

Contents

International and Regional Instruments	3
1954 Convention	3
1961 Convention	3
Other conventions.....	4
Stateless Population Data	8
Availability and sources.....	8
Stateless in detention data.....	11
Statelessness Determination and Status	13
Definition of a stateless person.....	13
Existence of a dedicated SDP	15
Access to procedure	16
Assessment.....	21
Procedural safeguards.....	24
Protection during SDP	27
Appeals.....	28
Stateless status.....	29
Access to nationality.....	33
Detention	36
Detention screening	36
Alternatives to immigration detention.....	42
Procedural safeguards.....	43
Protections on release.....	47
Return and readmission agreements	49

Prevention and Reduction	50
Stateless born on territory	50
Foundlings	54
Adoption.....	55
Ius sanguinis	56
Birth registration	56
Reduction	60
Withdrawal of nationality	61
Jurisprudence and Training	63
Published judgements	63
Legal training	63
Pro Bono	64
Literature.....	64

International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes, promulgated by Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681	Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 (HU)
IOB	1	b		If yes, when was ratification/accession?		Entry into force: 19 February 2002	
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	No reservations currently in force.	Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 (HU)
IOB	1	d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	No, as Hungary applies a dualist system of international and domestic law. The Convention, however, has the force of law in Hungary, through the promulgating act.	Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 (HU)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes, promulgated by Act XV of 2009	Act XV of 2009: http://njt.hu/cgi_bin/njt_doc.cgi?docid=123906.177515 (HU)
IOB	2	b		If yes, when was ratification/accession?		Entry into force: 4 April 2009	
IOB	2	c		Are there reservations in place? Please list them.	As above	Hungary did not make reservations.	Act XV of 2009: http://njt.hu/cgi_bin/njt_doc.cgi?docid=123906.177515 (HU)
IOB	2	d		Does the Convention have direct effect?	As above	No, as Hungary applies a dualist system of international and domestic law. The Convention, however, has the force of law in Hungary, through the promulgating act.	Act XV of 2009: http://njt.hu/cgi_bin/njt_doc.cgi?docid=123906.177515 (HU)

IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	Yes, the Convention entered into force on 1 January 2007. Hungary made reservations to the following articles: <ul style="list-style-type: none"> · 11) No written reasoning shall be provided to decisions on the acquisition of nationality; · 12) No administrative or judicial remedy shall be provided in cases regarding the acquisition of nationality · 21 (3) a) Only men living on the territory of Hungary shall be obliged to do military service. Those bearing more than one nationality and who do not live in Hungary cannot be obliged to serve in the military and they cannot do it on a voluntary basis either. Those bearing more than one nationality are not exempt from military service if they live in Hungary. 	Act III of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=64023.90506 (HU)
IOB	3	b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	Yes, the Convention entered into force on 15 April 1993 through the promulgating act. There are no reservations in place.	Act XXXI of 1993: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19100.29566 (HU)
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	Yes, the Convention entered into force on 1 May 2009 through the promulgating act. There are no reservations in place.	Act XCVIII of 2008: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=118719.170262 (HU)

International and Regional Instruments – 2019

IOB	3	d	Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)	Yes, no reservations.	
IOB	3	e	State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child 1989	Yes, the Convention entered into force on 22 November 1991 through the promulgating act. There are no reservations in place.	Act LXIV of 1991: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=15579.284771(HU)
IOB	3	f	State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights 1966	Yes, the Convention entered into force on 22 April 1976 through the promulgating act. There are no reservations in place.	Law-Decree 8 of 1976: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=2483.4091 (HU)
IOB	3	g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights 1966	Yes, the Convention entered into force on 22 April 1976 through the promulgating act. There are no reservations in place.	Law-Decree 9 of 1976: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=2490.4101 (HU)

International and Regional Instruments – 2019

IOB	3	h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women 1979 Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness.	Yes, the Convention entered into force on 30 May 1982 through the promulgating act. There are no reservations in place. Having ratified the Convention and the Optional Protocol, Gen. Rec. 32 has the status of soft law.	Law-Decree 10 of 1982: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=5238.7805 (HU) Act LX of 2001: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=57038.272181 (HU)
IOB	3	i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Yes, the Convention entered into force on 18 March 1988 through the promulgating act. There are no reservations in place.	Law-Decree 3 of 1988: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=9628.13105 (HU)
IOB	3	j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes, the Convention entered into force on 27 April 1969 through the promulgating act. There are no reservations in place.	Law-Decree 8 of 1969: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=1104.2006 (HU)
IOB	3	k	State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990?	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	Hungary is not state party to this Convention.	

International and Regional Instruments – 2019

				Please list any relevant reservations.			
--	--	--	--	--	--	--	--

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p>Gen. Rec. 32, CEDAW: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>Institute on Statelessness and Inclusion (2014): States should strengthen measures to count stateless persons on their territory.</p>	<p>Yes. Census data is merely based on self-identification as stateless, which raises doubts about the completeness/accuracy of the data collected. The last census: http://www.ksh.hu/nepszamlalas/tablak-demografia (2011) found 113 stateless persons, of which 53 men and 60 women. Other statistical data published by the Central Statistical Office of Hungary (KSH), such as the yearly updates on non-Hungarian-national population, do not include any specific stock of flow figure on the country's stateless population (only major countries of nationality are specified).</p> <p>The 'National Directorate-General for Alien Policing' (the authority competent for statelessness determination, formerly the 'Immigration and Asylum Office') does not publish any specific data on the country's stateless population.</p> <p>Between 2008 (the entry into force of the legal framework for the Hungarian statelessness-specific protection regime) and 30 June 2019, the competent authority granted stateless status to 144 persons (data by courtesy of UNHCR).</p> <p>Research by the Hungarian Helsinki Committee revealed in 2016 (based on official data received from the Office of</p>	<p>2011 census data: http://www.ksh.hu/nepszamlalas/tablak-demografia (table 1.1.27), Central Statistical Office of Hungary (KSH) (HU)</p> <p>Data shared by the Regional Representation of UNHCR for Central Europe</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary: https://www.helsinki.hu/wp-content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf, Hungarian Helsinki Committee, 2015, p. 21</p>

Statelessness Population Data – 2019

						Immigration and Nationality, the then competent authority in nationality-related matters) that between 1 January 2011 and 31 October 2015, 38 stateless persons could naturalise as Hungarian nationals.	
POP	1	b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	Data from the last census: http://www.ksh.hu/nepszamlalas/tablak/demografia (2011) did not include any relevant category (unknown or undetermined nationality, etc.). No data could be retrieved from statistics published by the Central Statistical Office of Hungary (KSH) and the ‘National Directorate-General for Alien Policing’. The ‘National Directorate-General for Alien Policing’ collects asylum data disaggregated by nationality, age and sex, but they only publish a simplified summary with no disaggregation. It is possible to receive this information through freedom of information requests.	Hungarian Helsinki Committee
POP	1	c		What is UNHCR’s estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	The UNHCR Population Statistics website reports 144 persons under UNHCR’s statelessness mandate in Hungary for 2018. This figure corresponds to that of persons having received stateless status at first instance in Hungary between 2008 (the entry into force of the legal framework for the Hungarian statelessness-specific protection regime) and 2018. In addition, the UNHCR Population Statistics website reports 76 persons under UNHCR’s refugee (and persons in refugee-like situations) mandate in Hungary for 2018.	UNHCR Population Statistics website: http://popstats.unhcr.org/en/persons_of_concern

Statelessness Population Data – 2019

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

Statelessness Population Data – 2019

						actual nationality or statelessness of these children. There is currently no sufficiently reliable comprehensive data about the stateless population of Hungary. Yet, no historical, social or demographic factor indicates that Hungary would have a significant non-reported stateless population and the existing figures (e.g. census) are not expected to differ massively from the actual size of the population. Improved focus and data collection methods at the following national census, or targeted demographic mapping (focusing also on persons at risk of statelessness) could fill the current information gap.	
POP	1	g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Govt also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above	The UNHCR Population Statistics website reports 144 persons under UNHCR's statelessness mandate in Hungary for 2018.	UNHCR Population Statistics website: http://popstats.unhcr.org/en/persons_of_concern Official data provided by the 'National Directorate-General for Alien Policing' and the UNHCR Regional Representation for Central Europe
POP	2	a	Stateless in detention data	Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.	As above and see also norms in Detention section.	The Police collect and hold data on detention, but it is not clear how this is disaggregated, and it is not published.	Hungarian Helsinki Committee

Statelessness Population Data – 2019

POP	2	b		Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	As above	
-----	---	---	--	--	----------	----------	--

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	UN Convention Relating to the Status of Stateless Persons, 1954 : Articles 1(1) & 1(2).	Yes. Article 1 (1): Both Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 that promulgates the 1954 Convention and Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.357086 include an erroneous translation of the “stateless person” definition, similarly to numerous other language versions around the world. While the authentic definition includes “...under the operation of its law” (“...sous l’application de sa loi” in French), the Hungarian translations include only “...based on its law” (“...saját joga alapján” – Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681) and “...according to its law” (“...saját joga szerint” – Act II of 2007: http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.357086). Missing out the term “operation” is a fundamental difference that alters the meaning of the definition in Hungarian, as compared to the authentic drafting languages of English and French. Article 1 (2) is properly translated and included in Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 sets forth an additional	Act II of 2002: http://njt.hu/cgi_bin/njt_doc.cgi?docid=63950.227681 (HU) Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.357086 (HU)

						<p>exclusion ground (not included in the 1954 Convention), when stipulating that a claim for stateless status shall be rejected if “[...] the applicant renounced her/his nationality on purpose, with the intention to obtain stateless status”. According to the Act’s official justification by the Minister of Justice and Law Enforcement, this provision was based on Recommendation No. R (99) 18 of the Committee of Ministers of the Council of Europe on the avoidance and reduction of statelessness. However, this reference can only be based on a misunderstanding or mistranslation, as the document in question does not set forth any recommendation that would support the problematic provision. There is no information about the actual use of this provision, and no such cases have become known to the Hungarian Helsinki Committee. An amendment that entered into force on 1 January 2019 introduced an additional exclusion clause from stateless status to Section 78 (1) of Act II of 2007. The new provision orders automatic exclusion from stateless status, if the applicant's 'stay violates or endangers the national security of Hungary'. This second additional exclusion provision is also at odds with the 1954 Convention, which includes an exhaustive list of exclusion clauses.</p>	
--	--	--	--	--	--	---	--

