If yes, please describe.	territory, and...: d) ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state. Human Rights Watch, Roma in the Czech Republic: Foreigners in their Own Land (1996) : ... denying citizenship to previously convicted criminals effectively adds an additional, ex post facto punishment to the individual who committed a crime.		
IDP	9	d		Is there a citizenship/integration test?	ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules ...	<p>The applicant shall successfully pass a “basic constitutional studies” examination, in Hungarian, unless she/he is exempted by law because she/he:</p> <ul style="list-style-type: none"> • Has a fully or partially limited legal capacity; • Has graduated from a school or university where the language of education is Hungarian; • Is more than 60 years old; • Proves that due to a permanent and irreversible deterioration of her/his health conditions she/he is unable to pass the examination. <p>The examination encompasses various fields of knowledge, from political-administrative structure to history and literature. The basic constitutional studies examination has a mandatory fee of 50% of the gross monthly minimum salary, the exact sum of which is determined by a government decree on a yearly basis. This may represent a significant financial burden for many, as exemplified by the</p>	<p>Act LV of 1993 on Hungarian citizenship, Sections 4 (1) (e) and 4/A (HU)</p> <p>Government decree 125/1993. (IX. 22.) on the implementation of Act LV of 1993 on Hungarian citizenship, Section 13 (6) (HU)</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary, Hungarian Helsinki Committee, 2015, pp. 15-18</p>

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						HHC's research in 2015 (in which year the fee amounted to nearly one third of the average monthly net salary in Hungary). There are no preferential rules for stateless persons.	
IDP	9	e		Are there language requirement exemptions for stateless people?	UNHCR (Good Practices Paper 6) : It is...recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons...for example, by reducing or waiving residence, income and language requirements...and by exempting them from fees or the obligation to provide documentary evidence. Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015 : as above ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : as above.	No. See also previous question.	
IDP	9	f		Are there income exemptions for stateless persons if a level of income is required for naturalization?	UNHCR (Good Practices Paper 6) : as above.	No.	

Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<p>ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p> <p>ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.</p>	<p>Yes. The Fundamental Law of Hungary (Constitution) stipulates that <i>“In the Republic of Hungary everyone has the right to liberty and personal security, and no one may be deprived of freedom except for reasons defined in the law and on the basis of legal proceedings.”</i></p> <p>Act II of 2007 includes two types of “immigration detention”:</p> <p>1) Detention in order to conduct an alien policing procedure (“detention in preparation of expulsion”), Section 55 (1): <i>“The immigration authority may order the detention in preparation of expulsion (return) of the third-country national in order to secure the conclusion of the immigration proceedings pending, if his/her identity or the legal grounds of his/her residence is not clarified, or if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.</i></p> <p><i>(2) Detention in preparation of expulsion shall be ordered by way of a formal resolution, and shall be carried out when communicated.</i></p> <p><i>(3) Detention in preparation of expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction by reference to the place of detention until the third-country national's identity or the legal grounds of his/her residence is clarified, or for maximum thirty days.</i></p>	<p>The Fundamental Law of Hungary, Article IV (1)</p> <p>Act II of 2007 on the entry and stay of third-country nationals, Sections 55(1) & 54 (1) (HU)</p>

						<p>2) Detention in order to enable the implementation of a return (expulsion) decision by way of removal, Section 54 (1): “In order to secure the removal of a third-country national the immigration authority may take into detention under immigration law the person in question if:</p> <p>a) he/she is hiding from the authorities or is obstructing the enforcement of removal in some other way;</p> <p>b) he/she has refuses to leave the country, or it may be assumed on other substantiated reasons, that the person delays or frustrates the implementation of removal, or there is a risk of absconding of the third-country national;</p> <p>c) he/she has seriously or repeatedly violated the code of conduct of the assigned place of stay;</p> <p>d) he/she has failed to appear before the authority as ordered despite of a call to do so, and so hinders the immigration proceeding; or</p> <p>e) he/she is released from imprisonment as sentenced for a deliberate crime.”</p>	
DET	1	b		Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?	ECHR Art 5 (1)(f)	<p>No, see the two grounds for detention above, both are in line with Article 5 (1) (f) of the ECHR.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Sections 55(1) & 54(1) (HU)</p>

DET	1	c	Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice.	<p>ICCPR Art 7: Repeated attempts to expel a person ... to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment.</p> <p>ECHR Art 5 (1)(f)</p> <p>Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <p>EU Returns Directive: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.</p> <p>ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained.</p>	No, under “detention in preparation of expulsion” the expulsion decision is not yet issued; therefore the proposed country of removal does not yet have to be clearly established.	Act II of 2007 on the entry and stay of third-country nationals , Section 55(1) (HU)
DET	1	d	Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?	<p>Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above.</p> <p>Mikolenko v. Estonia, Application no. 10664/05, 8 October 2009 (ECtHR): Detention is justified as long as “deportation proceedings are being conducted” and these proceedings must be carried out with due diligence...</p> <p>UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention.</p> <p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – states must identify stateless persons within their territory or subject</p>	No explicit domestic legal norm stipulates that statelessness is a juridically relevant fact in decisions related to immigration detention. The HHC is not aware of any case where this principle would have been raised in immigration detention-related decisions of the immigration authority or a court in charge of the judicial review of immigration detention.	Hungarian Helsinki Committee

