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RESEARCH

PREVENTION STATELESSNESS AND ITS REDUCTION IN UKRAINE ON THE PATH TO EU MEMBERSHIP

CONTENTS

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INTRODUCTION

The right to nationality is a fundamental right, without which a person cannot properly enjoy basic rights or fully realise the civil, political, social, economic and cultural rights enshrined in universal and regional international human rights instruments.

Access to citizenship can be significantly hampered by onerous legal requirements or convoluted administrative procedures, gaps in national legislation, and human rights violations, particularly in the form of discrimination on the grounds of gender, ethnicity, religion and other factors. The break-up of countries and the formation of new independent states, as well as the transfer of territories between countries, are fairly common root causes of statelessness. Other possible factors contributing to the emergence and spread of statelessness include international armed conflicts and civil wars, which lead to mass displacement of people, as a result of which they may find themselves at risk of statelessness. Regardless of the reasons for statelessness, people in all regions and in virtually every country face numerous serious difficulties in their daily lives.

Statelessness remains a global problem despite the numerous measures implemented at international and national levels. Indeed, according to UNHCR estimates, as of the end of 2023 there were approximately 4.4 million stateless persons or persons with undetermined citizenship worldwide, of whom around 350,000 were in EU Member States.[1]

Over the last decade, the issue of statelessness has attracted increasing attention at European Union level in the context of strengthening the protection of human rights as a key priority of its internal and external policies, and consequently of all its Member States. The current EU Action Plan on Human Rights and Democracy 2020–2024[2]emphasises the need for the European Union and its Member States to uphold human rights, with a particular focus on the rights of vulnerable groups, including stateless persons (point 1.1)[3].

Although there is currently no specific comprehensive legal mechanism at EU level in the field of statelessness, existing legislative instruments and the case law of the Court of Justice of the European Union provide for standards ensuring respect for human rights regardless of citizenship status, which is a general principle of EU law and, at the same time, a fundamentalvalue that must be taken into account in all areas of legal regulation at national level, in particular when exercising powers in the field of national citizenship and migration policy.

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[1] Data on reported stateless populations. Global Alliance to End Statelessness. URL: https://statelessnessalliance.org/global-overview/ (accessed: 07.08.2025).

[2] The EU extends its Action Plan on Human Rights and Democracy until 2027. The European External Action Service. URL: https://www.eeas.europa.eu/eeas/eu-extends-its-action-plan-human-rights-and-democracy-until-2027_en (accessed: 07.08.2025).

[3] EU Action Plan on Human Rights and Democracy 2020–2024. The European External Action Service. URL: https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf (accessed: 07.08.2025).

EU human rights standards, particularly regarding the issue of statelessness, are of particular significance for Ukraine in the context of its foreign policy priority of achieving membership of the European Union. Strict adherence to human rights is a prerequisite for EU accession in accordance with the third Copenhagen criterion, which is imposed on candidate countries. Consequently, examining the EU's legal approaches to issues of citizenship and statelessness, as well as analysing the compliance of national legislation with these standards, is an important practical task, which has determined ***the relevance of this study.***

The aim of the study **'Preventing and Reducing Statelessness in Ukraine on the Path to EU Membership'** is to assess the level of compliance and identify discrepancies between the legal framework governing statelessness in Ukraine and the approaches under EU law, with a view to providing recommendations on harmonising Ukrainian legal standards in this area with the relevant EU acquis. Particular attention is paid to the best practices of EU Member States, the consideration of which will help to improve the domestic legal system, implement necessary reforms more effectively and avoid potential legal loopholes. Furthermore, the study highlights the most problematic aspects of Ukrainian legislation in the field of statelessness, particularly from the perspective of its international human rights obligations. This is of great importance for accession to the European Union.

To achieve this objective, the study examines:

- the specific features of the international mechanism for protecting the rights of stateless persons and combating statelessness;
- the specific features of the Council of Europe's legal instruments, including the case law of the European Court of Human Rights;
- a thorough analysis of *the* EU *acquis* concerning statelessness, in particular the case law of the Court of Justice of the European Union;
- a review of the national legislative approaches of EU Member States and certain candidate countries, with a focus on best practices that Ukraine should adopt.

The study is ***based*** on international treaties relating to statelessness, particularly those within the framework of the UN and the Council of Europe, the founding acts of the EU and its legislation, the case law of the European Court of Human Rights and the Court of Justice of the EU, soft law instruments, notably UNHCR recommendations, as well as the national legislation and case law of EU Member States and certain candidate countries, and the legislation and case law of Ukraine. The study utilises analytical reports from open sources, in particular resources from the 'European Network on Statelessness' and the 'Right to Protection' Charitable Foundation.

The study covers legislative changes as of 1 March 2025.

1. INTERNATIONAL MECHANISM TO COMBAT STATELESSNESS

Under contemporary customary international law, states have the exclusive right to determine who their citizens are. In exercising this sovereign right, a state establishes the rules governing the acquisition, change and loss of citizenship. At the same time, the discretion of states in matters of citizenship is limited by the obligations set out in international treaties to which they are parties, the norms of customary international law, and general principles of law.

Striking a balance between an individual's fundamental right to citizenship and a state's sovereign right in the sphere of its citizenship is a complex political and legal problem, which international law seeks to resolve.

The United Nations plays a leading role in developing and implementing international standards aimed at preventing and reducing statelessness. Under the auspices of the UN, two key international treaties were adopted: the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which laid the foundations for an international legal mechanism to protect the rights of stateless persons and combat statelessness. Furthermore, significant attention has been paid the issue of access to citizenship as a means of preventing statelessness among the most vulnerable groups of the population. In this context, the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1989 Convention on the Rights of the Child, adopted within the UN, play an important role in ensuring the right to citizenship.

The effectiveness of international standards in the fight against statelessness is directly linked to states' proper fulfilment of their international obligations, as well as the active implementation of national strategies aimed at supporting the international initiatives and recommendations of the Office of the United Nations High Commissioner for Refugees — the leading international body for the protection of stateless persons and the fight against statelessness at the universal level.

Civil society organisations play a vital role in implementing international standards for the protection of stateless persons and the elimination of statelessness. They complement the efforts ofand international organisations by providing practical assistance to stateless persons, conducting independent monitoring of the current situation, and identifying the root causes of systemic problems, which form the basis for advocating the necessary legal reforms.

1.1. INTERNATIONAL STANDARDS IN THE FIELD OF STATELESSNESS AND THE PREVENTION AND REDUCTION OF STATELESSNESS

Article 15 of the 1948 Universal Declaration of Human Rights [4]solemnly proclaims that 'everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality'. The 1966 International Covenant on Civil and Political Rights [5]recognises that 'every child has the right to acquire a nationality' (Article 24(3)). The right to nationality for every child is also recognised in Article 7 of the 1989 UN Convention on the Rights of the Child [6].

Despite the enshrinement of the right to nationality at the international level, no international treaty currently provides for an international obligation on the part of a state to automatically grant its nationality to anyone who so desires. This conclusion is set out in General Comment
General Comment No. 17 on Article 24 of the 1966 International Covenant on Civil and Political Rights of the Human Rights Committee [7](para. 8).

The contemporary approach to the issue of citizenship is based on a norm of customary international law, under which states have the exclusive right to determine who their citizens are[8] . Consequently, every country has the sovereign right to establish rules governing the acquisition, loss and deprivation of its citizenship. At the same time, the state's discretion regarding citizenship matters is limited by its obligations under international treaties to which it is a party, as well as by the norms of customary international law and general principles of law. In particular, in accordance with international treaties concluded at the universal and regional (European) levels, states are obliged to prevent statelessness and guarantee access to citizenship without discrimination.

At the global level, the United Nations plays a key role in developing and implementing international standards aimed at preventing and reducing statelessness. Two key international treaties have been adopted within the UN framework — the 1954 Convention relating to the Status of Stateless Persons[9] and the 1961 Convention on the Reduction of Statelessness[10] — which have become the cornerstone of the international legal framework for combating and reducing statelessness. Furthermore, considerable attention has been paid to the issue of access to citizenship as a mechanism for preventing and reducing statelessness for

[4] Universal Declaration of Human Rights of 12 December 1948. URL: https://zakon.rada.gov.ua/laws/show/995_015#Text (accessed: 7 August 2025).

[5] International Covenant on Civil and Political Rights of 16 December 1966. URL: https://zakon.rada.gov.ua/laws/show/995_043#Text (accessed: 7 August 2025).

[6] Convention on the Rights of the Child of 20 November 1989. URL: https://zakon.rada.gov.ua/laws/show/995_021#Text (accessed: 07.08.2025).

[7] General comment No. 17: Article 24 (Rights of the child) / International Committee of Human Rights, Thirty-fifth session (1989). UN Treaty Body Database. URL: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FGEC%2F6623&Lang=en (accessed: 07.08.2025).

[8] Judgment of the International Court of Justice in the Nottebohm Case (Liechtenstein v. Guatemala) of 6 April 1955. URL: https://www.icj-cij.org/sites/default/files/case-related/18/018-19550406-JUD-01-00-EN.pdf (accessed: 7 August 2025).

[9] Convention relating to the Status of Stateless Persons of 28 September 1954. URL: https://zakon.rada.gov.ua/laws/show/995_232#Text (accessed: 7 August 2025).

[10] Convention on the Reduction of Statelessness of 30 August 1961. URL:

https://zakon.rada.gov.ua/laws/show/995_240#Text (accessed: 07.08.2025).

particularly vulnerable groups. Consequently, the 1979 Convention on the Elimination of All Forms of Discrimination against Women[11] and the 1989 Convention on the Rights of the Child[12] , adopted within the framework of the UN, are important for access to citizenship. The principles enshrined in these documents have a significant impact on the interpretation of obligations arising, in particular, from the 1961 Convention on the Reduction of Statelessness[13] .

Since its establishment in 1951, the Office of the United Nations High Commissioner for Refugees (UNHCR) has provided assistance to refugees who were stateless persons, in accordance with paragraph 6(A)(II) of the UNHCR Statute and Article 1(A)(2) of the 1951 Convention relating to the Status of Refugees[14] . With a view to fulfilling the functions set out in Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness, by UN General Assembly Resolutions 3724(XXIX) of 1974[15] and 31/36 of 1976[16] , the
the competence of the UNHCR was extended to persons covered by the said international treaty. Subsequently, UN General Assembly Resolution 61/137 of 2006[17] endorsed Executive Committee Conclusion No. 196, which defines four main areas of UNHCR's competence regarding statelessness:

(1) **identification**, which involves gathering information on statelessness, its scale, causes and consequences, as well as mechanisms for identifying stateless persons;

(2) **prevention**, which includes addressing the causes of statelessness and promoting accession to the 1961 Convention;

(3) **reduction**, through support for legislative changes and procedural improvements that enable stateless persons to acquire citizenship;

(4) **protection**, which involves measures to assist stateless persons in realising their rights and promoting the accession of states to the 1954 Convention.

Today, UNHCR plays a key role in combating statelessness, addressing the protection of stateless persons and the reduction of statelessness.

In recent years, UNHCR has been actively working on detailed guidelines for the interpretation of the 1954 and 1961 Conventions, organising expert meetings and formulating recommendations. This work led to the publication in 2014 of the UNHCR Guidelines

[11] UN Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979. URL: https://zakon.rada.gov.ua/laws/show/995_207#Text (accessed: 07 August 2025).

[12] Convention on the Rights of the Child of 20 November 1989. URL: https://zakon.rada.gov.ua/laws/show/995_021#Text (accessed: 7 August 2025).

[13] Ukraine is a party to all the aforementioned international treaties and is therefore obliged to duly implement the provisions of these instruments at the national level.

[14] 1951 Convention Relating to the Status of Refugees of 28 July 1951. URL: https://zakon.rada.gov.ua/laws/show/995_011#Text (accessed: 7 August 2025).

[15] Question of the Establishment, in Accordance with the Convention on the Reduction of Statelessness, of a Body to which Persons Claiming the Benefit of the Convention May Apply [1974] UNGA 66; A/RES/3274 (XXIX) (9 December 1974). URL: http://www.worldlii.org/int/other/UNGA/1974/66.pdf (accessed: 07.08.2025).

[16] Question of the Establishment, in Accordance with the Convention on the Reduction of Statelessness, of a Body to which Persons Claiming the Benefit of the Convention May Apply [1976] UNGA 34; A/RES/31/36 (30 November 1976). URL: http://www.worldlii.org/int/other/UNGA/1976/34.pdf (accessed: 07.08.2025).

[17] Office of the United Nations High Commissioner for Refugees [2006] UNGA 191; A/RES/61/137 (19 December 2006). URL: http://www.worldlii.org/int/other/UNGA/2006/191.pdf (accessed 7 August 2025).

UN on stateless persons[18] , UNHCR Guidelines on Statelessness
No. 4: Ensuring the right of every child to acquire a nationality in accordance with Articles 1–4 of the 1961 Convention on the Reduction of Statelessness[19] and UNHCR Guidelines on Statelessness No. 5: Loss and deprivation of nationality in accordance with Articles 5–9 of the 1961 Convention on the Reduction of Statelessness[20] . These Guidelines and Directives are intended to provide interpretative legal guidance to governments, non-governmental organisations, legal practitioners, decision-makers and judicial authorities, as well as to UNHCR staff and other UN agencies dealing with statelessness issues, to facilitate the proper identification and treatment of stateless persons.

It should also be noted that in 2014, UNHCR launched the **#IBelong** campaign to raise awareness of the issue of statelessness and call on the international community and governments to take active steps to address it. The campaign has achieved some success – many states have acceded to the 1954 and 1961 Conventions, as well as expanded citizenship rights, introduced procedures for determining the status of stateless persons and improved birth registration systems.

Despite the progress made in reducing statelessness during the **#IBelong** campaign, statelessness nevertheless remains a significant problem on an international scale. To enhance the effectiveness of measures to reduce statelessness, in 2023 UNHCR launched **the 'Strategic Plan for 2023–2026: Redoubling Efforts to Combat Statelessness"[21]** , which aims to achieve transformative and measurable changes by 2026 in reducing and preventing statelessness and protecting stateless persons. To this end, UNHCR has stepped up its political and public advocacy to encourage action and strategies at the country level, advocating for legislative reforms that grant citizenship to stateless persons and prevent statelessness among children. The Strategic Plan also envisages a multi-stakeholder approach, creating a platform of stakeholders committed to ending statelessness, including organisations led by stateless persons. As part of this strategy, **the Global Alliance to End Statelessness** was launched on 14 October 2024 to build on the progress made, strengthen cooperation and accelerate the necessary changes.

The effectiveness of international standards in combating statelessness depends directly on states' proper fulfilment of their international obligations and on an effective national strategy to support international initiatives and the recommendations of the Office of the United Nations High Commissioner for Refugees. Active cooperation with governments and civil society is essential to achieving these objectives. In light of

[18] Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons, Geneva 2014. URL: https://www.unhcr.org/media/handbook-protection-stateless-persons (accessed: 07.08.2025).

[19] Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1–4 of the 1961 Convention on the Reduction of Statelessness of 21 December 2012. URL: https://www.unhcr.org/media/guidelines-statelessness-nr-4-ensuring-every-childs-right-acquire-nationality-through (accessed: 07.08.2025).

[20] Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5–9 of the 1961 Convention on the Reduction of Statelessness. URL: https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123216 (accessed: 07.08.2025).

[21] Redoubling our efforts to end statelessness: UNHCR's Strategic Plan 2023–2026. URL: https://www.unhcr.org/sites/default/files/2023-12/focus-area-strategic-plan-statelessness-2023-2026.pdf?_gl=1*1xbf7zo*_rup_ga*MjM5MzQ1MzUzLjE3MzQ1NTY3ODI.*_rup_ga_EVDQTJ4LMY*MTc0MjA1MjA2OS4xNS4xLjE3NDIwNTI1NDUuNTUuMC4w*_ga*MjM5MzQ1MzUzLjE3MzQ1NTY3ODI.*_ga_N9CH61RTNK*MTc0MjA1MjA2OS4xLjEuMTc0MjA1MjU0NS41N

S4wLjA (accessed on: 07.08.2025).

These non-governmental organisations play a vital role in combating statelessness and implementing international legal standards at the national level, thereby creating a synergistic effect between international and national mechanisms for addressing statelessness. National and international civil society organisations not only help stateless persons obtain legal status and monitor the situation of statelessness and its systemic root causes in the relevant country, but also advocate in this area, which can contribute to the implementation of important legal reforms to prevent new cases of statelessness and ensure adequate protection for stateless persons.

1.2. THE 1954 CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS

The 1954 Convention relating to the Status of Stateless Persons[22]is a key international treaty that defines the legal status of stateless persons and imposes an obligation on States Parties to ensure the rights and freedoms of such persons.

The adoption of this international treaty was driven by the need to establish a minimum mechanism for the protection of human rights, which became particularly relevant due to the mass instances of statelessness resulting from the two world wars of the 20th century, during and after which millions of people were displaced, many of whom lost contact with their country of citizenship or were unable to return to their homeland due to a change in political regime or discrimination.

The adoption of the 1954 Convention was therefore a significant milestone in the field of human rights, as it established the first global mechanism for recognising the legal status of persons who were not recognised as nationals of any country, and for the harmonisation by states minimum standards regarding this vulnerable group at a universal level.

> A provision of fundamental importance in the 1954 Convention relating to the Status of Stateless Persons is the definition of the term 'stateless person' or 'person without nationality', which means a person who is not considered a national by any State under its law (Article 1(2) of the Convention)[23] .

The UNHCR Guidelines on Stateless Persons[24] note that, under the Convention, this term covers only recognised stateless persons (de jure stateless persons), whereas **de facto stateless persons**, i.e. persons whose status is not officially recognised under national procedures, are not guaranteed minimum protection stricto sensu under this international treaty. This also applies to other categories of persons who may not hold the nationality of any country, but who are not

[22] Convention relating to the Status of Stateless Persons of 28 September 1954. URL: https://zakon.rada.gov.ua/laws/show/995_232#Text (accessed: 7 August 2025).

[23] An identical definition is given in paragraph 15 of Part 1 of Article 1 of the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons'. See Law of Ukraine No. 3773-VI of 22 September 2011. URL: https://zakon.rada.gov.ua/laws/ show/3773-17#Text (accessed on 07.08.2025).

[24] Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons, Geneva 2014. P. 5. URL: https://www.unhcr.org/media/handbook-protection-stateless-persons (accessed: 07.08.2025).

are officially recognised as having such status within the territory of the host country.

In this context, it is important to note that UNHCR documents also use the terms 'person of undetermined nationality', 'person at risk of statelessness' and 'undocumented person'.

Persons of undetermined nationality are considered to be those who have no proof of nationality but may have links to more than one state by birth, descent, marriage or habitual residence, or are regarded and recognised by the authorities of the state of residence as having such links. Persons with undetermined citizenship are considered as such when the competent authorities of the host country, during the preliminary examination of their case, have not established whether they hold citizenship or are stateless. Such cases may arise in various situations and can usually be resolved through existing state procedures for confirming citizenship and issuing the relevant identity documents.

Persons at risk of statelessness is another term frequently used in UNHCR documents, although there is no official definition in international law of what the concept of 'at risk of statelessness' means. Various sources suggest that individuals are at risk of statelessness when they face difficulties in proving their connection to a particular state. This may occur, for example, if a person lacks a birth certificate or identity documents.

Undocumented persons are those who have no documentary evidence to confirm their citizenship or legal status.

As noted above, the 1954 Convention does not guarantee protection to these vulnerable groups. Furthermore, in accordance with this international treaty, its provisions do not apply (Article 1(2)):

(i). to persons who are currently receiving protection or assistance from other organs or agencies of the United Nations, other than the United Nations High Commissioner for Refugees, for as long as they are receiving such protection or assistance;
(ii). persons who are recognised by the competent authorities of the country in which they reside as having rights and obligations associated with the citizenship of that country;
(iii). persons in respect of whom there are serious grounds for believing that they:
  (a). have committed a crime against peace, a war crime or a crime against humanity, as defined in international instruments drawn up for the purpose of taking measures in respect of such crimes;
  (b). have committed a serious non-political crime outside the country of their residence prior to their admission to that country;
  (c). are guilty of acts contrary to the purposes and principles of the United Nations.

Thus, the 1954 Convention imposes obligations on States Parties only in respect of stateless persons recognised under national procedures, as referred to in Article 1(1). At the same time, the procedure for recognising a person as stateless, in particular the specific requirements for its conduct and its duration, is not defined in the Convention. Accordingly, the States Parties retain broad discretionary powers

in this regard[25] . However, the UNHCR Guidelines on Stateless Persons[26] emphasise that, in any event, such national decisions must not be incompatible with the aims and objectives of the Convention and must respect the substance of the obligations under the said international treaty. In particular, such procedures must be non-discriminatory, accessible, effective, exclude arbitrariness in the decision-making process regarding the individual, and be underpinned by the necessary procedural safeguards.

Given that stateless persons are typically deprived of the opportunity to exercise a number of fundamental human rights and are unable to integrate fully into society, the 1954 Convention is designed to help overcome such restrictions by guaranteeing them a basic set of rights within the territory of the host country. The provisions of this treaty, in conjunction with international human rights standards, define the minimum level of rights and obligations for stateless persons in the contracting states. The legal status granted to them, including rights and obligations under national legislation, must comply with these international standards.

A general principle that must be ensured by the host country in relation to stateless persons is the principle of non-discrimination on the grounds of their race, religion or country of origin (Article 3 of the Convention). To put this principle into practice, the contracting states must incorporate non-discriminatory provisions into their legislation. Furthermore, proper oversight of the implementation of such provisions must be ensured, in particular through mechanisms for lodging complaints within the framework of administrative procedures and through the possibility of judicial review. Furthermore, except in cases where stateless persons are granted a more favourable legal status under this Convention, the Contracting State must at least grant them the status generally enjoyed by foreigners (Article 7(1) of the Convention).

The 1954 Convention guarantees a wide range of civil, economic, social and cultural rights within the territory of the host country. These rights can be grouped as follows:

- rights directly relating to a person's legal status, in particular the right to recognition of one's legal status (Article 12), the right to property (Article 13), the right of association (Article 15) and the right to access to the courts (Article 16));
- rights in the field of employment, in particular the right to paid employment (Article 17) and remuneration for work (Article 24), the right to engage in business activities (Article 18) and access to the liberal professions (Article 19);
- the right to social protection, including the right to participate in the rationing system governing the distribution of scarce goods (Article 20), the right to housing on a par with foreigners at the very least (Article 21), the right to primary education on a par with citizens and other forms of education on a level at least equal to that of foreign nationals (Article 22), the right to state assistance on a par with citizens (Article 23) and social security (Article 24);
- rights in the field of administrative measures, covering the right to administrative assistance (Article 25), freedom of movement (Article 26), the right to obtain identity documents (Article 27) and travel documents

[25] To date, only a limited number of countries have introduced specific procedures for recognising a person as

Date of application: 7
August 2025.

stateless.

[26] Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons, Geneva 2014. pp. 6, 27. URL: https://www.unhcr.org/media/handbook-protection-stateless-persons (date

documents (Art. 28), the right to be taxed on an equal footing with citizens (Art. 29), the right to export personal property to another country (Art. 30), and the right to assimilate and naturalise in the host country (Art. 32).

The minimum standards of rights under the 1954 Convention are supplemented by the provisions of other international human rights treaties, which guarantee fundamental rights for all, regardless of whether a person holds citizenship. Such treaties include:

- the International Covenant on Civil and Political Rights of 1966 [27];
- The 1965 International Convention on the Elimination of All Forms of Racial Discrimination [28] ;
- Convention on the Rights of the Child, 1989 [29];
- Convention on the Elimination of All Forms of Discrimination against Women, 1979[30] ;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984[31] ;
- Convention on the Rights of Persons with Disabilities, 2006[32] .

It should be noted that a stateless person may also be a refugee. In this context, it is worth noting that the scope of the rights of stateless persons under the 1954 Convention and the rights of refugees under the 1951 Convention[33] do not fully coincide. The latter international treaty concerning refugees and asylum seekers provides for a number of additional guarantees within the territory of the receiving country. In particular, the Convention relating to the Status of Stateless Persons does not provide for a prohibition on expulsion based on the principle *of non-refoulement*, as defined in Article 33 of the 1951 Convention Thus, States Parties may expel stateless persons lawfully present on their territory in the interests of national security or public order (Article 31 of the 1954 Convention). Nor does it provide protection against punishment for illegal entry, unlike the 1951 Convention (Article 31). Furthermore, both the right to work and the right of association are guaranteed to a lesser extent than under the corresponding provisions of the 1951 Convention. The scope of protection against deportation also differs between the agreements.

Stateless persons who are also refugees must be guaranteed the rights set out in the 1951 Convention. They enjoy additional safeguards compared to other stateless persons. The UNHCR Guidelines on Stateless Persons[34] note that a person applying for recognition as a stateless person must be informed of the possibility of applying for international protection. In cases where a *de facto* stateless person applies for international protection, it is important that each application is examined

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[27] International Covenant on Civil and Political Rights of 16 December 1966. URL: https://zakon.rada.gov.ua/laws/show/995_043#Text (accessed: 07 August 2025).

[28] International Convention on the Elimination of All Forms of Racial Discrimination of 12 December 1965. URL: https://zakon.rada.gov.ua/laws/show/995_105#Text (accessed: 7 August 2025).

[29] Convention on the Rights of the Child of 20 November 1989. URL: https://zakon.rada.gov.ua/laws/show/995_021#Text (accessed: 7 August 2025).

[30] Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979. URL: https://zakon.rada.gov.ua/laws/show/995_207#Text (accessed 7 August 2025).

[31] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984. URL: https://zakon.rada.gov.ua/laws/show/995_085#Text (accessed: 7 August 2025).

[32] Convention on the Rights of Persons with Disabilities of 13 December 2006. URL: https://zakon.rada.gov.ua/laws/show/995_g71#Text (accessed: 7 August 2025).

Date of application: 7 August 2025.

[33] Convention Relating to the Status of Refugees of 28 July 1951. URL: https://zakon.rada.gov.ua/laws/show/995_011#Text (accessed: 07.08.2025).

[34] Handbook on the Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons, , Geneva 2014. pp. 30–31. URL: https://www.unhcr.org/media/handbook-protection-stateless-persons (accessed

Date of application: 7 August 2025.

on a case-by-case basis, taking full account of all the circumstances of the case. Where a *de facto* stateless person applies for refugee status, they must be guaranteed the rights provided for asylum seekers. As regards the procedure for recognising a stateless person, as noted earlier, the Convention does not contain specific provisions. Consequently, states have discretionary powers to determine the specifics of its application in parallel with or in conjunction with the procedure for recognising a person as a refugee or a person granted subsidiary protection.

As we can see, the 1954 Convention relating to the Status of Stateless Persons is an important international treaty that regulates the legal status of stateless persons, defining their fundamental rights and establishing minimum standards for their protection. Since the Convention sets out minimum requirements, States Parties may adopt higher standards for the protection of stateless persons' rights in order to improve their legal standing in society and create more favourable conditions for their integration.

1.3. THE 1961 CONVENTION ON THE REDUCTION OF STATELESSNESS

The 1961 Convention on the Reduction of Statelessness[35]is a key international treaty aimed at preventing cases of statelessness and ensuring every person's right to a nationality. Its main objective is to eliminate legal loopholes that may lead to the loss or absence of nationality by establishing obligations for states to avoid such situations. By applying the safeguards set out in the 1961 Convention, states can prevent new cases of statelessness from arising, which should eventually lead to its reduction. Furthermore, states may apply the new safeguards retrospectively, thereby enabling stateless persons to acquire citizenship.

The 1961 Convention outlines four main areas in which states are obliged to introduce mechanisms to prevent statelessness.

Under the first strand, the Convention sets out measures to prevent statelessness among children (Articles 1–4). To this end, a State Party is obliged to grant its nationality to a person born on its territory who would otherwise be stateless. This may occur automatically at birth in accordance with national legislation or subsequently upon application by the person or their legal representative in accordance with the procedure established by national legislation (Article 1). Furthermore, provision is made for the granting of nationality to infants found on the territory of the State. In particular, it is provided that 'a foundling discovered on the territory of a Contracting State shall, in the absence of evidence to the contrary, be deemed to have been born on that territory to parents who are nationals of that State' (Article 2).

A Contracting State shall also grant its nationality to a person born outside the territory of a Contracting State who would otherwise be stateless, if at the time of birth

[35] Convention on the Reduction of Statelessness of 30 August 1961. URL: https://zakon.rada.gov.ua/laws/show/995_240#Text (accessed: 7 August 2025).

one of the child's parents held the nationality of that State (Art. 4).

It is also worth noting that the 1989 UN Convention on the Rights of the Child imposes obligations on States Parties in this area. Thus, Article 7 of the Convention states: '(1) A child shall be registered immediately after birth and shall have the right from birth to … acquire a nationality. … (2). States Parties shall ensure the realisation of these rights in accordance with their national legislation and the fulfilment of their obligations under relevant international instruments in this field, in particular where the child would otherwise be stateless."

> UNHCR Guiding Principles on Statelessness No. 4: Ensuring the right of every child to acquire a nationality in accordance with Articles 1–4 of the 1961 Convention on the Reduction of Statelessness[36] draws attention to the importance of taking into account the provisions of the 1989 Convention on the Rights of the Child.[37] when implementing these provisions by States Parties, in particular ensuring respect for the principle of the best interests of the child.

