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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source33
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	United Nations, Treaty Series, vol. 360, p.117. Convention relating to the Status of Stateless Persons New York, 28 September 1954: http://www.refworld.org/docid/3ae6b3840.html
IOB	1	b		If yes, when was ratification/ accession?		Signature: 20 October 1954 Ratification: 1 February 1962	Italy's ratification of the Convention relating to the Status of Stateless Persons, adopted in New York, on 28 September 1954, Law n. 306 of 1 February 1962: http://www.gazzettaufficiale.it/eli/gu/1962/06/07/142/sg/pdf (IT)
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.	Yes, the provisions of Articles 17 & 18 on wage-earning employment and self-employment, are recognised as recommendations only.	https://treaties.un.org/doc/publicati on/mtdsg/volume%20i/chapter%20v/v-3.en.pdf
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.	Yes. Ratification of international treaties through enactment gives automatic legal effect at national level, even without the adoption of implementing legislation (in the case of the 1954 Convention, there is no comprehensive legislation implementing its provisions).	Arts. 80 & 87 of the Italian Constitution: https://www.quirinale.it/allegati_stati/costituzione/costituzione.pdf (IT)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes.	Accession to the 1961 Convention on the Reduction of Statelessness, approved in New York on August 30 th , 1961 (2802): http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg (IT)

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IOB	2	b		If yes, when was ratification/ accession?		Acceded on 1 Dec 2015.	United Nations, Treaty Series, vol. 989, p. 175. Convention on the Reduction of Statelessness, New York, 30 August 1961: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=en Ratification law of 29 Sept 2015 n° 162, G.U. 12 Oct 2015: http://www.gazzettaufficiale.it/eli/id/2015/10/12/15G00176/sg (IT)
IOB	2	c		Are there reservations in place? Please list them.	As above	No.	
IOB	2	d		Does the Convention have direct effect?	As above	Yes. Italy ratified the 1961 Convention, which means that it has legal effect. In practice, the rules and safeguards provided in the 1961 Convention are incorporated in national legislation through the Nationality Law.	Law n. 91, New norms on nationality of 5 February 1992, as amended by Law 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	Italy has only signed the Convention [06 Nov 1997], not acceded.	European Convention on Nationality: https://www.coe.int/it/web/conventions/full-list/-/conventions/treaty/166/signatures

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IOB	3	b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	Yes. Signature: 04/11/1950 Ratification: 26/10/1955 Entry into force: 26/10/1955 No reservations.	Treaty list for a specific State: Italy: https://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/country/ITA?p_auth=eBKpHUjG
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	No.	Chart of signatures and ratifications of Treaty 200 Council of Europe Convention on the avoidance of statelessness in relation to State succession: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=eBKpHUjG
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.	Law 2 August 2011, n. 129 Conversione in legge, con modificazioni, del decreto-legge 23 giugno 2011, n. 89, recante disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari. Entrata in vigore del provvedimento: 06/08/2011 http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2011-08-

							05&atto.codiceRedazionale=011G0178&elenco30giorni=false (IT)
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. No reservations.	Commissione parlamentare per l'infanzia, Legge 27 maggio 1991, n. 176, Ratifica ed esecuzione della convenzione sui diritti del fanciullo: http://www.camera.it/bicamerale/leg14/infanzia/leggi/Legge%20176%20del%201991.htm (IT) Convention on the Rights of the Child, New York, 20 November 1989: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en Declarations and Reservations: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en
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. Italy entered reservations to Articles 15(1) and 19(3) but these do not impact on statelessness.	Declarations and Reservations: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&lang=en#EndDec
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. No reservations.	International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en

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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. No reservations.	Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en#EndDec
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. No reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en
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. No reservations.	International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1966: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=en#EndDec
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	No.	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, 18 December 1990: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-13&chapter=4&clang=en