					to their jurisdiction as a first step towards ensuring the protection of their human rights. International Commission of Jurists, Migration and International Human Rights Law: a Practitioner's Guide 2014 : the detention of stateless persons can never be justified when there is 'no active or realistic progress towards transfer to another State'.		
DET	1	e		Are stateless people detained in practice? Please provide figures and source of information if available.	As above.	There are no publicly available statistics about the immigration detention of stateless persons. Hungary resorts to immigration detention as a frequent and regular practice. According to the official statistics published by the immigration authority, immigration detention was ordered in the cases of 1280 foreigners in 2014; 1545 in 2015; 1073 in 2016; and 455 in 2017. These figures do not include the massive detention of asylum-seekers, for whom Hungary applies a different detention regime. According to information provided by the National Police Headquarters at HHC's specific request, 2 stateless persons and 14 persons of unknown nationality were held in immigration detention in 2017 (out of the total of 766 immigration detainees that year).	Statistics available on the website of the Immigration and Asylum Office Statistics shared by the National Police Headquarters under HHC's freedom of information request, January 2018
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to detention have been exhausted?	UNHCR (2014), Handbook on Protection of Stateless Persons : Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. EU Returns Directive : Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures	Yes , the law stipulates that before ordering immigration detention, the authority shall consider if less coercive measures (confiscating the passport or designating a compulsory place of residence) may also secure removal and provides that families with minors shall only be detained as a measure of last resort and for not more than 30 days, where the best interests of the child shall be a primary consideration.	Act II of 2007 on the entry and stay of third-country nationals , Sections 54(2) & 56(3) (HU)

					in order to prepare the return and/or carry out the removal process.		
DET	1	g		Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?	<p>ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed...</p> <p>EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons...</p> <p>Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention...</p>	<p>Act II of 2007 does not explicitly provide an obligation to assess vulnerabilities before ordering detention. However, it stipulates that the Immigration authority shall have powers to order the stay in a designated place (as an alternative to immigration detention), if the third-country national should be placed under immigration detention, but detention would result in a disproportionate detriment taking into account the state of health and age of the person concerned.</p> <p>UNHCR in its 2012 country report wrote: <i>"Hungary imposes prolonged periods of administrative detention upon asylum-seekers without providing avenues to effectively challenge the detention once ordered or considering alternatives to detention. Judicial review of administrative detention of asylum-seekers is ineffective in Hungary in many instances, as courts fail to address the lawfulness of detention in individual cases, or to provide individualized reasoning based upon the specific facts and circumstances of the applicant. Administrative decisions imposing detention on foreigners for unlawful entry or stay are subject to review conducted by first instance courts. Such reviews are conducted mostly by criminal law judges in a manner normally applied in criminal cases. It is common practice for the court to issue decisions for a group of five, 10, or 15 detainees within 30 minutes, thus significantly decreasing the likelihood of a fair and individualized review."</i></p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 62(g) (HU)</p> <p>UNHCR, Hungary as a Country of Asylum, April 2012</p>

					<p>Until July 2013 immigration detention was massively applied against asylum-seekers. In July 2013, a specific detention regime was introduced for asylum-seekers (“asylum detention”), hence the scarcity of up-to-date reports focusing specifically on immigration (and not asylum) detention since then.</p> <p>An expert group of the Hungarian Supreme Court (<i>Kúria</i>) carried out an in-depth analysis of the judicial review of immigration detention. In its summary report, it formulated severe criticism, concluding that the judicial review was ineffective, for a number of reasons, including the ineffectiveness/mere formality of the case guardian’s role (who should represent the detainee), the overburdening of proceeding judges and a misinterpretation of the grounds for detention resulting in an automatic approval of the immigration authority’s motion for continued detention. The summary report mentions that out of 5325 decisions in 2011, the court decided to discontinue immigration detention (and reject the motion of the immigration authority) in no more than 3 (!) cases. The judicial expert group formulated numerous concrete recommendations to remedy these systemic deficiencies, most of which have not been implemented to date.</p> <p>According to the HHC’s experience, decisions ordering or prolonging immigration detention only cite the relevant provision from the law, i.e. the grounds for detention, but do not provide any concrete justification of why the detention of a particular person meets the legal grounds for detention. Detention orders</p>	<p>Briefing paper of the Hungarian Helsinki Committee for the Working Group on Arbitrary Detention UN Commission of Human Rights, 8 October 2013</p> <p>Summary Opinion by the Alien Policing Expert Working Group of the <i>Kúria</i> (Supreme Court), 23 September 2013, p.36 & p.39 (HU)</p> <p>Hungarian Helsinki Committee</p>
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						are generic in nature and fail to properly consider alternatives to detention or take into account individual special circumstances. Statelessness is not defined as a vulnerability, neither by law, nor by practice.	
DET	2	a	Alternatives to immigration detention	Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and proportionality test?	<p>ICCPR Art 9</p> <p>FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends...</p> <p>UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all States ... to adopt, where applicable, alternative measures to detention.</p> <p>UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient...</p> <p>UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards.</p> <p>Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial measures) before resorting to detention should be established by law.</p>	<p>Yes, alternatives to immigration detention are provided for in law: seizing the travel document, the return ticket or financial resources of the person and ordering a designated place of stay. The immigration authority shall have powers to order the stay in a designated place (as an alternative to immigration detention), if the third-country national in question should be placed under immigration detention, but detention would result in a disproportionate detriment taking into account the state of health and age of the person concerned. Note that the “disproportionate detriment” test seems a stricter (less favourable) standard than the “least invasive/coercive measure” standard in international guidance.</p> <p>Statistics published by the immigration authority demonstrate that ordering a designated stay is applied in practice as an alternative; in 2017, for instance, in 388 cases.</p> <p>The law does not foresee any proportionality test while applying the alternatives and no time limit is defined by law.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Sections 48(2), 50(2), 62 & 63 (HU)</p>