SDS	1	b	Existence of a dedicated SDP	<p>Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated.</p> <p>1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a).</p> <p>2. There is no dedicated SDP but there are other administrative procedures through which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures) (proceed to Question 10a).</p>	<p>UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.</p> <p>UNHCR (2016): Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.</p>	#1 – There is a dedicated statelessness determination procedure (SDP) established in law.	
-----	---	---	------------------------------	---	--	---	--

Statelessness Determination and Status – 2019

				<p>3. There is a dedicated Stateless Status but no formal procedure for determining this (proceed to Question 16a).</p> <p>4. None of the above. Are there other possibilities for stateless people to regularise their stay without their statelessness being determined (proceed to Question 17a)?</p>			
SDS	2	a	Access to procedure	<p>Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.</p>	<p>UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise. UNHCR (2016): It is important that examiners develop expertise while ensuring that the procedures are accessible.</p>	<p>The ‘National Directorate-General for Alien Policing’ (formerly the ‘Immigration and Asylum Office’) is the competent authority. Seven regional directorates are in charge (not the asylum branch of the same office). This lack of centralisation makes it difficult to accumulate significant practical experience, given the low number of cases.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 76 (1) (HU)</p> <p>Hungarian Helsinki Committee</p>
SDS	2	b		<p>Are there clear, accessible instructions on how to make a claim of statelessness?</p>	<p>UNHCR (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p>	<p>A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement. In the latter case, the authority has to prepare a written record of the statement. There</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 76 (1)-(2) (HU)</p>

					<p>UNHCR (2016): Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	<p>are no further formal requirements concerning the form of the application and there is no specific guidance on how to “recognise” claims for stateless status. This regulation is identical to that in force with regard to asylum applications in Hungary and is considered an important procedural guarantee.</p>	<p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939, Section 159 (1) (HU)</p>
SDS	2	c		<p>Can submissions be made orally and/or in writing in any language?</p>	<p>ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement. Applicants are entitled to submit their claim orally, and Section 159 (3) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals stipulates that “If the claim is submitted orally and the applicant does not speak Hungarian, the regional directorate [of the immigration authority] provides an interpreter who speaks the mother tongue of the applicant or another language understood by her/him. The authority may refrain from providing an interpreter, if the proceeding officer speaks the applicant’s mother tongue or another language understood by her/him, and if the applicant gives her/his consent to this in writing.” There is no information about the actual use in practice of this important legal safeguard.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 76 (1)-(2) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939, Section 159 (1)& (3) (HU)</p>
SDS	2	d		<p>Must a specific application form be used? Please note any difficulties with forms or other inflexible</p>	<p>ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>No. A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement. In the latter case, the authority has to prepare a written record of the statement. There</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 76 (1)-(2) (HU)</p>

				documentation requirements.		are no further formal requirements concerning the form of the application.	Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939 , Section 159 (1) (HU)
SDS	2	e		Are competent authorities authorised to initiate SDPs <i>ex officio</i> ?	UNHCR (2016) : It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i> . UNHCR (2014) : Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.	No. However, Government Decree 114/2007. (V. 24.) stipulates that “If the possibility that a third-country national is stateless arises in any of the procedures under the scope of this Act, the immigration policing authority shall inform the person concerned about the possibility of submitting a request for stateless status, the related proceedings, as well as the rights and obligations attached to stateless status. The foreigner shall be asked to sign a record that she/he has received this information.” This provision constitutes an important procedural guarantee, as it foresees an active role for immigration authorities in promoting access to protection for stateless persons. However, there is hardly any information about the practical use of this rule. It is difficult to imagine a widespread use of this procedural guarantee without concentrated efforts to furnish immigration and asylum officers with relevant training on statelessness.	Section 160 (1) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939 (HU)
SDS	2	f		Are there obligations in law on authorities to consider the application?	UNHCR (2016) : Access to the SDP must be guaranteed.	Yes. Since Constitutional Court Resolution 6/2015 (II.25.) the ‘National Directorate-General for Alien Policing’ can no longer refuse to admit statelessness claims	Constitutional Court Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of

						submitted by persons without lawful residence status.	Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof: http://www.refworld.org/cases,HUN_CC,5542301a4.html
SDS	2	g		Is there an application fee?	UNHCR (2016) : Access to the SDP must be guaranteed.	No. The submission of a claim for stateless status is free of charge.	Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://nit.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939 , Section 159 (1) (HU)
SDS	2	h		Is there a lawful stay requirement to access the SDP?	UNHCR (2016) : Access to the procedure needs to be open to anyone regardless of lawful stay or residence. ENS (2013) : There is no basis in the 1954 Convention for requiring lawful stay.	No. Since Constitutional Court Resolution 6/2015 (11.25.), the ‘National Directorate-General for Alien Policing’ can no longer refuse to admit statelessness claims submitted by persons without lawful residence status. The judgment concluded that the previous lawful stay requirement was not merely a procedural rule (as argued by the immigration authority), but a material one that modifies the definition of a stateless person in Article 1(1) of the 1954 Convention, to which no reservations or modifications are allowed, and thus it unduly narrowed the personal scope of the Convention. In the Court’s view, this conclusion is further supported by the fact that under the Convention certain rights are to be accorded only to stateless persons with lawful residence status, while other rights to all of them, and this distinction indicates that the drafters did not see a general need for a lawful stay condition. The Court therefore	Constitutional Court Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof: http://www.refworld.org/cases,HUN_CC,5542301a4.html , para. 23 & 27 See more analysis of this judgement on the blog: https://www.statelessness.eu/blog/hungarian-constitutional-court-declares-lawful-stay-requirement-statelessness-determination of the European Network on Statelessness.

Statelessness Determination and Status – 2019

						agreed with the petitioner first-instance court and the third-party interveners (the Hungarian Helsinki Committee and the UNHCR) and quashed the lawful stay requirement.	
SDS	2	i		Is there a time limit on access to the SDP?	<p>UNHCR (2016): Access to the SDP must be guaranteed and not subject to time limits.</p> <p>ENS (2013): There is no basis in the 1954 Convention to set time limits for individuals to claim stateless status.</p>	No.	
SDS	2	j		Is there training to inform different government bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom/how often?)	<p>UNHCR Executive Committee (2006): Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.</p>	No.	
SDS	2	k		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	<p>UNHCR (2016): Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.</p>	No information available. Hungarian law does not regulate such cross-referrals or forms of cooperation, not even between the asylum and immigration policing branch of the 'National Directorate-General for Alien Policing'. Yet, the fact that the statelessness determination and the asylum authority are parts (even if distinct parts) of the same authority may allow for better communication between them, as compared to separate authorities. Birth registration and statelessness determination are completely separate processes (conducted by different authorities), with	Hungarian Helsinki Committee

						no reported connections or cross-referrals.	
SDS	3	a	Assessment	Who has the burden of proof in the SDP in law and practice?	<p>UNHCR (2014): The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts).</p> <p>UNHCR (2016): SDPs must take into consideration the difficulties inherent in proving statelessness.</p> <p>UNHCR Expert Meeting (2010): Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence.</p> <p>Hoti v. Croatia ECtHR (2018): State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.</p>	<p>In principle, the burden of proof lies with the applicant (the applicant has the duty to “prove or substantiate” her/his statelessness). Government Decree 114/2007 (V. 24) obliges the applicant to attach to the application all documents that may facilitate the stateless status determination process. At the same time, Act II of 2007 stipulates that the immigration policing authority provides administrative assistance in the establishment of facts through Hungarian diplomatic representations, if the applicant so requests. In addition, general rules regulating administrative procedures state that the immigration authority has in the statelessness determination process the obligation to conduct an “evidentiary procedure”, if the information at its disposal is insufficient for decision-making. In this process, it can consider any evidence that is suitable to establish the facts and circumstances of the case. Considering all these rules, it can be summarised that the burden of proof principally lies on the applicant, but in practice, the authority shall also actively contribute to the establishment of facts. The experience of the Hungarian Helsinki Committee confirms the de facto sharing of the duty to obtain evidence in practice.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 79 (1)- (2) (HU)</p> <p>Act CL of 2016 on the Code of General Administrative Procedure: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=199170.348607, Section 62 (1)-(2) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939, Section 160 (3) (HU)</p>
SDS	3	b		What is the standard of proof? Is it the same as in	UNHCR (2014) : States are advised to adopt the same standard of proof as	Act II of 2007 on the entry and stay of third-country nationals sets a lower standard of proof in statelessness	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc

				<p>refugee status determination procedures?</p>	<p>in refugee status determination ('reasonable degree'). Inter-Parliamentary Union (2018) The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence. Hoti v. Croatia ECtHR (2018): If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p>	<p>determination, by stipulating that "In the statelessness determination procedure, the applicant shall prove or substantiate her/his statelessness [...]". The term "substantiate" (valószínűsít) was copied from the similar Hungarian provision referring to asylum procedures, and it reflects the UNHCR terminology describing the applicable standard in refugee status determination. By doing so, the law-maker explicitly acknowledged the practical difficulty of establishing statelessness and the protection-oriented objective of the procedure.</p>	<p>id=108621.357086, Section 79 (1) (HU)</p>
SDS	3	c		<p>What measures are in place to guarantee substantive equality for women, children and other groups (e.g. disabled people, older people, LGBTQI people, etc.) at risk of discrimination in the SDP?</p>	<p>UNHCR (2014): Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of the best interests of the child. Gen. Rec. 32, CEDAW: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women.</p>	<p>The law allows for the oral submission of statelessness claims, which constitutes a safeguard for illiterate persons. In such cases, the authority has to prepare a written record of the claim, which needs to be signed by the applicant. Government Decree 114/207 explicitly exempts illiterate applicants from this obligation; in these cases, the authority shall prepare an official record of the fact that the applicant is unable to sign the claim. It also stipulates that appointed case guardians shall proceed instead of unaccompanied minor applicants; and that persons of limited legal capacity (such as children) may participate independently in the statelessness determination procedure. The Hungarian Helsinki Committee has no information about the practical implementation of</p>	<p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939, Sections 159 (2), 163 (1) and 163 (2) (HU)</p>

						these safeguards and has not received any complaint related thereto.	
SDS	3	d		Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	<p>Yes, Hungarian legislation offers a positive model of setting detailed procedural and evidentiary rules regarding statelessness determination in legislation. Act II of 2007 stipulates that: “In the statelessness determination procedure, the applicant shall prove or substantiate her/his statelessness in particular with regard to</p> <ul style="list-style-type: none"> · the country where she/he was born; · the country of her/his former place of stay or residence; · the country of nationality of her/his family members and parents.” <p>Based on the experience of the Hungarian Helsinki Committee, this provision constitutes useful guidance for decision-makers and it is generally applied. In all cases known to the HHC, the states of interest were determined according to the above rule and thus limited to two or three countries. Government Decree 114/2007 specifies that the proceeding authority shall take its decision with regard to the information concerning the nationality regulation and registers of the states in question (see above), considering in particular:</p> <ul style="list-style-type: none"> · the opinion of the UNHCR; · the information provided by Hungarian diplomatic representations abroad (that the authority shall contact upon request of the applicant); · the information provided by foreign state authorities; and 	<p>Section 79 (1) of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 (HU)</p> <p>Hungarian Helsinki Committee</p> <p>Section 164 (1) of Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939 (HU)</p>