These guidelines also draw attention to specific cases involving children whose parents are refugees or beneficiaries of subsidiary protection[38], where the child was born outside the host country. Such children find themselves in a situation of statelessness, as they cannot acquire nationality on the basis of the principle *of jus sanguinis* or if their parents are stateless. In this regard, according to the commentary, the guarantees of Article 1 of the 1961 Convention on the Reduction of Statelessness should apply to such children, meaning they should also be granted the nationality of the host country.

The second mechanism for preventing statelessness under the 1961 Convention concerns cases of loss of or renunciation of nationality (Articles 5–7).

In particular, if the law of a Contracting State provides for the loss of nationality as a result of any change in the personal status of the person concerned, such as marriage, dissolution of marriage, legitimation, recognition or adoption, such loss must be conditional upon the possession of another nationality or the acquisition of another nationality. If, under the law of a Contracting State, a child born out of wedlock loses the nationality of that State as a result of the recognition of paternity, he or she shall be given the opportunity to recover that nationality by means of a written application to the competent authority, and the conditions governing such an application shall not be more stringent than those laid down in Article 1(2) of the Convention.

If the law of a Contracting State provides for the loss of its nationality by the spouse or children of a particular person as a result of that person's loss or deprivation of that

[36] Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1–4 of the 1961 Convention on the Reduction of Statelessness of 21 December 2012. URL: https://www.unhcr.org/media/guidelines-statelessness-nr-4-ensuring-every-childs-right-acquire-nationality-through (accessed: 07.08.2025).

[37] Convention on the Rights of the Child of 20 November 1989. URL: https://zakon.rada.gov.ua/laws/show/995_021#Text (accessed: 7 August 2025).

[38] This form of protection is provided for within the EU in accordance with Directive 2011/95/EU. See: Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted. URL:

https://eur-lex.europa.eu/eli/dir/2011/95/oj/eng (accessed: 07.08.2025).

citizenship, such loss must be conditional upon their holding of another citizenship or their acquisition of another citizenship.

Furthermore, where the law of a Contracting State permits renunciation of nationality, such renunciation shall not result in the loss of nationality, unless the person concerned holds or acquires another nationality. A national of a Contracting State who wishes to be naturalised in a foreign country shall not lose his or her nationality unless he or she acquires or is assured of acquiring the nationality of that foreign country.

A naturalised person may lose their citizenship as a result of residing abroad for a period prescribed by the legislation of the relevant Contracting State, which shall not be less than seven consecutive years, unless they declare to the competent authority their wish to retain their citizenship.

As regards a national of a Contracting State born outside the territory of that State, the law of that State may make the retention of that national's citizenship conditional upon his or her having resided in the territory of that State or having registered with the competent authority one year after reaching the age of majority.

Except in the circumstances referred to in this Article, no person shall lose the nationality of a Contracting State if such loss would render that person stateless, even though such loss is not expressly prohibited by any other provision of this Convention.

The third group of measures to prevent statelessness relates to cases of deprivation of nationality based on a decision initiated by the State concerned.

In particular, in accordance with the provisions of Article 8 of the 1961 Convention, the deprivation of a person's nationality, resulting in their becoming stateless, is generally not permitted. However, this may occur only in exceptional cases specified in the said international treaty. Specifically, this refers to circumstances in which citizenship may be lost as a result of a person residing abroad for a period established by the legislation of the relevant Contracting State, or in the case of a person's birth outside the territory of the relevant State, if the person has not applied to retain their citizenship within one year of reaching the age of majority. Furthermore, the deprivation of a person's nationality is consistent with the provisions of the 1961 Convention if the nationality was acquired as a result of the provision of false information or fraud, or if, at the time of signature, ratification or accession, the Contracting State indicated that it reserved the right to deprive a person of nationality on one or more of the following grounds, which existed at that time in its national legislation: (a) if, contrary to their duty of loyalty to that Contracting State, the person concerned, (i) disregarding a direct prohibition by the Contracting State, has rendered or continues to render services to another State, or has received or continues to receive remuneration from another State, or (ii) behaves in such a way as to cause serious harm to the vital interests of that State; b) if the person concerned has sworn allegiance or made a formal declaration of allegiance to another State, or has provided clear evidence of their intention to renounce allegiance to this Contracting State.

In the latter two cases, the State Party must put in place the necessary safeguards against arbitrary deprivation of nationality. In particular, deprivation of nationality must be in accordance with the law, which guarantees

the person concerned the right to a fair hearing by a court or other independent body.

Article 9 of the 1961 Convention contains a specific prohibition on depriving a person or group of persons of their nationality on grounds of race, ethnicity, religion or political opinion.

It should also be noted that Article 8 of the UN Convention on the Rights of the Child imposes an obligation on States Parties 'to respect the right of the child to preserve his or her identity, including nationality… If a child is unlawfully deprived of some or all elements of his or her identity, States Parties shall provide him or her with the necessary assistance and protection for the earliest possible restoration of his or her identity'.

In the context of the third group of measures in **UNHCR Guiding Principles on Statelessness No. 5: Loss and deprivation of nationality in accordance with Articles 5–9 of the 1961 Convention on the Reduction of Statelessness**[39] (para. 44) clarifies that, within the framework of the procedure for deprivation of nationality, the competent authorities of the State Party must first assess the legal consequences of a decision to deprive a person of nationality. If a decision to deprive a person of citizenship would result in statelessness, the State may only carry out such a procedure if the grounds specified in paragraphs 2 and 3 of Article 8 of the 1961 Convention are present.

The aforementioned Guidelines emphasise the importance of due procedural safeguards in the process of deciding on the deprivation of nationality, having regard to the requirements of Article 8(4) of the 1961 Convention. In particular, a decision to terminate or withdraw citizenship must be in writing, and the person must be afforded the right to appeal against such a decision to an administrative or judicial body. The decision on the deprivation of citizenship must state the grounds on which it is based, and the person concerned must be notified of this in a language they understand (para. 99).

The Guidelines also address cases where decisions on the deprivation of nationality are taken *in absentia*. Given that in such situations the individual is unlikely to have sufficient legal safeguards to ensure the right to a fair hearing, it is not recommended that States Parties use the practice of deciding on deprivation of citizenship in absentia (para. 104). However, if a State nevertheless intends to deprive an individual of citizenship in absentia, it must apply to a court to confirm that such deprivation is strictly necessary to prevent threats to national security arising directly from the person's presence on the State's territory, and that these threats cannot be addressed by other means, in accordance with the requirement that deprivation of citizenship must be a measure proportionate to the State's legitimate aims.

If a person's citizenship is revoked on the basis of a decision taken in absentia, and the person subsequently lodges an appeal against the decision to revoke their citizenship, UNHCR recommends that the State declare such a decision invalid and initiate the relevant legal and administrative procedures. In the event of non-compliance, the State must ensure that the person has a real and effective

[39] Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5–9 of the 1961 Convention on the Reduction of Statelessness. URL: https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123216 (accessed: 07.08.2025).

access to an appeal procedure and to suspend the deprivation of nationality pending the consideration of the appeal (para. 105).

The final group of measures entails obligations on the part of the Contracting States to reduce statelessness in the event of a transfer of territory. In particular, in accordance with Article 10 of the 1961 Convention, any international treaty between Contracting States involving the transfer of territory must include provisions ensuring that no person becomes stateless as a result of such a transfer. A Contracting State shall take all possible measures to ensure that such provisions are included in any similar international treaty concluded by it with a State which is not a party to the Convention. In the absence of such provisions, a Contracting State to which territory is transferred or which otherwise acquires territory shall grant its nationality to those persons who, in otherwise they would become stateless as a result of such transfer or acquisition.

As we can see, the 1961 Convention on the Reduction of Statelessness sets out a wide range of measures aimed at preventing statelessness and reducing its incidence, which must be implemented by the States Parties to the Convention. At the same time, despite the unquestionable importance of the 1961 Convention as a universal treaty establishing standards at the international level, its effectiveness depends primarily on the goodwill and conscientious attitude of states towards their international obligations, which may be limited to merely formal compliance with its provisions, which in practice remain declaratory or difficult to implement. Consequently, states are seeking more effective solutions to strengthen legal safeguards for the rights and freedoms of stateless persons and to improve mechanisms for reducing statelessness at the regional level.

2. STATELESSNESS IN THE LEGAL FRAMEWORK OF THE COUNCIL OF EUROPE

Statelessness remains a pressing issue on an international scale and, in particular, in Europe. Leading European international organisations — the Council of Europe and the European Union — play a vital role in safeguarding and protecting the rights of stateless persons. They place the human person at the centre of their work and regard the strengthening and protection of human rights as a key priority of their activities.

Ukraine's fulfilment of its obligations within the Council of Europe, particularly regarding the protection of the rights of stateless persons, is of key importance for the practical implementation of Ukraine's foreign policy course — accession to the EU. This is primarily because the Council of Europe is the main champion of human rights on the continent, a fact recognised directly by the European Union. Ukraine has undertaken to comply with its international obligations within the framework of this organisation, in particular under the European Convention on Human Rights, as well as to take general and individual measures aimed at implementing the decisions of the European Court of Human Rights within the national legal system.

The proper fulfilment of these obligations is a key indicator for the European Union, as respect for human rights is one of the main criteria for membership, as well as a fundamental value underpinning the legal system of the EU and all its Member States. In this context, it is worth recalling that in the latest Report on Ukraine within the framework of the Communication on EU Enlargement Policy of 30 October 2024[40] , the European Commission places particular emphasis on the importance of adhering to the human rights standards defined within the Council of Europe, in particular the proper implementation of the judgments of the European Court of Human Rights.

[40] Ukraine 2024 Report: Commission Staff Working Document SWD(2024) 699 final of 30 October 2024. URL: https://enlargement.ec.europa.eu/document/download/1924a044-b30f-48a2-99c1-50edeac14da1_en?filename=Ukraine%20Report%202024.pdf (accessed: 7 August 2025).

2.1. COUNCIL OF EUROPE: OVERVIEW OF KEY LEGAL INSTRUMENTS

The Council of Europe, as the leading international organisation setting human rights standards at the European level[41] , pays particular attention to the protection of the most vulnerable groups, in particular those who do not hold citizenship of any country.

The issue of citizenship and the reduction of statelessness plays a significant role in the Council of Europe's work. As early as 1963, the Convention on the Reduction of Cases of Multiple Nationality and on the Fulfilment of Military Obligations in Cases of Multiple Nationality[42]was signed within the framework of this organisation. In 1977, the Committee of Ministers of the Council of Europe adopted two important resolutions in this area — on the nationality of spouses holding different nationalities (Resolution (77) 12[43]), and on the nationality of children born in wedlock (Resolution (77) 13[44]). The latter resolution recommended that governments grant or facilitate the acquisition of citizenship for children born in wedlock if one of the parents held citizenship. The Parliamentary Assembly of the Council of Europe also adopted a series of recommendations in the field of citizenship, calling on member states to facilitate, in particular, the naturalisation of refugees in the host country.

In 1988, it adopted Recommendation 1081 (1988) on citizenship issues in mixed marriages[45] . In it, the Assembly noted that it is desirable for each spouse in a mixed marriage to have the right to acquire the nationality of the other without losing the nationality of their country of origin; furthermore, children born of mixed marriages should also have the right to acquire and retain the nationality of both their parents.

Today, the pressing issues surrounding statelessness are among the key priorities in the Council of Europe's political strategy. In particular, in light of the conclusions of the international conference 'Statelessness and the Right to Citizenship in Europe: Progress, Challenges and Opportunities', which was organised jointly with UNHCR on 23–24 September 2021[46] , as well as the report 'Analysis of current practices and challenges regarding the prevention and reduction of statelessness in Europe'[47] , the Council of Europe, through the Committee on Legal Cooperation, will focus its attention during the period 2024–2026 on the pressing issues of statelessness among children and their access to citizenship. These priorities are set out in the general strategies adopted by the Committee of Ministers — the Council of Europe Action Plan on the Protection of Vulnerable

[41] In the Memorandum of Understanding between the Council of Europe and the European Union of 11 May 2007, the latter explicitly recognises the Council of Europe as the key advocate for human rights on the European continent (para. 10). URL: https://rm.coe.int/16804e437b (accessed: 7 August 2025).

[42] Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality of 6 May 1963. URL: https://rm.coe.int/168006b6a9 (accessed: 7 August 2025).

[43] Resolution (77) 12 on the nationality of spouses of different nationalities of 27 May 1977. URL: https://rm.coe.int/09000016804fd020 (accessed: 07.08.2025).

[44] Resolution (77) 13 on the nationality of children born in wedlock of 27 May 1977. URL: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804fdeed (accessed: 07.08.2025).

[45] Recommendation of the Parliamentary Assembly 1081 (1988) on problems of nationality in mixed marriages of 30 June 1988. URL: https://pace.coe.int/en/files/15115/html (accessed: 7 August 2025).

[46] Statelessness and the right to a nationality in Europe: progress, challenges and opportunities. Final Report (2022)

/ Council of Europe. URL: https://rm.coe.int/cdcj-2022-12-statelessness-report-of-the-international-conference-and-/1680a74cfa (accessed: 07.08.2025).

[47] Analysis of current practices and challenges regarding the avoidance and reduction of statelessness in Europe / prepared by Prof. Dr. Gerard-René de Groot. URL: https://rm.coe.int/analysis-of-current-practices-and-challenges-regarding-the-avoidance-a/1680a3e25c (accessed: 07.08.2025).

categories in the context of migration and asylum in Europe (2021–2025)[48] , as well as the Council of Europe's Strategy on the Rights of the Child (2022–2027)[49] .

The Council of Europe has a range of important legal instruments at its disposal aimed at preventing and reducing cases of statelessness, and strengthening legal guarantees of respect for the rights of stateless persons.

Thus, the Committee of Ministers of the Council of Europe, the organisation's principal political body, adopts recommendations that serve as guidelines for member states in the process of adapting their legal systems to Council of Europe standards. Particular attention should be paid to Recommendation No. R(99) 18 on the prevention and reduction of statelessness of 15 September 1999[50] and Recommendation CM/Rec(2009)13 on the nationality of the child of 9 December 2009[51] . Furthermore, the Parliamentary Assembly of the Council of Europe, comprising members of the national parliaments of member states, periodically adopts recommendations and resolutions dedicated to the issues of stateless persons. In particular, it is necessary to highlight Recommendation 2042 (2014) on access to nationality and the effective implementation of the European Convention on Nationality of 9 April 2014[52] and Resolution 2099 (2016) on the need to prevent statelessness among children of 4 March 2016[53] .

The most important documents of the Council of Europe are international treaties which impose obligations on member states that must be implemented within their national legal systems. In particular, in the field of statelessness, the key agreements are the European Convention on Nationality of 6 November 1997[54], the Convention on the Avoidance of Statelessness in relation to State Succession of 19 May 2006[55] , and the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950[56] .

Let us examine their specific features in the context of the issue of statelessness.

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[48] Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021–2025), CM(2021)67-final. URL: https://search.coe.int/cm#{%22CoEIdentifier%22:[%220900001680a25afd%22],%22sort%22:[%22CoEValidationDate%20Descending%22]} (accessed: 07.08.2025).

[49] Council of Europe Strategy for the Rights of the Child (2022–2027). URL: https://rm.coe.int/council-of-europe-strategy-for-the-rights-of-the-child-2022-2027-child/1680a5ef27 (accessed: 07.08.2025).

[50] Recommendation No. R (99) 18 of the Committee of Ministers of the , on the avoidance and reduction of statelessness, of 15 September 1999. URL: https://search.coe.int/cm#{%22CoEIdentifier%22:[%2209000016804e0d29%22],%22sort%22:[%22CoEValidationDate%20Descending%22]} (accessed: 07.08.2025).

[51] Recommendation CM/Rec(2009)13 of the Committee of Ministers to member states on the nationality of children of 9 December 2009. URL: https://search.coe.int/cm#{%22CoEIdentifier%22:[%2209000016805cff3b%22],%22sort%22:[%22CoEValidationDate%20Descending%22]} (accessed: 07.08.2025).

[52] Recommendation 2042 (2014) on Access to nationality and the effective implementation of the European Convention on Nationality of 9 April 2014. URL: https://pace.coe.int/pdf/f92d7a2067df0168b99fcb8f9ea920c50e66c3a3be981d3c4536a3c6dfedc14a?title=Rec.%202042.pdf (accessed on 7 August 2025).

[53] Resolution 2099 (2016) on the need to eradicate statelessness among children, 4 March 2016. URL: https://pace.coe.int/pdf/e6cede02c39b968c23a64ffdd2b352dd1643512a5435d22d8187649cacada4f5?title=Res.%202099.pdf (accessed: 7 August 2025).

[54] European Convention on Nationality of 6 November 1997. URL: https://zakon.rada.gov.ua/laws/show/994_004#Text

(accessed on 7 August 2025).

[55] Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession of 19 May 2006. URL: https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=200 (accessed: 07.08.2025).

[56] Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950. URL: https://zakon.rada.gov.ua/laws/show/995_004#Text (accessed: 7 August 2025).

2.2. EUROPEAN CONVENTION ON NATIONALITY 1997

The European Convention on Nationality of 6 November 1997 (which entered into force for Ukraine on 1 April 2007[57]) establishes rules and principles regarding the acquisition of nationality by natural persons. In particular, the Convention reaffirms the sovereign right of each country to determine who its citizens are in accordance with national legislation (Article 3), which is a general principle of international law. At the same time, the relevant domestic provisions must comply with international treaties, customary international law and the principles of law that are universally recognised in relation to citizenship.

Article 4 of the Convention enshrines the fundamental principles that define the scope of the obligations of States Parties regarding the regulation of the institution of citizenship in national legislation. In particular, States must ensure that:

- everyone has the right to a nationality;
- statelessness should be avoided;
- no person may be arbitrarily deprived of their nationality;
- Neither the conclusion nor the dissolution of a marriage between a national of a Contracting State and a person who is a national of another State, nor a change of nationality by one of the spouses during the marriage, automatically affects the nationality of the other spouse.

The Convention provides for legal mechanisms to prevent statelessness at the time of a child's birth and subsequently upon reaching the age of majority, as well as a simplified procedure for acquiring citizenship, including for stateless persons and persons recognised as refugees who are permanently and lawfully resident in the territory of that State (Art. 6). In addition, it sets out an exhaustive list of grounds for loss of citizenship by operation of law or at the initiative of a State Party (Art. 7)[58] ; specific provisions regarding loss of citizenship at the initiative of the person concerned (Art. 8); a simplified procedure for the restoration of citizenship for former citizens who are lawfully and permanently resident in the territory of the relevant State (Article 9).

To prevent cases of statelessness or reduce instances of statelessness, procedural requirements have been established which must be met by the States Parties regarding the examination of applications for citizenship within a reasonable time (Article 10); the provision of a reasoned response in writing (Article 11); guaranteeing the right to a review of a decision concerning an individual (Article 12); and ensuring that administrative and court fees remain within reasonable limits (Article 13).

Particular attention is paid to cases of multiple citizenship, where the retention of previous citizenship or the acquisition of new citizenship must be ensured (Articles 14–16), as well as to state succession, in which case measures must be taken to prevent cases of statelessness (Articles 18–19).

[57] European Convention on Nationality of 6 November 1997. URL: https://zakon.rada.gov.ua/laws/show/994_004#Text (accessed: 7 August 2025).

[58] It is important to note that the Convention provides for only one instance of loss of nationality where this may lead to statelessness — namely, where a person has acquired the nationality of a State Party through fraudulent means, by providing false information or by concealing any material fact relating to the applicant (Article 7(3) of the Convention). Furthermore, where a child's parents lose their nationality as a result of voluntary service in a foreign military formation, or where their conduct seriously jeopardises the vital interests of a Contracting State, this situation does not apply to their children, as the parents' conduct in question must not have negative consequences

for the children. See Explanatory Report to the European Convention on Nationality of 6 September 1997. URL: https://rm.coe.int/16800ccde7 (accessed 7 August 2025).

Furthermore, with a view to promoting cooperation under this Convention, the competent authorities of the member states have undertaken to provide the Secretary General of the Council of Europe with information on their domestic law relating to citizenship, including cases of statelessness and on the implementation of this Convention, and to provide each other with information on domestic law relating to nationality and on the implementation of this Convention.

2.3. THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION OF STATELESSNESS IN CONNECTION WITH STATE SUCCESSION 2006

As practice shows, the succession of states, which may occur in connection with the transfer of territory from one state to another, the unification or dissolution of states, or secession from a state, can be a major cause of the emergence of a significant number of stateless persons[59] . In this regard, an important step towards combating statelessness was the conclusion within the Council of Europe of the Convention on the Prevention of Statelessness in relation to State Succession of 19 May 2006[60] (which has not entered into force for Ukraine). Based on the provisions of the 1997 Convention on Nationality, the aforementioned Convention contains more detailed provisions applicable to the contracting states with a view to preventing, or at least reducing as far as possible, cases of statelessness that may arise as a result of political changes leading to the transfer of rights and obligations from the predecessor state to the successor state.

Article 2 of this Convention establishes the key principle that any person who, at the time of the succession of a State, held the nationality of the predecessor State and who becomes or may become stateless as a result of the succession of States, is entitled to the nationality of the successor State in accordance with the provisions of this Convention. At the same time, the right to nationality must be guaranteed on a non-discriminatory basis (Article 4 of the Convention).

Article 3 of the Convention contains a key obligation on States Parties to take all appropriate measures to prevent cases of statelessness among persons who, at the time of succession, held the nationality of the predecessor State. As noted in the Explanatory Notes to the Convention [61], the obligation formally applies only to citizens of the predecessor State; however, a State Party may grant its nationality to a broader category of persons, including stateless persons. At the same time, the measures to be taken to fulfil this general obligation may include the conclusion of international treaties on the prevention of statelessness and the effective implementation of this principle in domestic legislation. The formalities required for

[59] According to UNHCR statistics, around 620,000 people have become stateless as a result of succession processes over the last 30 years. See: UNHCR, Global Action Plan to End Statelessness: 2014–2024, November 2014, page 15, available at: http://www.unhcr.org/statelesscampaign2014/GlobalAction-Plan-eng.pdf (accessed 7 August 2025).

[60] Council of Europe Convention on the avoidance of statelessness in relation to State succession of 19 May 2006. URL: https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=200 (accessed: 07.08.2025).

[61] Explanatory Report to the Council of Europe Convention on the Avoidance of Statelessness in Relation to State

Succession of 19 May 2006. URL: https://rm.coe.int/16800d3815 (accessed: 7 August 2025).

The implementation of domestic legal provisions, such as the payment of fees or the completion of other administrative or judicial procedures, must not prevent a person who may become stateless as a result of State succession from acquiring citizenship.

Article 5 of the Convention sets out the specific features of the successor State's obligations. In particular, these obligations concern two groups of persons: those who were habitually resident in the territory of the predecessor State at the time of succession, and those who had a proper legal connection with the predecessor State. The second category of persons comprises those who did not habitually reside in the territory of the predecessor State, but who, at the time of succession, have a proper legal connection with a territorial unit of the predecessor State that has become part of the territory of the successor State; those born in the territory that has become part of the territory of the successor State; have their last habitual residence in the territory of the predecessor state, which has become the territory of the successor state. At the same time, the predecessor state may not refuse such persons the acquisition of its nationality if such persons also have a legal connection with other countries (Article 7 of the Convention).

The Convention also sets out the obligations of the predecessor state if it continues to exist after succession (Article 6). In particular, the predecessor state's responsibility arises only in respect of persons who have not acquired the nationality of the successor state. In such cases, the predecessor state is obliged not to deprive of nationality persons who risk becoming stateless as a result of the succession of states. At the same time, it is irrelevant how the acquisition takes place citizenship — either through a voluntary act (naturalisation) or through automatic conferral by the state (*ex lege*). The very fact that a person has not acquired the citizenship of the successor state places the responsibility on the predecessor state.

The Convention also provides for obligations to facilitate the granting of citizenship to stateless persons (Art. 9), to prevent statelessness at birth (Art. 10), and to provide sufficient information to interested persons regarding the conditions and procedure for acquiring nationality (Art. 11). Furthermore, the Convention sets out in detail the obligations of States Parties regarding the procedure for granting nationality: decisions to be taken within a reasonable time, written reasons and the possibility of appeal to administrative or judicial authorities, and the non-burdensome nature of administrative fees (Article 12).

Member States are encouraged to conclude international agreements relating to nationality and measures to combat statelessness (Article 13), as well as to develop multilateral and bilateral cooperation (Article 14). The main aim of such cooperation is to coordinate national policies and, as far as possible, legislation in this area on the basis of generally accepted principles. Such coordination is of fundamental importance, as statelessness often arises due to differences in the national legislation of states regarding citizenship.

As can be seen, the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession contains important mechanisms for preventing statelessness; however, it has been ratified by only a small number of member states[62] .

[62] As of 1 February 2025, the Convention has been ratified by 7 out of 46 Council of Europe member states (Austria,

Luxembourg, Moldova, the Netherlands, Norway, Hungary, Montenegro). Ukraine signed the Convention on 19 May 2006, but has not yet ratified it. See the status of the Convention: https://www.coe.int/en/web/conventions/ full-list?module=signatures-by-treaty&treatynum=200 (accessed on 7 August 2025).

2.4. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF 1950 AND THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

The Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 [No. 63]is the Council of Europe's most important international human rights treaty at the regional level. In accordance with Article 1 of the Convention, the High Contracting Parties shall secure to everyone (including stateless persons, persons of undetermined nationality, persons at risk of statelessness and undocumented persons) within their jurisdiction the rights and freedoms set out in its main text and in the protocols in force for the State Party concerned. A key feature of this international treaty, which significantly enhances its effectiveness, is the monitoring mechanism provided by the European Court of Human Rights and the Committee of Ministers of the Council of Europe, which oversees the implementation of the Court's judgments, which are binding on the relevant State.

The case law of the European Court of Human Rights (ECHR) is of great importance for ensuring consistency in the interpretation and application of the Convention, which is a key source of national law in all member states of the Council of Europe. Furthermore, the case law of the ECtHR has a significant influence on the development of European Union law in the field of human rights. The fundamental rights guaranteed by the ECtHR and which stem from the constitutional traditions common to the member states are general principles of Union law (Article 6(3) of the Treaty on European Union of 7 February 1992).

The right to nationality as such is not included in the catalogue of human rights protected by the Convention. The ECtHR emphasises in its case law that the right to acquire or retain a specific nationality is not a 'civil right' within the meaning of Article 6 of the Convention (§ 129 of the judgment in the case of 'Alpeyeva and Dzhalagoniya v. Russia', 2018[64]). Cases concerning the deprivation of or revocation of a decision to grant citizenship also fall outside the scope of the Convention (§ 65 of the judgment in the case of Usmanov v. Russia, 2020[65]).

However, the Court recognises that **nationality is "an element of a person's identity"** (§ 43 of the judgment in the case of "Ghoumid and Others v. France", 2020[66] ; § 28 of the judgment in the case of "Zeggai v. France', 2022[67]), which is protected, in particular, by the provisions of Article 8 of the ECHR ('the right to respect for private and family life'). In cases where national legislation guarantees the right to citizenship by descent, the State Party is obliged to ensure the realisation of this right without discrimination within the meaning of Article 14 of the Convention (§ 30 of the judgment in the case of 'Genovese

[63] Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950. URL: https://zakon.rada.gov.ua/laws/show/995_004#Text (accessed: 7 August 2025).

[64] Judgment of the ECtHR in the case "Alpeyeva and Dzhalagoniya v. Russia", 2018. URL: https://hudoc.echr.coe.int/fre?i=001-183537 (accessed: 07.08.2025).

[65] Judgment of the ECtHR in the case "Usmanov v. Russia", 2020. URL: https://hudoc.echr.coe.int/fre?i=001-206716

(accessed: 07.08.2025).

[66] Judgment of the ECtHR in the case of 'Ghoumid and Others v. France', 2020. URL: https://hudoc.echr.coe.int/fre?i=001-203534 (accessed 7 August 2025).

[67] Judgment of the ECtHR in the case of 'Zeggai v. France', 2022. URL: https://hudoc.echr.coe.int/eng?i=001-219704 (accessed: 07.08.2025).

v. Malta', 2012[68]). Furthermore, the individual must be guaranteed all other rights under the Convention.

Thus, in cases concerning stateless persons, the ECtHR has frequently referred to the concept of private life under Article 8 of the Convention, which, in the Court's view, has a broad scope and encompasses the multifaceted aspects of a person's physical and social identity. Consequently, in a number of judgments, the ECtHR has emphasised that although the right to nationality or the right to renounce nationality is not directly protected by the Convention, in certain cases the matter may fall within the scope of Article 8 of the Convention, as it concerns the private life of the individual. In particular, the Court has examined cases concerning the arbitrary refusal to grant citizenship ('Ahmadov v. Azerbaijan', §§ 42–45, 2020[69] ; 'Hashemi and Others v. Azerbaijan', §§ 45–46, 2022[70]); arbitrary refusal to grant a request for renunciation of citizenship ('Riener v. Bulgaria' § 154, 2006[71]); arbitrary deprivation or termination of citizenship ("Ramadan v. Malta", 2016[72]), particularly in the context of counter-terrorism ("Ghoumid and Others v. France", 2020[73]). An important case in this area is 'Usmanov v. Russia'[74] , in which the Court established the methodology to be applied in determining the lawfulness of a decision to deprive a person of citizenship, which he subsequently applied when considering a case concerning the refusal to grant citizenship (§ 47 of the judgment in Hashemi and Others v. Azerbaijan, 2022[75]). Furthermore, the Court addressed issues of nationality in cases concerning immigration, the issuance of identity documents, family ties and marital relationships.