				<p>Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities...have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures ...</p> <p>EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.</p> <p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive...</p> <p>International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>		
DET	2	b	<p>Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.</p>	As above.	<p>Yes, according to the HHC's experience, the detention order only cites the relevant provision from the law, i.e. the grounds for detention in detention orders, but does not provide any concrete justification of why the detention of a particular person meets the legal grounds for detention. Detention orders are generic in nature and never consider</p>	Hungarian Helsinki Committee

						alternatives to detention or take into account individual special circumstances.	
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p>UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry ...the detainee must be automatically released.</p> <p>UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : to guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p>EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention ...</p> <p>ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states clearly specify a reasonable maximum time limit.</p> <p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39: Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention...</p>	Detention in preparation for expulsion: maximum 30 days (S.55(3)). Detention to enable implementation of a return (expulsion) decision: 30 days for families with children (S.56(3)) and 12 months in other cases (S.54 (6)).	Act II of 2007 on the entry and stay of third-country nationals , Sections 55(3), 54(6) & 56(3) (HU)
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention? Are detainees provided with information on their rights,	<p>UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.</p> <p>EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary</p>	No such provision can be found in the law. In practice, detainees receive the detention order in Hungarian. While not regulated by clear legal provisions, the HHC's experience from the field indicates that immigration detainees receive written information about their rights and obligations, which is translated to them, but the exact modalities of this process, or whether the information is sufficiently complete or accessible for the detainees is unknown. Note that since the unilateral cessation by the police of its cooperation agreement with HHC in 2017,	Hungarian Helsinki Committee

				contact details of legal advice and support providers, and guidance on how to access an SDP?	Detention : Guideline 37: Stateless detainees shall receive their order of detention in writing and in a language they understand, and this must outline the reasons for their detention... Detainees must be informed of their rights... International Commission of Jurists (ICJ) (2014) , Migration and International Human Rights Law: a Practitioner's Guide (updated edition) : The authorities are required to ...ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain.	it has become impossible to conduct human rights-focused monitoring visits to immigration detention, resulting in lack of up-to-date information about daily practices. No specific information is provided to detainees about the possibility of requesting stateless status.	
DET	3	c		Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?	EU Returns Directive : Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. Auad v Bulgaria [2011] Application no 46390/10 (ECtHR) : ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued. Kim v Russia [2014] Application no 44260/13 (ECtHR) : The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure... A. v. Australia, CCPR/C/59/D/560/1993, (HRC) : Decisions to detain should be open to review periodically... Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešniteraboti [2009] Case C-357/09 (ECJ) : There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully.	Yes , there is an automatic court review procedure, performed at 60-day intervals in case the immigration authority requests prolongation of detention. Within 24 hours of ordering detention the immigration authority shall request the court for an extension, which decision shall be taken by the court within 72 hours from the start of the detention. After that, the court may extend the detention for a maximum duration of 60 days.	Act II of 2007 on the entry and stay of third-country nationals , Section 58 (HU)

					Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return : Detention pending removal shall be justified only for as long as removal arrangements are in progress. Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention : Guideline 41: To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.		
DET	3	d		<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice?</p>	<p>ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court...</p> <p>ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court....</p> <p>Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure...</p>	<p>Hungarian law does not foresee any appeal against the ordering or prolongation of immigration detention – in fact appeal against the ordering of detention is explicitly excluded by (S.57(2)). The detainee may submit a so-called “complaint” (<i>kifogás</i>) but only with regard to certain rights related to immigration detention in S.60-61 Act II 2007 (access to information, right to practice one’s religion, treatment of minors, detention conditions, etc.), not the detention itself.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 57(2) & Sections 60-61 (HU)</p>
DET	3	e		<p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertaining entitlement to nationality for the purpose of removal? Do these articulate the respective</p>	<p>Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p>ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: The detaining state should have rules in place that govern the process of re-</p>	<p>There are no specific rules in Hungarian law. The HHC has no information about specific state policy or practice in this respect.</p>	

				<p>roles that state and individual are expected to play? Are there time limits clearly set out? Are the outcomes considered relevant for subsequent determination of statelessness?</p>	<p>documentation and/ or ascertaining entitlement to nationality... ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained.</p>		
DET	3	f		<p>Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?</p>	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. EU Returns Directive: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.</p>	<p>According to the law, the court shall appoint a representative <i>ad litem</i> ('case guardian') for any third-country national or his/her family member who does not understand the Hungarian language and is unable to contract the services of a legal representative. The representative <i>ad litem</i> is paid for by the court, but the activity of such representatives has been subject to serious criticism. The Summary Opinion of the Alien Policing Expert Working Group of the <i>Kúria</i> (Supreme Court) concluded in 2013 that one court failed to appoint representatives <i>ad litem</i> and others regularly failed to note representatives' contact and share case documentation (including motions requesting prolongation of detention to which the representative should react before the court). Rules on representatives' fee and obligation to be present at court hearings were not clear, and very often representatives were not present when detention was prolonged. The HHC reported in 2011, based on a monitoring visit to the Kiskunhalas District Court, detention prolongation court "hearings" were conducted</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Section 59 (4) (HU)</p> <p>Summary Opinion by the Alien Policing Expert Working Group of the <i>Kúria</i> (Supreme Court), 23 September 2013 (in particular pp. 41-45) (HU)</p> <p>Report on HHC's monitoring visit to the Kiskunhalas immigration detention centre on 13 December 2011 (HU)</p>