Statelessness Determination and Status – 2019

						· the evidence submitted by the applicant.	
SDS	4	a	Procedural safeguards	Is free legal aid available during the procedure?	<p>UNHCR (2014): Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p>ENS (2013): If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.</p>	<p>Yes. The authority has the duty to ensure the applicant’s access to legal assistance. Applicants for stateless status are entitled to state-funded legal aid, without the examination of their financial situation (based on the simple declaration of the person concerned that she/he is in need of this form of support). There is no information about whether applicants for stateless status use this opportunity in practice. At the same time, the specifically trained lawyers of the Hungarian Helsinki Committee offer professional free-of-charge legal assistance and representation in statelessness determination procedures, with the financial support of UNHCR. The applicant’s authorised representative is entitled to be present at the interviews and shall be informed about the time of the interview five days in advance. According to the experience of the Hungarian Helsinki Committee, the representative is permitted to make comments or ask questions during the interviews.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 77 (3) (HU)</p> <p>Act LXXX of 2003 on Legal Aid: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=75608.348532, Section 5 (2) (d) (HU)</p> <p>Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939, Section 163 (3) (HU)</p> <p>Hungarian Helsinki Committee</p>
SDS	4	b		Is an interview always offered (unless granting without interview)?	<p>UNHCR (2014): The right to an individual interview [is] essential.</p>	<p>Yes, the interview is mandatory in all cases.</p>	<p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Section 77 (1) (HU)</p>

Statelessness Determination and Status – 2019

SDS	4	c		Is free interpreting offered for statelessness determination interviews?	<p>UNHCR (2014): The right to assistance with interpretation/translation [is] essential.</p> <p>ENS (2013): Assistance should be available for translation and interpretation.</p>	Yes, the applicant has the right to use their mother tongue or another language they understand in the procedure, and the proceeding authority provides the interpreter. In addition, the proceeding authorities can accept foreign-language documents submitted by the applicant in support of their claim without a certified translation and an apostil.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 77 (2) (HU) Government Decree 114/2007. (V. 24.) on the execution of Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=111296.347939 , Section 164 (2) (HU)
SDS	4	d		Are there quality assurance audits of the SDP?	<p>UNHCR (2016): Quality assurance audits of SDPs are considered good practice.</p>	Yes. Hungary was the first country in the world to introduce a quality monitoring mechanism for statelessness determination procedures, in cooperation with (and upon the incentive of) UNHCR. Annual activities include joint quality audit of a sample of decisions by a UNHCR expert and a senior focal point by the immigration authority, as well as a yearly information provision day with the participation of immigration policing officers involved in deciding statelessness claims.	Hungarian Helsinki Committee
SDS	4	e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	<p>UNHCR (2014): States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.</p>	Annual activities include joint quality audit of a sample of decisions by a UNHCR expert and a senior focal point by the immigration authority, as well as a yearly information provision day with the participation of immigration policing officers involved in deciding statelessness claims.	Hungarian Helsinki Committee

Statelessness Determination and Status – 2019

SDS	4	f		Are decisions (refusals and grants) given in writing with reasons?	UNHCR (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Yes, based on the general rules of administrative procedures.	Act CL of 2016 on the general rules of administrative procedures: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=199170.348607 , Section 81 (1) (HU)
SDS	4	g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	UNHCR (2014) : It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months.	The authority shall take a decision within 60 days (Section 50 (2) (c)), as a general rule for administrative procedures (note that until 2015, the same timeframe applied but based on a specific rule for statelessness determination procedures). The immigration authority can suspend the procedure if it needs to contact a foreign authority (Section 48 (1) (b)), and the time during which the procedure is suspended is not included in the calculation of the time limit (Section 50 (5) (a)). This means that, in principle, the statelessness determination procedure can be prolonged legally for several months or even years, if the 'National Directorate-General for Alien Policing' is waiting for responses by foreign authorities.	Act CL of 2016 on the general rules of administrative procedures: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=199170.348607 , Sections 48 (1) (b), 50 (2) (c) and 50 (5) (a) (HU)
SDS	4	h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	UNHCR (2016) : Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants. ENS (2013) : Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.	No.	

SDS	5	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for stateless status is assessed or is there a risk of expulsion?	<p>UNHCR (2014): An individual awaiting a decision is entitled, at a minimum, to all rights based on presence in the territory as well as ‘lawfully in’ rights (including identity papers, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that individuals receive the same treatment as asylum-seekers.</p> <p>ENS (2013): States should refrain from expelling or removing an individual pending the outcome of the determination process.</p>	Act II of 2007 explicitly stipulates that the immigration authority shall issue the applicant for stateless status a temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) for the duration of the statelessness determination procedure, unless the applicant already has any other type of valid residence entitlement. The maximum validity is 6 months and can be renewed for maximum 6-month periods (Section 30 (2) (d)). In practice, the immigration authority does not issue this permit to those in an expulsion procedure and immigration detention. The HHC in 2017 assisted the case of a stateless man who applied for stateless status while in immigration detention and who was kept in immigration detention while his case was processed, and later, he was even deported to Lebanon before a final decision was reached in his statelessness determination procedure.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 30 (1) (i) and 30 (2) (d) (HU) Hungarian Helsinki Committee
SDS	5	b		Do applicants for stateless status have permission to work and access to assistance to meet their basic needs?	<p>UNHCR (2014): Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.</p>	No. The temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) does not entitle its holder to engage in gainful employment in Hungary. There are no specific provisions in place for applicants for stateless status regarding assistance to meet their basic needs.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 20 (4) (HU)
SDS	5	c		Do applicants for stateless status face a risk of detention?	<p>UNHCR (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Detention is a measure of last resort</p>	Yes. While the law explicitly stipulates that the immigration authority shall issue the applicant for stateless status a temporary residence certificate	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086

					and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.	(<i>ideiglenes tartózkodásra jogosító igazolás</i>) for the duration of the statelessness determination procedure, the submission of a claim for stateless status is not perceived as an automatic ground for release from immigration detention. For instance, the HHC in 2017 assisted the case of a stateless man who applied for stateless status while in immigration detention and who was kept in immigration detention while his case was processed (and later even deported to Lebanon).	id=108621.357086 , Section 30 (1) (i) (HU) Hungarian Helsinki Committee
SDS	6	a	Appeals	Is there an automatic right of appeal?	UNHCR (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	Yes. The applicant has 15 days to submit a motion for judicial review. The Budapest Administrative and Labour Law Court (<i>Budapesti Közigazgatási és Munkaügyi Bíróság</i>) has exclusive competence in these cases and has 90 days to decide. The Court can (but is not obliged to) order the personal hearing of the applicant. The Court can grant stateless status itself, can quash the administrative decision and return the case to the administrative authority and can reject the motion and confirm the administrative rejection. Further appeal is possible (unlike in asylum cases), before the Budapest Regional Court (<i>Fővárosi Törvényszék</i>), and at 3 rd instance before the Supreme Court (<i>Kúria</i>).	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 80 (2)-(3) (HU)
SDS	6	b		Is legal aid available for appeals?	UNHCR (2014) : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means.	Yes. The applicant has the right to legal assistance during the entire procedure.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 77 (3) (HU)

Statelessness Determination and Status – 2019

					ENS (2013) : Applicants should have access to legal counsel both at first instance and on appeal.		
SDS	6	c		Is there a fee for the appeal application?	UNHCR (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard.	The law explicitly stipulates that the statelessness determination procedure, including its judicial review phase, is free of charge for the applicant.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 80 (4) (HU)
SDS	6	d		Is there any evidence of significant errors in decision-making?		The main shortcoming of the Hungarian statelessness-specific protection regime, namely the requirement of lawful stay, was eliminated by the Constitutional Court in 2015. Since then, there are no systemic errors in decision-making. To prevent and later challenge occasional errors, the HHC provides legal representation to applicants for stateless status. For example, between 1 January 2017 and 30 June 2018, the HHC provided legal representation in the administrative phase of statelessness determination in 15 cases, and in the judicial review phase in 4 cases. Crucial debates in such cases are centred on evidence assessment and the interpretation of the stateless person definition.	Constitutional Court Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof: http://www.refworld.org/cases,HUN_CC,5542301a4.html Hungarian Helsinki Committee
SDS	7	a	Stateless status	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements.	UNHCR (2014) : The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.	Yes. Stateless persons recognised as such receive a humanitarian residence permit (<i>humanitárius tartózkodási engedély</i>). There are no additional requirements.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 29 (2) (a)-(b) (HU)

Statelessness Determination and Status – 2019

SDS	7	b		How long is initial status granted for and is it renewable?	UNHCR (2014) : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	Upon first issuance, the residence permit has a maximum validity of three years. After expiry, it can only be renewed for one-year periods. There is no reasonable explanation for this restrictive rule.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 29 (2) (a)-(b) (HU)
SDS	7	c		Is a travel document issued to people recognised as stateless?	UN Convention Relating to the Status of Stateless Persons, 1954 , Article 28.	Yes.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 83-86 (HU)
SDS	7	d		Do people recognised as stateless have a right to family reunification?	UNHCR (2014) : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised stateless status in their territory with their spouses and dependents.	Recognised stateless persons, as holders of a humanitarian residence permit, are entitled to family reunification under the general rules stipulated by Act II of 2007. These strict rules require the family to demonstrate sufficient livelihood, accommodation and health insurance in Hungary, as well as proof of the family link. Family members are also required to lawfully reside in the country where they submit their claim for family reunification (a condition the HHC considers in breach of relevant EU rules). No preferential rules are in place for recognised stateless persons.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 19 (HU)
SDS	7	e		On what grounds (if any) may residence status granted to stateless people be revoked?	UNHCR (2014) : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954 Convention. This may justify the cancellation of a residence permit on the basis of statelessness, although	According to the law, stateless status shall be revoked if: a) the stateless person re-acquired their previously lost nationality; b) the stateless person acquired a new nationality; c) the stateless person was granted stateless status despite exclusion grounds	Act II of 2007: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 76-81 (HU)