One of the key cases considered by the ECtHR concerning stateless persons is the case of "Hoti v. Croatia", 2018[76] . In this case, the ECHR found that Croatia had breached its obligations under Article 8 of the Convention regarding respect for private life, as it had failed to ensure the stability of residence for the applicant — B. Hoti, who was born in Kosovo and later moved to Croatia, where he had lived for around forty years. The applicant's repeated attempts to regularise his residence in Croatia were largely in vain, with the exception of periodic short-term permits, which were granted and revoked haphazardly and did not guarantee him stability of residence.

In this case, Mr Hoti's statelessness played a key role in the court's decision. Although the ECtHR had previously considered cases brought by stateless persons, their status had been treated as an additional factor of vulnerability rather than as the central issue in their complaints.

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[68] Judgment of the ECtHR in the case of «Genovese v. Malta», 2012. URL: https://hudoc.echr.coe.int/eng?i=001-106785 (accessed: 07.08.2025).

[69] Judgment of the ECtHR in the case of 'Ahmadov v. Azerbaijan', 2020. URL: https://hudoc.echr.coe.int/eng?i=001-200437 (accessed on 07.08.2025).

[70] Judgment of the ECtHR in the case of 'Hashemi and Others v. Azerbaijan', 2022. URL: https://hudoc.echr.coe.int/eng?i=001-200437 (accessed on 07.08.2025).

[71] Judgment of the ECtHR in the case of 'Riener v. Bulgaria', 2006. URL: https://hudoc.echr.coe.int/eng?i=001-75463 (accessed: 07.08.2025).

[72] Judgment of the ECtHR in the case of 'Ramadan v. Malta', 2016. URL: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-163820%22]} (accessed: 07.08.2025).

[73] Judgment of the ECtHR in the case of 'Ghoumid and Others v. France', 2020. URL: https://hudoc.echr.coe.int/fre?i=001-163820 (accessed 7 August 2025).

[74] Judgment of the ECtHR in the case of 'Usmanov v. Russia', 2020. URL: https://hudoc.echr.coe.int/fre?i=001-206716 (accessed: 07.08.2025).

[75] Judgment of the ECtHR in the case of 'Hashemi and Others v. Azerbaijan'. URL: https://hudoc.echr.coe.int/en

g?i=001-215076 (accessed: 07.08.2025).

[76] Judgment of the ECtHR in the case of 'Hoti v. Croatia', 2018. URL: https://hudoc.echr.coe.int/fre?i=001-182448 (accessed on 07.08.2025).

The judgment in the Hoti case analyses the phenomenon of statelessness in detail, referring to the relevant UN treaties and examining how statelessness affected the applicant's access to his rights. One of the striking features of this judgment is that the ECtHR itself recognised the applicant as a stateless person, despite the State's objections (§ 110 of the judgment).

According to the case file, the applicant was born in Kosovo, which was then an autonomous province of Serbia within the Socialist Federal Republic of Yugoslavia (SFRY). His parents were political refugees from Albania and held refugee status in the SFRY. In 1979, at the age of 17, the applicant moved to Croatia and has resided there permanently ever since. References to his Albanian and Kosovar citizenship were contained in various official documents issued by the authorities of the SFRY and Croatia. In its submissions to the ECtHR, Croatia maintained that Mr Hoti was an Albanian national. However, no written statements from the Albanian authorities confirming or refuting the applicant's nationality were submitted to the Court. The ECtHR took into account evidence pointing to the applicant's statelessness, including his birth certificate issued in Kosovo, according to which he had no nationality, as well as his own statement that, whilst attempting to contact the authorities of Albania and the Federal Republic of Yugoslavia (whilst it existed), he was told orally that he was not a citizen of those countries.

On the basis of the foregoing, the ECtHR not only recognised the applicant as a stateless person, but also described as 'striking' the fact that Croatia had not reached the same conclusion and had failed to fulfil its international obligations relating to statelessness, in respect of Mr Hoti (§ 138 of the judgment). The Court did not explicitly criticise the State for the absence of a procedure for determining statelessness, but raised the question of why the applicant's statelessness had not been officially established at the national level. It was repeatedly emphasised that statelessness was a key factor in this case, which was one of the factors leading the ECtHR to conclude that Croatia had breached the Convention.

In its judgment, the ECtHR emphasised that this case did not concern the applicant's right to nationality, but rather his right to stable residence, which distinguishes this case, in particular, from the case of 'Genovese v. Malta', 2012[77] , where the subject of consideration was precisely nationality as part of the concept of private life, whereas the issue of the right of residence was not raised. In the Hoti case, although Article 8 is also at issue, the ECtHR expressly stated that it was not considering the question of whether the applicant should be granted Croatian citizenship, but rather examining whether, if he had decided not to become a Croatian citizen or had been unable to do so, he had a realistic opportunity to regularise his residence status, which would have allowed him to lead a normal private life in Croatia.

The reference to the decision not to become a citizen is of interest in the context of the case. In 1989, the applicant was encouraged to apply for citizenship of the SFRY, but he refused, as he saw no advantages in this status and preferred a permanent residence permit. After Croatia gained independence, Mr Hoti did apply for Croatian citizenship, but his application was refused. It is significant that the Court did not attach any weight to possible fault

[77] Judgment of the ECtHR in the case of 'Genovese v. Malta', 2012. URL: https://hudoc.echr.coe.int/eng?i=001-106785 (accessed: 07.08.2025).

of the applicant in the absence of citizenship, but insisted that Croatia was nevertheless obliged to ensure his stability of residence by granting him the appropriate legal status.

The main obstacle to Mr Khoti obtaining citizenship and a permanent residence permit was the requirement to provide a foreign travel document or to renounce his foreign nationality. The ECtHR has repeatedly recognised that stateless persons cannot meet such requirements. It also referred to the 'principles' of the 1954 Convention, Article 6 of which prohibits imposing requirements on stateless persons 'which, by their nature, a stateless person is unable to fulfil'. The ECHR's clear recognition of this important principle can support advocacy efforts to adopt better laws and administrative practices that do not force stateless persons to meet impossible conditions for access to fundamental rights.

Having regard to the facts of the case and taking into account the provisions of the Convention, the Court concluded that, in the present case, the respondent State had failed to fulfil its positive obligation to provide an effective and accessible mechanism enabling the applicant to resolve the issue of his continued residence and status in Croatia, with due regard for his right to private life under Article 8 of the Convention.

Also worthy of note is the judgment in the case of
'Emin Huseynov v. Azerbaijan (no. 2)', 2023[78] , in which the ECtHR unanimously found a violation of Article 8 of the Convention, in particular the right to respect for private life of a person in respect of whom an arbitrary decision to terminate citizenship had been taken and for whom adequate domestic procedural safeguards for challenging it.

In particular, according to the facts of the case, the applicant was a freelance journalist and the head of a human rights NGO specialising in the protection of journalists' rights (IRFS). In July 2014, the authorities launched a criminal investigation into the activities of the IRFS. In August 2014, the applicant went into hiding and eventually sought refuge at the Embassy of the Swiss Confederation in Baku. He was charged with illegal business activities, large-scale tax evasion and abuse of power, and a decision was taken to arrest him. On 4 June 2015, whilst at the embassy, the applicant submitted a statement to the President of the Republic of Azerbaijan in which he expressed his wish to renounce his Azerbaijani citizenship. He noted, in particular, that he held no other citizenship. On 9 June 2015, the Swiss authorities settled the applicant's tax debt in Azerbaijan. On the same day, the arrest warrant against him was revoked, and on 11 June 2015, the decision to place him on the wanted list was annulled. On 12 June 2015, the applicant left Azerbaijan by plane together with the Minister of Foreign Affairs of the Swiss Confederation. He was later informed by the migration service that his citizenship of the Republic of Azerbaijan had been terminated by presidential decree. However, he did not receive an official document containing the text of the decree. The applicant lodged a complaint with the ECHR regarding the decision of the national authorities to deprive him of his Azerbaijani citizenship by means of forced departure, as a result of which he became stateless. In his view, this constituted a violation of the rights guaranteed by Article 8 of the Convention.

[78] Judgment of the ECtHR in the case of 'Emin Huseynov v. Azerbaijan (no. 2)', 2023. URL: https://hudoc.echr.coe.int/ eng?i=001-225807 (accessed 7 August 2025).

In the grounds for its judgment, the ECtHR stated that *de facto* 'the applicant had become stateless as a result of the termination of his citizenship' (§ 52). At the same time, the Court noted that the decision to terminate citizenship left the applicant without any valid identity document, creating general uncertainty regarding his legal status as a person and directly affecting his social identity. In such circumstances, the contested measure had a significant impact on the applicant's enjoyment of his rights and directly affected his personal and social identity. Consequently, the Court held that the contested measure constituted an interference with the applicant's right to respect for private life under Article 8 of the Convention.

The ECtHR then examined whether the decision had been arbitrary. The parties' arguments on this point diverged. In the Government's view, the decision to terminate citizenship was lawful, as it was based on the applicant's voluntary request. At the same time, the applicant argued that the decision had been made under duress, as it concerned the prospect of his criminal prosecution. In the ECHR's view, the parties' arguments were not decisive in determining whether the decision was lawful under the Convention.

Given that the right to respect for private life is not absolute and may be restricted in accordance with Article 8(2) of the Convention, the ECtHR focused its attention on the requirements regarding the lawfulness of state interference with the exercise of this right, concentrating on the requirements of procedural fairness. In particular, *the Court assessed whether the contested measure was in accordance with the law; whether it was accompanied by the necessary procedural safeguards, in particular whether the person deprived of nationality was afforded the opportunity to challenge that decision before courts providing the relevant safeguards;*

and whether the authorities had acted diligently and promptly.

The Court noted that the phrase 'in accordance with the law' requires that the measure in question have a specific legal basis in national legislation; it also concerns the quality of the relevant law, which entails that it must be accessible to the person concerned and that its consequences must be foreseeable. The law must clearly define the scope of the discretionary powers conferred on the competent authorities and the procedure for their exercise, taking into account the legitimate aim of the measure in question, in order to ensure that the individual is afforded adequate protection against arbitrary interference.

In this context, the Government of Azerbaijan, relying on Article 17 of the Citizenship Act and Article 109 § 20 of the Constitution, argued that the termination of the applicant's citizenship was in accordance with the law. At the same time, the ECtHR noted that the national authorities had failed to take into account the fact that the termination of the applicant's citizenship rendered him *de facto* stateless, which is contrary to Article 7 of the 1961 UN Convention on the Reduction of Statelessness, which, pursuant to Article 148, forms an integral part of the legal system of the Republic of Azerbaijan and is fully applicable in accordance with Article 151 of the Constitution and Article 26 of the Citizenship Act, which expressly confirm the applicability of international legal norms regarding citizenship issues.

The ECtHR noted that Article 7(1)(a) of the Convention expressly provides that where the law of a Contracting State provides for the renunciation of nationality, such renunciation shall not result in the loss of nationality unless the person concerned does not possess or acquire another nationality. It also referred to UNHCR Guiding Principles on Statelessness No. 5 (Loss and deprivation of nationality in accordance with Articles 5–9 of the 1961 Convention on the Reduction of Statelessness) (HCR/GS/20/05), where

It is emphasised that, in accordance with Article 7(1)(a) of the 1961 Convention, the loss of nationality is permitted if a person voluntarily renounces their nationality in accordance with the legislation of a Contracting State, but only on condition that that person holds or acquires another nationality. Furthermore, the ECtHR referred to Recommendation No. R (99) 18 of the Committee of Ministers of the Council of Europe to member states on the prevention and reduction of statelessness, which also clearly states that each state must ensure that renunciation of its nationality is not applied without the existence of, actual acquisition or a guarantee of acquisition of another nationality: 'where another nationality has not been acquired or is not available, States must provide that renunciation of nationality has no legal effect' (see § 61). However, in this case, the national authorities disregarded the aforementioned requirements of the 1961 UN Convention on the Reduction of Statelessness, which are aimed at preventing situations where renunciation of citizenship leads to statelessness.

Furthermore, the ECtHR noted that Azerbaijani law did not provide the necessary procedural safeguards — a mechanism for appealing the relevant decision to terminate citizenship — as the matter concerned a presidential decree, which is not an appealable act under national legislation.

Thus, as we can see, the ECtHR found a violation of Article 8 of the Convention in respect of the right to respect for private life, which encompasses the right to respect for a person's social identity, given the absence of the necessary procedural safeguards for challenging the decision to terminate citizenship, which in turn was adopted in breach of Azerbaijan's international obligations under the 1961 UN Convention on the Reduction of Statelessness.

Cases concerning Ukraine are of particular interest. In particular, it is important to consider the case
'Shoygo v Ukraine', 2021[79] , in which alleged violations of Article 5 of the Convention, which guarantees the right to liberty and security of person, were assessed.

According to the case file, the applicant was born in the Republic of Sakha (Yakutia) of the Russian Federation. His birth was not duly registered. According to his statements, he left home without obtaining identity documents, became homeless and travelled illegally throughout the Russian Federation and Ukraine.

In 2011, Ukrainian border guards detained the applicant whilst he was attempting to cross the border from Ukraine into Moldova. As the applicant did not have any identity documents at the time of the events, he was unable to prove his citizenship. That same year, the Odessa Regional Administrative Court, following an administrative claim by the border guard service, ordered the applicant's expulsion from Ukraine and his detention for a period of up to twelve months pending expulsion. According to the applicant, he missed the deadline for appeal because he was illiterate and had not been provided with legal assistance; however, his appeal was eventually accepted and, in 2012, the Odessa Administrative Court of Appeal upheld the decision of the court of first instance.

The applicant was held at a temporary detention centre for foreigners and stateless persons with unregulated status in the Chernihiv region for approximately one year.

In September 2012, the centre's administration contacted the Embassy of the Russian Federation with

[79] ECtHR judgment in the case of "Shoigo v. Ukraine", 2021. URL: https://zakon.rada.gov.ua/laws/show/974_k68#Text (accessed: 07.08.2025).

for the purpose of obtaining documents for the applicant as a citizen of that country, as he had, it was claimed, acquired citizenship of the Russian Federation as a citizen of the USSR who, as at 6 February 1992, was permanently resident in the Russian Federation (in accordance with Article 13 of the 1991 Law of the Russian Federation 'On Citizenship of the Russian Federation'). In late December 2012, the embassy replied to the applicant that, in view of the information provided by the applicant and available to the embassy, it was impossible to determine whether the applicant was a citizen of the Russian Federation. Subsequently, the applicant obtained a temporary residence permit in Ukraine and documents certifying that he was a citizen of the Russian Federation.

The applicant complained that he had been detained in breach of Article 5(1) 5 of the Convention, the lack of an effective remedy at his disposal by means of which he could challenge the lawfulness of his detention, and the lack of a legally enforceable right to compensation contrary to paragraphs 4 and 5 of Article 5 of the Convention.

In the grounds for its judgment, the ECtHR noted that the authorities had clearly faced a serious obstacle in organising the applicant's removal, as he did not possess any identity documents. However, no explanation was provided as to why it took the authorities, who had been aware of the applicant's claim to Russian citizenship since the outset of his detention, took almost eleven months to contact the Embassy of the Russian Federation and attempt to obtain a travel document for him. In the Court's view, these considerations are sufficient for the Court to conclude that the authorities did not conduct the applicant's deportation proceedings with due diligence. Consequently, there has been a violation of Article 5 § 1 of the Convention (§ 23–25).

The ECtHR also found a violation of Article 5 § 4 of the Convention, which guarantees to everyone deprived of their liberty following arrest or detention the right to bring proceedings in which a court determines without delay the lawfulness of the detention and orders release if the detention is unlawful. Consequently, the Court found a lack of an effective remedy in Ukrainian law in the context of the applicant's situation (paragraphs 26–27 of the judgment). Furthermore, the ECtHR found a violation of Article 5 § 5 of the Convention, under which anyone who is the victim of an arrest or detention carried out in contravention of Article 5 of the Convention must be guaranteed the right to compensation by way of a legal remedy (§ 29–30 of the judgment).

As we can see, when assessing the State's compliance with its obligations under Article 5 of the Convention, the ECtHR attaches great importance to the thorough examination by the competent national authorities of the case of every person held in a temporary detention centre. This decision emphasises the need to ensure effective procedures to prevent their unjustified detention.

3. THE ISSUE OF STATELESSNESS IN EU LAW

Human rights are a key value of the European Union, shaping the content and direction of its internal and external policies, as well as influencing the evolution of the national political and legal systems of Member States. The field of human rights falls within the competence of both the European Union and the Member States. The latter retain broad discretionary powers regarding the regulation of the legal status of persons within their territory; however, national legislative approaches must comply with the provisions of international treaties and Union regulations that are binding upon them. Alongside the institution of European Union citizenship, which is supplementary to national citizenship and is acquired automatically on the basis of the latter, it is the Member States themselves that determine the content of national citizenship, as well as the conditions for its acquisition and loss.

The European Union does not have the authority to determine the conditions for acquiring and losing national citizenship or to regulate the relevant procedure. Furthermore, the EU acquis concerning the status of stateless persons is rather limited. At the European Union level, there is currently no specific comprehensive legal mechanism to guarantee and protect the rights of stateless persons, and Member States' approaches to this issue remain unsynchronised, which significantly complicates efforts to reduce statelessness and minimise its negative consequences. At the same time, EU law provides for specific legal instruments aimed at protecting the rights of stateless persons and preventing cases of arbitrary deprivation of citizenship, as a result of which a person loses their European Union citizenship, which is considered a fundamental legal status of a person within this integration bloc.

The Court of Justice of the European Union has repeatedly emphasised in its case law that Member States, in exercising their sovereign powers in the field of national citizenship, are obliged to ensure compliance with EU law when determining the grounds for the acquisition and loss of citizenship.

These provisions must be taken into account in the process of aligning Ukrainian legislation with *the* EU *acquis* in light of the implementation of the key foreign policy priority regarding accession to the European Union. Furthermore, it is of the utmost importance for Ukrainian courts to take into account the case law of the Court of Justice of the European Union on citizenship and statelessness when adjudicating cases and interpreting national legislation in the spirit of EU law.

3.1. STATELESSNESS ON THE POLITICAL AGENDA OF THE EUROPEAN UNION

Human rights are a fundamental value of the European Union, which defines the substance and direction of its internal and external policies, and also shapes the development of the national political and legal frameworks of its Member States. In the preamble to the Charter of Fundamental Rights of the European Union of 2000[80] it is solemnly proclaimed that 'the Union places the human person at the centre of its activities', and thus the principle of human-centredness is the cornerstone of the entire multifaceted political and legal acquis that has been shaped since the founding of this international organisation[81] .

An important legal instrument for ensuring the unity of the European peoples within the Union has been the introduction of EU citizenship — a legal phenomenon reflecting the political and legal bond between the European Union and the citizens of the Member States, and provides for a range of additional rights that must be guaranteed at both supranational and domestic levels[82] . EU citizenship was introduced by the Maastricht Treaty, under the provisions of which every citizen of a Member State was automatically recognised as a citizen of the Union.

Under EU law, citizenship of the European Union is regarded as the most important legal status for citizens of Member States[83], granting individuals access to a wide range of rights that supplement those provided under national legislation. The refusal to grant or the termination of Union citizenship, which occurs automatically upon the termination of national citizenship of a Member State, significantly affects the legal status of a person within the EU, to whom the rules applicable to third-country nationals apply.

It should be noted that the issue of citizenship is a rather sensitive one in light of the sovereign interests of countries and may give rise to serious political debates regarding the appropriateness of regulating it at the level of the European Union.

A striking historical example of this is the position of Denmark, which, like any other Member State of the then European Communities, had to consider the ratification of the Maastricht Treaty, one of the innovations of which, as noted, was the institution of EU citizenship. In the referendum held on 2 June 1992, the idea of ratifying the aforementioned international

[80] Charter of Fundamental Rights of the European Union of 7 December 2000. URL: http://eur-lex.europa.eu/legal-content/ EN/TXT/?uri=CELEX:12007P/TXT (accessed 7 August 2025).

[81] Officially, the European Union was established upon the entry into force of the Maastricht Treaty, which came into force on 1 November 1993. At the same time, its creation was driven by the desire of the Member States of the European Communities (the European Coal and Steel Community, the European Economic Community and Euratom) to deepen integration processes in order to ensure the functioning of the single market and to expand cooperation into new, non-economic areas of mutual interest.

[82] Provisions on citizenship were included in the text of the Treaty establishing the European Economic Community (Part Two). Thus, the right to freedom of movement and residence within the territories of the Member States was enshrined (Article 8a); the right to stand for and vote in local elections in the country of residence and electoral rights in elections to the European Parliament (Article 8b); the right to protection in third countries through the diplomatic and consular authorities of other Member States (Article 8c); the right to petition the European Parliament; and the right to appeal to the European Ombudsman (Article 8d). This list of citizens' rights was the result of a political compromise reached between the Member States. With the entry into force of the Treaty of Lisbon in 2007, this list was supplemented by the right of citizens' (legislative) initiative, as set out in Article 11(4) of the current version of the Treaty on the Functioning of the European Union.

[83] Court of Justice of the European Union, Rottmann v Freistaat Bayern, Case C-135/08, 2 March 2010, para. 43.

The treaty was rejected by 50.7% of the citizens who took part in the referendum. One of the reasons was the negative perception of the concept of pan-European citizenship at the national level, the regulation of which under EU law was seen as a certain encroachment on national sovereignty. As a result of political negotiations with the country's leadership, the European Council meeting held on 10–11 December 1992 in Edinburgh adopted the 'Decision on certain issues raised by Denmark concerning the Treaty on European Union'[84] , which set out certain clarifications regarding the nature of Union citizenship. In particular, it was emphasised that 'Union citizenship confers only additional rights and protection and does not replace national citizenship... The question of the acquisition of national citizenship is decided exclusively by the Member State in accordance with its legislation'. This important clarification, which was set out in a separate political declaration accompanying the draft Maastricht Treaty, paved the way for the Danes to vote in favour in the repeat referendum on 18 May 1993, which unblocked the process of establishing the EU.

Another area of legal regulation that could become a source of contention among EU Member States is the Union's migration policy and the associated measures to ensure security at internal and external borders. In particular, the amendments under the draft Amsterdam Treaty[85] , the next international revision treaty, set out a new ambitious goal — to develop the European Union as 'an area of freedom, security and justice, where the free movement of persons is ensured and related measures are in place' 'on checks at common borders, asylum, immigration and the prevention and combating of crime' (Title IIIa of the Treaty establishing the European Community, as amended by the Treaty of Amsterdam). A novelty was that, under the Treaty of Amsterdam, the legal regulation of migration and asylum was transferred from the so-called Third Pillar ('Judicial and law enforcement cooperation in criminal matters') to the First Pillar, within which the European Community's jurisdiction applied and, accordingly, supranational rather than intergovernmental mechanisms of legal regulation were employed. This meant that Member States delegated to the European Community their sovereign powers to adopt legally binding acts in the aforementioned areas.

Denmark, like Ireland and the United Kingdom, agreed to ratify the Treaty of Amsterdam solely on condition of receiving additional guarantees regarding their sovereignty within the Area of Freedom, Security and Justice, which was enshrined in the protocols annexed to the said international treaty[86] .

These examples reflect the complexity of the law-making process at European Union level and demonstrate the Member States' rather cautious approach to the prospect of regulating issues relating to citizenship and migration through EU law. This explains why so many pressing issues concerning the legal regulation and safeguarding of the rights of specific categories of persons remain unresolved or insufficiently regulated under EU law, despite their urgency in the current context. Nevertheless, Member States still manage to find

[84] Edinburgh European Council, 11 and 12 December 1992. Conclusions of the Presidency, Part B. Official Journal. 1992. No. C-348, p. 1.

[85] . Entered into force on 1 May 1999.

[86] Protocol (No 21) on the position of the United Kingdom and Ireland in respect to the area of freedom, security and justice. Official Journal. 2016, C 202. pp. 295–297; Protocol (No 22) on the position of Denmark. Official Journal. 2016, C 202. pp. 298–302.

compromise and adopt the necessary legal decisions within the EU Council. Furthermore, the Court of Justice of the European Union plays an important role in the development of EU law in the field of human rights; its rulings provide the impetus for amending or drafting new Union legislation, which must be aimed at ensuring uniform respect for human rights regardless of a person's citizenship.

One of the most vulnerable and least protected groups of people temporarily staying or residing in European countries is that of stateless persons. The phenomenon of statelessness is common to all EU Member States. According to UNHCR estimates, there were at least 480,268 stateless persons living in Europe, including EU Member States, in 2022[87] . This figure is approximate, as no official statistics on persons who do not hold the nationality of any country are compiled at EU level[88] .

Over the last decade, the issue of stateless persons has gradually attracted increasing attention at EU level in the context of strengthening human rights protection and enhancing the effectiveness of the area of freedom, security and justice. Thus, the EU Council conclusions of 4 December 2015[89] call on Member States to strengthen support for stateless persons and to initiate the exchange of best practices in overcoming statelessness with the assistance of the European Commission. Furthermore, the importance of all Member States ratifying the 1954 Convention and considering the possibility of acceding to the 1961 Convention is emphasised.

The current EU Action Plan on Human Rights and Democracy 2020–2024, the validity of which has been extended to 2027[90] , emphasises the need for the European Union and its Member States to uphold human rights, particularly those of vulnerable groups such as stateless persons (sub-point o of point 1.1).[91] However, comprehensive solutions at EU level have not yet been agreed.

The topic under consideration is made all the more relevant by Russia's full-scale aggression against Ukraine, which has significantly worsened or complicated the situation of stateless persons who were present or residing in the country, or who found themselves in the occupied territories, as well as those who were forced to move to EU countries in search of peace and security[92] . The Israeli-Palestinian conflict adds further urgency to the discussion of the situation of stateless persons within the framework of political debates in Brussels, as a result of which

[87] Global Appeal 2022 / The United Nations Refugee Agency. URL: https://reporting.unhcr.org/globalappeal2022

[88] Within the EU, its specialised agency – Eurostat – does not compile separate statistics. At the same time, the European Asylum Agency provides data on the number of stateless persons who have applied for international protection, based on information provided by EU Member States and European Free Trade Association countries that are part of the Schengen Area. In particular, according to the 2022 Asylum Report, around 78,500 people have applied for international protection over the last 10 years, accounting for around 2% of the total number of applications for international protection. URL: https://euaa.europa.eu/asylum-report-2022/4132-data-statelessness (accessed: 07.08.2025).

[89] Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness of 4 December 2015. URL: https://www.consilium.europa.eu/en/press/press-releases/2015/12/04/council-adopts-conclusions-on-statelessness/pdf (accessed: 07.08.2025).

[90] The EU extends its Action Plan on Human Rights and Democracy until 2027. URL: https://www.eeas.europa.eu/eeas/eu-extends-its-action-plan-human-rights-and-democracy-until-2027_en (accessed: 07.08.2025).

[91] EU Action Plan on Human Rights and Democracy 2020–2024. URL: https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf (accessed: 07.08.2025).

[92] Navigating Limbo: Rights of stateless people during the ongoing war in Ukraine / Right to Protection, 21 February

2024. URL: https://www.statelessness.eu/updates/blog/navigating-limbo-rights-stateless-people-during-ongoing-war-ukraine (accessed: 7 August 2025).

widespread violations of the rights of the civilian population, in particular stateless persons.

European Union institutions, in particular the European Union Agency for Fundamental Rights and the European Asylum Support Office, regard statelessness as a negative phenomenon,

In this regard, emphasis is placed on the importance of reducing instances of statelessness, establishing procedures for recognising a person as stateless, and ensuring the rights of stateless persons at national level in accordance with the international obligations undertaken by Member States[93] .

3.2. THE CONCEPT OF STATELESSNESS IN EU LAW

In accordance with the current EU founding treaties, namely the 1992 Treaty on European Union (hereinafter 'TEU') and the 1957 Treaty on the Functioning of the European Union (hereinafter 'TFEU'), as well as the 2000 Charter of Fundamental Rights of the European Union (hereinafter referred to as the EU Charter), the field of human rights falls within the competence of both the Union and the Member States. Member States retain broad discretionary powers to regulate the legal status of persons within their territory; however, this must comply with the provisions of international treaties and Union legislation binding upon them. Alongside the institution of European Union citizenship, which is supplementary to national citizenship and is acquired automatically on the basis of the latter, it is the Member States that determine the content of national citizenship, as well as the conditions for its acquisition and loss. Furthermore, despite the current trend towards expanding the regulatory framework governing human rights, Member States still retain fairly broad legislative powers to regulate the legal status of persons who are nationals of third countries or stateless persons.

The term 'stateless person' is frequently used in official documents of the European Union. At the same time, EU law does not contain a 'specific' definition of the term, and legislative acts refer to Article 1 of the 1954 Convention. In particular, Regulation (EC) No 883/2004 of the European Parliament and of the Council
No 883/2004 of 29 April 2004 on the coordination of social security systems[94] , the definition of the term 'stateless person' contains a reference to Article 1 of the 1954 Convention relating to the Status of Stateless Persons (Article 1).

Consequently, the meaning of this term depends on the national legislative approaches of Member States that apply European Union law as part of their national legal systems. As we shall demonstrate below, the absence of a definition of the term 'stateless person' in the Union's legislative acts gives rise to negative practical consequences, since Member States' approaches to the substance of this concept may differ, which adversely affects the legal status of such persons.

