



Ad-Hoc Query on experiences in implementing the UN Conventions on Statelessness

Requested by PL EMN NCP on 20th August 2013

Compilation produced on 20th December 2013

Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Croatia, Norway (21 in Total)

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1. Background Information

Poland intends to initiate a discussion on a possibility to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. We would like to know more about other Member States' experience in implementing those Conventions. We would therefore appreciate your response to the following questions:

1. Is your MS a signatory of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness?
2. If no, please indicate a rationale behind it.
3. If yes:

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- a. Did you encounter any difficulties/problems in implementing it, including i.e. misuse of provisions of the Conventions?
- b. Did you record a growing number of stateless persons arriving to your MS as a consequence of acceding to the Conventions?

We would very much appreciate your responses by the 20th September 2013.

2. Responses¹

		Wider Dissemination?	
			<ol style="list-style-type: none"> 1. Is your MS a signatory of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness? 2. If no, please indicate a rationale behind it. 3. If yes: <ol style="list-style-type: none"> a) Did you encounter any difficulties/problems in implementing it, including i.e. misuse of provisions of the Conventions? b) Did you record a growing number of stateless persons arriving to your MS as a consequence of acceding to the Conventions?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<ol style="list-style-type: none"> 1. Belgium is a signatory of the 1954 Convention relating to the Status of Stateless Persons. Belgium is not a signatory of the 1961 Convention on the Reduction of Statelessness. The Belgian government made in late 2011 an express commitment to accede to the 1961 Convention. 2. As the main principles of the Convention (e.g. granting the nationality) were already implemented in Belgium, there was no sense of urgency to accede to the 1961 Convention. However, for a full adoption of the Convention some more technical issues remained to be resolved within the Belgian legislation. It seems that there was no political momentum to do this. 3 a) 1° On the 1954 Convention: There is no centralised independent authority responsible for the determination of statelessness in accordance with the 1954 Convention. In the absence of a specialised authority, Courts and tribunals ensure the determination of statelessness. However, those who are recognised as stateless by a judiciary decision are not automatically granted a legal stay on the territory (no link in national law between the judiciary decision and the administrative situation of the person). There is also no record of how many people have applied to be recognised as stateless at the national level in Belgium. From interviews conducted for the study <i>Mapping Statelessness in Belgium</i> with Crown Prosecutors and judges, it appears, however, that there are relatively few applications each year. Some tribunals issue around 20 judgments a year, which suggests a low number of applications lodged yearly, while others will only deal with around five applications. In addition, cases seem to have been on the decline since 2008. In cases where applicants are aware of the statelessness determination procedure, they are sometimes advised by their lawyer to apply for asylum, as both asylum-seekers and recognised refugees have more rights than a recognised stateless person. This has an unfortunate consequence at the level of most tribunals, including Brussels: the Crown Prosecutor's Office treats applications for the recognition of statelessness warily as they are often seen as someone's last chance of obtaining a right to stay in Belgium. Indeed, the Crown Prosecutor's Office noted that the applicants' profile is usually the same, namely that by

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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			<p>the time they introduce their application, negative decisions have already been pronounced as regards any claim for asylum or regularisation. The establishment of a separate procedure for stateless persons is currently being investigated by the Belgian authorities, but no decision has been reached yet. 2° On the 1961 Convention : Legislative provisions of the current Belgian Nationality code would need to be modified or added to be fully in line with the 1961 Convention mainly concern additional safeguards in rare instances of loss and deprivation of nationality, birth on ships and aircraft that are stationary or in transit and for foundlings.</p> <p>b) No. For available figures on stocks of stateless persons, see UN High Commissioner for Refugees, <i>Mapping Statelessness in Belgium</i>, October 2012, available at: http://www.refworld.org/docid/5100f4b22.html.</p>
	Bulgaria	Yes	<ol style="list-style-type: none"> 1. Yes, the Republic of Bulgaria is a signatory of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. 2. n/a 3. a) No, in so far. However, Bulgaria signed the 1954 Convention relating to the Status of Stateless Persons with a number of reservations relating mainly to limited provision of state support, housing, social and other benefits, as well as some reservations relating to issuing identification documents for travel abroad. The exact annotation of these reservations is as follows: Art. 7, Par. 2; Art. 21; Art. 23; Art. 24, Par. 1-b, 2, 3; Art. 27; Art. 28; Art. 31 of the Convention. <p>b) No, in so far. However, Bulgaria became cosigner of the both conventions in February 2012 – a bit over a year ago, and in this respect the data is yet to be collected and analyzed.</p>
	Cyprus	Yes	-
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Denmark	Yes	-
	Estonia	Yes	<ol style="list-style-type: none"> 1. No. 2. Estonia if of positions, that Estonia provides more rights to persons with undetermined citizenship than required by the 1954 Convention Relating to the Status of Stateless Persons; it should be therefore further analysed whether accession to the convention would negatively affect those rights. Therefore Estonia is not planning to accede the Convention in the near future (Response of the Republic of Estonia to the list of issues prior to the submission of the fifth periodic report on implementation of the International Convention Against Torture, accessible at http://www.vm.ee/sites/default/files/CAT_Replies_of_Estonia.pdf). The accession to the 1961 Convention on the Reduction of Statelessness would require extensive changes in Estonian citizenship legislation. The 1961 Convention on the Reduction of Statelessness partially contradicts the Estonian Citizenship Act, wherefore the Estonian Citizenship Act would have to be changed upon joining the Convention. Article 1 of the Convention foresees that a