						<p>in groups of 5-10 (detainees were grouped according to nationality), without any individualisation. Representatives <i>ad litem</i> present at the “hearings” did not even know their clients’ names. According to the HHC’s long-standing experience, state-appointed representatives <i>ad litem</i> usually do not object to the prolongation of detention, do not provide individualised arguments to challenge detention and thus fail to fulfil the role of a legal representative responsible for representing the rights and interests of their client. Their role is usually symbolic, lacking any actual impact on the outcome of the process. The Hungarian Helsinki Committee has been providing free-of-charge, high-quality legal assistance for immigration detainees for decades, with the support of UNHCR. Until the summer of 2017, a specific cooperation agreement with the police allowed HHC attorneys to pay regular visits to detention, ensuring direct and proactive outreach to the target group. Since the unilateral termination of this cooperation agreement in 2017, the HHC has more limited access to immigration detainees, who now explicitly need to request a specific HHC attorney as their legal representative for them to gain access to a detained client. Despite growing difficulties, the HHC still managed to represent 11 immigration detainees in the first six months of 2018.</p>	<p>Report on the termination of cooperation agreements with the Hungarian Helsinki Committee</p>
DET	4	a	Protections on release	Are those released from detention issued with any identification, including	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 UNHCR (2014), Handbook on Protection of Stateless Persons: ...being undocumented or lacking the necessary immigration permits</p>	<p>By law, persons released from immigration detention are issued a so-called temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) for a maximum of three months (six months if the authority also ordered a compulsory place of stay). The</p>	<p>Act II of 2007 on the entry and stay of third-country nationals, Sections 30(1)(h) & (j), 30(2)(a) & (d) and 62(1)(d) (HU)</p>

				confirmation of their stateless status, and thus protected from arbitrary re-detention?	cannot be used as a general justification for detention... ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners : ...state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention. Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention : Guidelines 55 & 56: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	immigration authority <i>may</i> order a compulsory place of stay if the maximum time limit for immigration detention is over, but the grounds for ordering detention are still valid. Private accommodation (if conditions are met) can be ordered as well as state-run community shelters, reception centres and transit zones. There are no specific rules concerning statelessness determination or referral to such procedures upon release from immigration detention.	
DET	4	b		If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social security accommodation, education and healthcare? Do they have the right to work?	Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vateshnite raboti [2009] Case C-357/09 (ECJ) : Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release. Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention : Guideline 55 as above.	By law, the immigration authority <i>may</i> revoke an expulsion order and ban on entry <i>ex officio</i> , if the expulsion could not be carried out for 12 months, "by no fault" of the person concerned. In such cases, the person is provided with a renewable humanitarian residence permit valid for one year, provided that she/he: <ul style="list-style-type: none"> • Cooperated with the immigration authority in the execution of the detention order; • Kept the "rules of behaviour" (e.g. while detained) and fulfilled her/his obligations to periodically report to the immigration authority (if relevant); and • Has a clear criminal record and is not under any criminal procedure. The HHC has no information about the actual application of this provision in practice. If the immigration authority does not revoke the expulsion order, the person will receive a temporary residence certificate upon release from immigration detention (see previous question for details).	Act II of 2007 on the entry and stay of third-country nationals , Sections 29(1)(a) & (2)(f) & 47(10) (HU)

DET	4	c		If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?	Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention : Guideline 40: When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	Following the release of a person from immigration detention after the maximum time limit (12 months) has expired, immigration detention can only be ordered again if the immigration authority passes a new expulsion order, <i>based on new facts</i> . In this case, the previous immigration detention will not be considered when calculating the maximum time of detention. Time spent in “detention in preparation of expulsion” (maximum 30 days) will be included in the maximum time limit (12 months) of immigration detention, while the time spent in “asylum detention” (specific detention regime for asylum-seekers for maximum 6 months), will <i>not</i> be included.	Act II of 2007 on the entry and stay of third-country nationals , Sections 54(7) & 56(4) (HU)
DET	5	a	Readmission agreements	Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements?	UNHCR (2014), Handbook on Protection of Stateless Persons : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	No information available. Note that Hungary is party to and applies EU joint readmission agreements.	EU joint readmission agreements
DET	5	b		Are you aware of cases of stateless people being returned under such agreements?		Yes, in 2017, the HHC provided legal assistance to a stateless man of Lebanese descent, who was born and had lived in another EU country, who was officially admitted to Lebanon despite his unquestioned lack of Lebanese nationality and despite the fact that his statelessness determination procedure was still pending in Hungary.	Hungarian Helsinki Committee

Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? If yes, continue with PRS1b below. If no, proceed to PRS1j.	UN Convention on the Reduction of Statelessness, 1961 : A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... European Convention on Nationality, 1997 : Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... Convention on the Rights of the Child 1989 : The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011	Yes, but with incomplete safeguards. OPTION A – Automatic (<i>ex lege</i>), at birth, limited scope Under S.3(3) Act LV 1993 on Hungarian nationality, until the contrary is proven, children born in Hungary, whose both parents are stateless and have a <i>domicile</i> in Hungary; and the children of unknown parents found in Hungary ('foundlings') are considered Hungarian nationals. OPTION B – Non-automatic (upon application), non-discretionary, later, general scope Under S.5/A (1)(b) & (1a) Act LV 1993 on Hungarian nationality, a child born in Hungary who does not obtain the nationality of either parent at birth is entitled to later become a Hungarian citizen by declaration (<i>nyilatkozat</i>). The recognition of Hungarian nationality is non-discretionary, provided the child's parents had a domicile in Hungary at the time of birth and the child has been residing in Hungary (with a domicile) for at least 5 years. This option is open until the child's 19 th birthday.	Act LV of 1993 on Hungarian nationality , Sections 3(3), 5/A(1)(a) & (b) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-	UNHCR Guidelines on Statelessness #4 2012 : Article 1 of the 1961 Convention provides Contracting States with two alternatives ...for granting nationality to children who would otherwise be stateless born in their territory...either...automatic acquisition ...upon	OPTION A above is automatic, OPTION B is non-automatic.	Act LV of 1993 on Hungarian nationality , Sections 3(3), 5/A (1a) & (1)(b) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the

				automatic (i.e. by application)?	birth pursuant to Article 1(1)(a), or ...upon application pursuant to Article 1(1)(b) ... ENS (2015), No Child Should Be Stateless : Article 1 of the 1961 Convention and article 6(2) of the ECN ... oblige the conferral of nationality to children born on the territory if they would otherwise be stateless ... The ...optimal method ...is to grant nationality to otherwise stateless children automatically, at birth.		Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	UNHCR Guidelines on Statelessness #4 2012 : The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless. ENS (2015), No Child Should Be Stateless : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a nationality themselves, but are unable to pass this on...	OPTION A – Yes. For a stateless child born in Hungary (who is not a foundling), to be automatically considered a Hungarian national, <i>both</i> parents shall be stateless and both of them shall have a <i>domicile</i> in Hungary. Note that domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (<i>befogadott</i>) status, as well as all third-country nationals without a permanent (long-term) resident status <i>cannot</i> establish a domicile in Hungary. OPTION B – No.	Act LV of 1993 on Hungarian nationality , Sections 3(3), 5/A (1a) & (1)(b) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014
PRS	1	d		Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth? If yes, please describe the requirement e.g. what is the	UNHCR Guidelines on Statelessness #4 2012 : A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State's nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof... Special procedural considerations to address the acute	There is no such condition specifically mentioned in Hungarian law.	

				standard and burden of proof, and how this is determined in practice?	challenges faced by children... in communicating basic facts with respect to their nationality are to be respected.		
PRS	1	e		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?	<p>UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions:</p> <p>...b) that the person concerned has habitually resided in the territory ... for such period...not exceeding five years immediately preceding the ... application nor ten years in all.</p> <p>UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence”. This period is not to exceed five years immediately preceding an application nor ten years in all...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement.</p> <p>Convention on the Rights of the Child 1989: Arts 3 & 7</p> <p>Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions.</p> <p>European Convention on Nationality, 1997: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual</p>	<p>OPTION A – No (automatic acquisition at birth, subject to different restrictive conditions).</p> <p>OPTION B – Yes. Minimum 5 years of lawful residence with a <i>domicile</i>. Note that domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (<i>befogadott</i>) status, as well as all third-country nationals without a permanent (long-term) resident status <i>cannot</i> establish a domicile in Hungary.</p>	<p>Act LV of 1993 on Hungarian nationality, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary, Hungarian Helsinki Committee, January 2014</p>

					residence on its territory for a period not exceeding five years....		
PRS	1	f		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?	<p>Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application...by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State... ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention....</p>	<p>OPTION A – Yes. For a stateless child born in Hungary (who is not a foundling), to be automatically considered a Hungarian national, <i>both</i> parents shall be stateless and both shall have a <i>domicile</i> in Hungary. Domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (<i>befogadott</i>) status, as well as all third-country nationals without a permanent (long-term) resident status <i>cannot</i> establish a domicile in Hungary. Refugees, beneficiaries of subsidiary protection, EU citizens and third-country nationals holding a permanent (long-term) residence permit <i>do</i> establish a domicile. In both cases, the parents shall be lawfully residing in Hungary for the safeguard to apply. If the stateless child's parents hold a status that includes domicile (e.g. they are refugees), there will be no minimum residence time requirement for the parents for the safeguard to apply. If the stateless child's parents hold a status that excludes establishing a domicile (e.g. they are recognised stateless persons), the safeguard will only apply if the parents have already obtained permanent residence permit (which they can apply for after 3 years of residence in a discretionary procedure), and thus the right to establish a domicile.</p>	<p>Act LV of 1993 on Hungarian nationality, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary, Hungarian Helsinki Committee, January 2014</p>

						OPTION B – Yes. In this case, the minimum 5 years of lawful residence with a <i>domicile</i> applies to the child, not the parents.	
PRS	1	g		What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?	<p>UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions:</p> <p>(a) that the application is lodged during a period... beginning not later than at the age of 18 years and ending not earlier than at the age of 21 years...</p> <p>UNHCR Guidelines on Statelessness #4 2012: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21...</p> <p>ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality ... has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child...</p>	<p>OPTION A – not relevant.</p> <p>OPTION B – The (restrictive) option of acquiring Hungarian nationality through declaration is open until the child's 19th birthday which only allows one year for this option after reaching the age of majority.</p>	<p>Act LV of 1993 on Hungarian nationality, Section 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary, Hungarian Helsinki Committee, January 2014</p>
PRS	1	h		Are there specific provisions for the nationality of children born to beneficiaries of international protection?	<p>UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.</p>	No.	

