

COUNTRY BRIEFING
JANUARY 2019

France



INTRODUCTION

The [Statelessness Index](#)¹ is an online comparative tool that assesses European countries' law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice. The Index was developed and is maintained by the [European Network on Statelessness \(ENS\)](#)², a civil society alliance of over 120 organisations and individuals in 40 countries working to end statelessness and ensure that stateless people in Europe access their rights.

ENS worked with [Forum réfugiés-Cosi](#)³ to research and compile comparative information on statelessness in [France](#)⁴. Since 1982, this French NGO has taken action for the reception of asylum seekers and refugees and has defended the right to asylum in France. It is also involved in detention centres where it informs and assists those detained by ensuring that they know their rights.

To be stateless is not to be considered a national by any state under the operation of its law. It is a legal anomaly that prevents more than 10 million men, women and children around the world - and more than half a million in Europe - from accessing fundamental civil, political, economic, cultural and social rights.

This briefing summarises the French legal framework and policy, its conformity with international norms, its practices on the protection of stateless people, and its approach to prevention and reduction of statelessness. Five thematic areas are covered by the Index: International and Regional Instruments, Statelessness Determination and Status, Stateless Population Data, Detention and Prevention and Reduction. This country briefing also proposes several recommendations to the French Government to better protect stateless persons' human rights and dignity.

INTERNATIONAL AND REGIONAL INSTRUMENTS

France has signed and ratified the [1954 Convention Relating to the Status of Stateless Persons](#) but is not party to three of the core statelessness instruments: the [1961 Convention on the Reduction of Statelessness](#) (has signed but not acceded, with reservations), the [European Convention on Nationality](#) (has signed but not acceded, no reservation), and the [Convention on the Avoidance of Statelessness in Relation to State Succession](#) (neither signed nor acceded), which protects the right to a nationality and obliges the State to prevent statelessness in cases of State succession.

The French Government should ratify the three other core Conventions to protect stateless persons and prevent and reduce statelessness. Regarding the 1961 Convention, the national legal

framework already integrates most of the provisions established in the Convention. Its ratification would, therefore, be straightforward and would contribute to the international campaign to reduce statelessness.



STATELESS POPULATION DATA

Official statistics on statelessness relate to the statelessness determination procedure. In 2017, 341 new claims were lodged (a 2% increase compared to 2016) and 298 decisions were issued including 65 positive decisions, meaning a recognition rate of 22% - an increase compared to 2016. 52% of claims were lodged by persons from Europe, 32% from Africa, and 16% from Asia. 114 adults who lodged an international protection claim were granted

protection as 'stateless-refugees'. As of 31 December 2017, 1425 stateless persons with undetermined nationality are protected by OFPRA, 34% of whom are women.

Although France collects and publishes disaggregated data on the statelessness determination procedure, stateless refugees⁵, and limited data on stateless people's acquisition of nationality and residence permits, it does not capture stateless people in the census. There is no possibility in the population census to select anything other than a nationality – all other responses are considered 'non-answers'. If the nationality question is not answered, the respondent is either assigned by the authorities the nationality of their country of birth, or the nationality of another respondent sharing similar characteristics. Moreover, there is no official data on stateless people in detention, and a comprehensive mapping study of statelessness in France has not been published.

This lack of key information and data generates a misunderstanding of the problem and results in an underestimation of the challenges that need to be addressed. Identification of stateless persons remains the first step to protecting their rights but also leads to a better understanding of the causes and solutions. The French Government should collect reliable data on statelessness and implement measures to collect and publish both quantitative and qualitative data on stateless persons on their territory⁶, including a national mapping study of statelessness in France. It should establish in policy effective measures to improve stateless population data, including recording and counting stateless individuals in the census, and creating and maintaining population registries and an immigration database.

 **STATELESSNESS DETERMINATION
AND STATUS**

France has a clear and detailed statelessness determination statute procedure under the responsibility of the French Office for the Protection of Refugees and Stateless Persons (OFPRA). Despite measures to facilitate access, including no fee nor residence requirement and a duty to examine all claims, key gaps remain in the procedure. Interview is not mandatory, the application must be made in writing in French, and it cannot be initiated by officials on behalf of an individual (*ex officio*). The burden of proof is shared but the standard of proof is higher than in asylum procedures. Legal aid is limited, and applicants are not granted residence rights, so may be subject to removal procedures. Consequently, many cases potentially identified as stateless prefer to engage in an asylum procedure rather than a statelessness procedure, as it ensures more security and support for the applicant. There is no quality audit of decision-making nor timeframe within which

decisions must be made, but UNHCR provides training for decision makers. There is a right of appeal, but appeals do not have suspensive effect. Positively, recognised stateless people are granted a multi-year residence permit valid for four years and can access a range of rights including a travel document, family reunion, and a route to naturalisation, though this is not accelerated (unlike for refugees). They will have access to a resident permit valid for 10 years after four years of residence in France.