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			<p>Contracting State shall grant its nationality to a person born on its territory and who would otherwise be stateless (the principle of jus soli). According to the Estonian Citizenship Act, nationality is granted “by blood” (the principle of jus sanguinis), that is, a person that has at least one parent with Estonian citizenship at the moment of birth shall acquire Estonian citizenship. Estonia does not consider changing this principle in the Citizenship Act at the present moment (Tenth and Eleventh Periodic Report on the implementation of the International Convention on the Elimination of all forms of Racial Discrimination in Estonia, accessible at http://www.vm.ee/sites/default/files/Eesti%20kümnes%20ja%20üheteistkümnes%20perioodiline%20aruanne.pdf)</p> <p>3. N/A</p>
	Finland	Yes	<p>1. Yes. 2. N/A. 3. a) The law enforcing the 1954 Convention came into force on the 8th January 1969. Finland did not encounter any difficulties. b) No.</p>
	France	Yes	-
	Germany	Yes	-
	Greece	Yes	-
	Hungary	Yes	<p>1. Yes, it is. Hungary acceded to the 1954 New York Convention in November 2001 (incorporated into Hungarian law by Act No. II of 2002) and then acceded to the 1961 UN Convention in August 2009 (incorporated into Hungarian law by Act No. XV of 2009).</p> <p>2. N/a.</p> <p>3. a) No, we did not. Moreover, since July 2007, Hungary has been operating an autonomous, self-standing statelessness determination procedure (SDP) (established by Act No. II on the Entry and Stay of Third-Country Nationals), with detailed rules and procedural safeguards. Hungary is now one of the few countries in the European Union having such a comprehensive procedure established by law; with guarantees comparable to the refugee status determination procedure, fulfilling also the specific needs of this group (for example evidence, burden of proof, and administrative assistance). We have not recorded any misuse with the system so far.</p> <p>b) No, we did not. As for the figures since the establishment of the SDP, the number of applicants has varied between 20-50 per year, without any specific increase and dramatic change. We have received 190 applications altogether until the end of 2012 (July – December 2007: 14 applications, 2008: 50 applications, 2009: 31 applications, 2010: 22 applications; 2011: 23 applications; 2012: 50 applications). On the other hand, the SDP has been functioning smoothly since its establishment and the recognition rate is quite high (around 60 %).</p>
	Ireland	Yes	-
	Italy	Yes	<p>1. Yes, Italy is a signatory of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. National legislation was updated accordingly by means of Law no. 306/62.</p> <p>2. N/A.</p> <p>3. a) No specific implementation-related difficulties/problems were encountered in terms of misuse.</p>

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			b) Italy did not record any increase in the number of stateless persons arriving from abroad. In general, the number of first residence permits released to stateless persons in Italy is very low (53 in 2010 and 72 in 2011 according to Eurostat). The stock of residence permits for the last two years also shows the low presence of stateless persons in the country (382 in 2010 and 470 in 2011, Eurostat).
	Latvia	Yes	<ol style="list-style-type: none"> 1. Yes. Latvia acceded to the 1954 Convention relating to the Status of Stateless Persons in 1999 and to the 1961 Convention on the Reduction of Statelessness in 1992. 2. – 3. a) Latvia did not encounter specific difficulties or problems in implementation of Conventions. b) Latvia also did not face a considerably growing number of stateless persons arriving as a consequence of acceding to the Conventions. Procedure to gain status of stateless person is quite strict. Number of stateless persons does not exceed 200 in the last seven years.
	Lithuania	Yes	<ol style="list-style-type: none"> 1. Lithuania is a signatory of both Conventions. The 1954 Convention relating to the Status of Stateless Persons has been ratified in 1999 and the 1961 Convention on the Reduction of Statelessness in has been ratified in 2013 by the Parliament of the Republic of Lithuania. Ratification of the 1961 Conventions introduced more favourable conditions for naturalisation of the stateless persons (these persons, born in the territory of the Republic of Lithuania, can apply for the citizenship after 5 years of living in Lithuania, not 10 as the general rule). 2. N/A 3. a) No. b) No.
	Luxembourg	Yes	<ol style="list-style-type: none"> 1. Yes and No. Luxembourg signed the Convention relating to the status of stateless persons of 1954 on the 28 October 1955 and ratified it on the 27 June 1960. The Convention was approved by Law of 13 January 1960. However, Luxembourg has not acceded to the Convention on the Reduction of Statelessness of 1961. 2. In the exposition of motives of the bill on the reform of the Luxembourgish nationality², the government proposed to harmonize the legislation with the provisions of the Convention on the Reduction of Statelessness. Nevertheless, the government is against to accede to the Convention “considering that the Grand-Duchy disposes of a significant maritime pavilion and that the Luxemburgish authorities cannot control all the ships under Luxemburgish flag which sail in the seas”. The authors of the bill considered that article 3 of the convention is susceptible of being misused. 3. a) N/A. b) There are no statistics on the people seeking the recognition as stateless.³ According to the National Census of 2011⁴ there are 197 stateless persons living in Luxembourg.
	Malta	Yes	<ol style="list-style-type: none"> 1. No. 2. -

² Document parlementaire N°6561

³ UN High Commissioner for Refugees, *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Luxembourg*, July 2012, p. 5.