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				Please list any relevant reservations.			
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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, there is a category for stateless people in the Government's annual censuses. The most recent data is provided by the Istituto Nazionale di Statistica (ISTAT) dated 1 January 2019.</p> <p>The statistical data from population censuses as of 1 January 2019 counts as many as 822 stateless persons (457 men and 365 women). The number is low because the Italian Government census counts only stateless persons that are officially recognised as stateless and residing in Italy. The data is disaggregated but the annual census on stateless people available shows only sex-disaggregated data for recognised stateless persons. In the Government Census, stateless persons are distinguished by Regions where they have their residence.</p>	<p>ISTAT data on stateless people by sex and region of residence including trends in recent years: https://www.tuttitalia.it/statistiche/cittadini-stranieri/apolidi (IT)</p> <p>Italian National Institute of Statistics: http://dati.istat.it/</p> <p>Istat, Gli stranieri al 15° Censimento della popolazione, 23 dic 2013 (data on foreigners in Italy registered for the 15° population Census): https://www.istat.it/it/files/2013/12/Notadiffusione_stranieri20122013.pdf (IT)</p>
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	As above	<p>Yes, there are other categories that overlap with statelessness. In the portal of the Italian census on the resident population counted per year, the definitions of "foreigner" and "stateless" are in the same check box (section), so it may overlap.</p> <p>See 1c.</p>	<p>Censimento Popolazione Abitazioni 2011 ('local population distinguished by nationality'): http://dati-censimentopopolazione.istat.it/Index.aspx (IT)</p> <p>CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p>

				any available figures.		<p>XVI Legislatura, Senato della Repubblica, Commissione straordinaria per la tutela e la promozione dei diritti umani, Rapporto conclusivo dell'indagine sulla condizione di Rom, Sinti e Caminanti in Italia: http://www.senato.it/documenti/repository/commissioni/dirittiumani16/Rapporto%20conclusivo%20indagine%20rom,%20sinti%20e%20caminanti.pdf (IT)</p> <p>Presidenza del Consiglio dei Ministri, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine étnica, Strategia Nazionale d'inclusione dei Rom, dei Sinti e dei Caminanti, Attuazione Comunicazione Commissione Europea N.173/2011, pp. 14-17: https://www.comune.roma.it/resources/cms/documents/Strategia_italiana_rom.pdf (IT)</p> <p>Council of Europe: Commissioner for Human Rights, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy from 26 to 27 May 2011 , 7 September 2011, CommDH(2011)26: https://www.refworld.org/docid/4ecb8b182.html</p>
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POP	1	c		<p>What is UNHCR’s estimate for the stateless/at risk of statelessness population and what is the source for this estimate?</p>	As above	<p>UNHCR states on its website, “Although statistics on the exact size of the stateless population in Italy are not available; it is estimated that the majority of stateless people living in Italy are of Roma descent, originating from former Yugoslavia. Many have not been recognised as Italian nationals despite living in the country for generations.” The working group on statelessness in Italy, in which UNHCR participates, estimates there to be between 3,000 to 15,000 people stateless or at risk of statelessness in Italy. Most belong to the Roma community originating from former Yugoslavia; the rest come from Tibet, Palestine, Eritrea and Ethiopia.</p>	<p>UNHCR, Italy joins top league of countries reducing statelessness: http://www.unhcr.org/ibelong/italy-joins-top-league-of-countries-reducing-statelessness/</p> <p>Raccomandazioni del tavolo di lavoro sull’apolidia sulla protezione degli apolidi e sulla riduzione dell’apolidia in Italia, ottobre 2017: https://tavoloapolidia.org/app/uploads/2018/12/Advocacy-Paper-Tavolo-Apolidia_def.pdf (IT)</p> <p>Sources listed in recommendations: Associazione 21 luglio ONLUS- Rapporto Annuale 2016, aprile 2017: http://www.21luglio.org/21luglio/wp-content/uploads/2018/04/Rapporto-Annuale-2017_web.pdf (IT)</p> <p>XVI Legislatura, Senato della Repubblica, Commissione straordinaria per la tutela e la promozione dei diritti umani, Rapporto conclusivo dell’indagine</p>