PRS	2	a	Foundlings	Are foundlings granted citizenship by law? If it's not automatic, is there an application procedure?	UN Convention on the Reduction of Statelessness, 1961 : A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. European Convention on Nationality, 1997 : Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless.	Under S.3(3) of the Act on Hungarian Nationality, until the contrary is proven, <i>children of unknown parents found in Hungary</i> ('foundlings') are automatically considered Hungarian nationals (OPTION A). Since 2011, children born to an unknown father and a known mother – whose identity is not proven and who abandons the child in the hospital after birth – are also treated as foundlings and thus automatically acquire Hungarian nationality.	Act LV of 1993 on Hungarian nationality , Section 3(3)(b) (HU) Act I of 2010 on Civil Registration Procedures , Section 61(5) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014
PRS	2	b		If yes, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	UNHCR Guidelines on Statelessness #4 2012 : At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth...	The term 'foundling' reads as 'found child born to unknown parents' (<i>ismeretlen szülőktől származó talált gyermek</i>) in Hungarian law. Since the word 'child' is part of this term, and in the absence of any other restriction, there are no legal grounds for this to apply to any age subgroup among children (defined in law as under 18). This interpretation was confirmed by an official letter sent by the competent ministry to UNHCR. At the same time, there is no information about the practical application of this provision.	Act LV of 1993 on Hungarian nationality , Section 3 (3) (b) (HU) Letter No. 437-3068/2/2013 of 7 December 2013, Ministry of Public Administration & Justice to UNHCR Regional Representation for Central Europe Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014
PRS	2	c		Can citizenship be withdrawn from foundlings if parents are identified even if	UNHCR Guidelines on Statelessness #4 2012 : Nationality acquired by foundlings... may only be lost if it is proven that the child concerned possesses another State's nationality.	Yes. The law specifies 'until the contrary is proven'. There are no particular rules regulating such a situation, nor is there any information about actual cases.	Act LV of 1993 on Hungarian nationality , Section 3(3)(b) (HU)

				this leads to statelessness?			
PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	UN Convention on the Reduction of Statelessness, 1961 : If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as...adoption, such loss shall be conditional upon possession or acquisition of another nationality. ENS (2015), No Child Should Be Stateless : ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process.	No.	
PRS	3	b		Does a foreign child adopted by national parents acquire nationality? Is there a risk of statelessness during the adoption process? Are there any age limits?	European Convention on Nationality, 1997 : Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015 : ...ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between...arrival...and formal adoption.	Foreign or stateless children adopted by a Hungarian national do not automatically obtain Hungarian nationality but can apply after 3 years of residence. There are no specific age limits (but adoption is only possible before reaching the age of majority).	Act LV of 1993 on Hungarian nationality , Section 4(2)(c) (HU)
PRS	4	a	Ius sanguinis and discrimination	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>)? Are there any conditions? Are these conditions	UN Convention on the Reduction of Statelessness, 1961 : Art 4 UNHCR Guidelines on Statelessness #4 2012 : ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child...	Children born to at least one Hungarian parent (regardless of the place of birth, the sex of the parent and whether the child was born in or out of wedlock) become Hungarian citizens automatically at birth.	The Fundamental Law of Hungary , 25 April 2011, Section G(1)

				discriminatory? (see below if child would otherwise be stateless)	Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 : the impact of denial of citizenship on the applicant's social identity was such as to bring it within the general scope and ambit of Article 8... the state ... must ensure that the right is secured without discrimination... Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012		
PRS	4	b		Can children born to nationals outside the country access nationality by descent (<i>ius sanguinis</i>) if they would otherwise be stateless? Are there any conditions? Are these conditions discriminatory?	UNHCR Guidelines on Statelessness #4 2012 : ... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad...	Children born to at least one Hungarian parent (regardless of the place of birth, the sex of the parent and whether the child was born in or out of wedlock) become Hungarian citizens automatically at birth.	The Fundamental Law of Hungary , 25 April 2011, Section G(1)
PRS	5	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can children be registered if	Convention on the Rights of the Child 1989 : The child shall be registered immediately after birth and shall have the right from birth to a name [and] the right to acquire a nationality... International Covenant on Civil and Political Rights 1966 : Art 24(2)	All children born in Hungary shall be registered at birth (the law does not include any additional condition related to the parents' legal status). The fact of birth shall be announced within one day of the delivery to the civil registry authority by the head of the hospital where the birth took place; or the specifically trained	Act I of 2010 on Civil Registration Procedures , Section 1(3)(a) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness

			parents are undocumented and/or not legally residing in the country (by law)?	<p>Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention...Article 7 CRC ...applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 UN Sustainable Development Goal 16 UN Human Rights Council, Resolution A/HRC/RES/20/4: ... ensure free birth registration, including free or low-fee late birth registration, for every child...irrespective of his or her immigration status and that of his or her parents or family members...</p>	<p>medical person assisting the birth, if it took place outside a hospital. The civil registration authority shall examine the child's nationality at birth. If the child's nationality or statelessness is not proven, 'unknown nationality' shall be noted in the civil registry (and on the birth certificate). In Hungary, birth registration is linked and performed together with the establishment of nationality.</p>	<p>at Birth in Hungary, Hungarian Helsinki Committee, January 2014</p>
PRS	5	b	Are there credible reports to suggest that children are prevented from registering in practice because of parents' status?	As above	No.	