⁴ <http://www.statistiques.public.lu/catalogue-publications/RP2011-premiers-resultats/2012/04-12.pdf>

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	Netherlands	Yes	<ol style="list-style-type: none"> 1. Yes. 2. This question does not apply to the Dutch situation. 3. a) No. Recently the regulations which implemented the 1954 Convention were removed from the Aliens Act Implementation Guidelines, because the protection that the Convention provides is also provided by the Dutch immigration law. b) No, there is no record of that.
	Poland	Yes	<ol style="list-style-type: none"> 1. No. 2. The Polish authorities took the view that the discussion on the Poland's accession to both Conventions should take place after introducing significant changes in regulations relating to principles of acquiring Polish Citizenship (new Act on Polish Citizenship entered into force on 15 August 2012) as well as to entry and stay requirements for foreigners (new Act on Foreigners is currently being discussed by the lower chamber of the Parliament). Moreover Poland feared the regulations of the Conventions would be abused and misused by foreigners. 3. n/a
	Portugal	Yes	<ol style="list-style-type: none"> 1. Yes. Both, on 2nd October of 2012. 2. n/a 3. a) No. b) No. There isn't a significant expression for this reason.
	Romania	Yes	-
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Yes, the Slovak Republic is a signatory state of both Conventions. 2. n/a 3. a) No. b) From the date of ratification of the Conventions by the Slovak Republic (3 April 2000) till the end of August 2013 only 8 stateless persons applied for asylum in the Slovak Republic. Thus it seems that the ratification of the Conventions did not have any specific influence on the number of stateless asylum seekers in the SR.
	Slovenia	Yes	<ol style="list-style-type: none"> 1. No. 2. The Republic of Slovenia hasn't ratified conventions yet, but discussions are in place. However the Slovenian Citizenship Act from 2002, with slightly changes in 2006, contains all essential elements of both conventions in order to protect rights of statelessness person. Each case of statelessness person is taking care individually and competent authority try to solve the status of the person as quick as possible. 3. a) No, from 2002 when the Slovenian Citizenship Act came into force and contain provision which deal with statelessness person the Ministry of the Interior had less than 10 cases of statelessness person which at final stage gained Slovenian citizenship as status.
	Spain	Yes	-
	Sweden	Yes	<ol style="list-style-type: none"> 1. Yes 2. - 3. Since Sweden signed these conventions in 1965 and 1969 they have for a long time been part of the legal framework. Therefore it

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			is very hard to draw any conclusions on their consequences in present time. The number of stateless persons coming to Sweden has increased in recent years, but this development cannot be related to the Conventions of 1954 and 1961.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. Yes, the UK is a signatory to both Conventions but does not accept that they place an obligation on signatories to grant leave to enter or remain to stateless people for that reason alone. 2. n/a 3. In April 2013, the UK brought in new immigration rules, which allowed for the consideration of applications for leave to remain in the UK under very limited conditions, whereby stateless persons who have no other right to remain in the UK but cannot be removed, can be formally determined as stateless and granted leave to remain. This was intended to address a potential gap in the UK's response to the protection needs of this minority of people, ensure visible compliance with these international treaties and help deal positively with immigration cases which might otherwise be incapable of satisfactory resolution. The new policy and procedure is primarily intended for those who do not qualify for refugee status or subsidiary protection or any other form of leave under the Immigration Rules and who meet the 1954 Convention definition of a stateless person as "a person who is not considered as a national by any state under the operation of its law". Leave to remain will not however be granted if an individual accepted as stateless is considered admissible to another country provided this is in accordance with the UK's international obligations (ie Refugee Convention, ECHR). It is too early to assess the effect of this provision and a considered response cannot yet be provided to Q3a and 3b.
	Croatia		<ol style="list-style-type: none"> 1. Croatia is a Party of the 1954 Convention relating to the Status of Stateless Persons and has ratified the 1961 Convention on the Reduction of Statelessness in 2011. 2. - <ol style="list-style-type: none"> a) No. b) Following the situation in the course of 2012 and 2013, it is clear the Croatia does not have any problems with stateless persons. There are only a few cases of persons staying in Croatia whose nationality status has not been legally regulated.
	Norway	Yes	<ol style="list-style-type: none"> 1. Yes. Norway ratified the 1954 Convention on 26 October 1956 and the 1961 Convention on 11 August 1971. 2. – 3. a) No b) No. The statistics needed to describe any effects of these ratifications are not easily available, if they have been produced. The statistics that are available (for years around the 1971 ratification) do not indicate any significant effects.