					<p>proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account.</p>	<p>being applicable that time or if exclusion grounds are applicable against them [at the moment];</p> <p>d) the conditions for recognising the person’s statelessness were not met at the time of recognition;</p> <p>e) the stateless person, during the statelessness determination procedure, omitted a material fact or facts, or made false declarations regarding a material fact or facts, or used forged documents, provided that this influenced the merits of statelessness determination.</p> <p>The same general evidentiary and procedural rules apply to the revocation procedure as to statelessness determination and the procedural deadline for the ‘National Directorate-General for Alien Policing’ is 45 days.</p>	
SDS	7	f		Do people granted stateless status have permission to work?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 17</p> <p>UNHCR (2014): The right to work must accompany a residence permit.</p>	<p>Yes. However, stateless status ensures only limited access to the labour market, as stateless persons need to obtain a work permit (<i>munkavállalási engedély</i>) prior to their employment. A work permit can only be issued for stateless persons, if the employer had already announced her/his need for workers and if no suitable, already registered job-seeker (Hungarian or EEA-national, refugee, beneficiary of subsidiary protection, permanent resident third-country national or other third-country national previously in employment for over six months in Hungary) has applied for the same post. Far from being a mere technical formality, this limitation may render access to</p>	<p>Government Decree 445/2013. (XI. 28.): http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=165186.348052, Section 3 (1)-(3) (HU)</p> <p>Act IV of 1991 on the promotion of employment and unemployment benefits: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=14929.357061 (HU)</p>

						employment particularly burdensome, considering the limited validity of the humanitarian residence permit and the usual procedural delays and difficulties in obtaining a work permit. The HHC has been advocating for a decade for the elimination of this limitation, which – considering the minuscule number of persons granted stateless status per year – would not have any measurable impact on the labour market.	
SDS	7	g		Do people granted stateless status have access to primary, secondary, and higher education?	UN Convention Relating to the Status of Stateless Persons, 1954: Article 22	Yes. Children holding a residence permit in Hungary are entitled to state-funded pre-school care (kindergarten) and public primary and secondary education similarly to Hungarian nationals. Recognised stateless persons have a right to enrol in state-funded, partly state-funded or self-financed higher education studies, similarly to Hungarian nationals.	Act CXC of 2011 on national public education: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=139880.293987 , Section 92 (1) (c) (HU) Act CCIV of 2011 on national higher education: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=142941.357426 , Section 39 (1) (b) (HU)
SDS	7	h		Do people granted stateless status have access to social security and healthcare?	UN Convention Relating to the Status of Stateless Persons, 1954: Articles 23 & 24 UNHCR (2014) : The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.	Entitlement to social security services (including healthcare) is usually linked to gainful employment or other lucrative or productive activities (employees, private entrepreneurs, corporate entrepreneurs, members of cooperatives, persons following professional education based on an “education contract”, church personnel, etc.). Acquiring stateless status does not, therefore, create an entitlement to social security, unless the stateless person can also fulfil one of these conditions (e.g. is employed). A stateless person staying in Hungary without any such entitlement can benefit from basic	Act LXXX of 1997 on Social Security Services, the Entitlement to Private Pension and the Funding of These Services: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=30360.357075 , Section 5 (1)(HU) Act CLIV of 1997 on Health: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=30903.348207 , Section 142 (2)-(3) (HU)

						<p>public healthcare services (similarly to any person residing on Hungarian territory). However, the scope of these services is limited and covers only:</p> <ul style="list-style-type: none"> · Vaccinations, epidemic examinations, mandatory medical examinations, quarantine, transportation of persons suffering from a contagious disease; · Ambulance services if the person needs immediate help; · Healthcare services in emergency cases and afterwards until the stabilisation of the patient’s conditions; · Healthcare services in case of a disaster. <p>Some other public healthcare services (such as pre-natal and maternity care) are only available to those who already have a domicile (<i>lakóhely</i>) in Hungary. However, persons with stateless status are not allowed to establish a domicile (only several – minimum three – years after the recognition of their status, when and if they acquire a permanent residence permit).</p>	
SDS	8	a	Access to nationality	In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32</p> <p>UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons</p>	<p>The 1993 Nationality Act sets forth a variety of conditions for naturalisation, as well as different categories entitled to preferential treatment. For several years, three categories existed, which all required the applicant to have a domicile, livelihood, accommodation and no criminal record in Hungary, as well as to successfully pass a “basic constitutional studies” examination in Hungarian. The</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19290.348713, Section 4 (HU)</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary: https://www.helsinki.hu/wp-</p>

					lawfully and habitually resident on its territory. ENS (2013) : The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.	difference between the standard and the two types of preferential naturalisation was the mandatory waiting time before an application could be lodged: 8, 5 and 3 years, respectively. Preferential treatment was motivated both by international obligations (e.g. vis-à-vis refugees) or ethno-cultural preferences. Stateless persons are integrated into the most preferential category with regard to the mandatory minimum domiciled residence requirement before naturalisation (3 years). However, persons with stateless status are not allowed to establish a domicile (only several – minimum 3 – years after the recognition of their status, when and if they acquire a permanent residence permit); therefore, this favourable condition has limited impact in their case.	content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf , Hungarian Helsinki Committee, 2015 Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19290.348713 , Sections 4 (2) (e) and 23 (1) (HU) Act LXVI of 1992 on the registration of nationals' personal data and residence: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=17345.359173 , Section 4 (1) (HU)
SDS	8	b		Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe.	Council of Europe Committee of Ministers (1999) : States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.	An applicant for naturalisation must have no criminal record according to Hungarian law, and there shall be no pending criminal proceedings against her/him before a Hungarian court. In addition, naturalisation of the applicant shall not violate Hungary's national or public security.	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19290.348713 , Section 4 (b) and (d) (HU)
SDS	8	c		Are there exemptions for stateless people from any nationality or integration test,	UN Convention Relating to the Status of Stateless Persons, 1954 : Article 32 UNHCR (2016) : It is recommended that States Parties facilitate, as far as	Aside from the timeframe to become eligible for naturalisation, in all other aspects, recognised stateless persons are required to fulfil similar conditions than any other applicant for standard	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19290.348713 , Sections 4 (1) (e) and 4/A (HU)

				<p>language, income or fee requirements? Please describe the requirements and cost of the procedure for stateless people.</p>	<p>possible, the naturalisation of stateless persons. Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p>	<p>naturalisation. As exemplified by the HHC’s 2015 research, Hungary does not effectively fulfil its international obligation to reduce as far as possible the charges and costs associated with the naturalisation of refugees and stateless persons, who are required to pay high fees for passing a mandatory “basic constitutional studies” examination and for presenting an official certified translation of various documents. Exemptions from the constitutional exam are available for those who have fully or partially limited legal capacity; have graduated from a school or university where the language of education is Hungarian; are over 60 years old; or prove that due to a permanent and irreversible deterioration of their health conditions they are unable to pass the examination. The examination encompasses various fields of knowledge, from political-administrative structure to history and literature. The basic constitutional studies examination has a mandatory fee of 50% of the gross monthly minimum salary, the exact sum of which is determined by a government decree on a yearly basis. This may represent a significant financial burden for many, as exemplified by the HHC’s research in 2015 (in which year the fee amounted to nearly one third of the average monthly net salary in Hungary).</p>	<p>Government decree 125/1993. (IX. 22.) on the implementation of Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=19653.336437, Section 13 (6) (HU)</p> <p>Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary: https://www.helsinki.hu/wp-content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf, Hungarian Helsinki Committee, 2015, pp. 15-18</p>
--	--	--	--	---	---	---	--

Detention

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law? Please provide the legal source(s).	<p>ICCPR Article 9(1) ECHR Article 5 (1)</p>	<p>Yes. The Fundamental Law of Hungary (Constitution) stipulates that “In the Republic of Hungary everyone has the right to liberty and personal security, and no one may be deprived of freedom except for reasons defined in the law and on the basis of legal proceedings.”</p> <p>Act II of 2007 includes two types of “immigration detention”:</p> <p>1) Detention in order to conduct an immigration policing procedure (“detention in preparation of expulsion”), Section 55 (1): “The immigration authority may order the detention in preparation of expulsion (return) of the third-country national in order to secure the conclusion of the immigration proceedings pending, if their identity or the legal grounds of their residence is not clarified, or if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.</p> <p>(2) Detention in preparation of expulsion shall be ordered by way of a formal resolution, and shall be carried out when communicated.</p> <p>(3) Detention in preparation of expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction by reference to the place of detention until the third-country national’s identity or the legal grounds of their residence is clarified, or for maximum thirty days.</p>	<p>The Fundamental Law of Hungary: http://www.njt.hu/translated/doc/TheFundamentalLawofHungary_20180629_FIN.pdf, Article IV (1)</p> <p>Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086, Sections 55(1) & 54 (1) (HU)</p>

						<p>2) Detention in order to enable the implementation of a return (expulsion) decision by way of removal, Section 54 (1):“In order to secure the removal of a third-country national the immigration authority may take into detention under immigration law the person in question if:</p> <p>a) they are hiding from the authorities or is obstructing the enforcement of removal in some other way;</p> <p>b) they have refused to leave the country, or it may be assumed on other substantiated reasons, that the person delays or frustrates the implementation of removal, or there is a risk of absconding of the third-country national;</p> <p>c) they have seriously or repeatedly violated the code of conduct of the assigned place of stay;</p> <p>d) they have failed to appear before the authority as ordered despite of a call to do so, and so hinders the immigration proceeding; or</p> <p>e) they are released from imprisonment as sentenced for a deliberate crime.”</p>	
DET	1	b	Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	ECHR Article 5(1)(f)	No, see the two grounds for detention above, both are in line with Article 5 (1) (f) of the ECHR.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 55(1) & 54(1) (HU)	