PRS	5	c		Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. health authorities required to report undocumented migrants)?	UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012 : While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... PICUM, Rights of Accompanied Children in an Irregular Situation, 2011 : Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often...contradicted by other rules and practices, such as the duty to denounce ...	There are no specific rules in law.	
PRS	6	a	Late Birth Registration	Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?	UNHCR Global Action Plan to End Statelessness 2014-24 : Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible ... UN Human Rights Council, Resolution A/HRC/RES/20/4 Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children ENS (2015), No Child Should Be Stateless : One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births...	The law does not contain statutory deadlines. The birth shall be announced within one day of the delivery to the civil registry authority by the head of the hospital where the birth took place; or the specifically trained medical person assisting the birth, if it took place outside a hospital. The overwhelming majority of children are born in hospital and Hungary has a 100% birth registration rate, therefore the issue of late birth registration has never been raised as a challenge in public discourse and no research has been conducted on this issue.	World Bank data on completeness of birth registration
PRS	6	b		Is late birth registration	As above	No information available	

				possible in practice?			
PRS	6	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	UN Human Rights Council, Resolution A/HRC/RES/20/4	No information available	
PRS	7	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless...	No information available	
PRS	7	b		Are there sections of the population believed to be stateless/at risk of statelessness? Are minorities disproportionately affected? Please provide details and source of information.	UN Convention on the Reduction of Statelessness, 1961 Article 9 UNHCR Global Action Plan to End Statelessness 2014-24: Action 4	No specific ethnic, religious, etc. minorities have ever been reported to be at a specific risk of statelessness in Hungary. Research by the Hungarian Helsinki Committee in 2014 identified three particular groups of concern: Children born in Hungary to stateless persons with no domicile; children born to parents who are unable to pass on their nationality to their children (e.g. because of jus soli or sex discrimination); children born to beneficiaries of international protection who are unable to pass on their nationality to their children because this would require contact with the authorities of the	Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary , Hungarian Helsinki Committee, January 2014

						country of origin. Such children are either born stateless or at risk of statelessness in Hungary.	
PRS	7	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	UN Convention on the Reduction of Statelessness, 1961 UNHCR Global Action Plan to End Statelessness 2014-24: Action 1, Action 8 UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015	<p>In 2010, the Parliamentary Commissioner for Civil Rights and the Hungarian Helsinki Committee criticised practice relating to children born in a hospital to an unknown father and known foreign mother whose identity and nationality are not officially established, and who abandons the child shortly after birth. Previously, these children were not considered foundlings and did not obtain Hungarian nationality at birth. The mother's identity and nationality were often registered in the hospital registry without verification. The children were often treated as being of unknown nationality and so faced exclusion from services and risked being adopted or "repatriated" to the mother's country of nationality when established, sometimes only years later. Following strong criticism and several mediated cases, a new provision was introduced in law in 2011 to consider the child in such cases a foundling if the mother abandons the child and does not prove her identity within 30 days of birth.</p>	<p>Act I of 2010 on Civil Registration Procedures, Section 61(5) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary, Hungarian Helsinki Committee, January 2014</p>
PRS	8	a	Withdrawal of nationality	Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be	UN Convention on the Reduction of Statelessness, 1961 : Article 8: A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless. European Convention on Nationality, 1997 : Article 7(3): A State party may not provide in its internal law for the loss of its nationality...if the person concerned would thereby become stateless...	<p>The only legal ground for depriving a Hungarian national of their nationality is if it was acquired based on fraud, "<i>in particular by misleading the authority by communicating false data or omitting data or facts</i>". Hungarian nationality cannot be withdrawn after 10 years from the date it was awarded.</p>	<p>Act LV of 1993 on Hungarian nationality, Section 9 (HU)</p>

				found? Do any provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice?	Universal Declaration of Human Rights : Article 15(2) No one shall be arbitrarily deprived of his nationality ...	No specific statelessness-related safeguards exist.	
PRS	8	b		Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are there? (e.g. judicial oversight, time limit, subject to prior sentencing, appeal rights, legal aid)	UN Convention on the Reduction of Statelessness, 1961 : Article 8(4): A contracting state shall not exercise a power of deprivation...except in accordance with the law, which shall provide for ...the right to a fair hearing by a court or other independent body. European Convention on Nationality, 1997 : Article 11: Each state party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing...	On 1 January 2017, the Budapest Regional Government Office became the competent authority on nationality-related matters (replacing the Office of Immigration and Nationality). Formally, decisions are made by the President, however, as demonstrated by the HHC in 2015, this is a mere formality (at least in naturalisation cases). The law stipulates the right to judicial review in case of deprivation. No other specific safeguards are set by law.	Act LV of 1993 on Hungarian nationality , Section 9 (HU) Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary , Hungarian Helsinki Committee, 2015, p. 20
PRS	8	c		Are withdrawal provisions (both for loss and deprivation) applied in practice?		No information is available on the application of these provisions.	