[93] Fundamental Rights Report 2023. pp. 7, 9. URL: https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf https://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf (accessed:

07.08.2025); Asylum Report 2023, European Union Agency for Asylum.
pp. 234–235. URL: https://euaa.europa.eu/sites/default/files/publications/2023-07/2023_Asylum_Report_EN_0.pdf (accessed: 07.08.2025).

[94] Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02004R0883-20190731 (accessed on 07.08.2025).

It is important to note that, according to the 'Glossary on Asylum and Migration' of the European Migration Network, available on the official website of the European Commission, a stateless person also includes a person who is not considered a citizen under the legislation of any state. Furthermore, this category also includes persons whose nationality cannot be established[95] .

Central to understanding the specific legal status of stateless persons under EU law is Article 67(2) of the TFEU, Chapter V 'Area of Freedom, Security and Justice', which states that
'for the purposes of this Title, stateless persons shall be treated as third-country nationals'. This provision reflects one of the fundamental requirements of the 1954 Convention relating to the Status of Stateless Persons (Article 7(1)), according to which stateless persons must be guaranteed legal protection at least on a par with foreign nationals.

Consequently, in accordance with the provisions of Article 67(2) of the TFEU, stateless persons are subject to the rules of EU law governing the aforementioned areas of cooperation between Member States, in particular in the fields of migration, the Common Asylum Policy, subsidiary protection and temporary protection. At the same time, their specific needs must be taken into account in the context of international human rights law.

The current body of European Union legislation concerning the status of stateless persons and measures to address statelessness is rather limited, a situation attributable not leastto the lack of political consensus among Member States on the advisability of introducing uniform regulatory standards at EU law level, as well as the sensitivity of the issue of citizenship in general in light of potential challenges to national sovereignty.

Regulation is primarily based on the provisions of Title V 'Area of Freedom, Security and Justice' of the TFEU, as well as the 2000 EU Charter of Fundamental Rights. The provisions of these primary law instruments are elaborated upon in European Union regulations, 'soft law' instruments and the case law of the Court of Justice of the European Union. At the same time, no specific legislative instrument dedicated to the rights of stateless persons has yet been adopted at EU level.

The EU Charter is an important instrument for ensuring respect for the rights of stateless persons at national and pan-European levels. At the same time, its provisions do not provide for legal mechanisms to resolve cases of statelessness. In particular, the Charter does not contain legal guarantees regarding the right to citizenship or the right to register a child's birth. At the same time, the Charter, like EU law in general, sets out only the minimum legal standards that must be guaranteed to stateless persons. EU legislation imposes an obligation on Member States to ensure these minimum standards at national level. These include universal rights that must be granted to everyone within the jurisdiction of Member States, as well as specific rights addressed to particular categories of persons. The minimum list of general rights is set out in the 2000 EU Charter of Fundamental Rights, which, alongside other EU legislative acts, has primacy in the national legal systems of Member States. The provisions of the Charter are binding on all institutions of the Union and Member States when they apply EU law (Article 51(1)).

These include the right to respect for human dignity (Article 1), the right to life (Article 2), the right

[95] EMN Asylum and Migration Glossary. URL: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/stateless-person_en (accessed: 07.08.2025).

the right to personal integrity (Article 3), the prohibition of torture and inhuman or degrading treatment or punishment (Article 4), the prohibition of slavery and forced labour (Article 5), the right to liberty and security (Art. 6), respect for private and family life (Art. 7), protection of personal data (Art. 8), the right to marry and found a family (Art. 9), freedom of thought, conscience and religion (Art. 10), freedom of expression and freedom of information (Article 11), freedom of assembly and association (Article 12), etc.

The provisions of the founding treaties and the Charter are elaborated in a number of EU legislative acts regulating the legal status of stateless persons within the framework of regulating the legal status of third-country nationals within the European Union. For the most part, these acts concern the common policy on asylum, subsidiary protection and temporary protection (Article 78 TFEU), which aims to harmonise the national legislation of Member States in this area.

In particular, to ensure uniform regulation of the right to international protection in the national legislation of Member States, Directive 2011/95/EU was adopted at EU level on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for the purpose of establishing a uniform status for refugees or persons entitled to subsidiary protection, as well as on the content of the protection granted[96] ; Directive 2013/33/EU laying down standards for the reception of applicants for international protection[97] ; Directive 2013/32/EU on common procedures for granting and withdrawing international protection[98] ; Regulation 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international submitted in one of the Member States by a third-country national or a stateless person[99] etc. These legislative acts establish uniform minimum standards that are binding on Member States and take precedence over national legislation.

A general review of *the* EU *acquis* concerning statelessness reveals that there is currently no specific, comprehensive legal framework at Union level to ensure and protect the rights of stateless persons, and the legislative approaches of its Member States remain uncoordinated, which is a significant shortcoming in the effort to reduce and combat statelessness and its negative consequences. At the same time, EU law provides for specific legal instruments aimed at the harmonised regulation of the legal status of stateless persons in light of respect for human rights as a fundamental value of the European Union.

An examination of the specific features of EU law concerning the issue of statelessness would be incomplete without reference to the Union's legislative acts, which are due to be implemented in the near future. In particular, with a view to enhancing the effectiveness of the pan-European system of international protection and the management of migration flows, the New Pact on Migration and Asylum 2024 was adopted on 14 May 2024 – a package of ten European Union legislative acts that substantially reform the existing regulatory model. They will come into force in June–July 2026. Although the new acts do not contain specific provisions governing legal relationships concerning stateless persons, compared to the current provisions, the new measures do include a few more provisions that

[96] Amended by Regulation 2024/1347 with effect from 12 June 2026.

[97] Amended by Directive 2024/1346 with effect from 12 June 2026.
[98] Amended by Regulation 2024/1348 with effect from 12 June 2026.
[99] Amended by Regulation 2024/1351 with effect from 1 July 2026.

relate to the legal status of stateless persons within the framework of the international protection mechanism[100] .

In particular, the New Pact on Migration and Asylum 2024 provides for the following innovations:

1. For the first time in EU law, a single definition of the concept is provided for all Member States[101]
   'stateless person' means a person who is not considered a national of any country under its law (Article 2(5) of Regulation 2024/1356 on the screening of third-country nationals at external borders[102], Article 3(15) of Regulation 2024/1348 establishing a common procedure for international protection in the European Union[103] , Article 2(2) of Regulation 2024/1351 on asylum and migration management[104]). This innovation is of significant importance, as not all Member States are currently parties to the 1954 Convention relating to the Status of Stateless Persons [105], which provides an identical definition of this concept (Article 1(1)). Consequently, given the legal nature of EU regulations, this definition will automatically become part of national law upon the entry into force of the said legislative act, which will contribute to the harmonisation of Member States' approaches to issues concerning the legal status of stateless persons.

   In light of the above, it is worth recalling that as early as in the EU Council Conclusions on statelessnessof 4 December 2015, the need for all EU Member States to accede to the 1954 Convention relating to the Status of Stateless Persons and to consider the possibility of acceding to the 1961 Convention on the Reduction of Statelessness was emphasised. In the new Regulation on
   'Eurodac' (recital 56 of Regulation 2024/1358 on the establishment of 'Eurodac' for the comparison of biometric data[106]) once again emphasises this important practical task.

2. Statelessness, in accordance with Regulation 2024/1356 (Article 12), is presumed to be an indication of a person's vulnerability. In particular, it is envisaged that, as part of the preliminary vulnerability assessment, special attention should be paid to stateless persons. Such an assessment must be carried out by specialised staff of the competent national authority who have undergone the necessary training, and, where necessary, with the involvement of

[100] See ENS Briefing "Statelessness and the EU Pact on Migration and Asylum: Analysis and Recommendations for Implementation", May 2024. URL: https://www.statelessness.eu/sites/default/files/2024-07/Briefing%20on%20Pact%20Implementation%20May%202024.pdf (accessed 07.08.2025).

[101] This refers to EU Member States covered by the EU Area of Freedom, Security and Justice. The provisions in question do not apply to Denmark (in accordance with Articles 1 and 2 of Protocol No. 22) and Ireland (under Protocol No 21).

[102] Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817.

[103] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

[104] Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013.

[105] In particular, Estonia, Cyprus and Poland are not participants. See the status of participation: https://treaties.un.org/Pages/ Treaties.aspx?id=5&subid=A&clang=_en (accessed on 7 August 2025).

[106] Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of

'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council.

representatives of civil society organisations. Where there are signs of vulnerability, the individual's needs must be assessed, in particular the need for timely and appropriate support in suitable premises, taking into account their physical and mental health. In the case of minors, support must be provided by child-friendly and age-appropriate staff who have undergone training and obtained the necessary qualifications to work with minors, and in cooperation with national child protection authorities. Furthermore, the screening form used by representatives of the national competent authority to record information about the person must specify the person's nationality or lack thereof (Article 17(1)(b)).

3. The importance of ensuring that Member States comply with their international obligations regarding stateless persons in accordance with international human rights instruments, including the 1954 Convention, is emphasised. At the same time, it is emphasised that 'Member States should endeavour to identify stateless persons and strengthen their protection, thereby enabling stateless persons to enjoy their fundamental rights and reducing the risk of discrimination or unequal treatment' (Recital 24 of Regulation 2024/1348[107], Recital 49 of Regulation 2024/1351).

4. When registering an application for international protection, it is stipulated that the relevant documents issued by the competent authorities must clearly state that the person is stateless, if they so declare.

   This is to be followed by the procedure for recognising the person as stateless (Article 27(2) of Regulation 2024/1348). Furthermore, the document confirming the person's application for international protection must contain a reference to statelessness (Article 29(4)(a)).

To fully address the issue of statelessness in European Union law, it is necessary to clarify the division of powers between the EU and the Member States.

It is important to note that, in accordance with Declaration No. 2 on the nationality of Member States, annexed to the 1992 Treaty on European Union, EU Member States retain sovereign powers in the field of nationality and have broad discretion regarding the acquisition and loss of nationality. At the same time, given the legal link between national citizenship and EU citizenship, the existence of which is contingent upon the possession of citizenship of a Member State, the Court of Justice of the EU has nevertheless stated that 'Member States are obliged, when exercising their powers in the field of national citizenship, to ensure compliance with EU law when determining the grounds for the acquisition and loss of citizenship'[108] . This means that, despite Member States' sovereign powers in the field of citizenship, its regulation must take into account the requirements of the general principles of EU law, as well as the EU acquis relating to human rights. These legal standards must be taken into account when determining the grounds and procedure for the acquisition and loss of national citizenship, in particular by states acceding to the European Union.

[107] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

[108] Court of Justice of the European Union, Rottmann v Freistaat Bayern, Case C-135/08, 2 March 2010, para. 39.

3.3. EU COURT PRACTICE IN THE FIELD OF CITIZENSHIP AND STATELESSNESS AND ITS SIGNIFICANCE FOR THE OF UKRAINE

The Court of Justice plays a key role in the development of EU law, with its judgments providing the official interpretation of EU legal provisions. Furthermore, such rulings form part *of the* EU *acquis*, which must be taken into account not only by Member States but also by candidate countries for accession to the European Union, in view of the third Copenhagen criterion for EU membership.

Cases concerning citizenship are increasingly being heard by the Court of Justice. They can be broadly divided into three main groups:

1) cases concerning EU citizenship in general and the specific rights granted to Union citizens: Case C-369/90 *Micheletti and Others* (Judgment of the Court of Justice of the European Union of 7 July 1992); Case C-179/98 *Belgian State v Fatna Mesbah* (Judgment of the Court of Justice of the European Union of 11 November 1999); Case C-200/02 *Zhu and Chen* (Judgment of the Court of Justice of the European Union of 19 October 2004); Case C-490/20 *V.M.A. v Stolichna obshtina, rayon 'Pancharevo'* (Judgment of the Court of Justice of the European Union of 14 December 2021), etc.;
2) cases concerning statelessness in the context of international protection: Case C-31/09 *Bolbol v Bevándorlási És Állampolgársági Hivatal* (Judgment of the Court of Justice of the European Union of 17 June 2010); Case C-585/16 *Serin Alheto v Deputy Chair of the State Agency for Refugees* (Judgment of the Court of Justice of the European Union of 25 July 2018); Case C-507/19 *Federal Republic of Germany v XT* (Judgment of the Court of Justice of the European Union of 13 January 2021); Case C-294/22 *Office for the Protection of Refugees and Stateless Persons (OFPRA) v AB* (Judgment of the Court of Justice of the European Union of 5 October 2023); Case C-563/22 *SL and LN* (Judgment of the Court of Justice of the European Union of 13 June 2024), etc.;

3) cases relating to the loss of citizenship of an EU Member State, which may lead to the loss of Union citizenship: C-135/08 *Janko Rottmann v Freistaat Bayern* (Judgment of the Court of Justice of the European Union of 2 March 2010); Case C-221/17 *Tjebbes and Others v Minister van Buitenlandse Zaken* (Judgment of the Court of Justice of the European Union of 12 March 2019); Case C-118/20 *JY v Wiener Landesregierung* (Judgment of the Court of Justice of the European Union of 18 January 2022); Case C-689/21 *Udlændinge- og Integrationsministeriet* (Judgment of the Court of Justice of the European Union of 5 September 2023), etc.

Among the cases in the first group, **Case C-490/20 V.M.A. v Stolichna obshtina, rayon 'Pancharevo',** the judgment in which was delivered on 14 December 2021, **is of** particular interest.

According to the facts of the case heard by the Bulgarian national court, the competent authorities of that country refused to issue a birth certificate to a child whose parents were two women holding Bulgarian and British nationality. The child was issued with a birth certificate in Spain, where both women were listed as the girl's parents. Subsequently, the family decided to move to Bulgaria, and it therefore became necessary to obtain documents certifying the child's identity. Under the Bulgarian legislation in force at the time, documents certifying the child's identity could be issued on the basis of a birth certificate in which only persons of different sexes could be listed as parents. Given the complexity of this situation, a request was made to the Court of Justice of the European Union for an interpretation of the limits of the national legislature's power to define the concept of parenthood in the context of issuing documents certifying a child's identity, in the light of EU law.

Following its examination of the case, the Court of Justice of the European Union noted that if a birth certificate issued in a Member State lists parents of the same sex, another Member State, of which the child is a national, is obliged to issue the child with identity documents or a passport without requiring the prior issue of a birth certificate by the national authorities. It also ruled that the authorities of any Member State must recognise the parent-child relationships established by one of the Member States of the Union for the purpose of realising the child's right to move and reside freely within the EU, having regard to the requirements of Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, as well as Article 4(3) of Directive 2004/38/EC. This provision is of significant importance for states acceding to the EU and requires the harmonisation of national legislation regarding the documentation of minors whose parents are of the same sex.

In this context, it should be noted that Article 9 of the Charter of Fundamental Rights of 2000 states that 'the right to marry and to found a family is guaranteed in accordance with national laws governing the exercise of these rights'.

At present, legislative approaches across Member States—particularly regarding the right to marriage and parenthood, and the associated rights for same-sex couples—vary within the EU. As a result, children of same-sex couples may face difficulties in having their civil status recognised and their birth registered, and may consequently be at risk of statelessness. This ruling is therefore of great importance for such children. As we can see, EU law makes it possible to prevent cases of statelessness by imposing Member States with the obligation to recognise the documents of children born to same-sex couples, regardless of national approaches to the institution of marriage or civil partnerships.

The cases in the second group mainly concern stateless persons of Palestinian origin. One of the key cases concerning this category of persons is **Case C-563/22 SL and LN**, the judgment in which was delivered by the Court of Justice of the European Union on 13 June 2024. In the circumstances of this case, in July 2018, a mother and her minor daughter, both stateless persons of Palestinian origin, left the city of Gaza and entered Bulgaria illegally after transiting through Egypt, Turkey and Greece. Their first application for international protection was rejected because, in the view of the Bulgarian authorities, they had not demonstrated that they had left the Gaza Strip out of fear of persecution. They subsequently lodged a second application, confirming their registration with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). They sought refugee status because UNRWA had *effectively* ceased to protect them. Their subsequent application was also rejected on the grounds that the interested parties had declined UNRWA's assistance by voluntarily leaving the area of its operations.

The Bulgarian court hearing the case brought by the interested parties referred the matter to the Court of Justice of the European Union (CJEU) for an interpretation of the provisions of the Asylum Procedures Directive 2012/32/EU[109]regarding the scope of the substantive examination of the subsequent application. In addition, it asked the Court of Justice of the EU to interpret the provisions of the Qualification

[109] Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for

granting and withdrawing international protection. URL: https://eur-lex.europa.eu/eli/dir/2013/32/oj/eng (accessed on 7 August 2025).

Directive[110] . In the view of the Bulgarian court, persons registered with UNRWA generally do not have the right to acquire refugee status in the European Union[111] . However, when UNRWA protection or assistance is terminated for any reason, these persons automatically acquire the right to asylum.

Following its examination of the request, the Court of Justice concluded that *UNRWA's protection or assistance must, in particular, be deemed to have ceased in respect of the applicant where that body proves unable, for any reason, to ensure decent living conditions or minimum safety conditions forany stateless person of Palestinian origin* present in the UNRWA area of operations in which the applicant had his or her habitual residence. The Court of Justice took into account the living conditions in the Gaza Strip, as well as UNRWA's inability to fulfil its mission following the events of 7 October 2023. Furthermore, the Court of Justice clarified that, in order to be granted refugee status, applicants are not required to prove that the general security situation in the Gaza Strip affects their situation directly and specifically.

This ruling is crucial for Palestinian refugees in the EU, as it could serve as a legal basis for international protection in the EU in the event of a *de facto* cessation of UNRWA assistance.

Within the third category of cases – those concerning the loss of citizenship – one of the most significant **is Case C-135/08 Janko Rottmann v. Freistaat Bayern**, on which the Court of Justice of the European Union delivered its judgment on 2 March 2010.

In this case, a request was made to the Court of Justice of the European Union by a German national court seeking clarification of the provisions of the Treaty on European Union in the context of Union citizenship, the existence of which is directly contingent upon the possession of citizenship of a Member State. In the circumstances of the case, the applicant acquired Austrian citizenship by birth. After criminal proceedings were brought against him for large-scale fraud, he moved to Germany, where he applied for citizenship of that country. However, he concealed the fact that proceedings had been brought against him. Several years later, his application for German citizenship was approved, and J. Rothman received his naturalisation certificate. At the same time, under Austrian law, his previous citizenship was automatically terminated upon acquiring citizenship of another country.

Subsequently, the German local authorities received information that an arrest warrant had been issued for the applicant following the designation of Y. Rothman as a suspect in the case. In light of these circumstances, having heard the applicant, the German local authority decided to revoke the decision granting him citizenship, as Y. Rotman had concealed the fact that criminal proceedings had been brought against him, which was deemed to constitute the acquisition of citizenship by deception. Subsequently, the applicant sought to defend his right to German citizenship before the national courts of that country in order to avoid becoming stateless and, consequently, losing his EU citizenship. The complexity of the applicant's situation prompted the German Administrative Court to refer the matter to the Court of Justice of the European Union for

[110] Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

URL: https://eur-lex.europa.eu/eli/dir/2011/95/oj/eng (accessed: 07.08.2025).

[111] In particular, this conclusion was reached by the Court of Justice of the European Union in Case C-585/16 Serin Alheto v Deputy Chair of the State Agency for Refugees (Judgment of the Court of Justice of the European Union of 25 July 2018).

to obtain clarification on the compliance of the national legislation of Austria and Germany on citizenship with the requirements of EU law, in particular Article 17(1) of the Treaty establishing the European Community (now Article 20 TFEU).

In this case, the Court of Justice concluded that provisions of national legislation providing for the deprivation of a Union citizen of the nationality of a Member State acquired by naturalisation, where that nationality was obtained by fraud, do not conflict with EU law provided that *the principle of proportionality* is observed.

In an obiter dictum, the Court of Justice of the European Union noted that the decision to annul a decision granting citizenship obtained by deception is justified by the protection of the public interest. In this regard, a Member State is entitled to protect the special relationship of solidarity and good faith between itself and its citizens, as well as the reciprocity of rights and obligations which forms the basis of the legal relationship between the individual and the State. In this context, the Court of Justice also referred to the Council of Europe Convention on Nationality, Article 7 of which permits cases of deprivation of nationality, even if this may lead to statelessness, as well as Article 15(2) of the Universal Declaration of Human Rights, which prohibits the arbitrary deprivation of a person's nationality, but does not preclude this where there are lawful grounds for such a decision.

In the context *of the principle of proportionality*, the Court of Justice noted that compliance with its requirements when a decision is taken by a national authority must be determined by the national court.

> the decision affects both the individual and their family members. The Court emphasised that it is important to determine whether the withdrawal of citizenship is a justified measure in view of the seriousness of the offence committed by the individual, the time elapsed between the decision to grant citizenship and the decision to revoke naturalisation, and whether it is possible for that individual to regain their original citizenship. Regarding the latter aspect, the Court of Justice of the European Union emphasised that a Member State whose citizenship was acquired by fraud is not restricted in its right to refuse citizenship to a person merely because they have not reacquired their previous citizenship[112] .

European Union refrained from assessingthe provisions of Austrian legislation concerning the deprivation of Austrian citizenship in connection with the acquisition of citizenship of another Member State, where the decision to grant citizenship was revoked as a result of fraudulent conduct, the provision of false information or the concealment of any material fact concerning the applicant.

As can be seen, the judgment in Case **C-135/08 Janko Rottmann v Freistaat Bayern** emphasises the need to take account of the principle of proportionality when deciding on the granting, loss or termination of citizenship, notwithstanding the fact that Member States retain sovereign powers in the field of national citizenship.

Another important case in which legislative approaches to the loss of citizenship were examined is **Case C-221/17 Tjebbes and Others v Minister van Buitenlandse Zaken**, in which the Court of Justice of the European Union delivered its judgment on 12 March

At the same time, all the circumstances of the case must be taken into account, in particular the consequences

[112] Court of Justice of the European Union, Rottmann v Freistaat Bayern, Case C-135/08, 2 March 2010, para. 56.

In the case before the Dutch national court, four Dutch nationals who held dual nationality with a non-EU country brought an action before the national court following the Minister for Foreign Affairs' refusal to consider their applications for the renewal of their national passports. The Minister's refusal was based on the Kingdom of the Netherlands' Nationality Act, pursuant to Article 15(1)(c) of which an adult loses their nationality if they hold the nationality of a foreign country and, after reaching the age of majority, have resided permanently outside the Netherlands and the EU for a continuous period of ten years. However, the ten-year period is interrupted if the Netherlands or the EU has been the person's main place of residence for a period of at least one year. Similarly, the period is interrupted if the person concerned applies for confirmation of their Dutch citizenship in order to obtain a travel document (passport) or a certificate of Dutch citizenship. A new ten-year period begins on the date of issue of one of these documents. Furthermore, a minor loses Dutch citizenship if their father or mother loses Dutch citizenship.

The National Court of the Netherlands has referred a question to the Court of Justice of the European Union regarding the lawfulness and legislative limits of a Member State's power to determine the grounds for the loss of national citizenship, where this results, in particular, in the loss of Union citizenship in the light of Article 20 TFEU, which is based on the principle of proportionality, as well as Article 7 of the Charter of Fundamental Rights of the European Union, which guarantees respect for the right to private and family life.

The Court of Justice of the European Union recognised that it has jurisdiction in such cases. It stated that the approach of the national legislature, aimed at limiting the undesirable consequences of multiple citizenship by establishing a requirement of ten years' continuous residence in the Netherlands or the EU, is entirely legitimate. It is aimed at protecting the 'genuine link' between the individual and the country and 'is motivated by the desire to safeguard the unity of citizenship within the family concerned'. National legislative provisions providing for the loss of a country's citizenship on grounds of protecting the public interest do not conflict with EU law. He also drew attention to the provisions of international treaties which allow for the possibility of losing national citizenship, provided that this does not result in the person becoming stateless, as occurred in this case.

At the same time, the Court of Justice noted that a Member State's legislative provisions on the loss of nationality must comply with *the principle of proportionality*. It emphasised that this principle requires *an individual assessment of the consequences of such a loss of nationality for both the applicant and the members of his or her family*[113] . Consequently, in the Court's view, the competent national authorities and courts are required to examine the consequences of the loss of citizenship and whether the person concerned was able to regain their citizenship on the basis of an application for the issue of a travel document or any other document certifying the person's citizenship.

The Court of Justice of the European Union also added that, when assessing compliance with the principle of proportionality, the competent national authorities and national courts must ensure that the loss of citizenship of a Member State complies with the requirements of the Charter of Fundamental

Rights of the European Union, in particular *the right to respect for family life*

[113] Court of Justice of the European Union, Case C-221/17 Tjebbes and Others v Minister van Buitenlandse Zaken, ECLI:EU:C:2019:189. Para 41.

the right to life (Article 7 of the Charter) in conjunction with the obligation to take into account the best interests of the child (Article 24 of the Charter). In other words, when carrying out their assessment, the authorities and courts must determine whether the loss of nationality of the Member State concerned, where this entails the loss of Union citizenship and the rights attached thereto, is proportionate in the light of the consequences of that loss for the situation of each person concerned and, where relevant, for members of their family, from the perspective of EU law.

Furthermore, the Court of Justice of the European Union noted that the mere fact of applying to the competent authorities of a country for confirmation of citizenship in order to obtain a travel document or identity card (in this case, that of a Dutch citizen) is sufficient grounds to consider that the person intends to maintain a close link with that country.

In light of the above, the Court of Justice of the European Union concluded that national legislation on the loss of citizenship of a Member State does not conflict with EU law, in particular Article 20 of the Charter of Fundamental Rights of the European Union and Articles 7 and 24 of the Charter of Fundamental Rights of the European Union, provided that the national rules take account of the principle of proportionality and provide for an individual assessment of the consequences of such a decision for the person concerned and the members of their family. Furthermore, the person must be granted the right to have their citizenship restored ex tunc upon application to the competent authority of the state, on the basis of travel documents or other documents confirming their nationality.

The third key case concerning the issue of statelessness is Case **C-118/20 JY v Wiener Landesregierung**, the judgment in which was delivered on 18 January 2022.

According to the facts of the case, JY, at that time an Estonian citizen, applied for Austrian citizenship. In a letter from

the government of the province of Lower Austria, she received a reply stating that she could acquire Austrian citizenship if she could confirm the termination of her Estonian citizenship within two years. To meet these requirements, JY renounced her citizenship, which was confirmed by a decision of the Estonian government. From that moment on, the woman held no citizenship of any country.

JY subsequently moved to Austria and reapplied for citizenship. However, her application was rejected due to a series of administrative offences she had committed. In particular, since submitting her first application for citizenship, she had been found guilty of refusing to produce a vehicle inspection certificate and of driving under the influence of alcohol. Eight administrative offences committed by the woman prior to the initiation of the naturalisation procedure were also taken into account. Consequently, the refusal was based on the applicant's failure to meet the requirements for acquiring citizenship, in particular because the applicant posed a threat to road safety and endangered other road users.

One of the key issues addressed by the Court of Justice of the European Union in the preliminary ruling proceedings initiated by the Austrian Supreme Administrative Court, to which the appeal had been lodged, was the question of proportionality — whether the decision to refuse was proportionate to its legal consequences for the individual in light of the circumstances of the case.

In delivering its judgment in this case, the Court of Justice of the European Union, unlike in the judgment in Case C-135/08 Rottman which we have examined, provided a clearer assessment of the decision of the national authority. It noted that the competent authority of Estonia, of which Ms JY was a national, should not have automatically revoked that person's citizenship. This should only have been done upon the entry into force

the decision on the acquisition of citizenship of another country came into force, and not from the moment of submitting an application for the termination of citizenship in the country of origin (para. 50 of the judgment). As we can see, such an approach would make it possible to avoid cases of statelessness.

In analysing compliance with the principle of proportionality in a decision refusing to grant citizenship, the Court of Justice of the European Union once again emphasised the importance of an individual assessment of the case by the competent national authority. It reiterated the need to observe the principle of proportionality in the context of balancing the legitimate aim of a decision refusing citizenship against the legal consequences for the individual, in particular the normal development of their personal, family and professional life. It stated that compliance with the principle of proportionality in decisions by the competent national authority to refuse citizenship requires a balance with the fundamental rights guaranteed by the 2000 EU Charter, in particular the right to respect for family life under Article 7 of the Charter and the consideration of the best interests of the child under Article 24 of the Charter (para. 59 of the judgment).

In assessing the decision's compliance with the principle of proportionality, the Court focused on two key aspects. Firstly, whether the refusal was sufficiently justified in view of the seriousness of the offence committed; secondly, whether the individual had the opportunity to regain their original citizenship (para. 60 of the judgment).

As regards the nature of the administrative offences committed, the Court of Justice of the European Union found that the first eight offences, which JY had committed prior to submitting his application for citizenship, were irrelevant, as they were known to the Austrian national authority, which had nevertheless taken a preliminary decision on the possibility of acquiring Austrian citizenship subject to JY renouncing his Estonian citizenship. Consequently, the Court of Justice of the European Union took into

only two offences, which were to be considered grounds for refusal in view of the legitimate aim — the need to protect public order and road safety.