Detention – 2019

DET	1	c		Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.	<p>ICCPR Article 7: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment.</p> <p>Aaad v Bulgaria ECtHR (2011): The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <p>EU Returns Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	No, under “detention in preparation of expulsion” the expulsion decision is not yet issued; therefore the proposed country of removal does not yet have to be clearly established.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 55(1) (HU)
DET	1	d		Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p>Aaad v Bulgaria ECtHR (2011) Mikolenko v. Estonia ECtHR (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence.</p> <p>UNHCR (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.</p> <p>Equal Rights Trust (2012): States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights.</p> <p>International Commission of Jurists (2014): The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	No explicit domestic legal norm stipulates that statelessness is a juridically relevant fact in decisions related to immigration detention. The HHC is not aware of any case where this principle would have been raised in immigration detention-related decisions of the immigration authority or a court in charge of the judicial review of immigration detention.	Hungarian Helsinki Committee
DET	1	e		Are stateless people detained in practice?		There are no publicly available statistics about the immigration detention of stateless persons. Hungary resorts to immigration detention as a frequent and regular practice. According to the official	Statistics available on the website: http://bevandorlas.hu/index.php?option=com_k2&view=item&layout=item&id=177&Itemid=1232&lang=hu of

						statistics published by the immigration authority, immigration detention was ordered in the cases of 1280 foreigners in 2014; 1545 in 2015; 1073 in 2016; and 455 in 2017. These figures do not include the massive detention of asylum-seekers, for whom Hungary applies a different detention regime. According to information provided by the National Police Headquarters at HHC's specific request, 2 stateless persons and 14 persons of unknown nationality were held in immigration detention in 2017 (out of the total of 766 immigration detainees that year).	the 'National Directorate-General for Alien Policing' Statistics shared by the National Police Headquarters under HHC's freedom of information request, January 2018
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	UNHCR (2014) : Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. EU Returns Directive : Article 15(1)	Yes, the law stipulates that before ordering immigration detention, the authority shall consider if less coercive measures (confiscating the passport or designating a compulsory place of residence) may also secure removal and provides that families with minors shall only be detained as a measure of last resort and for not more than 30 days, where the best interests of the child shall be a primary consideration.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 54(2) & 56(3) (HU)
DET	1	g		Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a	ENS (2015) : Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Returns Directive : Article 16(3) EU Returns Handbook (2017) : Attention should be paid to the specific situation of stateless persons.	Act II of 2007 does not explicitly provide an obligation to assess vulnerabilities before ordering detention. However, it stipulates that the Immigration authority shall have powers to order the stay in a designated place (as an alternative to immigration detention), if the third-country national should be placed under immigration detention, but detention would result in a disproportionate	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 62(g) (HU)

				<p>factor increasing vulnerability.</p>	<p>Council of the European Union (2013): European entities should assess the situation of LGBTI persons in detention.</p>	<p>detriment taking into account the state of health and age of the person concerned.</p> <p>UNHCR in its 2012 country report wrote: “Hungary imposes prolonged periods of administrative detention upon asylum-seekers without providing avenues to effectively challenge the detention once ordered or considering alternatives to detention. Judicial review of administrative detention of asylum-seekers is ineffective in Hungary in many instances, as courts fail to address the lawfulness of detention in individual cases, or to provide individualized reasoning based upon the specific facts and circumstances of the applicant. Administrative decisions imposing detention on foreigners for unlawful entry or stay are subject to review conducted by first instance courts. Such reviews are conducted mostly by criminal law judges in a manner normally applied in criminal cases. It is common practice for the court to issue decisions for a group of five, 10, or 15 detainees within 30 minutes, thus significantly decreasing the likelihood of a fair and individualized review.”</p> <p>Until July 2013 immigration detention was massively applied against asylum-seekers. In July 2013, a specific detention regime was introduced for asylum-seekers (“asylum detention”), hence the scarcity of up-to-date reports focusing specifically</p>	<p>UNHCR, Hungary as a Country of Asylum: http://www.refworld.org/pdfid/4f9167db2.pdf, April 2012</p> <p>Briefing paper: http://helsinki.hu/wp-content/uploads/HHC_briefing-paper_UNWGAD_8_Oct_2013.pdf of the Hungarian Helsinki Committee for the Working Group on Arbitrary Detention UN Commission of Human Rights, 8 October 2013</p>
--	--	--	--	---	---	--	---

					<p>on immigration (and not asylum) detention since then.</p> <p>An expert group of the Hungarian Supreme Court (<i>Kúria</i>) carried out an in-depth analysis of the judicial review of immigration detention. In its summary report, it formulated severe criticism, concluding that the judicial review was ineffective, for a number of reasons, including the ineffectiveness/mere formality of the case guardian’s role (who should represent the detainee), the overburdening of proceeding judges and a misinterpretation of the grounds for detention resulting in an automatic approval of the immigration authority’s motion for continued detention. The summary report mentions that out of 5325 decisions in 2011, the court decided to discontinue immigration detention (and reject the motion of the immigration authority) in no more than 3 (!) cases. The judicial expert group formulated numerous concrete recommendations to remedy these systemic deficiencies, most of which have not been implemented to date.</p> <p>According to the HHC’s experience, decisions ordering or prolonging immigration detention only cite the relevant provision from the law, i.e. the grounds for detention, but do not provide any concrete justification of why the detention of a particular person meets the</p>	<p>Summary Opinion: http://www.lb.hu/sites/default/files/joggyak/idegenrendeszeti_osszefoglalo_velemen_y_kuria.pdf by the Immigration Policing Expert Working Group of the Kúria (Supreme Court), 23 September 2013, p.36 & p.39 (HU)</p> <p>Hungarian Helsinki Committee</p>
--	--	--	--	--	--	---

						legal grounds for detention. Detention orders are generic in nature and fail to properly consider alternatives to detention or take into account individual special circumstances. Statelessness is not defined as a vulnerability, neither by law, nor by practice.	
DET	2	a	Alternatives to immigration detention	Are alternatives to detention established in law and considered prior to any decision to detain?	<p>ICCPR Article 9 FKAG v Australia HRC (2013): Any decision relating to detention must consider less invasive means of achieving the same ends. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. UNHCR (2014): Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient. Human Rights Council (2012) : The obligation to always consider alternatives before resorting to detention should be established by law. EU Returns Directive: Article 15(1) Equal Rights Trust (2012): States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive. International Detention Coalition (2015) : Immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>	<p>Yes, alternatives to immigration detention are provided for in law: seizing the travel document, the return ticket or financial resources of the person and ordering a designated place of stay. The immigration authority shall have powers to order the stay in a designated place (as an alternative to immigration detention), if the third-country national in question should be placed under immigration detention, but detention would result in a disproportionate detriment taking into account the state of health and age of the person concerned. Note that the “disproportionate detriment” test seems a stricter (less favourable) standard than the “least invasive/coercive measure” standard in international guidance.</p> <p>Statistics published by the immigration authority demonstrate that ordering a designated stay is applied in practice as an alternative; in 2017, for instance, in 388 cases.</p> <p>The law does not foresee any proportionality test while applying the alternatives and no time limit is defined by law.</p>	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 48(2), 50(2), 62 & 63 (HU)

DET	2	b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	Yes, according to the HHC’s experience, the detention order only cites the relevant provision from the law, i.e. the grounds for detention in detention orders, but does not provide any concrete justification of why the detention of a particular person meets the legal grounds for detention. Detention orders are generic in nature and never consider alternatives to detention or take into account individual special circumstances.	Hungarian Helsinki Committee
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p>UN Human Rights Council (2010) : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p>UNHCR (2012) : To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p>EU Returns Directive: Article 15(5)</p> <p>Equal Rights Trust (2012) : Detention should always be for the shortest time possible.</p>	Detention in preparation for expulsion: maximum 30 days (S.55(3)). Detention to enable implementation of a return (expulsion) decision: 30 days for families with children (S.56(3)) and 12 months in other cases (S.54 (6)).	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 55(3), 54(6) & 56(3) (HU)
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p>UN General Assembly (1988) : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p>EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p>Equal Rights Trust (2012) : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p>	No such provision can be found in the law. In practice, detainees receive the detention order in Hungarian. Note that since the unilateral cessation by the police of its cooperation agreement with HHC in 2017, it has become impossible to conduct human rights-focused monitoring visits to immigration detention, resulting in lack of up-to-date information about daily practices.	Hungarian Helsinki Committee

Detention – 2019

					International Commission of Jurists (2014) : The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.		
DET	3	c	Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	Equal Rights Trust (2012) : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.	While not regulated by clear legal provisions, the HHC’s experience from the field indicates that immigration detainees receive written information about their rights and obligations, which is translated to them, but the exact modalities of this process, or whether the information is sufficiently complete or accessible for the detainees is unknown. No specific information is provided to detainees about the possibility of requesting stateless status.		Hungarian Helsinki Committee
DET	3	d	Are there regular periodic reviews of detention before a court or independent body, which can order release?	Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Equal Rights Trust (ERT) (2012) : To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.	Yes, there is an automatic court review procedure, performed at 60-day intervals in case the immigration authority requests prolongation of detention. Within 24 hours of ordering detention the immigration authority shall request the court for an extension, which decision shall be taken by the court within 72 hours from the start of the detention. After that, the court may extend the detention for a maximum duration of 60 days.		Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.357086 , Section 58 (HU)
DET	3	e	What remedies are available to challenge detention? Please	ICCPR Article 9(4) ECHR: Article 5(4) Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to	Hungarian law does not foresee any appeal against the ordering or prolongation of immigration detention – in fact appeal against the ordering of		Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.357086

				any obstacles to accessing effective remedies in practice.	guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Alimuradov v. Russia ECtHR (2019) : The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.	detention is explicitly excluded by (S.57(2)). The detainee may submit a so-called “complaint” (<i>kifogás</i>) but only with regard to certain rights related to immigration detention in S.60-61 Act II 2007 (access to information, right to practice one’s religion, treatment of minors, detention conditions, etc.), not the detention itself.	id=108621.357086 , Section 57(2) & Sections 60-61 (HU)
DET	3	f		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.	There are no specific rules in Hungarian law. The HHC has no information about specific state policy or practice in this respect.	
DET	3	g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	UNHCR (2014) : Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. EU Returns Directive : Article 13(3)	According to the law, the court shall appoint a representative ad litem (‘case guardian’) for any third-country national or his/her family member who does not understand the Hungarian language and is unable to contract the services of a legal representative. The representative ad litem is payed for by the court, but the activity of such representatives has been subject to serious criticism. The Summary Opinion of the Immigration Policing Expert Working Group of the Kúria (Supreme Court) concluded in 2013 that one court failed to appoint representatives ad litem and others regularly failed to note representatives’ contact and share case documentation	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Section 59 (4) (HU) Summary Opinion: http://www.lb.hu/sites/default/files/joggyak/idegenrendeszeti_osszefoglo_velemenye_kuria.pdf by the Immigration Policing Expert Working Group of the Kúria (Supreme Court),