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		There are no published judgments adjudicating statelessness in Hungary, nor are there disaggregated statistics about court practices.	
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		There are no published judgments referring to statelessness in Hungary, except for the landmark Constitutional Court judgement in 2015.	Constitutional Court, Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term "lawfully" in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR (Good Practices Paper 6) : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010 : It is recommended that States provide specialised training on nationality laws and practices, international	No	

					standards and statelessness to officials responsible for making statelessness determinations.		
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010 : as above	Yes. Gábor Gyulai, Refugee Programme director at the Hungarian Helsinki Committee and president of the European Network on Statelessness has provided statelessness-specific training to lawyers and other employees of the HHC on several occasions, in addition to ad hoc training activities in past years to statelessness determination officers, UNHCR staff, other NGO staff and participants of various training courses on social work with migrants organised by the Menedék Association for Migrants .	Hungarian Helsinki Committee Menedék Association for Migrants
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.	UNHCR (2014), Handbook on Protection of Stateless Persons : Applicants are to have access to legal counsel. UNHCR (Good Practices Paper 6) : Gives the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK.	The Hungarian Helsinki Committee (HHC), as the sole legally focused UNHCR implementing partner in the country since 1998, is the only entity providing professional free-of-charge legal assistance and representation to applicants for stateless status, and stateless persons applying for naturalisation. Besides the HHC, no law firms or lawyers offer specialised and/or free-of-charge services. The Menedék Association for Migrants is the expert NGO specialised in offering social assistance and integration support to refugees and migrants in Hungary, including applicants for stateless status and recognised stateless persons	Hungarian Helsinki Committee Menedék Association for Migrants
LIT	4	a	Literature	Is there domestic academic literature on statelessness? If possible, please			Gábor GYULAI, The Black Box of Nationality – The Naturalisation of Refugees and Stateless Persons in Hungary , Hungarian Helsinki Committee, 2016

				list and provide references and hyperlinks (where available).			<p>Gábor GYULAI, <i>Nationality Unknown – An overview of the safeguards and gaps related to the prevention of statelessness at birth in Hungary</i>, Hungarian Helsinki Committee, 2014</p> <p>Gábor GYULAI, <i>Statelessness in Hungary – The Protection of Stateless Persons and the Prevention and Reduction of Statelessness</i>, Hungarian Helsinki Committee, December 2010</p> <p>Gábor GYULAI, <i>Practices in Hungary Concerning the Granting of Non-EU-Harmonised Protection Statuses</i>, European Migration Network, August 2009</p> <p>Gábor GYULAI, <i>Forgotten without Reason – Protection of Non-Refugee Stateless Persons in Central Europe</i>, Hungarian Helsinki Committee, 2007</p> <p>Aranka LŐRINCZ, <i>A hontalan státusz megállapítása iránti eljárás nemzetközi és magyar aspektusai</i>, in: <i>Közjogi Szemle</i>, 2014/4.</p> <p>Tamás MOLNÁR, <i>A hontalanok helyzete a nemzetközi jogban, illetve a magyar jogban</i>. in: Lékó Zoltán (ed.), <i>A migrációs jog kézikönyve</i>, CompLex, Budapest, 2009, pp. 329-358 (HU)</p> <p>Examples of other literature on statelessness by Hungarian authors:</p> <p>Katalin BERÉNYI, <i>Addressing the</i></p>
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						<p><i>anomaly of statelessness in Europe: An EU law and human rights perspective</i>, doctoral thesis, Nemzeti Közzolgálati Egyetem (National University of Public Service), Budapest, 2018</p> <p>Katalin BERÉNYI, <i>Rethinking the Advocacy Tools of the EU in Exporting Legal Principles to the MENAT Region to Tackle Childhood Statelessness</i>, Statelessness Working Paper Series No. 2016/05, Institute on Statelessness and Inclusion</p> <p>Katalin BERÉNYI: <i>Non-citizenship in the EU: Irrelevant, a driving force for displacement or a pretext for intervention?</i>, in: Cultural Relations Quarterly Review, Volume 5, Issue 1, Budapest, 2018</p> <p>Mónika GANCZER, <i>The Right to a Nationality as a Human Right?</i>, In: Petra Lea Láncos, Réka Varga, Tamás Molnár, Marcel Szabó (eds.), Hungarian Yearbook of International Law and European Law 2014, the Hague, Eleven International Publishing, 2015. pp. 15-33.</p> <p>Mónika GANCZER, Államutódlás során létrejövő hontalanság elleni védelem az állampolgársági tárgyú nemzetközi szerződésekben, in: Acta Humana, 21/1-2., 2010, pp. 3-29</p> <p>Gábor GYULAI, <i>The Right to a Nationality of Refugee Children Born in the EU and the Relevance of the EU Charter of</i></p>
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						<p>Fundamental Rights, European Council on Refugees and Exiles, February 2017</p> <p>Gábor GYULAI, The Long-Overlooked Mystery of Refugee Children's Nationality, in: Laura van Waas, Amal de Chickera (eds.), <i>The World's Stateless Children</i>, Institute on Statelessness and Inclusion, January 2017</p> <p>Gábor GYULAI, The Determination of Statelessness and the Establishment of a Statelessness-Specific Protection Regime, in: Laura van Waas, Alice Edwards (eds.), <i>Nationality and Statelessness under International Law</i>, Cambridge University Press, United Kingdom, 2014</p> <p>Gábor GYULAI, Statelessness Determination and the Protection Status of Stateless Persons – A summary guide of good practices and factors to consider when designing national determination and protection mechanisms, European Network on Statelessness, 2013</p> <p>Gábor GYULAI, Statelessness in the EU Framework for International Protection, <i>European Journal of Migration and Law</i> 14 (2012), Martinus Nijhoff Publishers, Netherlands</p> <p>Gábor GYULAI, La apatridia: significado, magnitudes y alcances de la protección, in: <i>Aportes Andinos</i>, 29 (2011), Universidad Andina Simón Bolívar, Ecuador</p>
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