The Court of Justice of the EU emphasised that the legal concepts of 'public order' and 'public safety', when it comes to the legitimate aim of a decision to refuse the granting of national citizenship [on the basis of which EU citizenship arises], must be interpreted restrictively (literally); an expansive interpretation of these concepts is not permitted. It noted that the concept of 'public order' requires, in addition to a breach of public order—which is any breach of the law—the existence of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. As regards
'public security', this encompasses both the internal security of a Member State and its external security, and thus, threats to the functioning of institutions and essential public services and to the survival of the population, as well as the risk of a serious disruption to external relations or the peaceful coexistence of nations, or a risk to military interests, may affect public security (paras. 68, 69 of the judgment).

In light of the above, the Court of Justice of the European Union concluded that the principle of proportionality had not been observed in the decision to refuse citizenship to an individual on grounds of the protection of public order and public security, since the offences in question were administrative offences punishable by a fine, which did not reach a sufficient level of public danger to justify the refusal (para. 73).

In summarising the review of the EU Court's case law concerning the issue of statelessness, it is important to emphasise that the principle of proportionality is key in determining

the validity of decisions refusing to grant citizenship or revoking a decision granting citizenship to a person, which may lead to a situation of statelessness. In view of the requirement of Article 52(1) of the 2000 EU Charter of Fundamental Rights, restrictions on the right to citizenship may only be applied if they are strictly necessary and directly pursue the legitimate aim of protecting the public interest or the rights and freedoms of others. It follows from EU case law that compliance with the principle of proportionality requires: (1) an individual assessment of the consequences of the refusal to grant or the loss of citizenship for the person concerned and their family members; (2) ensuring that the decision taken is compatible with respect for the fundamental rights guaranteed by the 2000 EU Charter, in particular the right to respect for private and family life and the best interests of the child; (3) as far as possible, ensuring the individual's right to have their citizenship restored *ex tunc,* that is*,* from the moment such a decision is taken concerning them[114] .

In the process of harmonising Ukrainian legislation, as well as within the framework of national administrative and judicial practice, it is also important to take into account the legal standards arising from the general principles of European Union law, including the principle of respect for human rights, the prohibition of discrimination, the principle of legal certainty and the protection of legitimate expectations, and the principle of effectiveness.

These provisions must be taken into account in the process of aligning Ukrainian legislation with the EU acquis in light of implementation of the key foreign policy priority regarding accession to the European Union.

In this context, it is worth noting that in recent years, Ukraine's higher courts have been paying increasing attention to European Union law, taking into account EU legislative acts, the case law of the Court of Justice of the European Union, as well as 'soft law' as sources for interpreting Ukraine's national legislation. As early as the commencement of the application of the Association Agreement between Ukraine and the EU in 2014, the High Administrative Court of Ukraine, in its information letter of 18 November 2014 in Case No. 1601/11/10/14-14, provided guidance to national courts of the relevant jurisdiction: **'Given Ukraine's European orientation …, the legal positions set out in the decisions of the Court of Justice of the European Union may be taken into account by the courts as arguments and considerations regarding the harmonious interpretation of Ukrainian national legislation in accordance with the established standards of the European Union's legal system'** [115] .

Currently, the Supreme Court of Ukraine is increasingly referring to the case law of the Court of Justice of the European Union in its rulings, which forms part of the harmonisation of Ukraine's legal system with the EU acquis. As can be seen from the practice of the Supreme Court, between 2016 and 2018 Ukrainian administrative courts developed an approach whereby the legal positions set out in the decisions of the Court of Justice of the EU may be taken into account by administrative courts as part of their reasoning, but not as an independent source of law, rather as a standard of interpretation

[114] Opinion of AG Szpunar in Case C-689/21 X v Udlændinge- og Integrationsministeriet of 26 January 2023. URL: https:// eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=ecli:ECLI%3AEU%3AC%3A2023%3A53 (accessed on 7 August 2025).

[115] Information letter of the High Administrative Court of Ukraine dated 18 November 2014 No. 1601/11/10/14-14. URL: https://6aas.gov.ua/ua/law-library/info-sheets/45-2014/168-informatsijnij-list-vid-18-11-2014-1601-11-10-14-14.html (accessed on 07.08.2025).

national legislation in the light of European values and general principles of law[116] .

The importance of taking into account the case law of the Court of Justice of the European Union, which reveals the logic of the European Union's legal system, is particularly relevant today, given the country's candidate status and the commencement of accession negotiations. As is well known, respect for the values on which the Union is founded, in particular respect for human rights, is one of the fundamental prerequisites for membership of this organisation (Article 49 of the 1992 Treaty on European Union). The conclusions of the European Council, agreed by the Member States in Copenhagen in 1993[117], emphasise that a state acceding to the EU must be 'capable of assuming the obligations of membership, including the ability to effectively implement the rules, standards and policies that constitute the substance of EU law (*acquis*)'. This concerns not only the adoption of specific legislation that meets EU legal standards, but also their proper implementation within the national legal system and interpretation in the 'spirit of EU law' by national institutions, including the courts.

Consequently, in the process of implementing the key foreign policy priority of Ukraine's accession to the European Union, it is of the utmost importance for Ukrainian courts to take into account the EU acquis, in particular the case law of the Court of Justice of the European Union on issues of citizenship and statelessness, when considering cases in the process of interpreting national legal provisions, which must take place in the light of EU law.

[116] References to the case law of the Court of Justice of the EU in Supreme Court decisions constitute a kind of 'inoculation' of Ukrainian judicial practice with European law — a judge of the Supreme Court. URL: https://supreme.court.gov.ua/supreme/pres-centr/news/1679949/ (accessed: 07.08.2025).

[117] European Council in Copenhagen, 21–22 June 1993. Conclusions of the Presidency https://www.consilium.europa.eu/media/21225/72921.pdf (accessed: 07.08.2025).

4. NATIONAL LEGISLATIVE APPROACHES TO STATELESSNESS: PRACTICES OF EU MEMBER STATES, UKRAINE AND SELECTED CANDIDATE COUNTRIES

Statelessness is a widespread phenomenon in one form or another in all Member States and candidate countries for accession to the European Union.

A significant number of EU Member States and candidate countries are parties to international universal and regional treaties designed to help reduce instances of statelessness and/or establish minimum standards for the rights of persons who do not hold the nationality of any country or who are recognised as stateless.

The legislative approaches of EU Member States regarding the recognition of a person as stateless, and the scope and content of the rights and freedoms of this category of persons, are not harmonised. Nine EU Member States have a specific legislative procedure for recognising a person as stateless. In the remaining countries, recognition as a stateless person takes place within the framework of a general administrative procedure (concerning citizenship, the granting of residence permits, international protection, etc.). However, over the last decade, certain countries have adopted legislation regulating the procedure for recognising a person as stateless and simplifying access to it for those concerned.

States have the sovereign right to determine the conditions for the acquisition and loss of nationality. Currently, most EU Member States provide for a simplified naturalisation procedure and/or more favourable conditions for the acquisition of citizenship for stateless persons. The legislative and judicial practices of individual countries are based on the principle of ensuring the best interests of the child, on the basis of which the right to citizenship by birth is guaranteed to a child if they do not acquire the citizenship of any other country.

On the path to EU membership, Ukraine should draw on the best practices of Member States and candidate countries in the field of statelessness to ensure the effective realisation of the rights of stateless persons within the national legal framework.

4.1. PARTICIPATION OF EU MEMBER STATES AND CANDIDATE COUNTRIES IN INTERNATIONAL, UNIVERSAL AND REGIONAL TREATIES CONCERNING THE RIGHTS OF STATELESS PERSONS AND THE REDUCTION OF STATELESSNESS

Statelessness affects every single Member State of the European Union, as well as candidate countries. As of 1 March 2025, a significant proportion of EU countries and states in the process of accession are parties to international universal and regional (concluded within the framework of the Council of Europe) treaties in the field of statelessness.

Statistical data on the number of stateless persons and persons with undetermined citizenship, as reported by the UNHCR as of the end of 2023[118] , and the practice of countries' participation in international agreements are presented in Table 1 [119] .

Table 1

No.	EU Member State	Number of stateless persons and persons with undetermined citizenship (UNHCR, end end of 2023)	1954 Convention relating to the Status of Stateless Persons	1961 Convention on the Reduction of Statelessness	1997 European Convention on Nationality	Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession, 2006
1	Austria	3 194	+	+	+	+
2	Belgium	936	+	+	–	–
3	Bulgaria	817	+	+	+	–
4	Greece	3,743	+	–	–	–
5	Estonia	65,944	–	–	–	–
6	Ireland	53	+	+	–	–
7	Spain	8,579	+	+	–	–
8	Italy	3,000	+	+	–	–
9	Denmark	8,657	+	+	+	–
10	Cyprus	86	–	–	–	–
11	Latvia	18 0614	+	+	–	–
12	Lithuania	2331	+	+	–	–
13	Luxembourg	201	+	+	+	+
14	Malta	n/a	+	–	–	–
15	Netherlands	4,816	+	+	+	+
16	Germany	28,964	+	+	+	–
17	Poland	1,533	+	–	–	–

[118] These statistics are approximate. They are based on data submitted to UNHCR by the relevant countries. It is clear that the actual figures are significantly higher. See: Data on reported stateless populations. URL: https://statelessnessalliance.org/global-overview/ (accessed: 07.08.2025).

[119] See: https://treaties.un.org/Pages/Treaties.aspx?id=5&subid=A&clang=_en (for international treaties within the framework of the UN) and https://www.coe.int/en/web/conventions/full-list (for international treaties within the framework of the Council of Europe) (accessed on 07.08.2025).

18	Portugal	31	+	+	+	–
19	Romania	287	+	+	+	–
20	Slovakia	49	+	+	+	–
21	Slovenia	10	+	–	–	–
22	Hungary	137	+	+	+	+
23	Finland	2,974	+	+	+	–
24	France	4,174	+	–	–	–
25	Croatia	742	+	+	–	–
26	Czech Republic	1,611	+	+	+	–
27	Sweden	18,698	+	+	+	–
Candidate countries						
1	Albania	2,018	+	+	+	–
2	Bosnia and Herzegovina	21	+	+	+	–
3	Georgia	530	+	+	–	–
4	Moldova	3,267	+	+	+	+
5	North Macedonia	275	+	+	+	–
6	Serbia	2,329	+	+	–	–
7	Turkey	415	+	-	–	–
8	Ukraine*	10,919	+	+	+	–
9	Montenegro	416	+	+	+	+

**Statistics on the number of stateless persons in Ukraine, UNHCR data as at the end of 2024.*

As can be seen, Ukraine is a party to three of the international treaties listed. At the same time, on 19 May 2006, the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession was signed, although it has not yet been ratified.

With a view to strengthening human rights and safeguarding the right to nationality—a fundamental human right—**it is recommended that the ratification process for the aforementioned international treaty be carried out and that the relevant international obligations be implemented at the national level.** In the context of full-scale Russian aggression, ratification of the convention could contribute to

strengthening legal safeguards for the rights of persons who may find themselves in a situation of statelessness. Furthermore, in light of EU accession, ratification of the convention could help strengthen Ukraine's international reputation as a country that demonstrates a commitment to the principles of human rights protection and a willingness to assume the relevant international obligations. As Ukraine is already a party to many international conventions addressing the issue of statelessness, the ratification of the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession could serve as a logical complement to these obligations.

4.2. PROCEDURE FOR RECOGNISING A PERSON AS STATELESS

The recognition of a person as a stateless person is of significant practical importance for ensuring their protection and serves as the legal basis for the exercise of the rights and freedoms provided for under national legislation.

The 1954 Convention defines the concept 'stateless person', but does not contain provisions regarding the procedure for recognising a person as stateless. Accordingly, the State Parties have discretionary powers to regulate such a procedure.

Two groups of countries can be identified with regard to the recognition of a person as stateless:

1. EU Member States whose legislation provides for a specific procedure (Bulgaria, Denmark, Spain, Italy, Latvia, Luxembourg, Hungary, France, the Czech Republic).
2. EU Member States which do not provide for a separate procedure for recognising a person as stateless.

In **Group 1 countries**, a specific legislative procedure for recognising a person as stateless is provided for, although the national legislative approaches of these countries have their own particular features. In **Group 2 countries**, such a procedure is not provided for in a specific legislative act, but the recognition of a person as stateless is carried out within the framework of a general administrative procedure or through another legislative procedure (concerning citizenship, international protection, the granting of residence permits, etc.).

It is important to note that over the past decade, certain EU Member States have adopted specific legislation or amended their laws to regulate the procedure for recognising a person as stateless. One such country is ***Bulgaria***, where the relevant procedure came into force in June 2017.[120] . In ***Denmark***, the Act on the Procedure for Recognising Statelessness was adopted on 6 June 2023[121] .

Furthermore, there is a trend towards gradually simplifying access to the procedure for recognising a person as stateless and expanding the rights of stateless persons. Thus, following the Decision of the Constitutional Court ***of Hungary*** of 30 September 2015, the procedure for recognising a person as stateless became available to individuals regardless of the legality of their stay in the country[122] . On 1 September 2024, legislative provisions came into force in ***Belgium*** regarding the right of stateless persons to obtain a residence permit in that country[123] . Amendments to the ***Danish*** Citizenship Act of 6 June 2023 provide for the acquisition of Danish citizenship by children who do not acquire the citizenship of other countries[124] .

[120] Regulations for the Implementation of the Law on Foreigners in the Republic of Bulgaria of 29 June 2011. URL: https:// statelessness.bg/sites/default/files/doc/2.pdf (accessed on 7 August 2025).
Further information https://statelessness.bg/useful-resources (accessed on 7 August 2025).

[121] 2024 Asylum Report / European Union Agency for Asylum. P. 182. URL: https://euaa.europa.eu/sites/default/files/publications/2024-06/2024_Asylum_Report_EN.pdf (accessed: 07.08.2025).

[122] Decision No. 6/2015 (25 February) of the Constitutional Court, prepared by the UNHCR Regional Representation in Budapest,www.refworld.org/docid/5542301a4.html (accessed: 07.08.2025).

[123] Van Trillo C. A new right of residence for stateless people in Belgium – does it offer sufficient protection? European

Network of Statelessness, 30 January 2025. URL: https://www.statelessness.eu/updates/blog/new-right-residence-stateless-people-belgium-does-it-offer-sufficient-protection (accessed: 07.08.2025).

[124] 2024 Asylum Report / European Union Agency for Asylum. p. 182. URL: https://euaa.europa.eu/sites/default/files/publications/2024-06/2024_Asylum_Report_EN.pdf (accessed 7 August 2025).

Let us examine the specific features of the procedure for recognising a stateless person using the example of individual EU Member States and Ukraine.

Bulgaria

Special legislative provisions regarding the recognition of stateless persons were introduced by legislative amendments in December 2016. The relevant provisions were set out in the Regulations for the Implementation of the Foreigners Act of the Republic of Bulgaria, specifically Chapter 2A 'Granting of stateless person status', which entered into force on 27 June 2017 (paragraphs 63a–63i)[125] .

In particular, the procedure for recognising a person as stateless is free of charge. Proceedings are initiated upon a written application by the person concerned, and there is no specified time limit for submitting such an application from the moment of arrival in the country. The application must be submitted in person at the person's permanent address or actual place of residence to the Migration Department or the Migration Sector and regional departments of the Ministry of the Interior. For minors, the application is submitted by their parents, guardians or carers. The application is submitted by only one parent if the other has been deprived of parental rights. When the application is submitted, the authorities inform the person of their rights and obligations and the consequences of failing to comply with them, and a record of this is drawn up.

Subsequently, an interview is conducted with the applicant, the date, time and place of which are notified in writing in advance. During the interview, which is recorded in a report, the following details are established:

- details of the applicant's identity (surname and first name, previous first name and surname, previous

citizenship, gender, place and date of birth, mother's maiden name);
- details of existing identity documents and travel documents (type and number of the document, period of validity, place and date of issue, name of the issuing authority);
- marital status, place of marriage;
- occupation and education;
- residence in the country of permanent residence;
- permanent address / residential address in Bulgaria.

The interview record is read out to the applicant. The applicant (or, in the case of minors, their parents or guardians) and the official who conducted the interview sign it. Provision is made for additional interviews to clarify necessary details, of which the person is notified in advance.

The legislation sets out fairly strict requirements for applicants to prove that they can be recognised as stateless persons. Thus, during the proceedings, the applicant must prove that they are stateless, taking into account:
- their place of birth;
- their previous place of residence;
- the citizenship of family members and their parents.

This information must be supported by documentary evidence. The Migration Service may request additional information from other state bodies in order to clarify the circumstances regarding the possibility of granting stateless person status.

In addition, the person must provide documents confirming the legality of their stay in Bulgaria. In this regard, it should be noted that, in accordance with legislative amendments dated

[125] Regulations for the Implementation of the Law on Foreigners in the Republic of Bulgaria of 29 June 2011. URL: https:// statelessness.bg/sites/default/files/doc/2.pdf (accessed: 07.08.2025).
Further information https://statelessness.bg/useful-resources (accessed on 07.08.2025).

In 2021, a person against whom an expulsion order has been issued for illegal residence is automatically refused stateless status.

Decisions on the granting, termination, suspension, renewal and refusal of stateless person status are taken by the Head of the Migration Department, and the applicant is notified in writing. *The* general *timeframe for a decision is six months* from the date of application, and in complex cases the period may be extended by a further two months.

An *important procedural safeguard* for applicants is that the UN High Commissioner for Refugees, through its representative in Bulgaria, has the right to information and access to every stage of the procedure for granting stateless person status. The UN High Commissioner for Refugees has the right to be present at interviews conducted with the applicant.

At the same time, a significant shortcoming is that applicants *are not granted special protective status* during the examination of their application under the statelessness recognition procedure; consequently, they do not have access to basic services. In particular, the right to free translation is not guaranteed, although in practice this is provided through the assistance of non-governmental organisations[126] .

Spain

Recognition of statelessness is provided for in Article 34 of Organic Law 4/2000
'On the Rights and Freedoms of Foreigners in Spain' of 11 January 2000 (as amended). On the basis of this law, Royal Decree 865/2001 of 20 July 2001 was adopted, which approved the Procedure for the Recognition of Statelessness[127] (hereinafter — the Procedure).

The procedure provides that statelessness may be granted to a person if they meet the conditions set out in the 1954 Convention.

> The procedure is initiated both ex officio and upon application by the person concerned.

The procedure for considering a case regarding the recognition of a person as stateless is initiated *ex officio,* i.e. without a specific application from the person, when the Office for Asylum and Refugees becomes aware of facts or information indicating the possibility of circumstances arising that would lead to the person being considered stateless. In this case, the Office for Asylum and Refugees duly notifies the applicant so that they have the opportunity to provide their explanations.

At the person's initiative, a written application for recognition as a stateless person may be submitted to the following authorities: the Office for Foreigners, the police or the Office for Asylum and Refugees.

The requirements for the application are set out in detail. In particular, the application, drawn up in Spanish, must be accompanied by documents identifying the person and their travel documents. If no documents are included with the application, an explanation must be provided. The application must also clearly and in detail set out the facts, data and statements deemed relevant, including information on place of birth, family

[126] Bulgaria. Statelessness Index. URL: https://index.statelessness.eu/country/bulgaria (accessed: 07.08.2025).
[127] Royal Decree 865/2001 of 20 July, approving the Regulations on the recognition of statelessness.

https://www.boe.es/buscar/pdf/2001/BOE-A-2001-14166-consolidado.pdf (accessed: 07.08.2025).

relations with persons who may hold the nationality of any state, as well as their place of permanent residence in another state and the duration of their stay there.

The application must be submitted within one month of entering Spanish territory, except in cases where the person is entitled to lawful residence for a period longer than that specified. In this case, the application must be submitted before the expiry of the specified period. Where the reasons justifying the application are due to unforeseeable circumstances, the one-month period shall be calculated from the date on which they arose. Where the person concerned has been unlawfully present in the country for more than one month, or has submitted an application for recognition of statelessness after a deportation order has been issued against them, their application shall be considered manifestly unfounded.

Special rules apply to unaccompanied minor applicants. Their applications are referred to the child protection services of the relevant autonomous community. The public authority responsible for their care will represent their interests in the procedure for recognising their status as stateless persons.

During the application process, the person may be *granted temporary residence if they are not subject to expulsion or return procedures. Minors are guaranteed the right to remain in the country throughout the application process.*

Free interpretation *assistance is provided* for persons who lack the means to pay.

The law does not establish a mandatory procedure for interviewing the person. Only if necessary may an interview be conducted. Furthermore, during the procedure for recognition as a stateless person, the applicant may submit any evidence and additional information which, in their opinion, may support their application.

The decision on whether to recognise a person as stateless is taken by the Minister of the Interior within *three months*. *If no decision is made within this period, this constitutes a refusal to recognise* the person *as stateless.* In the event of a negative decision, the general regime applicable to foreign nationals applies to the person. The decision to grant or refuse stateless person status is recorded in the Central Register of Foreign Nationals.

There is also a procedure for revoking a decision recognising a person as stateless if, after such a decision has been made, it transpires that the person submitted false documents or that their statements are untrue, or if there are other grounds for this as provided for in Article 1(2) of the 1954 Convention relating to the Status of Stateless Persons.

France

The procedure for recognising a person as stateless is set out in Section 1bis of Book VIII of the Code on the Entry and Residence of Foreigners and the Right to Asylum (Articles L. 812-1–L. 812-8).[128]

Under this law, the status of a stateless person is recognised for any person who meets the definition set out in Article 1 of the 1954 Convention relating to the Status of Stateless Persons. The status of such persons is governed by the provisions applicable to stateless persons in accordance with that Convention.

[128] Code on the Entry and Residence of Foreign Nationals and the Right of Asylum, version in force as at 25 October 2024. https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070158/LEGISCTA000030950751?isAbrogated=true#LEGISCTA000030950751 (accessed on 7 August 2025).

The French Office for the Protection of Refugees and Stateless Persons (*Office français de protection des réfugiés et apatrides, OFPRA*) is the competent authority for deciding on the granting of stateless person status to individuals in accordance with the grounds provided for in the Convention and the procedure laid down by decree of the Council of State.

Any person wishing to apply for naturalisation must contact the Office directly by post to request the specific application form, which will be sent to them by standard post in a plain envelope[129] . The letter must state the applicant's first name, surname and place of residence, and explain the reason for the request. The special form sent by the Office must be completed in French, signed and accompanied by two photographs for identification purposes and, where possible, travel documents, civil status documents and a copy of a document proving the current place of residence. The person must also provide an explanation as to why they are unable to acquire citizenship. Once a complete application has been submitted, the Secretariat of the Office for Stateless Persons registers it and immediately sends an acknowledgement letter to the applicant by ordinary post.

The status of a stateless person is determined on the basis of all the circumstances, provided the necessary evidence is available. During the investigation, OFPRA gathers, in particular through interviews, all facts that enable the identification of the various countries to which the applicant may be linked (their country of birth, their parents' country of origin, their country of habitual residence). All types of evidence are taken into account.

The law does not provide for a mandatory interview procedure; however, if necessary, OFPRA may summon the applicant for a personal interview. The interview with the applicant takes place at OFPRA's premises *or via audiovisual means of communication* with a specialist officer responsible for examining applications for recognition as a stateless person. An interpreter is provided if the applicant does not speak French. If the person is a minor, they are interviewed in the presence of their legal representative or, if they are an unaccompanied minor, their special administrator. OFPRA *may allow the applicant to attend the interview accompanied by a lawyer or a representative of a non-governmental organisation.*

At the end of the interview, and in order to facilitate the administration of evidence, the protection officer may, if he or she deems it appropriate, ask the applicant to sign a document authorising OFPRA to contact, on the applicant's behalf, the authorities of countries with which the applicant may have links given their family circumstances and origins.

Where a person simultaneously lodges an application for asylum and for recognition as a stateless person, their application for asylum is examined as a matter of priority. In this regard, the OFPRA Stateless Persons Unit awaits a decision from the Office and, where applicable, the National Court of Asylum, regarding the lack of grounds for granting international protection. Only thereafter does the OFPRA Stateless Persons Unit consider the application for stateless person status.

There is no set timeframe for a decision on recognition as a stateless person. The French Office for the Protection of Refugees and Stateless Persons states

[129] Guide de procédures à l'OFPRA, March 2024. See: https://www.ofpra.gouv.fr/libraries/pdf.js/web/viewer.html?file=/ sites/default/files/2024-03/Guide%20des%20proc%C3%A9dures%20mars%202024.pdf (accessed: 07.08.2025).

the applicant of its decision in writing, ensuring confidentiality and that the applicant receives the relevant document in person. The decision is sent by registered post with proof of delivery to the applicant.

In the event of statelessness being granted, a positive decision is accompanied by an information booklet on the rights and obligations of stateless persons within the country[130] . Thereafter, the person is under the legal and administrative protection of OFPRA. This means that the person's personal status (marriage, divorce, etc.) and administrative status (place of residence, right to freedom of movement) are governed by French law, and OFPRA must issue civil status documents if these cannot be obtained in the country where the relevant life events took place.

> Any decision to refuse must be substantiated in terms of the facts and applicable law, and must specify the mechanisms and time limits for appeal. Unlike the legislative approach in Spain, no decision regarding an application for stateless status can be deemed to have been made by virtue of the office's silence.

In the event of a negative decision, the applicant is informed that they have *two months* from the date of notification of OFPRA's decision, to appeal against the refusal to the administrative court within whose territorial jurisdiction the claimant resided at the time of filing the claim. The right to appeal and to lodge a cassation appeal is also provided for. If, as a result of the judicial appeal, a decision is made in favour of the applicant, the Office is obliged to reconsider the application for recognition as a stateless person (the courts do not have the power to establish the fact of statelessness). It should also be noted that *the consideration of a complaint in court does not suspend the enforcement of the expulsion decision*; that is, the person may be required to leave France and be deported pending a decision on their complaint.

Hungary

The procedure for recognising a person as stateless is set out in the 2023 Law on General Rules for the Entry and Residence of Third-Country Nationals (Chapter XXXIII)[131]and Government Decree 35/2024. (II. 29.) XC on the implementation of the Act on the General Rules for the Entry and Residence of Third-Country Nationals (Section XXVIII)[132] .

The procedure for recognition as a stateless person is *free of charge and available to persons regardless of the legality of their stay* in Hungary[133] .

The procedure is initiated upon a written or oral application by the person concerned to the regional offices of the Immigration and

[130] Welcome booklet for persons recognised as stateless. URL: https://www.ofpra.gouv.fr/libraries/pdf.js/web/viewer.html?file=/sites/default/files/2023-07/Livret%20d%27accueil%20apatridie_202307.pdf?lang=en (accessed: 07.08.2025).

[131] Act XC of 2023 on general rules governing the entry and residence of third-country nationals. https://net.jogtar.hu/jogszabaly?docid=a2300090.tv (accessed: 07.08.2025).

[132] Government Decree No. 35 of 2024 (29 February) on the implementation of Act XC of 2023 on general rules governing the entry and residence of third-country nationals. URL: https://njt.hu/jogszabaly/2024-35-20-22 (accessed on 07.08.2025).

[133] The Constitutional Court of Hungary ruled that the requirement of lawful residence in the country in order to apply for protection was contrary to the Fundamental Law. The relevant legislative amendments came into force on 30

September 2015. See: Dec. No. 6/2015 (II.25.) of the Constitutional Court, prepared by the UNHCR Regional Representation in Budapest. URL:www.refworld.org/docid/5542301a4.html (accessed: 7 August 2025).

citizenship based on the applicant's permanent or temporary place of residence. The written application must be signed by the applicant. In the case of an oral application, if the person is illiterate, this is recorded in the minutes.

When the application is submitted, the immigration enforcement authority informs the applicant of his or her procedural rights and obligations, the legal consequences of breaching these obligations, and the designated accommodation. Confirmation of this information must be *recorded in the minutes.*

The applicant must attend the procedure *in person;* their hearing is *mandatory*. During the procedure, the applicant may use their native language or a language they understand, both orally and in writing. If the application is made orally and the applicant does not speak Hungarian, the competent regional office is obliged to provide an interpreter. However, an interpreter is not required if the official handling the case speaks the applicant's language or another language that he or she understands, and the applicant agrees to this method of processing his or her application, providing written consent to this effect. Provision is also made for legal aid at the state's expense.

It is also important to note that an application for recognition as a stateless person may also be made as part of the general procedure for granting the right of residence in Hungary. Where there is a likelihood that a person may be considered stateless, the immigration authority must inform the person concerned of the possibility of applying for stateless person status, the procedure for such consideration, and the rights and obligations of stateless persons. The provision and acknowledgement of receipt of the aforementioned information must be recorded in writing.

An application for recognition as a stateless person must be accompanied by identity documents, travel documents and any other documents that may be relevant to support the applicant's claim. *These documents will be returned to the applicant* once the decision in the procedure becomes final.

Throughout the procedure, the applicant is obliged to cooperate with the competent regional office, of which they must be notified in writing, with this being recorded in the written minutes.

There are two stages of the interview with the applicant: a preliminary hearing and the main interview, the results of which are recorded in the minutes.

The preliminary hearing is aimed at gathering basic information about the applicant. During the preliminary hearing, the competent regional authority draws up a written record, which must state:

a) the fact and confirmation of the information provided to the applicant regarding their procedural rights and obligations, the legal consequences of breaching obligations, and the allocated accommodation at the time the application was submitted;
b) information established regarding the person, if not specified and confirmed in the application at the time of submission:
   (i). the claimant's personal details (surname and first name, any previous first name, surname and first name at birth, previous nationality, gender, place and date of birth, mother's maiden name);
   (ii). available personal data and details from any travel documents (document reference and serial number, validity period, place and date of issue, name of the issuing authority);
c) marital status, date of marriage;
d) occupation and education;

e) permanent or temporary residence in the country of habitual residence;
f) permanent or temporary residence or place of residence in Hungary.