						<p>(including motions requesting prolongation of detention to which the representative should react before the court). Rules on representatives' fee and obligation to be present at court hearings were not clear, and very often representatives were not present when detention was prolonged. The HHC reported in 2011, based on a monitoring visit to the Kiskunhalas District Court, detention prolongation court "hearings" were conducted in groups of 5-10 (detainees were grouped according to nationality), without any individualisation. Representatives ad litem present at the "hearings" did not even know their clients' names. According to the HHC's long-standing experience, state-appointed representatives ad litem usually do not object to the prolongation of detention, do not provide individualised arguments to challenge detention and thus fail to fulfil the role of a legal representative responsible for representing the rights and interests of their client. Their role is usually symbolic, lacking any actual impact on the outcome of the process. The Hungarian Helsinki Committee has been providing free-of-charge, high-quality legal assistance for immigration detainees for decades, with the support of UNHCR. Until the summer of 2017, a specific cooperation agreement with the police allowed HHC attorneys to pay regular visits to detention, ensuring direct and proactive outreach to the target</p>	<p>23 September 2013 (in particular pp. 41-45) (HU)</p> <p>Report: https://helsinki.hu/wp-content/uploads/Kiskunhalasi-latogatas-2011december13_FINAL_honlapra.pdf on HHC's monitoring visit to the Kiskunhalas immigration detention centre on 13 December 2011 (HU)</p> <p>Report: https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf on the termination of cooperation agreements with the Hungarian Helsinki Committee</p>
--	--	--	--	--	--	--	---

						group. Since the unilateral termination of this cooperation agreement, the HHC has more limited access to immigration detainees, who now explicitly need to request a specific HHC attorney as their legal representative for them to gain access to a detained client. Despite growing difficulties, the HHC still managed to represent 11 immigration detainees in the first six months of 2018.	
DET	4	a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 27</p> <p>UNHCR (2014) : Being undocumented cannot be used as a general justification for detention.</p> <p>ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	By law, persons released from immigration detention are issued a so-called temporary residence certificate (<i>ideiglenes tartózkodásra jogosító igazolás</i>) for a maximum of three months (six months if the authority also ordered a compulsory place of stay). The immigration authority may order a compulsory place of stay if the maximum time limit for immigration detention is over, but the grounds for ordering detention are still valid. Private accommodation (if conditions are met) can be ordered as well as state-run community shelters, reception centres and transit zones. There are no specific rules concerning statelessness determination or referral to such procedures upon release from immigration detention.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 30(1)(h) & (j), 30(2)(a) & (d) and 62(1)(d) (HU)
DET	4	b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are	Saïd Shamilovich Kadzoev v Direksia Migratsia' pri Ministerstvo na vatreshnite raboti ECJ (2009) : After the maximum period of detention has expired, the person must be released immediately. A lack of valid	By law, the immigration authority may revoke an expulsion order and ban on entry ex officio, if the expulsion could not be carried out for 12 months, “by no fault” of the person concerned. In such cases, the person is provided with a	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 29(1)(a) & (2)(f) & 47(10) (HU)

				provided to them in law?	documentation or inability to support themselves should not be a deterrent to release. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	renewable humanitarian residence permit valid for one year, provided that they: <ul style="list-style-type: none"> · Cooperated with the immigration authority in the execution of the detention order; · Kept the “rules of behaviour” (e.g. while detained) and fulfilled their obligations to periodically report to the immigration authority (if relevant); and · Has a clear criminal record and is not under any criminal procedure. The HHC has no information about the actual application of this provision in practice. If the immigration authority does not revoke the expulsion order, the person will receive a temporary residence certificate upon release from immigration detention (see previous question for details).	
DET	4	c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	Equal Rights Trust (2012) : When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	Following the release of a person from immigration detention after the maximum time limit (12 months) has expired, immigration detention can only be ordered again if the immigration authority passes a new expulsion order, based on new facts. In this case, the previous immigration detention will not be considered when calculating the maximum time of detention. Time spent in “detention in preparation of expulsion” (maximum 30 days) will be included in the maximum time limit (12 months) of immigration detention, while the time spent in “asylum detention” (specific detention regime for asylum-seekers for maximum 6 months), will not be included.	Act II of 2007 on the entry and stay of third-country nationals: http://njt.hu/cgi_bin/njt_doc.cgi?doc_id=108621.357086 , Sections 54(7) & 56(4) (HU)

Detention – 2019

DET	5	a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	No information available. Note that Hungary is party to and applies EU joint readmission agreements.	EU joint readmission agreements: https://ec.europa.eu/home-affairs/what-we-do/policies/irregular-migration-return-policy/return-readmission_en
DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		Yes, in 2017, the HHC provided legal assistance to a stateless man of Lebanese descent, who was born and had lived in another EU country, who was officially admitted to Lebanon despite his unquestioned lack of Lebanese nationality and despite the fact that his statelessness determination procedure was still pending in Hungary.	Hungarian Helsinki Committee

Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? [If yes, continue to PRS1b. If no, proceed to PRS1h]	<p>UN Convention on the Reduction of Statelessness, 1961: Article 1</p> <p>European Convention on Nationality, 1997: Article 2</p> <p>Convention on the Rights of the Child 1989: Article 7</p> <p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</p> <p>European Parliament (2018): The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>	<p>Yes, but with incomplete safeguards.</p> <p>OPTION A – Automatic (ex lege), at birth, limited scope. Under S.3(3) Act LV 1993 on Hungarian nationality, until the contrary is proven, children born in Hungary, whose both parents are stateless and have a domicile in Hungary; and the children of unknown parents found in Hungary ('foundlings') are considered Hungarian nationals.</p> <p>OPTION B – Non-automatic (upon application), non-discretionary, later, general scope. Under S.5/A (1)(b) & (1a) Act LV 1993 on Hungarian nationality, a child born in Hungary who does not obtain the nationality of either parent at birth is entitled to later become a Hungarian national by declaration (<i>nyilatkozat</i>). The recognition of Hungarian nationality is non-discretionary, provided the child's parents had a domicile in Hungary at the time of birth and the child has been residing in Hungary (with a domicile) for at least 5 years. This option is open until the child's 19th birthday.</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Sections 3(3), 5/A(1)(a) & (b)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html, Hungarian Helsinki Committee, January 2014</p>
PRS	1	b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p>UNHCR (2012): The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.</p> <p>ENS (2015): The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The</p>	<p>OPTION A above is automatic, OPTION B is non-automatic.</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html</p>

					optimal method is to grant nationality automatically at birth.		0640b4.html , Hungarian Helsinki Committee, January 2014
PRS	1	c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<p>UNHCR (2012): The test is not an inquiry into whether a child’s parents are stateless.</p> <p>ENS (2015): Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.</p>	<p>OPTION A – Yes. For a stateless child born in Hungary (who is not a foundling), to be automatically considered a Hungarian national, both parents shall be stateless and both of them shall have a domicile in Hungary. Note that domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (befogadott) status, as well as all third-country nationals without a permanent (long-term) resident status cannot establish a domicile in Hungary.</p> <p>OPTION B – No.</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html, Hungarian Helsinki Committee, January 2014</p>
PRS	1	d		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	<p>UNHCR (2012): A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State’s nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.</p>	<p>There is no such condition specifically mentioned in Hungarian law.</p>	

PRS	1	e	Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	<p>UN Convention on the Reduction of Statelessness, 1961: Article 1(2)</p> <p>UNHCR (2012): States may stipulate that an otherwise stateless individual born in its territory fulfils a period of ‘habitual residence’ (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all.</p> <p>Convention on the Rights of the Child, 1989: Articles 3 & 7</p> <p>Committee on the Rights of the Child (2015): Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions.</p> <p>European Convention on Nationality, 1997: Article 6(2)(b)</p>	<p>OPTION A – No (automatic acquisition at birth, subject to different restrictive conditions).</p> <p>OPTION B – Yes. Minimum 5 years of lawful residence with a domicile. Note that domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (<i>befogadott</i>) status, as well as all third-country nationals without a permanent (long-term) resident status cannot establish a domicile in Hungary.</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html, Hungarian Helsinki Committee, January 2014</p>
PRS	1	f	Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	<p>Committee on the Rights of the Child (2011): The outcome of an application by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State.</p> <p>ENS (2015): Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.</p>	<p>OPTION A – Yes. For a stateless child born in Hungary (who is not a foundling), to be automatically considered a Hungarian national, both parents shall be stateless and both shall have a domicile in Hungary. Domicile is a specific and privileged legal status in Hungary (and not a matter of fact), and recognised stateless persons, beneficiaries of a tolerated (<i>befogadott</i>) status, as well as all third-country nationals without a permanent (long-term) resident status cannot establish a domicile in Hungary. Refugees, beneficiaries of subsidiary protection, EU nationals and third-country nationals holding a permanent (long-term)</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Sections 3(3), 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html, Hungarian Helsinki Committee, January 2014</p>

						<p>residence permit do establish a domicile. In both cases, the parents shall be lawfully residing in Hungary for the safeguard to apply. If the stateless child's parents hold a status that includes domicile (e.g. they are refugees), there will be no minimum residence time requirement for the parents for the safeguard to apply. If the stateless child's parents hold a status that excludes establishing a domicile (e.g. they are recognised stateless persons), the safeguard will only apply if the parents have already obtained permanent residence permit (which they can apply for after 3 years of residence in a discretionary procedure), and thus the right to establish a domicile.</p> <p>OPTION B – Yes. In this case, the minimum 5 years of lawful residence with a domicile applies to the child, not the parents.</p>	
PRS	1	g		<p>What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?</p>	<p>UN Convention on the Reduction of Statelessness, 1961: Article 1(2) UNHCR (2012): Contracting States need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21. ENS (2015): Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.</p>	<p>OPTION A – not relevant.</p> <p>OPTION B – The (restrictive) option of acquiring Hungarian nationality through declaration is open until the child's 19th birthday which only allows one year for this option after reaching the age of majority.</p>	<p>Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713, Section 5/A (1a) & (1)(b) (HU)</p> <p>Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html, Hungarian Helsinki Committee, January 2014</p>