The French Government should reinforce access to the procedure through targeted information campaigns, providing guidance on the procedure, and accepting applications for stateless status in any language. It should integrate safeguards to enable State authorities to initiate a procedure (*ex officio*). Protection during the procedure should be guaranteed including temporary legal stay and access to assistance. Procedural protections should also be improved through access to free legal aid, a compulsory interview, a time limit for decisions and the right to a suspensive appeal. The statelessness determination procedure should be included in the quality assurance audits of OFPRA's work carried out by UNHCR. Finally, the French Government should facilitate a naturalisation for stateless people within the same timeframe as refugees.

**DETENTION**

Several provisions in French law contain safeguards against arbitrary detention that are pertinent to stateless people, including the obligation that a country of removal must be set prior to detention and can be appealed separately from the decision to detain. However, people who may be stateless or at risk of statelessness are reportedly detained. As no official data is available on stateless people held in detention, this remains a key gap to identifying stateless people and protecting them from detention. Procedural safeguards are set in law including a maximum time limit, free legal aid, judicial oversight, effective remedies and written reasons and information on rights provided to all detainees. Identification and residence rights are not issued automatically to people released from detention, but if released due to cancellation of removal, temporary residence and some basic rights are granted, such as access to social services, healthcare (PUMA), and emergency accommodation.

The French Government should implement procedures considering the specific circumstances facing stateless persons and those at risk of statelessness when determining removal procedures and making decisions to detain. Strong mechanisms should be implemented to identify and respond to vulnerabilities, including statelessness, to collect data on stateless people held in detention and ensure clear referral routes to the statelessness determination procedure for people in detention and/or subject to removal proceedings.



PREVENTION AND REDUCTION

French law contains provisions to prevent and reduce statelessness, but there are gaps in implementation. Children born stateless on the territory are French by law, but in practice, they must make a request to the authorities and may need to go through the statelessness determination procedure to prove their statelessness. Under other provisions in French nationality law, young people acquire French nationality on reaching the age of majority (18 years-old) if they have been habitually resident on the territory for at least five years. Foundlings, adopted children and children born to French nationals abroad are fully protected from statelessness in the law. However, there are some barriers to birth registration in that documentation is required to affect the registration, which may be difficult to produce for marginalised groups, and late registration is only possible through the high court.

The French Government should consider addressing barriers to birth registration, including facilitating late birth registration, and implementing national campaigns and promotion activities on birth registration focusing on vulnerable and high-risk populations. Monitoring of vulnerable groups exposed to discrimination in accessing nationality for their children should also be conducted. The Government should collect data and statistics on stateless children, as well as access to birth registration and documentation.

SUMMARY OF RECOMMENDATIONS

- Ratify the three other core statelessness Conventions: 1961 Convention on the Reduction of Statelessness, European Convention on Nationality and 2006 Convention on the Avoidance of Statelessness in Cases of State Succession
- Widen access to the statelessness determination procedure through targeted information campaigns, providing guidance on the procedure, and accepting applications for stateless status in any language.
- Integrate safeguards to enable State authorities to initiate a statelessness determination procedure (ex officio).
- Guarantee protection during the procedure including temporary legal stay and access to assistance. Procedural protections should also be improved through access to free legal aid, compulsory interview, time limit for decisions and the right to suspensive appeal.
- Include the statelessness determination procedure in the quality assurance audits of OFPRA's work carried out by UNHCR.
- Facilitate the naturalisation procedure for stateless people so the timeframe for eligibility is the same as for refugees.
- Establish effective measures to improve stateless population data, including recording and counting stateless persons in the census, population registries and an immigration database.
- Conduct and publish a national mapping study of statelessness in France.
- Implement procedures considering the specific circumstances facing stateless persons and those at risk of statelessness to identify and respond to vulnerabilities when determining removal procedures and making decisions to detain, collect data on stateless people in detention and ensure clear referral routes from detention and removal procedures to the statelessness determination procedure.
- Remove barriers to birth registration, including after the registration period has expired.
- Implement national campaigns and promotion activities on birth registration, focusing on vulnerable and high risk populations.
- Monitor vulnerable groups exposed to discrimination in accessing nationality for their children and collect data on stateless children, access to birth registration and documentation.

ENDNOTES

¹ <https://index.statelessness.eu>

² www.statelessness.eu

³ <http://www.forumrefugies.org/>

⁴ <https://index.statelessness.eu/country/france>

⁵ OFPRA, Rapport d'activité 2017, https://ofpra.gouv.fr/sites/default/files/atoms/files/ra_ofpra2017_web_0604.pdf

⁶ Conclusions of the Council of the European Union and the Representatives of the Governments of the Member States on Statelessness, 4 December 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/12/04/council-adopts-conclusions-on-statelessness/>

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