The record is signed by the applicant, as well as the interpreter (if one is present), and the guardian appointed for an unaccompanied minor.

Following the preliminary hearing, the competent regional office conducts the main interview, during which the applicant must present their reasons for submitting the application and provide any evidence in support of their case that has not yet been submitted. The applicant must be informed of this obligation at the start of the proceedings.

During the procedure for determining statelessness, the applicant must prove the following legal facts: place of birth, previous place of residence or stay, and the nationality of family members or parents. The competent regional office verifies (the veracity of the information) regarding the applicant on the basis of the information available in the UNHCR's findings and information received from Hungarian diplomatic missions and foreign authorities, as well as evidence provided by the applicant demonstrating that he or she is not recognised as a citizen of any state in accordance with the national legislation of his or her country of origin.

In the procedure for establishing the identity of a stateless person, the regional office may accept a document issued abroad and submitted by the applicant as evidence, even *if it is not accompanied by a diplomatic certification or an authenticated translation into Hungarian.* Upon request, the immigration control authority shall provide administrative assistance through Hungary's diplomatic missions abroad within the scope of administrative

assistance framework, with a view to obtaining documents to support the application.

In addition to the applicant, their legal representative and a person authorised to act on their behalf may participate in the proceedings; they must confirm their right to represent the applicant and submit a written power of attorney. A guardian is appointed to represent the interests of an unaccompanied minor. If the officer appointed to represent the unaccompanied minor fails to appear at the main interview, despite having been duly summoned, the hearing will be postponed, and the relevant social services that appointed the guardian will be notified. During the proceedings, a person with limited legal capacity also has the right to procedural capacity.

The UNHCR representative may participate in the statelessness determination procedure at any stage. In particular, they may:

- be present at the applicant's hearing;
- provide administrative assistance to the applicant;
- review the documents relating to the statelessness determination procedure and make copies of them.

In addition, the immigration service is obliged to send UNHCR administrative and judicial decisions concerning the applicant.

An important procedural safeguard for the applicant is the option, with their consent, to engage a representative from the UNHCR Budapest Regional Office, who may attend the applicant's hearing. In such cases, the competent national authority is obliged to inform the applicant's representative and the UN office at least five days before the scheduled date of the hearing.

An application for the determination of statelessness must be rejected by a decision of the competent authority if the applicant:

- falls within the scope of the exceptions provided for in Article 1(2) of the 1954 Convention relating to the Status of Stateless Persons;
- has renounced their nationality intentionally, with the aim of obtaining statelessness;
- his presence violates or threatens Hungary's national security.

With regard to the latter ground, attention should be drawn to the decision of the Constitutional Court of Hungary 'Az Alkotmánybíróság 14/2021. (IV. 23.) AB Határozata' of 23 April 2021. In particular, the Court ruled that where the competent authority determines, on the basis of the findings of expert bodies, that the applicant's presence would violate or threaten Hungary's national security, the application for stateless person status must be rejected on procedural grounds without further examination of whether the applicant qualifies as a stateless person[134] .

The immigration authority shall terminate the procedure in the event of:

- the applicant's death;
- the application is withdrawn;
- failure to attend a personal interview following a second written request, unless the person has provided adequate justification for their absence;
- the person's departure to an unknown location.

The competent authority shall take a decision on an application for recognition as a stateless person within forty-five days. In the procedure for determining statelessness, the authority designated by law shall, within twenty days, provide an opinion as to whether a third-country national poses a threat to Hungary's national security, to the relevant immigration authority.

A decision refusing recognition may be appealed to the administrative court within fifteen days. The authority shall immediately forward the statement of claim to the court together with the case file and the defence. The Metropolitan Court has exclusive jurisdiction over this procedure. The court shall hear the appeal within ninety days of the date of receipt of the application. At the hearing, the court may also hear the applicant in person.

In the context of considering an appeal against a refusal to recognise a stateless person, the court may amend the decision taken by the Hungarian immigration authority.

Italy

Under Italian law, there are two procedures for recognising a person as stateless: administrative and judicial, which are alternative. At present, there is no single legislative act concerning stateless persons that would define the specifics of these procedures. The administrative procedure is based on Article 17 of the Regulations for the Implementation of the Citizenship Act (Presidential Decree 572/1993). The judicial procedure is carried out by the Court of Cassation, with the case subsequently being referred to the 'Divisions specialising in immigration, international protection and the free movement of European Union citizens' pursuant to Legislative Decree of 17 February 2017 (as amended on 13 April 2017)[135] .

The main difference between the two procedures is that, in the first case, the person

[134] Constitutional Court Decision 14/2021 (IV. 23.) AB, 23 April 2021. URL: https://caselaw.statelessness.eu/sites/default/files/decisions/14_2021%20AB%20hat%C3%A1rozat.pdf (accessed: 07.08.2025).
[135] Procedure. Tavolo Apoliada. URL: https://cutt.ly/TrL6lBwG (accessed: 07.08.2025).

is addressed to a state executive authority, whilst the second is addressed to a judicial authority. Each of these procedures has its own specific features, as well as advantages and disadvantages.

As part of the administrative procedure, the applicant submits an application to the Ministry of the Interior or via the local prefecture in their place of residence. The application must be accompanied by a birth certificate and *a document confirming lawful residence in Italy, as well as other documents proving the absence of citizenship*[136] . It is also possible to send the application with the accompanying documents by registered post to the Ministry of the Interior. The standard of proof in this procedure is the same as in the asylum procedure, but the applicant bears the burden of proof compared to the shared burden of proof in court proceedings. An administrative fee is payable to initiate the procedure.

No interview with the applicant is conducted and no legal aid is provided. The decision regarding the individual must be reasoned and set out in writing. However, the time limits for its adoption are not clearly defined. In practice, the examination of the application takes 2–3 years[137] .

The administrative procedure has two key advantages over the judicial procedure: (a) it is straightforward, and (b) it involves lower costs than the judicial procedure.

Court proceedings may be initiated independently of administrative proceedings or following them, to appeal against a refusal to grant refugee status. A significant advantage is that the right to bring a case before a court is guaranteed to individuals regardless of whether they hold a residence permit. At the same time, in court proceedings, the person must be represented exclusively by a lawyer. The right to free legal aid is granted to a person only if they lack the means to pay for it[138] .

To substantiate their claim to be recognised as a stateless person, the applicant must provide evidence confirming the loss of citizenship or the impossibility of acquiring citizenship of the state in accordance with the legislation of the country of origin. Judicial review is used in the absence of supporting documents. Under the country's legislation, the court is obliged to conduct a corresponding investigation into the circumstances of the case. The case is examined under a simplified procedure.

Pursuant to the amendments introduced by Law 46/2017 of 13 April 2017 [139], cases relating to statelessness are heard by specialised civil courts. In particular, such cases fall within the jurisdiction of 26 specialised sections for international protection, migration and statelessness, as well as specialised sections for migration, international protection and the freedom of movement of EU citizens.

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[136] With regard to 'other documents', the law does not specify exactly which documents must be submitted.

[137] Statelessness Determination in Italy. https://help.unhcr.org/italy/statelessness/ (accessed: 07.08.2025).

[138] Lack of means is determined in accordance with the methodology established by national legislation. If a person is not recognised as being entitled to free legal aid, a court fee of €259 is payable for the consideration of the case. They will also need to pay for the services of a lawyer. See: Statelessness in the European Union, Norway and Georgia / European Migration Network, April 2023. URL: https://www.emnspain.gob.es/documents/392158/527891/EMN_INFORM_Statelessness_FINAL.2023.pdf/52d50ce8-3358-a0c8-e9f3-8a9e3484d707?t=1687261072157 (accessed: 07.08.2025).

[139] Legislative Decree No. 13/2017, as amended by Law No. 46/2017. URL: http://www.larassegna.isgi.cnr.it/en/docs/law-no-46-of-13-april-2017-conversion-into-law-with-amendments-of-law-decree-no-13-of-17-february-2017-containing-urgent-measures-to-accelerate-the-procedure-on-international-

protection-and-to-com/ (accessed: 07.08.2025).

Ukraine

Legal framework. The procedure for recognising a person as stateless was introduced pursuant to Article 6-1 of the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' [140] by Resolution of the Cabinet of Ministers of Ukraine No. 317 of 24 March 2021 [141] (hereinafter — the Procedure). This regulatory act governs the procedure for recognising a person as stateless. Its adoption was an important legal measure that enabled such persons to obtain official status in Ukraine and to exercise the rights and freedoms provided for by national legislation.

An examination of the legislative approaches of EU Member States leads to the conclusion that the Procedure for considering applications for recognition as a stateless person in Ukraine is a more detailed legislative act than in European Union countries, where a similar special procedure is provided for.

The right to apply for recognition as a stateless person. In accordance with the aforementioned Procedure, the right to submit an application for recognition as a stateless person is held by a person who is unable to obtain a passport because they are not regarded as a citizen by any state under its laws, regardless of the legality or illegality of their presence on the territory of Ukraine. Persons recognised as stateless by other states and who hold a document issued by an authorised body of a foreign state or a statutory organisation of the UN, certifying their stateless status, granting the right to enter or leave the state and recognised by Ukraine, do not need to undergo an additional procedure for recognition as a stateless person in Ukraine (para. 2 of the Procedure).

Place of application. An application for recognition as a stateless person may be submitted exclusively within the territory of Ukraine. Persons residing abroad are not entitled to submit an application for recognition as a stateless person in Ukraine, including through diplomatic and consular missions. The application and accompanying documents must be submitted in person by the applicant or their legal representative to the territorial body or territorial unit of the State Migration Service (SMS) at the person's place of residence (para. 4).

Time limit for submitting an application. Ukrainian legislation does not specify a time limit within which a person has the right to apply for recognition as a stateless person.

Form of the application and procedure for its submission. The application shall be submitted in the form approved by Resolution No. 317 of the Cabinet of Ministers of Ukraine of 24 March 2021 'Certain Issues Concerning the Recognition of a Person as Stateless': by an adult with full legal capacity (hereinafter referred to as the applicant)
— in person; by an adult who is legally incapacitated or has limited legal capacity — by their legal representative. Information about the child is provided in the application for recognition as a stateless person by one of their legal representatives.

An application for recognition as a stateless person of a child separated from their family shall be submitted by one of their legal representatives. In the event of an application to the State Migration Service by a child who is separated from their family and has no legal representative,

[140] On the Legal Status of Foreigners and Stateless Persons: Law of Ukraine No. 3773-VI of 22 September 2011. URL: https://zakon.rada.gov.ua/laws/show/3773-17#Text (accessed: 7 August 2025).

[141] Procedure for considering applications for recognition as a stateless person, approved by Resolution of the Cabinet of Ministers of Ukraine No. 317 of 24 March 2021
317. URL: https://zakon.rada.gov.ua/laws/show/317-2021-%D0%BF#Text (accessed: 7 August 2025).

An employee of the territorial body / territorial unit of the State Migration Service shall immediately apply to the guardianship and custody authorities with a request to provide the child with a legal representative (para. 3).

Staff of the territorial body / territorial unit of the State Migration Service who are responsible for receiving documents and preparing applications for recognition as a stateless person, in cases where a person is unable to draft an application for recognition as a stateless person themselves due to illiteracy or physical disabilities, shall, at the person's request, draw up such an application, and a corresponding note shall be made on the application (para. 11).

Furthermore, where it is necessary to accept documents from a person who is unable to move about independently due to a long-term health condition, as confirmed by a medical certificate from the relevant healthcare facility, upon a written request from such a person or their legal representative, provision is made for an official from the competent migration authority to visit the person's place of residence or where they are receiving treatment (para. 17).

Informing the applicant of their rights and obligations. When submitting an application for recognition as a stateless person, an official of the territorial body / territorial unit of the State Migration Service explains to the applicant or their legal representative the procedure for recognition as a stateless person, as well as the right to apply for free legal aid to the centre for the provision of free legal aid in accordance with the Law of Ukraine 'On Free Legal Aid' (para. 4).

It should be noted that the current Procedure does not clearly specify the scope of information that must be provided to the applicant when they apply to the competent authority. We believe that, in addition to providing general information about the application review procedure and the right to seek free legal aid, the individual should be informed of their rights and obligations as a participant in such a procedure. A good example is the legislative approach in Bulgaria, where, upon submission of an application, the competent authority is obliged to inform the individual of their rights and obligations and the consequences of failing to comply with them, a record of which is drawn up[142] . Furthermore, it is considered appropriate to provide information on the procedure for recognising a person as stateless, the rights and obligations of the participant in the procedure, and the legal consequences of a positive or negative decision from the first contact with the competent authority in Ukraine, rather than from the moment of the official submission of the application. This will enable the person to clearly understand both the nature of the procedure and its legal consequences, thereby facilitating a decision on whether to proceed with the application. This approach has a number of advantages. Firstly, individuals who could qualify for stateless person status often refrain from submitting applications due to fear of deportation or the possibility of facing penalties from migration authorities, stemming from a lack of knowledge of the state's legislation regarding their status. Secondly, providing individuals with prior information about the procedure, the rights and obligations of applicants, and the subsequent legal consequences of a decision to recognise (or not recognise) them as stateless persons would help to partially reduce the burden on the migration authorities,

which are obliged to initiate the application review procedure regardless of its merits.

[142] Regulations for the Implementation of the Law on Foreigners in the Republic of Bulgaria of 29 June 2011. URL: https:// statelessness.bg/sites/default/files/doc/2.pdf (accessed 7 August 2025).
Further information https://statelessness.bg/useful-resources (accessed on 7 August 2025).

It should be noted that the right to information during the first contact with the competent state authorities is provided for by a number of EU legislative acts relating to the Area of Freedom, Security and Justice. Thus, Directive 2012/29/EU, which establishes minimum standards on the rights, support and protection of victims of crime[143] (Articles 3(1) and 4), provides for the provision of information to a person by the competent national authorities prior to the submission of a report concerning a crime committed against them.

Regulation 2024/1348, which establishes a common procedure for international protection in the European Union[144] (entering into force on 12 June 2026), which applies to stateless persons concerned, also emphasises the importance of obtaining comprehensive information regarding this procedure at the earliest possible stage. It is emphasised that this is important in the interests of both the applicant and the state (recital 16). Article 8 clearly defines the minimum amount of information that must be provided to the person, in a language they understand. The information is provided in a booklet, which may be supplied in printed or electronic form. If necessary, its contents may be read out to the person. Information for minors must be provided in a form accessible to them. Furthermore, EU Member States are obliged to give the person the opportunity to confirm receipt of the relevant information, which is noted in the person's case file.

In view of the above, with a view to strengthening legal safeguards in Ukrainian legislation, it is recommended that

To determine the scope of information to be provided to an individual during their first contact with representatives of the migration authorities, and to develop a model leaflet setting out, in an accessible format, information on the procedure for examining applications for recognition as a stateless person, the rights and obligations during the procedure, the legal consequences of a positive or negative decision regarding the individual, and the appeal mechanisms.

Evidence in support of a claim for recognition as a stateless person. Together with the application for recognition as a stateless person, the applicant must submit a document proving their identity, in particular a permanent residence permit (if available), or a document granting the right to enter or leave the country, issued by a foreign state (if available), a document certifying that the person does not hold the citizenship of another state, the validity of which has expired (if available), an extract from the register of the territorial community (if available), or another document confirming the information set out in the application (documents confirming the person's birth, marital status, the existence of children, study at an educational institution in Ukraine or another state, a 1974-model passport of a citizen of the former USSR, documents regarding employment, receipt of medical care in Ukraine, place of residence, ownership of housing or other real estate in Ukraine, certificates issued by local authorities or state bodies, certificates from embassies of foreign states or places of the person's previous permanent and long-term residence, as well as from

[143] Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029 (accessed: 07.08.2025).

[144] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

countries of which members of their family are nationals, etc.).

Where documents are submitted by a person's legal representative, a document certifying the identity of the legal representative and a document confirming the person's authority as a legal representative shall be submitted together with them (paragraphs 1 and 4 of point 20 of the Procedure).

If the person applying for recognition as a stateless person does not have the aforementioned documents and/or documents bearing a photograph (for a person who has reached the age of eighteen), with their written consent, relatives, neighbours or other persons (at least three[145]) who can confirm the facts set out in the application and/or identify the person from a photograph.

The list of such persons shall be provided by the person who has submitted the application for recognition as a stateless person, or shall be determined by an official of the territorial body / territorial unit of the State Migration Service based on the results of the examination of the documents submitted by the person, taking into account their place of residence, education, family and social ties, etc.

The interview of the person must be conducted by the territorial body/territorial unit of the State Migration Service no later than within 14 working days from the date of submission of the application for recognition as a stateless person.

The personal data of the person being interviewed shall be verified by documents confirming Ukrainian citizenship, certifying the person's identity or special status, or by a passport document of a foreign national or stateless person. Only

those foreign nationals and stateless persons who are lawfully present on the territory of Ukraine.

The results of the interview with the individual to verify the facts set out in the application for recognition as a stateless person are recorded in writing by an official of the territorial body / territorial unit of the State Migration Service in the form of a statement, certified by the signaturesof the person interviewed and the employee of the territorial body/territorial unit of the State Migration Service, and shall be kept in the file on recognition as a stateless person. During the interview, the employee of the territorial body/territorial unit of the State Migration Service may ask the person clarifying questions that are of material importance for resolving the issue of recognition as a stateless person. If new circumstances requiring clarification are established in the case, such a person may be invited again to provide explanations (paragraphs 6–10 of clause 20 of the Procedure).

It is important to note that, in practice, it is quite difficult for applicants to find people who are willing to corroborate the facts set out in the application or to take part in a photo identification procedure. This may be primarily due to the limited social circle of applicants, as well as the reluctance of their acquaintances, relatives or neighbours to be involved in the procedure, as this requires personal attendance at the relevant migration authority during working hours, travel expenses, and may also pose security risks in the context of a full-scale war, etc.

In this regard, it is considered appropriate to amend the Procedure regarding the questioning of relevant persons in the mode of

[145] Georgian legislation requires that at least two persons who are of legal age and legally competent be interviewed. See: Statelessness in the European Union, Norway and Georgia / European Migration Network, April 2023. p. 8. URL: https://www.emnspain.gob.es/documents/392158/527891/EMN_INFORM_Statelessness_FINAL.2023.pdf/52d50ce8-3358-a0c8-e9f3-8a9e3484d707?t=1687261072157 (accessed: 07.08.2025).

video conferencing. This method of providing information is provided for in these Procedures for conducting interviews with applicants by authorised representatives of the State Migration Service (paragraph 22 of the Procedures) and for the provision of interpreting services (subparagraph 3 of paragraph 11 of the Procedures). Furthermore, the procedure for establishing a person's identity via video conferencing by interviewing family members and close associates is provided for in the Procedure for the Registration, Issuance, Exchange, Forwarding, Withdrawal, Return to the State, Invalidation and Destruction of Passports of Citizens, approved by Resolution of the Cabinet of Ministers of Ukraine No. 3023[146]of 25 March 2015 (clause 97-1).

This proposal is also in line with current trends in the development of European Union law within the Area of Freedom, Security and Justice and among EU Member States. For instance, the European Parliament's Resolution on digitalisation and EU administrative law of 22 November 2023[147] emphasises the importance of expanding the use of digital technologies in the provision of administrative services. Regulation 2024/1348, establishing a common procedure for international protection in the European Union[148] (entering into force on 12 June 2026), which applies to stateless persons, also provides for the possibility of interviewing applicants via videoconferencing (Article 13(10)). ***Spain's*** Public Administration Digitalisation Plan for 2021–2025[149] also provides for increased use of digital solutions in the provision of services by executive authorities.

Applicant's obligations. In accordance with the Procedure for the Examination of Applications for Recognition as a Stateless Person, the applicant is obliged to cooperate with the State Migration Service, attend interviews, and provide evidence to support their recognition as a stateless person (para. 22 of the Procedure).

Interview with the applicant. A person submitting an application for recognition as a stateless person is entitled to an interview with authorised staff of the State Migration Service, including via video conference. The purpose of the interview is to clarify the information provided in the application for recognition as a stateless person, to discuss the information obtained during the verification of the documents submitted by the person, and to obtain from the person information regarding new facts that have come to their attention since the application was submitted and which are of significant importance for the final decision on recognition as a stateless person.

The interview may be scheduled by an employee of the territorial body/territorial unit of the State Migration Service or a structural unit of the State Migration Service should the need arise. The applicant must be notified of the time and conditions of the interview no later than three working days before the date of the interview by all available means (in particular, by electronic or telephone communication).

The interview may be conducted at the initiative of the applicant or their legal representative on the basis of a written application. The date of the interview shall be set no later than within ten working days of the date of receipt of such an application.

[146] Procedure for the issuance, exchange, forwarding, withdrawal, return to the state, invalidation and destruction of Ukrainian passports, approved by Resolution of the Cabinet of Ministers of Ukraine No. 3023 of 25 March 2015. URL:

https://zakon.rada.gov.ua/laws/show/302-2015-%D0%BF#Text (accessed: 7 August 2025).

[147] The EU Parliament's Resolution on Digitalisation and Administrative EU Law of 22 November 2023. URL: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0426_EN.html (accessed on 7 August 2025).

[148] Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

[149] Digital Government and Digital Public Services Strategy: Plan for the Digitalisation of Spain's Public Administration: 2021–2025. URL: https://cutt.ly/6rL6xpma (accessed on 07.08.2025).

If the applicant is unable to attend the interview for valid reasons, the applicant or their legal representative must notify the organiser of the interview in writing of such reasons.

During the interview, an audio recording is made by an employee of the territorial body / territorial unit of the State Migration Service, or a structural unit of the State Migration Service. The results of the interview are recorded in writing and certified by the signatures of its participants.

Failure to attend a scheduled interview without valid reasons shall be regarded by the organiser as a refusal by the person to cooperate with the State Migration Service (paragraph 22 of the Procedure).

It is important to note that, under the legislation of certain EU Member States, given the particular vulnerability of stateless persons, provision is made for the participation of a lawyer, representatives of civil society organisations and the UNHCR in the interview. For example, under French law, the competent authority — the Office for the Protection of Refugees and Stateless Persons — may allow the applicant to attend a personal interview accompanied by a lawyer or a representative of a civil society organisation. In Bulgaria and Hungary, provision is made for the involvement of a UNHCR representative at any stage of the proceedings for the recognition of a stateless person, including during the personal interview.

In light of the above, to strengthen the legal safeguards for the proper examination of cases concerning the recognition of statelessness, it is recommended to consider the advisability of involving a representative of a civil society organisation and UNHCR at least in the procedure for interviewing the applicant.

Right to translation. The procedure for considering applications for recognition as a stateless person guarantees the right to translation. In particular, a person who submits an application for recognition as a stateless person and does not speak Ukrainian shall be provided, free of charge, by the competent migration authority with the services of an interpreter, including via a video-conferencing system, from the language spoken by that person, as well as a written translation of their documents (para. 3 of clause 11).

Verification of applicant's details. Following the acceptance for consideration of an application for recognition as a stateless person and the documents attached thereto, an official of the territorial authority / territorial unit of the State Migration Service shall take steps to identify the person who has submitted the application for recognition as a stateless person and shall verify the documents submitted by that person (paragraph 24 of the Procedure).

In accordance with the Procedure for the Consideration of Applications for Recognition as a Stateless Person (para. 9), the State Migration Service is entitled to obtain information about a person from existing state and unified registers, and other information databases owned by the state or by enterprises, institutions and organisations, to the extent necessary to identify the person in connection with the processing of a decision on recognition as a stateless person. Access to the aforementioned information is carried out in compliance with the requirements of the Laws of Ukraine 'On the Protection of Information in Information and Telecommunications Systems' and 'On the Protection of Personal Data'.

When considering an application for recognition as a stateless person, an official of the migration authority shall take the necessary measures to gather information from the place of birth of such a person, the states or places of their previous permanent and long-term residence, as well as from the state of which their family members are citizens.

If it is necessary to obtain more detailed information about a person who has submitted an application for recognition as a stateless person, an official of the migration authority may initiate a verification of the information set out in such an application by visiting the applicant at their place of residence and interviewing persons who can confirm or refute the information provided by the applicant.

If an individual has provided certificates confirming that they do not hold the nationality of the countries where they previously resided on a permanent or long-term basis, or of the country of which their family members are nationals, requests are sent to the authorities responsible for issuing such certificates to confirm that these certificates have indeed been issued.

Where a person has not provided certificates confirming that they do not hold the nationality of the states of their previous permanent or long-term residence and/or of the state of which their family members are nationals, an official of the migration authority shall send a corresponding request to the diplomatic missions or consular offices of those states, asking them to respond to the request within one month. If no response to such a request is received from the foreign missions within two months, a repeat request shall be sent to the foreign mission by an official of the migration authority. If no response to the repeat request is received within two months of its dispatch, an official of the migration authority shall send a third request to the foreign mission. If, following the third such request, no response is received from the foreign mission, the person shall not be considered a citizen of that state (para. 26 of the Procedure).

The procedure for recognising a person as stateless and the procedure for recognising a person as a refugee or a person in need of subsidiary protection. If, during the examination of an application for recognition as a stateless person, circumstances come to light that may indicate the existence of grounds for recognising the person as a refugee or a person in need of subsidiary protection, in accordance with the Law of Ukraine 'On Refugees and Persons in Need of Subsidiary or Temporary Protection', the applicant or their legal representative shall be notified in writing of this, with a proposal to submit an application for recognition as a refugee or a person in need of subsidiary protection (para. 31).

If the person consents to submitting an application for recognition as a refugee or a person in need of subsidiary protection, an authorised official of the State Migration Service shall decide to suspend the examination of the application for recognition as a stateless person until the examination of the application for recognition as a refugee or a person in need of subsidiary protection has been completed.

The certificate of application for recognition as a stateless person shall be submitted by the applicant to the territorial body / territorial unit of the State Migration Service at the place where the application for recognition as a stateless person was submitted, after receiving the certificate of application for protection in Ukraine. The legality of the applicant's stay in Ukraine whilst the procedure for recognition as a refugee or a person in need of subsidiary protection is ongoing shall be confirmed by a certificate of application for protection in Ukraine.

Depending on the outcome of the examination of the application for recognition as a refugee or a person in need of subsidiary protection,

by decision of

the authorised representative of the State Migration Service, the examination of the application for recognition as a stateless person shall be resumed or terminated.

The aforementioned legislative provisions regarding a person's right to transfer from the procedure for recognition as a stateless person to the procedure for recognition as a refugee or a person in need of subsidiary protection, and the right to resume the examination of the statelessness procedure, are quite progressive.

Documents issued to an individual during the consideration of an application. An important safeguard for individuals applying for recognition as stateless persons is the provision of paragraph 3 of Article 32 of the Regulations, according to which, for the duration of the verification of Ukrainian citizenship, the legality of the individual's stay in Ukraine is confirmed- by a certificate of application for recognition as a stateless person, which remains with the applicant until the verification of Ukrainian citizenship is completed. Such a certificate is issued to the person or their legal representative on the day the application for recognition as a stateless person is accepted (paragraph 43 of the Regulations). The certificate is issued for a period of six months and confirms the lawful temporary stay of the person who has applied for recognition as a stateless person on the territory of Ukraine for the duration of the consideration of such an application. Its validity may be extended to 12 months — for the duration of the consideration of the application (para. 41 of the Regulations). If a person loses the certificate confirming their application for recognition as a stateless person, a duplicate of such a certificate shall be issued to them following a verification procedure, upon a written request from that person or their legal representative, in any form (clause 42 of the Regulations).

Decision on recognition as a stateless person. In accordance with the Procedure for the Examination of Applications for Recognition as a Stateless Person, a decision on the outcome of the examination of the application must be taken within six months of the date of submission of the application for recognition as a stateless person. However, the period for examining the application may be extended to twelve months on the basis of a reasoned opinion from the migration authority. Provision is also made for the possibility of suspending the examination of the application (para. 5 of the Procedure).

In general, this approach is consistent with the legislative practice of most EU Member States. In particular, a similar approach is provided for in ***Czech*** legislation[150] . In ***Latvia***, the time limit for considering an application is three months, but may be extended to one year. Under ***Luxembourg*** law, the time limit for examining an application is also three months, but may be extended indefinitely in complex cases. In ***Bulgaria***, the examination of an application must take place within six months, and in complex cases for a further two months. A shorter time limit is provided for under ***Spanish*** law — up to three months — and ***Hungarian law*** — 45 days. In ***Georgia***, which currently has the status of a candidate country for EU accession, an application for recognition as a stateless person must be examined within nine months[151] .

The decision to recognise a person as stateless is taken by an authorised official of the State Migration Service following the identification and/or verification of the person's identity, the verification of the documents submitted by them, and the absence of grounds for refusing to recognise them as stateless, on the basis of a reasoned conclusion drawn up by an official of the relevant migration authority

[150] Identifying stateless persons and their rights. Asylum Report 2022 / European Agency for Asylum. URL: https://euaa.europa.eu/asylum-report-2022/4133-identifying-stateless-persons-and-their-rights (accessed: 07.08.2025).

[151] Part 6 of Article 22 of the Law of Georgia 'On the Legal Status of Foreigners and Stateless Persons' of 5 March 2014. URL: https://matsne.gov.ge/en/document/view/2278806?publication=16 (accessed on 07.08.2025).