PRS	1	h		Are there specific provisions to protect the right to a nationality of children born to refugees?	UNHCR (2012) : Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.	No.	
PRS	2	a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	UN Convention on the Reduction of Statelessness, 1961 : Article 2 European Convention on Nationality, 1997 : Article 6(1)(b)	Under S.3(3) of the Act on Hungarian Nationality, until the contrary is proven, children of unknown parents found in Hungary ('foundlings') are automatically considered Hungarian nationals (OPTION A). Since 2011, children born to an unknown father and a known mother – whose identity is not proven and who abandons the child in the hospital after birth – are also treated as foundlings and thus automatically acquire Hungarian nationality.	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 3(3)(b) (HU) Act I of 2010 on Civil Registration Procedures: http://njt.hu/cgi_bin/njt_doc.cgi?docid=129886.346948 , Section 61(5) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html , Hungarian Helsinki Committee, January 2014
PRS	2	b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling	UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	The term 'foundling' reads as 'found child born to unknown parents' (<i>ismeretlen szülőktől származó talált gyermek</i>) in Hungarian law. Since the word 'child' is part of this term, and in the absence of any other restriction, there are no legal	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 3 (3) (b) (HU)

				would qualify for nationality?		grounds for this to apply to any age subgroup among children (defined in law as under 18). This interpretation was confirmed by an official letter sent by the competent ministry to UNHCR. At the same time, there is no information about the practical application of this provision.	Letter No. 437-3068/2/2013 of 7 December 2013, Ministry of Public Administration & Justice to UNHCR Regional Representation for Central Europe Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html , Hungarian Helsinki Committee, January 2014
PRS	2	c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	Yes. The law specifies 'until the contrary is proven'. There are no particular rules regulating such a situation, nor is there any information about actual cases.	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 3(3)(b) (HU)
PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	UN Convention on the Reduction of Statelessness, 1961 : Article 5 ENS (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No.	
PRS	3	b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	European Convention on Nationality, 1997 : Article 6(4)(d) Committee on the Rights of the Child (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Foreign or stateless children adopted by a Hungarian national do not automatically obtain Hungarian nationality but can apply after 3 years of residence. There are no specific age limits (but adoption is only possible before reaching the age of majority).	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 4(2)© (HU)

PRS	4	a	ius sanguinis	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless?	UN Convention on the Reduction of Statelessness, 1961 : Article 4 UNHCR (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	Children born to at least one Hungarian parent (regardless of the place of birth, the sex of the parent and whether the child was born in or out of wedlock) become Hungarian nationals automatically at birth.	The Fundamental Law of Hungary: http://www.kormany.hu/download/e/02/00000/The New Fundamental Law of Hungary.pdf, 25 April 2011, Section G(1)
PRS	4	b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	Genovese v. Malta ECtHR (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW Gen. rec. No. 32, 2014 : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR (2014) : Action 4	No.	The Fundamental Law of Hungary: http://www.kormany.hu/download/e/02/00000/The New Fundamental Law of Hungary.pdf, 25 April 2011, Section G(1)
PRS	5	a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	Convention on the Rights of the Child, 1989 : Article 7 International Covenant on Civil and Political Rights, 1966 : Article 24(2) Council of Europe (2009) : Member states should register the birth of all children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown.	Yes. All children born in Hungary shall be registered at birth (the law does not include any additional condition related to the parents' legal status). The fact of birth shall be announced within one day of the delivery to the civil registry authority by the head of the hospital where the birth took place; or the specifically trained medical person assisting the birth, if it took place outside a hospital.	Act I of 2010 on Civil Registration Procedures: http://njt.hu/cgi_bin/njt_doc.cgi?docid=129886.346948 , Section 1(3)(a) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/531

					<p>UNHCR (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents.</p> <p>UNHCR (2014): Action 7</p> <p>UN Sustainable Development Goal 16.9</p>		<p>0640b4.html, Hungarian Helsinki Committee, January 2014</p>
PRS	5	b	Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p>UN Human Rights Council, Resolution A/HRC/RES/20/4: Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members.</p> <p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.</p>	Yes.		
PRS	5	c	Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a	<p>Convention on the Rights of the Child, 1989: Articles 3 & 7</p>	The civil registration authority shall examine the child's nationality at birth. If the child's nationality or statelessness is not proven, 'unknown nationality' shall be noted in the civil registry (and on the birth certificate). In Hungary, birth registration is linked and performed together with the establishment of nationality.	Act I of 2010 on Civil Registration Procedures: http://njt.hu/cgi_bin/njt_doc.cgi?docid=129886.346948 , Section 16 (HU)	

				formal procedure, if information on both parents is recorded etc.)			
PRS	5	d		If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority.	Convention on the Rights of the Child, 1989: Articles 3 & 7	No. Hungarian law does not appoint any authority to determine ex officio the nationality of children registered as of unknown nationality at birth. This results in a worrying gap when parents are not able to obtain an official proof of nationality for the child by contacting the competent consular authorities (as in the case of refugees). The Hungarian Helsinki Committee has observed several cases in which children born in Hungary to refugee parents and registered as of unknown nationality, remained registered as of unknown nationality for several years, or even permanently. This practice disregards the child's best interest and is at odds with all children's right to acquire a nationality.	Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html , Hungarian Helsinki Committee, January 2014
PRS	5	e		Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.	No. Note that the latest available UNICEF and World Bank data reports 100% birth registration rate for Hungary.	United Nations Children's Fund, Every Child's Birth Right: Inequities and trends in birth registration, UNICEF, New York, 2013 https://data.unicef.org/resources/every-childs-birth-right-inequities-and-trends-in-birth-registration/ World Bank data on completeness of birth registration: https://data.worldbank.org/indicator/SP.REG.BRTH.ZS?end=2016&name_desc=false&start=2016&view=map

PRS	5	f		Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)?	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status.	There are no specific rules in law.	
PRS	5	g		Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. UN Human Rights Council, Resolution A/HRC/RES/20/4 : Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	The law does not contain statutory deadlines. The birth shall be announced within one day of the delivery to the civil registry authority by the head of the hospital where the birth took place; or the specifically trained medical person assisting the birth, if it took place outside a hospital. The overwhelming majority of children are born in hospital and Hungary has a 100% birth registration rate, therefore the issue of late birth registration has never been raised as a challenge in public discourse and no research has been conducted on this issue.	World Bank data on completeness of birth registration: https://data.worldbank.org/indicator/SP.REG.BRTH.ZS?end=2016&name_desc=false&start=2016&view=map United Nations Children’s Fund, Every Child’s Birth Right: Inequities and trends in birth registration, UNICEF, New York, 2013 https://data.unicef.org/resources/every-childs-birth-right-inequities-and-trends-in-birth-registration/
PRS	5	h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the	As above	No information available.	

				procedure including the competent authority and procedural deadlines.			
PRS	6	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR (2014): Action 7	No information available.	
PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of statelessness? Please provide details and source of information.	UN Convention on the Reduction of Statelessness, 1961: Article 9 UNHCR (2014): Action 4 UN Human Rights Council (2019): States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	No specific ethnic, religious, etc. minorities have ever been reported to be at a specific risk of statelessness in Hungary. Research by the Hungarian Helsinki Committee in 2014 identified three particular groups of concern: Children born in Hungary to stateless persons with no domicile; children born to parents who are unable to pass on their nationality to their children (e.g. because of jus soli or sex discrimination); children born to beneficiaries of international protection who are unable to pass on their nationality to their children because this would require contact with the authorities of the country of origin. Such children are either born stateless or at risk of statelessness in Hungary.	Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html , Hungarian Helsinki Committee, January 2014
PRS	6	c		Has the Government implemented any other measures	UN Convention on the Reduction of Statelessness, 1961 UNHCR (2014): Actions 1 & 8	In 2010, the Parliamentary Commissioner for Civil Rights and the Hungarian Helsinki Committee criticised practice relating to children born in a hospital to an unknown	Act I of 2010 on Civil Registration Procedures: http://njt.hu/cgi_bin/njt_doc.cgi?do

				specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	UNHCR (2015) : States parties to the 1954 Convention are required to help stateless persons become naturalised nationals.	father and known foreign mother whose identity and nationality are not officially established, and who abandons the child shortly after birth. Previously, these children were not considered foundlings and did not obtain Hungarian nationality at birth. The mother's identity and nationality were often registered in the hospital registry without verification. The children were often treated as being of unknown nationality and so faced exclusion from services and risked being adopted or "repatriated" to the mother's country of nationality when established, sometimes only years later. Following strong criticism and several mediated cases, a new provision was introduced in law in 2011 to consider the child in such cases a foundling if the mother abandons the child and does not prove her identity within 30 days of birth.	cid=129886.346948 , Section 61(5) (HU) Gábor Gyulai, Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary: https://www.refworld.org/docid/5310640b4.html , Hungarian Helsinki Committee, January 2014
PRS	7	a	Withdrawal of nationality	Are there provisions on loss and/or deprivation of nationality established in law? Please describe and state whether there is a safeguard against statelessness in law and practice.	UN Convention on the Reduction of Statelessness, 1961 : Article 8 European Convention on Nationality, 1997 : Article 7(3) Universal Declaration of Human Rights : Article 15(2)	The only legal ground for depriving a Hungarian national of their nationality is if it was acquired based on fraud, "in particular by misleading the authority by communicating false data or omitting data or facts". Hungarian nationality cannot be withdrawn after 10 years from the date it was awarded. No specific statelessness-related safeguards exist.	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 9 (HU)

PRS	7	b		Who is the competent authority for withdrawal of nationality and what procedural safeguards are in place (legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?	UN Convention on the Reduction of Statelessness, 1961: Article 8(4) European Convention on Nationality, 1997: Article 11	On 1 January 2017, the Budapest Regional Government Office became the competent authority on nationality-related matters (replacing the Office of Immigration and Nationality). Formally, decisions are made by the President, however, as demonstrated by the HHC in 2015, this is a mere formality (at least in naturalisation cases). The law stipulates the right to judicial review in case of deprivation. No other specific safeguards are set by law.	Act LV of 1993 on Hungarian nationality: http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.348713 , Section 9 (HU) Gábor Gyulai, The Black Box of Nationality. The Naturalisation of Refugees and Stateless Persons in Hungary: https://www.helsinki.hu/wp-content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf , Hungarian Helsinki Committee, 2015, p. 20
PRS	7	c		Are withdrawal provisions applied in practice?		No information is available on the application of these provisions.	