(para. 34). A decision to recognise a person as stateless or to refuse to recognise a person as stateless shall be drawn up in the form set out in Annex 1 and attached to the case file. A paper copy of the decision shall be issued against signature to the stateless person in person or to their legal representative (para. 35).

When examining the best practices of EU Member States in cases concerning the recognition of stateless persons, it is worth noting the legislative approach ***of France***. In particular, in the event of recognition as a stateless person, the applicant is issued, together with the decision, an information booklet on their rights and obligations under their new status as a stateless person within the territory of that country[152] . Ukraine would do well to adopt this approach.

Grounds for refusing recognition as a stateless person. The Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' [153](Article 6-1(3)) and the Procedure for Considering Applications for Recognition as a Stateless Person (paragraph 44) set out an exhaustive list of grounds for refusing to recognise a person as stateless:

1) the person who has submitted an application for recognition as a stateless person is a citizen of Ukraine or another state, provided that their citizenship has been recognised by the competent authority of that state and the applicant has been registered in accordance with the legislation of that state;
2) the person who submitted an application for recognition as a stateless person knowingly submitted invalid documents (other than those that have become invalid due to the expiry of their validity), forged documents, or provided false information about themselves regarding circumstances affecting the determination of their status;
3) a person who has applied for recognition as a stateless person has committed a crime against peace, a war crime or a crime against humanity, as defined by international instruments designed to prevent such crimes, or has committed a serious non-political crime outside the country of residence prior to being admitted to that country, or is guilty of acts contrary to the purposes and principles of the United Nations.

A person who has been refused recognition as a stateless person on the basis of sub-paragraph 2 of this paragraph retains the right to reapply for recognition as a stateless person in the event of a change or removal of the circumstances on the basis of which they were refused.

The grounds for refusal set out above are in accordance with the provisions of the 1954 Convention relating to the Status of Stateless Persons.

Decision refusing to recognise a person as stateless. In accordance with the Procedure for the Consideration of Applications for Recognition as a Stateless Person (para. 45) within three working days of the decision to refuse recognition as a stateless person, the relevant department of the State Migration Service shall send a notification to the person who submitted the application for recognition as a stateless person, or to their legal representative, stating the grounds for refusal in accordance with the Law

[152] Welcome booklet for persons recognised as stateless. URL: https://www.ofpra.gouv.fr/libraries/pdf.js/web/

viewer.html?file=/sites/default/files/2023-07/Livret%20d%27accueil%20apatridie_202307.pdf?lang=en (accessed: 07.08.2025).

[153] On the Legal Status of Foreigners and Stateless Persons: Law of Ukraine No. 3773-VI of 22 September 2011. URL: https://zakon.rada.gov.ua/laws/show/3773-17#Text (accessed: 07.08.2025).

of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' and an explanation of the procedure for appealing such a decision, as well as the applicant's right to free legal aid during the procedure for appealing a decision refusing to recognise a person as stateless.

A decision refusing to recognise a person as stateless shall be drawn up in the form set out in Annex 1 (paragraph 35 of the Procedure). An examination of the content of this form reveals that such a decision sets out only the grounds for refusal and the appeal procedure, whilst no provision is made for a statement of reasons for the refusal, even though the requirement to provide a reasoned decision is stipulated in paragraph 34 of these Rules. This approach does not comply with the principle of reasoned decisions, which follows from the principle of proportionality — a general principle of European Union law. Furthermore, the Charter provides for the administration's obligation to state reasons for its decisions, which is defined as a component of the right to good administration (Article 41). The importance of the reasoned nature of decisions concerning individuals has also been repeatedly emphasised by the Court of Justice of the European Union in its case law[154] . Another good example is the legislative approach in ***France***, which clearly sets out the requirement for decisions to be reasoned in the procedure for recognising a person as stateless on factual and legal grounds [155] .

In view of the above, it is recommended that amendments be made to Annex 1 of the Procedure for the Consideration of Applications for Recognition as a Stateless Person, specifically regarding the requirement to provide grounds for refusal in the event of a negative decision.

recognise a person as stateless. The Procedure for the Consideration of Applications for Recognition as a Stateless Person provides that a decision refusing recognition as a stateless person may be appealed by the person who submitted the application for recognition as a stateless person, or their legal representative, to the administrative court within 20 working days of the date of receipt of the notification of refusal to recognise them as a stateless person (para. 46 of the Procedure). The same time limit for appeal applies to a decision to revoke a decision on recognition as a stateless person (para. 48 of the Procedure).

It is considered appropriate to extend the time limit for appealing against a decision refusing or revoking recognition as a stateless person in order to strengthen guarantees of effective protection of applicants' rights. In practice, it is difficult for stateless persons to quickly find legal support and prepare an appeal. Furthermore, such persons usually do not have stable

[154] Strictly speaking, Article 41 of the Charter of Fundamental Rights of the European Union applies only to the institutions, bodies and agencies of the European Union. However, the Court of Justice of the European Union has emphasised in its case law that the right to good administration is a general principle of EU law, which includes, inter alia, the right to a statement of reasons for the decision taken; this principle must be observed by Member States when they act 'within the scope of EU law'. See: Judgment in Case 222/86 "Union nationale des entraîneurs et cadres techniques professionnels du football (Unectef) v Georges Heylens and others", ECLI:EU:C:1987:442; Judgment in Case C-277/11 "M M v Minister for Justice, Equality and Law Reform, Ireland and Attorney General", ECLI:EU:C:2012:744; Judgment in Case C-604/12 "H N v Minister for Justice, Equality and Law Reform", ECLI:EU:C:2014:302; Judgment in Case C-166/13 "Mukurabega", ECLI:EU:C:2014:2336; Judgment in Case C-249/13 "Boudjlida", ECLI:EU:C:2014:243; Judgment in Case C-141/12 "Y S v Minister for Immigration, Integration and Asylum", ECLI:EU:C:2014:208; Judgment in Case C-118/20 "JY v Wiener Landesregierung", ECLI:EU:C:2022:34.

[155] The requirement that decisions be well-founded is one of the procedural safeguards referred to in the UNHCR Handbook on the Protection of Stateless Persons under the 1954 Convention Relating to the Status of

Stateless Persons. See: Handbook of Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons / UNHCR, Geneva, 2014. URL: https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf (accessed: 07.08.2025).

place of residence, which makes it difficult to receive official correspondence and respond promptly to a refusal.

The legislation of certain EU Member States provides for longer time limits for appealing against a decision refusing to recognise a person as stateless. In particular, under French law, in the event of a negative decision, the applicant is granted two months to appeal against the decision, calculated from the date of notification to the person.

It should also be noted that, in accordance with Article 122(2) of the Code of Administrative Procedure of Ukraine (CAPU), 'a six-month time limit is established for bringing a claim before an administrative court to protect a person's rights, freedoms and interests; unless otherwise specified, shall be calculated from the date on which the person became aware or should have become aware of the violation of their rights, freedoms or interests". Furthermore, paragraph 1 of Part 1 of Article 295 of the CASU provides for a 30-day period for lodging an appeal against a decision of the court of appeal.

In light of the above and taking into account the best practices of EU Member States, it is recommended that the time limit for appealing a decision refusing to recognise a person as stateless or a decision revoking a decision recognising a person as stateless be extended to at least 30 working days from the date on which the person became aware or could have become aware of the negative decision concerning them.

An important safeguard for individuals, in the context of ensuring the right to an effective remedy when appealing against a decision refusing to recognise them as stateless persons or revoking a decision recognising them as stateless persons, is the granting of the right to lawful residence in Ukraine pending the final consideration of their application (paragraphs 46 and 48 of the Procedure). At the same time, where a person who has submitted an application for recognition as a stateless person, or a person in respect of whom a decision has been taken to revoke a decision recognising them as a stateless person, has not exercised their right of appeal, the relevant migration authority shall withdraw the certificate of application for recognition as a stateless person, return to them the original documents submitted together with the application for recognition as a stateless person (if any), and decide on the issue of voluntary or forced return or forced expulsion.

Return of documents to the applicant. The current Procedure for the Examination of Applications for Recognition as a Stateless Person does not provide for the return of the documents submitted by the applicant in support of their application. Original documents are returned only if a decision is taken to refuse recognition of the person as a stateless person (paragraph 47 of the Procedure). In light of the above, a good example is the legislative approach ***in Hungary***, whose procedure provides for the return of documents to the applicant once the decision becomes final, regardless of the outcome of the application. Such an approach would be worth adopting in Ukraine.

4.3. RIGHTS OF STATELESS PERSONS

4.3.1. Right to reside in the host country

The 1954 Convention does not explicitly define the obligation of States Parties to guarantee the right of residence on their territory for stateless persons recognised as such by their competent authorities [156]. At the same time, UNHCR calls on States to guarantee this right, as this approach would be consistent with the aims and objectives of this treaty. It is emphasised that 'without the right of residence, other rights provided for in the 1954 Convention, such as the right to work and the right to healthcare, may be jeopardised' (see UNHCR Guidelines on the Protection of Stateless Persons regarding the 1954 Convention relating to the Status of Stateless Persons [157]).

The legislative approaches of EU Member States regarding the specificities of the exercise of the right of residence in the host country are not harmonised [158] .

In the vast majority of EU Member States, stateless persons do not automatically acquire the right to stay and reside on the basis of a decision recognising them as stateless. In eleven EU Member States (***Austria, Belgium, Greece, Estonia, Ireland, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Sweden***) and ***Norway***, a stateless person must apply separately to the competent authority for a residence permit in order to stay legally in the host country. However, each country has its own specific features.

Thus, in ***Poland***, where there is no specific procedure for recognising a person as stateless, the fact of statelessness may be established within the framework of international protection, temporary protection and return procedures, which require the identification of the person [159]. International and temporary protection grant the person a wide range of rights, including the right of residence. If the return procedure cannot be carried out, the person may be granted a permit for tolerated stay or a residence permit on humanitarian grounds [160]. Each of these permits entitles the person to remain in the country. The mere fact of establishing that a person is stateless does not entitle them to apply to the competent authorities for a special residence permit.

In ***Belgium,*** recognition as a stateless person does not entail the automatic granting

[156] Article 25 of the Convention relating to the Status of Stateless Persons merely provides that 'the authority or authorities shall issue, or under their supervision ensure the issue to stateless persons, of documents or certificates which are usually issued to aliens by the authorities or through the intermediary of the authorities of the States of which they are nationals'.

[157] Handbook on the Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons / UNHCR, Geneva, 2014. URL: https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf (accessed: 07.08.2025).

[158] Statelessness in the European Union, Norway and Georgia / European Migration Network, April 2023. URL: https://www.emnspain.gob.es/documents/392158/527891/EMN_INFORM_Statelessness_FINAL.2023.pdf/52d50ce8-3358-a0c8-e9f3-8a9e3484d707?t=1687261072157 (accessed: 07.08.2025).

[159] Act on Foreigners of 12 December 2013, Journal of Laws, 2013, Item 1650: http://isap.sejm.gov.pl/isap.nsf/download.xsp/ WDU20130001650 /U/D20131650Lj.pdf (accessed on 07.08.2025); Act

of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland, Journal of Laws 2003, item 1176: https://isap.sejm.gov.pl/ isap.nsf/download.xsp/WDU2003128117 6/U/D20031176Lj.pdf (accessed: 7 August 2025).

[160] ENS Stateless Index Survey Poland 2022. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Poland-2022_0.pdf (accessed on: 07.08.2025).

the right to reside in the country. In accordance with legislative amendments that came into force on 1 September 2024, the procedure for obtaining a residence permit for stateless persons has been established. In particular, the person must apply to the Immigration Service, which must obtain a recommendation from the Commissioner General for Refugees and Stateless Persons, who verifies their compliance with a number of requirements. Strict requirements that the applicant must meet are laid down by law. The burden of proof regarding compliance with these requirements lies with the applicant. There are also provisions for exclusion, meaning that the immigration service will not consider applications, in particular, if the applicant cannot demonstrate that they have resided lawfully in the country for more than three months [161].

In certain EU Member States, a decision recognising a person as stateless guarantees the right to reside in the host country. Examples of best practice include the legislative approaches in ***Italy***, ***Spain*** and ***France***.

Under ***Italian*** law, which provides for two procedures for recognising a person as stateless (administrative and judicial), official recognition of this status entitles the person to apply to the competent authorities for a residence permit. No additional requirements for the issuance of a residence permit are stipulated, including regarding application deadlines. However, the detailed procedure for issuing such a document is not specified at the legislative level [162] .

In ***Spain***, where a special procedure is also provided for under Royal Decree 865/2001, a person recognised as stateless automatically acquires the right to reside in the country. However, they must apply to the police authorities to obtain a Foreigner's Identity Card (Tarjeta de Identidad de Extranjero, TIE), which states that the person has stateless person status [163] .

Another positive example is the legislative approach in France. In particular, after receiving a decision recognising them as stateless, stateless persons must apply to the prefecture (sub-prefecture) in their place of residence to obtain a residence permit. It is also possible to apply for the permit online.

To obtain the permit, the person must submit: the decision recognising them as a stateless person; a document confirming their civil status, including a marriage certificate if available; three photographs; a document certifying their place of residence, issued no later than six months prior to the date of application; a signed copy of a declaration of respect for the principles of the Republic; a declaration prohibiting polygamy, if the person is married and belongs to a people that permits such relationships. In addition, the person must pay a state fee of 25 euros.

It is important to note that, alongside the applicant, a residence permit may be granted to a spouse or civil partner, as well as to their children under the age of eighteen. For this to happen, the following must be

[161] ENS Stateless Index Survey Belgium 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Belgium-2024.pdf (accessed: 07.08.2025).

[162] ENS Stateless Index Survey Italy 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Italy-2024_0.pdf (accessed: 07.08.2025).

[163] ENS Stateless Index Survey Spain 2022. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Spain-2022_2.pdf (accessed: 07.08.2025).

documents submitted to prove family ties with the applicant [164] .

Under ***Ukrainian*** law, recognition as a stateless person does not automatically confer the right to reside in the country. In accordance with paragraph 39 of the Procedure for Recognition as a Stateless Person[165] a person who has received a decision recognising them as a stateless person is obliged to apply to the territorial body/territorial unit of the State Migration Service within ten days to obtain a temporary residence permit. This requirement does not apply to persons who, at the time of submitting an application for recognition as a stateless person, were permanently residing in Ukraine on the basis of a permanent residence permit. A person who has not applied for a temporary residence permit within the specified time limit is deemed to be residing in Ukraine without documents granting the right to reside in Ukraine.

A person who resided in Ukraine on the basis of a permanent residence permit stating their foreign nationality, and who has been granted a decision recognising them as a stateless person, is required to apply to the territorial authority or territorial unit of the State Migration Service within ten days to obtain a permanent residence permit through an exchange procedure.

Temporary and permanent residence permits are documents that identify a foreign national or a stateless person and confirm the right to temporary or permanent residence in Ukraine. Obtaining such documents is the duty of a stateless person in accordance with the aforementioned Procedure.

The specific procedures for issuing temporary residence permits to stateless persons are set out in the Procedure for the processing, issuance, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of temporary residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 322 of 25 April 2018[166] . The specific procedures for issuing permanent residence permits are governed by the Procedure for the Registration, Issuance, Exchange, Cancellation, Transfer, Withdrawal, Return to the State, Invalidation and Destruction of Permanent Residence Permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 321 of 25 April 2018 [167] . In accordance with paragraph 32 of both procedures, to apply for a permit, a stateless person must submit a decision recognising them as a stateless person, drawn up in the prescribed manner.

Both procedures also provide for grounds for refusing to process and issue a residence permit. In particular, in accordance with paragraph 61 of both procedures, the territorial body/territorial unit of the State Migration Service shall refuse to issue a certificate to a stateless person if: the stateless person is present on the territory of Ukraine in breach of the established period of stay or an unfulfilled decision of the authorised

[164] Stateless: residence permit, travel document / Directorate for Legal and Administrative Information (Prime Minister), 31 July 2024. URL: https://www.service-public.fr/particuliers/vosdroits/F15402?lang=en (accessed 7 August 2025).

[165] Procedure for considering applications for recognition as a stateless person, approved by Resolution of the Cabinet of Ministers of Ukraine No. 317 of 24 March 2021
317. URL: https://zakon.rada.gov.ua/laws/show/317-2021-%D0%BF#Text (accessed: 7 August 2025).

[166] Procedure for the registration, issue, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of temporary residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 322 of 25 April 2018. URL: https://zakon.rada.gov.ua/laws/show/322-2018-%D0%BF#top (accessed on: 07.08.2025).

[167] Procedure for the registration, issue, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of permanent residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 321 of 25 April 2018. URL: https://zakon.rada.gov.ua/laws/show/321-2018-%D0%BF#Text (accessed on: 07.08.2025).

a state authority regarding forced return, forced expulsion or a ban on entry. At the same time, the list of grounds under paragraph 61 is not exhaustive, which may give rise to legal uncertainty for the applicant, which in turn poses a threat to their right to effective protection in the event of a decision to refuse.

The legislative provisions cited appear to significantly restrict the right of stateless persons to exercise the rights guaranteed by the 1954 Convention relating to the Status of Stateless Persons, to which Ukraine is a party. It should be noted that the UNHCR, in its Guidelines on the Protection of Stateless Persons in relation to the 1954 Convention relating to the Status of Stateless Persons [168],emphasises the importance of ensuring the right of residence for a person recognised as stateless, in accordance with the aims and objectives of that Convention.

The ten-day deadline for applying to the competent authority to obtain a residence permit is rather short and may, in practice, be a difficult requirement to meet for stateless persons, who are the most vulnerable category of non-citizens. No such time limits exist in the practice of EU Member States.

Furthermore, among the grounds on which a stateless person may be refused a residence permit, the text refers to a breach of the lawful period of stay in Ukraine or the existence of an outstanding decision by an authorised body concerning them a decision by a state authority on forced return, forced expulsion or a ban on entry. These provisions are inconsistent with the concept of recognition as a stateless person as defined by the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' and the Procedure for the Consideration of Applications for Recognition as a Stateless Person, under which the right to submit such an application is granted to a person 'regardless of the legality or illegality of their stay on the territory of Ukraine' (para. 2 of the Procedure), and also taking into account the exhaustive list of grounds for refusing recognition as a stateless person (Part 3 of Article 6-1 of the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' and paragraph 44 of the Procedure), which does not provide for the illegality of stay as a ground for refusal.

Furthermore, the Supreme Court of Ukraine, in its Ruling of 08.02.2024 in Case No. 500/3925/22 concerning the refusal to issue a temporary residence permit to a person recognised as stateless, draws attention to the existing legislative obstacles to the exercise of the right of residence [169]. In particular, it is noted that

'Should the application for a temporary residence permit for this person be refused, there is once again a risk of fines, detention, forced removal and so on. After all, they once again become a person residing illegally in Ukraine, despite the fact that, by accepting them into the procedure for recognition as a stateless person, the state granted them the opportunity to reside legally in the country for the duration of the consideration of their application" (para. 54). "…Taking into account the content of sub-paragraph 2 of paragraph 61 of the Procedure

No. 322, the right to obtain a temporary residence permit for a person in respect of whom

[168] Handbook of Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons / UNHCR, Geneva, 2014. URL: https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf (accessed: 07.08.2025).

[169] Supreme Court ruling of 08.02.2024 in case No. 500/3925/22. URL: https://ips.ligazakon.net/document/ C027311 (accessed: 07.08.2025).

"an unenforced decision of an authorised state body on forced return, forced expulsion or a ban on entry is, in fact, impossible to implement" (para. 56 of the Resolution).

Furthermore, the Court noted that 'the Law of Ukraine
"On the Legal Status of Foreigners and Stateless Persons" does not provide grounds for refusing to issue a temporary residence permit, and Resolution No. 322 of the Cabinet of Ministers of Ukraine of 25 April 2018, as a regulatory act adopted in implementation of the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons', cannot restrict or alter the rights provided for by law, since, with the adoption of the amendments, the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' has provided the opportunity for persons to apply through the procedure for the recognition of stateless persons, regardless of the legality or illegality of their stay on the territory of Ukraine' (para. 61 of the Resolution).

Given the significant practical difficulties that may arise for individuals in connection with the need to obtain a residence permit, taking into account the specific features of Ukrainian legislation, ***one example of best practice that Ukrainian legislators would do well to consider is the approach taken by Georgia,*** which is currently a candidate country for EU accession. Thus, in accordance with Article 12 of the Procedure for the Consideration and Adoption of Decisions on the Granting of Residence Permits in Georgia dated 1 September 2014 [170], 'in the event that the status of a stateless person is established in Georgia, the person concerned is automatically granted a residence permit for stateless persons, which shall be indicated in the decision establishing the status of a stateless person".

The duration of residence permits for stateless persons also varies across EU Member States.

Under ***Polish*** law, which does not provide for a specific procedure for recognising stateless persons, the validity of a decision granting a permit for tolerated stay or a residence permit on humanitarian grounds is not limited in time. The permit remains valid for as long as the conditions for its issuance are met. The person must make a specific application to obtain a residence permit.

On the basis of a decision on residence on humanitarian grounds, the border service may issue a residence permit valid for two years. To do this, the person must provide fingerprints. If the person is over 13 years of age, they may only collect the document in person. The residence permit confirms the identity of its holder and allows them to cross the border multiple times without the need for a visa (provided they also hold a travel document). This document may be renewed upon expiry.

If a decision is made to grant tolerated stay, the border service issues a residence permit, which confirms the identity of its holder, valid for up to two years and renewable. The person must undergo fingerprinting, as is the case when a decision is made regarding residence on humanitarian grounds. However, such a decision does not entitle the person to leave the country [171] .

[170] On the Approval of the Procedures for Reviewing and Deciding on the Granting of Georgian Residence Permits: Ordinance of the Government of Georgia No. 520 of 1 September 2014. URL:

https://www.matsne.gov.ge/en/document/ view/2483468?publication=0 (accessed: 07.08.2025).

[171] ENS Stateless Index Survey Poland 2022. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness__Index_Survey-Poland-2022_0.pdf (accessed: 07.08.2025).

In ***Slovakia***, there is no specific legislative procedure for recognising a person as stateless; however, stateless persons may be granted a right of residence for a period of five years.

In accordance with amendments made to ***Belgian*** legislation in 2024, the residence permit is valid for five years, after which a permanent residence permit is granted [172] .

Italian legislation does not specify the duration of residence permits for stateless persons. Typically, a residence permit is issued for a period of two years, with the possibility of renewal. The final decision rests at the discretion of the police authorities. Consequently, the duration of permits may vary [173] .

Under ***Spanish*** law (in accordance with Royal Decree 865/2001), a recognised stateless person is granted the right to long-term residence without any time limit. A foreigner's identity card is issued for a period of five years and must be renewed upon expiry. At the same time, the residence permit resulting from statelessness is permanent (unlimited in duration) [174] .

Under ***French*** law, a residence permit for a stateless person is issued for a period of up to four years. After four years of lawful residence in the country, the person may obtain a residence permit valid for ten years. The same rights are granted to family members of the stateless person.

The experience ***of Georgia*** is also of interest, where two types of residence permits are provided for:
(1) a temporary permit, issued for a period of three years with the possibility of renewal for the same period, and (2) a permanent permit with no fixed duration, issued to stateless persons who had been permanently resident in the country prior to 31 March 1993, did not acquire Georgian citizenship and were not removed from the permanent register after that date [175] .

In ***Ukraine,*** a temporary residence permit for stateless persons is issued for a period of up to one year (clause 4 of the Procedure for the registration, issue, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of temporary residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 322 of 25 April 2018 [176]). A permanent residence permit is issued for a period of ten years (para. 4 of the Procedure for the issuance, renewal, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of permanent residence permits, approved by Resolution of the Cabinet

[172] ENS Stateless Index Survey Belgium 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness__Index_Survey-Belgium-2024.pdf (accessed: 7 August 2025).

[173] ENS Stateless Index Survey Italy 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Italy-2024_0.pdf (accessed: 07.08.2025).

[174] ENS Stateless Index Survey Spain 2022. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Spain-2022_2.pdf (accessed: 07.08.2025).

[175] Article 14 of the Procedure for Reviewing and Deciding on the Granting of Residence Permits in Georgia dated 1 September 2014. See: On Approval of the Procedures for Reviewing and Deciding on the Granting of Georgian Residence Permits: Ordinance of the Government of Georgia No. 520 of 1 September 2014. URL:

https://www.matsne.gov.ge/en/document/ view/2483468?publication=0 (accessed: 7 August 2025).

[176] Procedure for the registration, issue, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of temporary residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 322 of 25 April 2018. URL: https://zakon.rada.gov.ua/laws/show/322-2018-%D0%BF#top (accessed on 07.08.2025).

of the Cabinet of Ministers of Ukraine No. 321 of 25 April 2018 [177]). Stateless persons acquire the right to permanent residence in Ukraine on the basis of an immigration permit outside the immigration quota if they have resided in Ukraine on the basis of a temporary residence permit for two years from the date of their recognition as stateless persons (para. 6, part 3, Article 4 of the Law of Ukraine 'On Immigration' of 7 June 2001 [178]).

Consequently, to obtain a permanent residence permit, a person must apply twice for a temporary residence permit valid for up to one year and submit the necessary documents. In the event of a repeat application for a residence permit, the person must also pay the state duty, the administrative fee, and the administrative fee for the exchange of the temporary residence permit. Thus, these legislative requirements create significant practical difficulties for stateless persons during their first two years of residence in Ukraine.

In light of the above, it is worth noting that in most EU Member States where residence permits are granted to stateless persons, the residence permit is valid for at least two years from the date on which the person is recognised as stateless. Furthermore, the UNHCR Guidelines on the Protection of Stateless Persons regarding the 1954 Convention relating to the Status of Stateless Persons [179] recommend that stateless persons be issued with residence permits for a period of at least two years, although it is emphasised that a longer validity period is more appropriate to ensure stability. In view of the above, it is recommended that the validity period of temporary residence permits in Ukraine for stateless persons be extended to at least two years.

4.3.2. Right to healthcare

EU Member States have adopted various approaches to guaranteeing the right to healthcare for stateless persons.

In many EU Member States, including Bulgaria, Greece, Denmark, Ireland, Latvia, Luxembourg, Slovakia and Sweden, entitlement to healthcare services, the cost of which is covered by the state or local authorities, depends on the type of residence (temporary or permanent). In particular, in ***Bulgaria***, the right to state health insurance is guaranteed only to stateless persons who hold a long-term or permanent residence permit [180] . Under ***Czech*** law, the right to access state health insurance is guaranteed to persons holding a permanent residence permit; for persons who have been granted a tolerated stay permit, state health insurance is provided only if the person can prove that they do not have sufficient funds for private insurance. Meanwhile, under Slovenian law, stateless persons lawfully present in the country, including those holding a six-month temporary residence permit and a temporary residence permit

[177] Procedure for the registration, issue, exchange, cancellation, transfer, withdrawal, return to the state, invalidation and destruction of permanent residence permits, approved by Resolution of the Cabinet of Ministers of Ukraine No. 321 of 25 April 2018. URL: https://zakon.rada.gov.ua/laws/show/321-2018-%D0%BF#Text (accessed: 7 August 2025).

[178] On Immigration: Law of Ukraine No. 2491-III of 7 June 2001. URL: https://zakon.rada.gov.ua/laws/show/2491-14#Text (accessed on 7 August 2025).

[179] Handbook on the Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons / UNHCR, Geneva, 2014. URL: https://www.unhcr.org/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf (accessed: 07.08.2025).

[180] ENS Stateless Index Survey Bulgaria 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness___Index_Survey-Bulgaria-2024.pdf (accessed: 07.08.2025).

for one year, emergency medical care is guaranteed [181] .

In most Member States whose legislation provides for a specific procedure for the recognition of a person as stateless by the host country, stateless persons are guaranteed basic medical care, the cost of which is covered by the state and not charged to the patient. At the same time, the scope of medical services varies across Member States.

Under ***Belgian*** law, from the moment an application for recognition as a stateless person is submitted, the individual is guaranteed only the right to emergency medical care. From the moment of official recognition as a stateless person, the stateless person is entitled to access the national healthcare system on the same terms as other citizens [182] .

Under ***Latvian*** law, stateless persons recognised by the country are entitled to basic state health insurance [183] .

In ***Hungary***, access to the public healthcare system depends on whether a person is in employment or engaged in any economic activity. If a person is not in employment or engaged in business activities, healthcare is guaranteed exclusively within the scope of basic medical services, which are not limited to emergency medical care. Such services include, in particular:

vaccinations, epidemic screenings, compulsory medical examinations, quarantine, transport of patients with infectious diseases; ambulance services; medical services in emergencies and thereafter until the patient's condition stabilises; healthcare services in the event of a natural disaster. Certain other public healthcare services (such as antenatal care and care related to pregnancy and childbirth) are available only to those holding a permanent residence permit in Hungary [184] .

One of the best examples is the legislative approach taken by ***France***. In particular, stateless persons recognised by France as stateless on an equal footing with its citizens are entitled to universal healthcare (protection maladie universelle — PUMA), which covers basic medical services, provided they have been legally and continuously resident in the country for at least three months. At the same time, if a person does not meet the specified residence requirement or has merely applied for recognition as a stateless person, they are guaranteed the right to emergency medical care under the Emergency and Vital Care Programme ("Dispositif Soins Urgents et Vitaux") [185] .

Another good example is ***Sweden***, where minors are guaranteed the right to full free healthcare on an equal footing with residents, regardless of the legality of their stay in the country [186] .