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
LIT	1	a	Published judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		There are no published judgments adjudicating statelessness in Hungary, nor are there disaggregated statistics about court practices.	
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		There are no published judgments referring to statelessness in Hungary, except for the landmark Constitutional Court judgement in 2015.	Constitutional Court, Resolution 6/2015 (II.25.) of the Constitutional Court on the determination whether the term “lawfully” in Section 76(1) of Act II of 2007 on the conditions of Entry and Stay of Third-Country Nationals is contrary to the Fundamental Act and the annulment thereof: http://www.refworld.org/cases,HUN_CC,5542301a4.html
LIT	2	a	Legal training	Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR (2016) : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels. UNHCR (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	There is no training for judges. Gábor Gyulai, Refugee Programme director at the Hungarian Helsinki Committee and president of the European Network on Statelessness has provided statelessness-specific training to lawyers and other employees of the HHC on several occasions, in addition to ad hoc training activities in past years to statelessness determination officers, UNHCR staff, other NGO staff and participants of various training courses on social work	Hungarian Helsinki Committee Menedék Association for Migrants: http://www.menedek.hu/en

							with migrants organised by the Menedék Association for Migrants.	
LIT	3	a	Pro Bono	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	UNHCR (2014) : Applicants must have access to legal counsel.		The Hungarian Helsinki Committee (HHC), as the sole legally focused UNHCR implementing partner in the country since 1998, is the only entity providing professional free-of-charge legal assistance and representation to applicants for stateless status, and stateless persons applying for naturalisation. Besides the HHC, no law firms or lawyers offer specialised and/or free-of-charge services. The Menedék Association for Migrants is the expert NGO specialised in offering social assistance and integration support to refugees and migrants in Hungary, including applicants for stateless status and recognised stateless persons	Hungarian Helsinki Committee: http://www.helsinki.hu/en Menedék Association for Migrants: http://www.menedek.hu/en
LIT	4	a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).			Yes.	Gábor Gyulai, The Black Box of Nationality – The Naturalisation of Refugees and Stateless Persons in Hungary: http://www.refworld.org/docid/5792070a4.html , Hungarian Helsinki Committee, 2016 Gábor Gyulai, Nationality Unknown – An overview of the safeguards and gaps related to the prevention of statelessness at birth in Hungary: https://helsinki.hu/wp-content/uploads/Nationality-

						<p>Unknown.pdf, Hungarian Helsinki Committee, 2014</p> <p>Gábor Gyulai, Statelessness in Hungary – The Protection of Stateless Persons and the Prevention and Reduction of Statelessness: https://helsinki.hu/wp-content/uploads/Statelessness in Hungary 2010.pdf, Hungarian Helsinki Committee, December 2010</p> <p>Gábor Gyulai, Practices in Hungary Concerning the Granting of Non-EU-Harmonised Protection Statuses: https://helsinki.hu/wp-content/uploads/Non-EU-Harmonised-Protection-Statuses-Hungary-final_1.pdf, European Migration Network, August 2009</p> <p>Gábor Gyulai, Forgotten without Reason – Protection of Non-Refugee Stateless Persons in Central Europe: http://helsinki.webdialog.hu/dokumentum/Statelessness_CentralEu.pdf, Hungarian Helsinki Committee, 2007</p> <p>Aranka Lőrincz, A hontalan státusz megállapítása iránti eljárás nemzetközi és magyar aspektusai, in: <i>Közjogi Szemle</i>, 2014/4. Tamás Molnár, A hontalanok helyzete a nemzetközi jogban, illetve</p>
--	--	--	--	--	--	---

						<p>a magyar jogban.: http://www.uni-corvinus.hu/index.php?id=24294&no_cache=1&tx_efcointranet_pi1%5Bfo_menu%5D=publikaciok&tx_efcointranet_pi1%5Bcusman%5D=mtamas1&tx_efcointranet_pi1%5Bprint%5D=1</p> <p>in: Lékó Zoltán (ed.), A migrációs jog kézikönyve, CompLex, Budapest, 2009, pp. 329-358 (HU)</p> <p>Examples of other literature on statelessness by Hungarian authors:</p> <p>Katalin Berényi, : https://akk.uni-nke.hu/document/akk-uni-nke-hu/Statelessness_PhD_dissertation_Katalin_Berenyi_20180312.pdf, doctoral thesis, Nemzeti Közszerológati Egyetem (National University of Public Service), Budapest, 2018</p> <p>Katalin Berényi, : http://www.institutesi.org/WP2016_05.pdf, Statelessness Working Paper Series No. 2016/05, Institute on Statelessness and Inclusion</p> <p>Katalin Berényi: Non-citizenship in the EU: Irrelevant, a driving force for displacement or a pretext for intervention?: http://culturalrelations.org/Review/CRQR_05_01/CRQR_05_01.pdf, in:</p>
--	--	--	--	--	--	---

						<p>Cultural Relations Quarterly Review, Volume 5, Issue 1, Budapest, 2018</p> <p>Mónika Ganczer, The Right to a Nationality as a Human Right?: http://real.mtak.hu/24919/1/9789462365032_hfdst02.pdf, In: Petra Lea Láncoş, Réka Varga, Tamás Molnár, Marcel Szabó (eds.), Hungarian Yearbook of International Law and European Law 2014, the Hague, Eleven International Publishing, 2015. pp. 15-33.</p> <p>Mónika Ganczer, Államutódlás során létrejövı hontalanság elleni védelem az állampolgársági tárgyú nemzetközi szerzıdésekbın, in: Acta Humana, 21/1-2., 2010, pp. 3-29</p> <p>Gábor Gyulai, The Right to a Nationality of Refugee Children Born in the EU and the Relevance of the EU Charter of Fundamental Rights: https://www.ecre.org/wp-content/uploads/2016/12/refugee-children-nationality-LEAP-leaflet.pdf, European Council on Refugees and Exiles, February 2017</p> <p>Gábor Gyulai, The Long-Overlooked Mystery of Refugee Children’s Nationality: http://www.institutesi.org/worldssta</p>
--	--	--	--	--	--	---

						<p>teless17.pdf, in: Laura van Waas, Amal de Chickera (eds.), <i>The World’s Stateless Children</i>, Institute on Statelessness and Inclusion, January 2017</p> <p>Gábor Gyulai, <i>The Determination of Statelessness and the Establishment of a Statelessness-Specific Protection Regime</i>: http://books.google.hu/books?id=rhkBAAAQBAJ&pg=PA38&dq=Laura+van+Waas,+Alice+Edwards+%28eds.%29,+Nationality+and+Statelessness+under+International+Law,+Cambridge+University+Press&hl=hu&sa=X&ei=81hzVNWULsn5ywO6sIKwDQ&ved=0CQAQ6AEwAA, in: Laura van Waas, Alice Edwards (eds.), <i>Nationality and Statelessness under International Law</i>, Cambridge University Press, United Kingdom, 2014</p> <p>Gábor Gyulai, <i>Statelessness Determination and the Protection Status of Stateless Persons</i> : http://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness determination and the protection status of stateless persons ENG.pdf– A summary guide of good practices and factors to consider when designing national determination and</p>
--	--	--	--	--	--	---

						<p>protection mechanisms, European Network on Statelessness, 2013</p> <p>Gábor Gyulai, Statelessness in the EU Framework for International Protection: http://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Gyulai_Statelessness_in_the_EU_Framework_for_International_Protection_2012.pdf, European Journal of Migration and Law 14 (2012), Martinus Nijhoff Publishers, Netherlands</p> <p>Gábor Gyulai, La apatridia: significado, magnitudes y alcances de la protección: http://www.uasb.edu.ec/UserFiles/369/File/PDF/CentrodeReferencia/Temasdeanalis2/apatridiaydh/articulos/gyulai.pdf, in: Aportes Andinos, 29 (2011), Universidad Andina Simón Bolívar, Ecuador</p> <p>Gábor Gyulai, Remember the Forgotten, Protect the Unprotected: http://www.fmreview.org/FMRpdfs/FMR32/48-49.pdf, in Forced Migration Review, Issue 32 (special issue on statelessness), April 2009, pp. 48–49.</p>
--	--	--	--	--	--	---

						<p>Aranka Lőrincz, Hontalanság és a mozgásszabadság határai: http://www.pecshor.hu/periodika/XI/V/lorincza.pdf, in: Tanulmányok a Változó Rendészet Aktuális Kihívásai című tudományos konferenciáról, XIV. kötet, 2013 (HU)</p> <p>Aranka Lőrincz, A de iure/de facto hontalanság problematikája, in: Acta Humana, 18. évf., 4. szám, 2007</p> <p>Aranka Lőrincz, Az állampolgárságtól való megfosztás mint biztonsági eszköz: http://www.pecshor.hu/periodika/XII/I/lorincz.pdf, in: Pécsi Határőr Tudományos Közlemények XV., Pécs, 2014 (HU)</p> <p>Aranka Lőrincz, Állampolgársága végképp eltörölve? A hontalanság évei Szlovéniában a Kurić és társai ügy apropóján: https://folyoiratok.uni-nke.hu/document/nkeszolgaltato-uni-nke-hu/ActaHumana2014_3_02_LorinczA.pdf, in: Acta Humana, 2014, pp. 19-38 (HU)</p> <p>Tamás Molnár, After 60 Years: The International Legal Regime Protecting Stateless Persons — Stocktaking and New Tendencies, In: Photini</p>
--	--	--	--	--	--	---

						<p>Pazartzis, Maria Gavouneli (eds.), <i>Reconceptualising the Rule of Law in Global Governance, Resources, Investment and Trade</i>, Oxford, Hart Publishing, 2016. pp. 67-87.</p> <p>Tamás Molnár, A fresh examination of facilitated naturalisation as a solution for stateless persons, In: Laura van Waas, Melanie J Khanna (eds.), <i>Solving Statelessness</i>, Nijmegen, Wolf Legal Publishers, 2016. pp. 225-258.</p> <p>Tamás Molnár, Moving Statelessness Forward on the International Agenda: https://www.researchgate.net/publication/273868392_Moving_Statelessness_Forward_on_the_International_Agenda/download, in: <i>Tilburg Law Review</i>, Vol. 19 No. 1-2 (2014)</p> <p>Tamás Molnár, Stateless persons under international law and EU Law: a comparative analysis concerning their legal status, with particular attention to the added value of the EU legal order: http://real.mtak.hu/44538/1/ajur.51.2010.4.4.pdf, in: <i>Acta Juridica Hungarica</i>, 51, No 4, pp. 293–304 (2010)</p>
--	--	--	--	--	--	---

							<p>Tamás Molnár, Remembering the Forgotten: International Legal Regime Protecting the Stateless Persons – Stocktaking and New Tendencies: https://www.peacepalacelibrary.nl/ebooks/files/383162424.pdf, US-China Law Review, 11:(7) pp. 822-848</p>
--	--	--	--	--	--	--	---