[181] ENS Stateless Index Survey Slovenia 2022. URL:https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Slovenia-2022_1.pdf (accessed: 07.08.2025).
[182] ENS Stateless Index Survey Belgium 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Belgium-2024.pdf (accessed: 07.08.2025).
[183] ENS Stateless Index Survey Latvia 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Latvia-2023_0.pdf (accessed: 07.08.2025).
[184] ENS Stateless Index Survey Hungary 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Hungary-2023_0.pdf (accessed 7 August 2025).
[185] ENS Stateless Index Survey France 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey_France_2023_1.pdf (accessed: 07.08.2025).
[186] ENS Stateless Index Survey Sweden 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey_Sweden_2023_1.pdf (accessed: 07.08.2025).

Also worthy of note is the experience ***of Georgia***[187] and ***Moldova***[188], candidate countries for EU accession, where the right to medical services under state healthcare programmes is guaranteed to recognised stateless persons, regardless of the type of residence permit, on an equal footing with citizens of these countries. Furthermore, in ***Georgia,*** persons are guaranteed the right to emergency medical care whilst their application for recognition as a stateless person is being considered.

Under ***Ukrainian*** law, access to the state healthcare system and the scope of services that may be provided at the state's expense for stateless persons depend on the type of residence permit.

Thus, in accordance with the Law of Ukraine 'Fundamentals of Ukrainian Legislation on Healthcare' of 19 November 1992 No. [189], stateless persons permanently residing in Ukraine enjoy the same rights and bear the same obligations in the field of healthcare as Ukrainian citizens (Article 11). Under the Law of Ukraine "On State Financial Guarantees for Medical Care for the Population" of 19 October 2017[190] it is provided that stateless persons permanently residing in Ukraine are guaranteed, within the framework of the medical guarantees programme, full payment from the State Budget of Ukraine for the medical services and medicines they require, relating to the provision of:

- emergency medical care;
- primary healthcare;
- specialised medical care;
- palliative care;
- rehabilitation in the field of healthcare;
- medical care for children under 16;
- medical care in connection with pregnancy and childbirth;
- services for assessing a person's daily functioning (Article 4(1) of the Law).

For stateless persons temporarily residing in Ukraine (holding a temporary residence permit), the state covers the cost of necessary medical services and medicines related to the provision of emergency medical care under the medical guarantees programme. Such persons **are obliged to reimburse the state for the full cost of** the medical services and medicines provided in accordance with the procedure established by the Cabinet of Ministers of Ukraine, unless otherwise provided for by international treaties or the laws of Ukraine.

Medical services and medicines related to the provision of medical care to people suffering from tuberculosis are provided to stateless persons, regardless of the grounds for their stay in Ukraine and the availability of identity documents, in accordance with the procedure established by the central executive authority responsible for formulating and implementing state policy in the field of healthcare.

Medical services and medicines associated with the provision of other types of medical care are paid for by stateless persons temporarily residing in Ukraine at their own expense or through voluntary

[187] ENS Stateless Index Survey Georgia 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Georgia-2023_2.pdf (accessed: 07.08.2025).

[188] ENS Stateless Index Survey Moldova 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Moldova-2024.pdf (accessed: 07.08.2025).

[189] Fundamentals of Ukrainian legislation on healthcare: Law of Ukraine No. 2801-XII of 19 November 1992. URL: https:// zakon.rada.gov.ua/laws/show/2801-12/print1499248601111314#top (accessed: 07.08.2025).

[190] On State Financial Guarantees for Medical Care for the Population: Law of Ukraine No. 2168-VIII of 19 October 2017. URL: https://zakon.rada.gov.ua/laws/show/2168-19#top (accessed: 7 August 2025).

health insurance or other sources not prohibited by law (Article 4(2) of the Law).

The specific procedures for the provision of medical care by state- and municipally-owned healthcare facilities to stateless persons, as well as to persons who have applied for recognition as stateless persons, are determined by the Procedure approved by Resolution of the Cabinet of Ministers of Ukraine No. 121 [191]of 19 March 2014.

As can be seen, access to the state healthcare system under current Ukrainian legislation is significantly restricted for stateless persons who do not hold a permanent residence permit.

Taking into account the legislative approaches of many EU Member States, as well as certain candidate countries, it appears extremely important to introduce legislative changes aimed at guaranteeing the right to healthcare for stateless persons, regardless of the duration of their residence permit, at least to the extent of emergency medical care funded by the state.

Such legislative changes are urgently needed to ensure respect for human dignity and the protection of life and health in critical situations for every person as the highest social value.

Furthermore, taking into account Ukraine's international obligations under the UN Convention on the Rights of the Child (Article 24)[192] and the best practices of EU Member States, it is recommended that minors, regardless of whether they are recognised as stateless persons and the legality of their stay in Ukraine, be granted the right to healthcare on an equal footing with minors who are citizens of Ukraine. Such an approach would be consistent with the Convention's provision that no child should be deprived of

[191] The procedure for providing medical care to foreign nationals and stateless persons who are permanently resident or temporarily staying in Ukraine, who have applied for recognition as refugees or persons in need of subsidiary protection, in respect of whom a decision has been taken to process documents to determine their status as refugees or persons in need of subsidiary protection, and who have been recognised as refugees or persons in need of subsidiary protection, and on the reimbursement of the cost of medical services and medicines provided to foreign nationals and stateless persons temporarily residing or staying in Ukraine: Resolution of the Cabinet of Ministers of Ukraine No. 121 of 19 March 2014. URL: https://zakon.rada.gov.ua/laws/show/121-2014-%D0%BF#Text (accessed: 7 August 2025).

[192] In accordance with Article 24 of the UN Convention on the Rights of the Child of 20 November 1989

1. States Parties recognise the right of the child to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation. States Parties shall ensure that no child is deprived of his or her right of access to such health services.
2. States Parties shall ensure the full realisation of this right, in particular by taking measures to:
   a) reducing infant and child mortality;
   b) ensuring that all children receive the necessary medical care and health services, with priority given to the development of primary health care;
   c) combating disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and the provision of adequate nutritious food and clean drinking water, taking into account the dangers and risks of environmental pollution;
   d) providing mothers with appropriate health care services during the antenatal and postnatal periods;
   e) providing information to all sections of society, in particular parents and children, on child health and nutrition, the benefits of breastfeeding, hygiene, the sanitation of the child's environment and the prevention of accidents, as well as access to education and support in the application of this knowledge;
   f) developing preventive health measures, guidance for parents, and family planning education and services.

their right to access appropriate health services.

4.3.3. The right to work

In many EU Member States, access to the labour market depends on the type of residence permit granted to a stateless person. Generally, the right to work is guaranteed on an equal footing with foreign nationals holding similar residence permits. In particular, this approach is characteristic of ***Austria, Belgium, Denmark, Estonia, Ireland, Lithuania, Luxembourg, the Netherlands, Poland, Slovakia, Slovenia, Finland, France, Croatia, the Czech Republic and Sweden*** [193] . At the same time, the legislation of each country provides for certain specific features.

For instance, ***Hungary*** has some of the strictest labour market access requirements for stateless persons among EU Member States. Individuals do not have the right to work whilst their application for recognition as stateless persons is being considered. Recognised stateless persons must obtain a special work permit (*munkavállalási engedély*). Such a permit may be granted if the employer has submitted an application stating the need for the relevant worker and if no application has been received for this position from a registered jobseeker: a Hungarian citizen or a citizen of the European Economic Area [194] , a refugee, a person with subsidiary protection, a third-country national with the right of permanent residence, or another third-country national who has previously been employed in Hungary for more than six months [195] .

Under ***Bulgarian*** law, the right to work is not granted to persons whose applications for recognition as stateless persons are pending, except in cases where they are entitled to residence on other grounds. Furthermore, recognition of a stateless person does not automatically grant access to the national labour market. The right to work is guaranteed only to recognised stateless persons who have been granted a long-term or permanent residence permit. No special permit from the competent authorities is required for the employment of such persons [196] .

In many EU Member States, a residence permit is sufficient grounds for exercising the right to work (Belgium, Italy, Spain, France). For example, under ***Belgian*** law, persons who have been granted a residence permit in the country are guaranteed the right to work. However, the right to work is not granted whilst an application for recognition as a stateless person is being considered. Furthermore, official recognition as a stateless person does not automatically confer the right to reside and work. A special procedure for obtaining a residence permit is provided for, after which the person may be

[193] Statelessness in the European Union, Norway and Georgia / European Migration Network, April 2023. URL: https://www.emnspain.gob.es/documents/392158/527891/EMN_INFORM_Statelessness_FINAL.2023.pdf/52d50ce8-3358-a0c8-e9f3-8a9e3484d707?t=1687261072157 (accessed: 07.08.2025).

[194] The European Economic Area comprises all EU Member States as well as Iceland, Liechtenstein and Norway).

[195] ENS Stateless Index Survey Hungary 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Hungary-2023_0.pdf (accessed: 07.08.2025).

[196] Bulgaria: Information for stateless people and those at risk of statelessness fleeing Ukraine, 15 February 2024. URL:

https://www.statelessness.eu/sites/default/files/2024-02/Bulgaria%20-%20Country%20briefing%20-%20update%20February%202024.pdf (accessed: 07.08.2025).

employed without obtaining a special work permit [197] .

Under ***French*** law, only recognised stateless persons are entitled to work on the basis of a residence permit under the same conditions as third-country nationals holding similar permits. This applies to both stateless persons who have been granted a four-year residence permit and those with a ten-year permit. There is no provision for obtaining a special work permit [198] .

Italian legislation does not specify the right to work for persons whose applications for recognition as stateless persons are pending. Stateless persons officially recognised by Italy are guaranteed the right of residence, which includes the right to employment and to engage in business activities [199] .

In ***Spain,*** the right to work is not guaranteed to individuals until they are recognised as stateless persons. Once their status has been officially recognised, they are granted the right to work, including the right to engage in business activities, on an equal footing with the country's citizens [200] .

A good example is the legislative approach ***of Georgia*** — a candidate country for EU accession — whose legislation contains no restrictions on the employment of a person whose application for recognition as a stateless person is under consideration. Upon recognition as a stateless person, they automatically acquire the right to be employed or to engage in entrepreneurial activity on an equal footing with the country's citizens, with the exception of employment in the civil service and local government bodies [201] .

Under ***Ukrainian*** law, the right to work is guaranteed to individuals from the moment the procedure for recognising them as stateless persons is initiated. This right is granted throughout the entire procedure, as well as after recognition as a stateless person. Furthermore, the right to work is also recognised for persons appealing against a decision refusing recognition as a stateless person until a final decision is made. This is a significant advantage compared to the legislative approaches of most EU Member States. However, the exercise of the right to work for such applicants is significantly complicated by the legal requirement for employers to obtain a special permit to employ foreign nationals and stateless persons in Ukraine (Article 42-1 of the Law of Ukraine 'On Employment' of 5 July 2012 [202]).

It should be noted that, in accordance with Ukrainian legislation (Article 42 of the Law of Ukraine
Under the Law of Ukraine 'On Employment', two employment regimes may apply to stateless persons: (1) employment on the basis of a special permit for the employment of foreign nationals and stateless persons in Ukraine;
(2) employment without such a permit.

[197] ENS Stateless Index Survey Belgium 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Belgium-2024.pdf (accessed: 07.08.2025).
[198] ENS Stateless Index Survey France 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey_France_2023_1.pdf (accessed: 07.08.2025).
[199] ENS Stateless Index Survey Italy 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Italy-2024_0.pdf (accessed: 07.08.2025).
[200] ENS Stateless Index Survey Spain 2024. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Spain-2024_Cepaim.pdf (accessed: 07.08.2025).
[201] ENS Stateless Index Survey Georgia 2023. URL: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Georgia-2023_2.pdf (accessed: 07.08.2025).

[202] On Employment: Law of Ukraine No. 5067-VI of 5 July 2012. URL: https://zakon.rada.gov.ua/laws/ show/5067-17#top (accessed: 7 August 2025).

In particular, a work permit is required for persons who have applied for recognition as stateless persons, and persons appealing against a decision refusing to recognise them as stateless persons; stateless persons in respect of whom a decision has been made to process documents to determine their status as refugees or persons in need of subsidiary protection; stateless persons appealing against a decision refusing to process documents to determine their status as a refugee or a person in need of subsidiary protection; stateless persons who have arrived in Ukraine to study at higher education institutions and intend, during their studies and after graduation, provided they secure employment no later than 30 calendar days before the end of their studies, to carry out work in Ukraine.

To obtain a permit or extend its validity, the employer must submit a set of documents, a comprehensive list of which is set out in Article 42-2 of the Act. The employer must attach proof of payment of the fee for the issue or renewal of the permit to the application and supporting documents. The issue and renewal of work permits are provided free of charge to persons who have submitted an application for recognition as a stateless person and to persons appealing against a decision refusing to recognise them as stateless persons. In accordance with Article 42-3 of the Law of Ukraine 'On Employment of the Population', the permit is issued for the duration of the certificate of application for recognition as a stateless person, but for no more than one year. The validity of the permit may be extended if the validity of such a certificate is extended.

The grounds for refusing to issue, extend or amend a permit are (Article 42-9 of the Law):

- failure to address the grounds for leaving the application pending within the prescribed time limit, or the territorial body of the central executive authority responsible for implementing state policy in the field of employment and labour migration deeming the explanatory letter submitted by the employer to be unfounded;
- submission of the application and documents for the renewal of the permit in breach of the deadline (the application must be submitted by the employer to the territorial body of the central executive authority responsible for implementing state policy in the field of employment and labour migration no later than 20 and no earlier than 50 calendar days before the expiry of the permit);
- the absence in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations of information regarding the employer, or the presence of information regarding the state registration of the termination of a legal entity as a result of its liquidation, or the presence of information regarding the state registration of the termination of the business activities of an individual entrepreneur who is the employer;
- the revocation of a permit obtained by an employer (within one year of the date of the decision to revoke);
- refusal by the regional body of the Security Service of Ukraine to approve the issue or extension of a work permit for persons recognised as posing a threat to state sovereignty, territorial integrity, the democratic constitutional order and other national interests of Ukraine.

Employment without a permit is permitted for stateless persons who are permanently resident in Ukraine; stateless persons who have been granted refugee status in accordance with Ukrainian law or who have been granted permission to immigrate to Ukraine; stateless persons recognised as persons in need of subsidiary protection or granted temporary protection in Ukraine; persons recognised as stateless by the central executive authority responsible for implementing state policy in the field of migration (immigration and emigration). Furthermore, a work permit is not required for stateless persons who have arrived in Ukraine to participate in international technical assistance projects; emergency rescue service personnel carrying out urgent work; stateless persons who have arrived in Ukraine to carry out teaching and/or research activities at institutions of pre-higher and higher education at their invitation, etc. In particular, stateless persons who are permanently resident in the country are entitled to employment on the grounds and in the manner established for citizens of Ukraine[203] (Part 4 of Article 3 of the Law of Ukraine 'On Employment of the Population' of 5 July 2012 [204]).

4.3.4. Right to citizenship

Fourteen of the 27 EU Member States have simplified naturalisation procedures and/or more favourable conditions for stateless persons to acquire the citizenship of the host country. These are Belgium, Greece, Denmark, Estonia, Ireland, Italy, Lithuania, the Netherlands, Slovakia, Slovenia, Hungary, Croatia, the Czech Republic and Sweden [205] .

In particular, the ***Greek*** Citizenship Code provides for a reduced period of residence in the country (three years instead of seven) and a reduction in the state fee. In ***Hungary***, the most lenient requirements regarding the duration of residence—at least three years—apply to stateless persons. However, the period is calculated from the date of the decision granting the right to permanent residence to a person recognised as stateless. In ***the Netherlands***, this period is also three years, and a reduced state fee is provided for. ***Slovakia*** takes a similar approach; under its legislation, a person must have resided in the country for at least three years, as opposed to the eight-year requirement for foreigners. ***Swedish*** legislation sets a minimum duration of four years, whereas the requirement for foreigners is five years. Under ***Italian*** law, the residence requirement for the naturalisation of an officially recognised stateless person is five years, instead of the ten years required under the standard procedure. The same residence requirement applies to stateless persons in ***Slovenia***.

The legislative approaches adopted by ***Belgium*** and ***Spain*** provide a good example in the context of addressing statelessness. In particular, ***Belgian*** law provides for the automatic granting of citizenship to a child born on Belgian territory, provided that the child does not acquire the citizenship of any other country. At the same time, the burden of proving that the child lacks citizenship lies with the applicant or their legal representative, which complicates access to this procedure. It is important to note that the legislation does not require

[203] With the exception of employment in positions requiring Ukrainian citizenship.

[204] On Employment: Law of Ukraine No. 5067-VI of 05.07.2012. URL: https://zakon.rada.gov.ua/laws/ show/5067-17#top (accessed: 07.08.2025).

[205] Statelessness in the European Union, Norway and Georgia / European Migration Network, April 2023. URL: https://www.emnspain.gob.es/documents/392158/527891/EMN_INFORM_Statelessness_FINAL.2023.pdf/52d50ce8-3358-a0c8-e9f3-8a9e3484d707?t=1687261072157 (accessed: 07.08.2025).

the legality of the child's or their parents' residence in Belgium, as well as the need for the child or one of their parents to be officially recognised as stateless. Automatic acquisition of citizenship also applies to newborn children found within the country whose parents are unknown [206] .

In addition, a special naturalisation procedure is provided for stateless persons. In particular, the Belgian Chamber of Representatives is authorised to decide on the granting of citizenship to recognised stateless persons as an act of compassion, provided the person has been lawfully resident in the country for at least two years. This is the sole formal requirement for acquiring Belgian citizenship. In other cases, the standard naturalisation procedure applies.

Under Article 17(1)(c) of the ***Spanish*** Civil Code [207], a child born on Spanish territory is granted Spanish nationality if neither of their parents holds the nationality of any country or if the child does not acquire the nationality of either parent.

Particular attention should be paid to the country's recent case law, which aims to reduce instances of statelessness. Thus, on 11 May 2022, a court ruling was issued recognising the right to Spanish citizenship for a girl born in Morocco who, together with her mother, travelled to Spain on a small boat. The child had no birth certificate or any other documents; her mother had given birth to her in a private home. It is significant that in this case the court based its conclusions on the principle of ensuring the best interests of the child, which is not only a principle of the country's national law, a principle enshrined in the 1989 UN Convention on the Rights of the Child (Art. 7), but also a general principle enshrined in the 2000 EU Charter of Fundamental Rights (Art. 24) [208] .

In ***Georgia***, which is an EU candidate country, a simplified naturalisation procedure is available only to stateless minors. In particular, stateless children are entitled to acquire citizenship after five years of residence in the country. The requirement for lawful residence or birth on Georgian territory does not apply to them. At the same time, the naturalisation procedure is free of charge for all categories of stateless persons.

The specific provisions for acquiring ***Ukrainian*** citizenship are set out in the Law 'On Citizenship of Ukraine'. As in most EU Member States, the Law establishes a reduced residence period for stateless persons. Thus, paragraph 3 of Article 3 of the Law of Ukraine "On Citizenship" provides for a requirement of continuous residence for the last 3 years (instead of the general period of 5 years) as of the date of submission of such an application for the acquisition of Ukrainian citizenship from the moment of entry

[206] Belgium. Statelessness Index. URL: https://cutt.ly/4rL6vGIH (accessed: 07.08.2025).

[207] Spanish Civil Code 2013. URL: https://data.globalcit.eu/NationalDB/docs/spanish-civil-code-ENG%202013.pdf (accessed: 07.08.2025).

[208] In its judgment, the Court adopted a broad interpretation of Article 17(1)(c) of the Spanish Civil Code, which provides for the right to citizenship by birth, in light of the principle of the best interests of the child. The court emphasised that granting citizenship in the child's situation 'constitutes the sole mechanism that allows for compliance with the legal provisions contained in international treaties to which Spain is a party, whilst respecting and effectively upholding the best interests of the child as established in national provisions'. Furthermore, the decision explicitly states that allowing the child to remain stateless would place them in an unequal situation compared to other minors, significantly restricting their fundamental rights. See Resolution of the Provincial Court of Gipuzkoa No. 341/2022 of 11 May 2022. URL: https://caselaw.statelessness.eu/sites/default/files/decisions/SAP_SS_203_2022.pdf (accessed on 7 August 2025).

in Ukraine or from the date of recognition as a stateless person, for persons who have been issued with a temporary residence permit in accordance with Article 4(24) of the Law of Ukraine 'On the Legal Status of Foreigners and Stateless Persons' – the last three years prior to the date of submission of such an application, counting from the date of issue of the temporary residence permit.

To prevent cases of statelessness, Part 7 of Article 7 of the Law provides that a newborn child found on the territory of Ukraine, both of whose parents are unknown (a foundling), is a citizen of Ukraine. The Law also sets out the specific provisions for acquiring Ukrainian citizenship by territorial origin (Article 8 of the Law), in particular, if the person themselves or at least one of their parents, or their grandfather or grandmother, great-grandfather or great-grandmother, or their siblings (full or half-siblings), son or daughter, grandson or granddaughter were born or permanently resided prior to 24 August 1991 in the territory that became part of Ukraine.

In addition, the Law regulates the specific provisions governing the acquisition of Ukrainian citizenship by children born within Ukraine and abroad, where one of the parents is stateless. In particular, in accordance with Article 7 of the Law, Ukrainian citizenship by birth is granted to a person born on the territory of Ukraine to stateless persons lawfully residing on the territory of Ukraine, as well as to a person born on the territory of Ukraine to a foreign national and a stateless person lawfully residing on the territory of Ukraine, and who did not acquire citizenship by birth from the parent who is a foreign national. Furthermore, a person born outside Ukraine to stateless persons who are lawfully and permanently resident in Ukraine, and who did not acquire the citizenship of another state by birth, may also acquire Ukrainian citizenship by birth.

It is important to note that these legal requirements limit the group of children eligible to acquire Ukrainian citizenship to two conditions: (1) official recognition of the statu of a stateless person for one of the parents and (2) the legality of such a person's residence in Ukraine. Consequently, if a child is born on the territory of Ukraine to parents who are not recognised as stateless persons and/or do not have the right to lawful residence in Ukraine, the child does not acquire Ukrainian citizenship and is at risk of statelessness.

In this context, it is important to refer to the international treaties to which Ukraine is a party. In particular, pursuant to Article 1(1) of the 1961 Convention on the Reduction of Statelessness, States Parties are obliged to grant 'their nationality to a person born on their territory who would otherwise be stateless'. A similar approach is set out in Article 6(2) of the 1997 European Convention on Nationality. As can be seen, this provision of the international treaties binding on Ukraine has not been fully implemented in national legislation. In this context, it is worth recalling that the relevant recommendations have been repeatedly made to the Ukrainian side by the monitoring bodies of international agreements [209] .

In light of the above, with a view to preventing cases of statelessness and ensuring the proper fulfilment by Ukraine of its international obligations, it is recommended that amendments be made to Ukrainian legislation in order to

[209] Concluding observations on the combined fifth and sixth periodic reports of Ukraine of 22 October 2022, Committee on the Rights of the Child, established under the Convention on the Rights of the Child 1989. URL: https://documents.un.org/doc/undoc/gen/g22/533/87/pdf/g2253387.pdf (accessed: 7 August 2025).

guaranteeing the right to citizenship for every child born on the territory of our country, regardless of their parents' legal status, provided that such a child does not acquire the citizenship of any other country. Furthermore, these proposals are important in the context of EU accession, as they are aimed at implementing the principle of the best interests of the child, which is enshrined in the 2000 EU Charter of Fundamental Rights and provides that 'in all actions by public authorities ..., in matters relating to children, the utmost priority must be given to safeguarding the best interests of the child' [210] .

CONCLUSIONS AND RECOMMENDATIONS ON THE IMPLEMENTATION OF THE CHILD'S RIGHTS IN UKRAINE

Respect for human rights is a mandatory requirement for candidate countries under the third Copenhagen criterion, which sets out the key conditions for EU membership. International, European regional and EU standards in the field of human rights, particularly regarding statelessness, are of particular importance for Ukraine in the context of its strategic course towards accession to the European Union, where human rights are a fundamental value, the protection and promotion of which must be the focus of the efforts of the European Union and all its Member States.

The study conducted on the alignment of national legislation *with the* EU *acquis*, Ukraine's international obligations and best practices in Member States allows us to draw the following conclusions and make the following recommendations:

1. In the process of harmonising Ukrainian legislation, as well as within the framework of national

administrative and judicial practice**, it is important to take into account the legal standards arising from the general principles of European Union law,** including the principle of respect for human rights, the prohibition of discrimination, the principle of legal certainty and the protection of legitimate expectations, and the principle of effectiveness. The Court of Justice of the EU particularly emphasises **the importance of observing the principle of proportionality,** which is key to determining the validity of decisions to refuse or revoke a decision on the acquisition of citizenship, as well as the deprivation of citizenship, which may lead to a situation of statelessness. This principle is based on the requirements (1) to ensure an individual approach in each case when taking a decision concerning the refusal to grant or the revocation of a decision on the acquisition of citizenship for the purpose of protecting public order and public

[210] For a more detailed discussion of the interpretation of the principle of the best interests of the child in EU law, see: Lonardo L. The best interests of the child in the case law of the Court of Justice of the European Union. Maastricht Journal of European and Comparative Law. 2022, Vol. 29(5) 596–614.

security, (2) respect for fundamental human rights in accordance with the EU Charter of Fundamental Rights, as well as
(3) the provision of an opportunity for a person to regain citizenship, unless there are compelling grounds for refusal.

2. **It is recommended to ratify the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession** and to ensure the implementation of the relevant international obligations at the national level. In the context of full-scale Russian aggression, this legislative measure will strengthen legal safeguards for the rights of individuals who may find themselves in a situation of statelessness. Furthermore, in light of Ukraine's accession to the EU, ratification of the convention could help strengthen Ukraine's international reputation as a country that demonstrates a commitment to the principles of human rights protection and a willingness to assume the relevant international obligations.

3. The adoption of the Procedure for Recognising a Person as Stateless in 2021 was a significant legal step that enabled interested parties to obtain official status in Ukraine and to exercise the rights and freedoms provided for under national legislation. Despite the undoubted relevance of this procedure, it requires further improvement due to the difficulties faced by applicants in practice. Taking into account the best practices of EU Member States and trends in the development of EU migration law, with a view to strengthening legal safeguards in Ukrainian legislation**, it is recommended that:**
   - define the scope of information that must be provided to the individual during their first contact with representatives of the migration authorities, and develop a model booklet containing a description of the procedure

for examining an application for recognition as a stateless person, the rights and obligations during the procedure, the legal consequences of a positive and negative decision regarding the individual, as well as appeal mechanisms;

- to amend the Procedure for Recognising a Stateless Person by providing for a procedure to interview persons who can confirm the facts stated in the application or identify the applicant from a photograph, in the absence of relevant documents, using videoconferencing;
- consider the advisability of involving representatives of relevant international or civil society organisations, at the very least during the interview with the applicant as part of the procedure for recognising a stateless person;
- develop an information booklet on the rights and obligations of stateless persons in Ukraine, to be issued to the person upon the adoption of a decision recognising them as a stateless person;
- amend Annex 1 to the Procedure for the Examination of Applications for Recognition as a Stateless Person, providing for the mandatory justification of grounds in the event of a decision to refuse recognition as a stateless person;
- extend the time limit for appealing against a decision to refuse or revoke a decision recognising a person as stateless, in order to strengthen guarantees of effective protection of applicants' rights, to at least 30 working days from the date on which the person became aware, or could have become aware, of the negative decision concerning them;
- provide for the mandatory return of documents to the applicant when the decision concerning them becomes final, regardless of the outcome of the proceedings.

4. With a view to the proper fulfilment of international obligations arising from the 1954 Convention relating to the Status of Stateless Persons regarding the provision of legal guarantees for the exercise of the right of residence on its territory for persons recognised as stateless by the competent authorities, when a decision is made to recognise a person as stateless, it is recommended that a residence permit be issued to that person at the same time, certifying the legality of their stay in the country. Furthermore, based on the best practices of EU Member States regarding the guarantee of the right of residence within the country, it is advisable to extend the validity of temporary residence permits in Ukraine for stateless persons to at least two years.

5. Given the legislative approaches of many EU Member States, as well as certain candidate countries, it seems of the utmost importance to introduce legislative changes aimed at guaranteeing the right to healthcare for stateless persons, regardless of the duration of their residence permit, at least in terms of emergency medical care funded by the state. Such legislative changes are absolutely essential to ensure respect for human dignity and the protection of life and health in critical situations for every person as the highest social value. Furthermore, taking into account Ukraine's international obligations under the UN Convention on the Rights of the Child (Article 24) and the best practices of EU Member States, it is recommended that the right to healthcare be granted to minors, regardless of whether they are recognised as stateless persons or the legality of their stay in Ukraine, on an equal footing with minors who are citizens of Ukraine.

6. In order to prevent cases of statelessness and ensure that Ukraine properly fulfils its international obligations, it is recommended that amendments be made to Ukrainian legislation to guarantee the right to citizenship for every child born on the territory of our country, regardless of the legal status of their parents, provided that such a child does not acquire the citizenship of any other country. These proposals are important in the context of EU accession, as they are aimed at implementing the principle of the best interests of the child, which is enshrined in the 2000 EU Charter of Fundamental Rights.

Support for stateless persons
Charity Foundation “Right to Protection”