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							<p>sulla condizione di Rom, Sinti e Caminanti in Italia, p. 23: http://www.senato.it/documenti/repository/commissioni/dirittiumani16/Rapporto%20conclusivo%20indagine%20rom,%20sinti%20e%20caminanti.pdf (IT)</p> <p>Report “The impact of statelessness on access to human rights in Italy, Portugal and Spain”, October 2019: https://www.unhcr.it/wp-content/uploads/2019/11/UNHCR_Impact-of-Statelessness-ITPTES_def_web.pdf</p> <p>Link in Italian: https://www.unhcr.it/wp-content/uploads/2019/11/UNHCR_Impatto_apolidia_ITPTES_def_web.pdf</p> <p>UNHCR Global Trends 2018, 19 June 2019: https://www.unhcr.org/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html</p>
POP	1	d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	Yes.	<p>Report “The impact of statelessness on access to human rights in Italy, Portugal and Spain”, October 2019: https://www.unhcr.it/wp-content/uploads/2019/11/UNHCR_Impact-of-Statelessness-ITPTES_def_web.pdf</p> <p>Link in Italian: https://www.unhcr.it/wp-content/uploads/2019/11/UNHCR_Impatto_apolidia_ITPTES_def_web.pdf</p>

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							mpatto apolidia ITPES def web.pdf UNHCR Global Trends 2018, 19 June 2019: https://www.unhcr.org/statistics/unhcrstats/5d08d7ee7/unhcr-global-trends-2018.html
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	The IDOS Study Centre, based on data collected by MIUR (Ministry of Education, University and Research), published figures on stateless students attending Italian schools. The research shows that, in the school year 2017-2018, 354 stateless persons attended Italian schools (58 kindergarten, 179 primary school, 105 secondary school and 12 high school).	Centro Studi e Ricerche IDOS, Dossier Statistico Immigrazione 2019, p. 471 https://www.dossierimmigrazione.it/
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	Issues are mainly related to the difficulty of mapping stateless persons without a residence permit about whom very little information is available. Data on the stateless population is likely underreported and underestimated and there are many contradictions in available data. The Italian census system counts only persons recognised as stateless in a dedicated determination procedure. The actual situation is largely underreported.	Consiglio Italiano per i Rifugiati (CIR) practice
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	As above	There is no official data available on stateless refugees or asylum seekers.	

Statelessness Population Data – 2019

				stateless population (i.e. to avoid under/over-reporting).			
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.	There is no official data available on stateless people in immigration detention (pre-removal centres) in Italy. A report by the National Guarantor states that 4,092 persons have transited through pre-removal detention centres in 2018 and lists the nationalities held by the detainees, none of which refers to statelessness. However, there have been reports of stateless in immigration detention (see DET1e).	Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al parlamento 2019, http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/00059ffe970d21856c9d52871fb31fe7.pdf
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	There is no official data available on stateless people in administrative immigration detention (pre-removal centres) in Italy. Some general data on immigration detention in Italy is reported by the Global Detention Project. Some general data can also be found in the Report to the Parliament by the National Guarantor for the rights of persons detained or deprived of liberty. The statistics published by the National Guarantor that provide the reasons for release from pre-removal detention do not include a category of “un-removability”. Persons released from detention for reasons related with un-removability, in particular stateless persons for whom a country of return could not be identified or effected, may potentially fall within the category "order of the Questore for expiration of the	Global Detention Project, Italy Immigration Detention: https://www.globaldetentionproject.org/countries/europe/italy Global Detention Project, Immigration Detention in Italy: Complicit in Grave Human Rights Abuses? October 2019, https://www.globaldetentionproject.org/italy-complicit-in-grave-human-rights-abuse Garante Nazionale dei diritti delle persone detenute o private della libertà personale, Relazione al parlamento 2019, http://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/00059ffe970d21856c9d52871fb31fe7.pdf (IT)

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						<p>maximum term" (20% of the total releases from pre-removal detention centres). Other categories that may be relevant are "detention not validated by the judicial authority" (23%) and "released for other reasons" (7%).</p>	
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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).	Italy ratified the 1954 Convention in February 1962. National law does not provide a definition of a ‘stateless person’ so the 1954 Convention definition applies.	LEGGE 1 febbraio 1962, n. 306, Ratifica ed esecuzione della Convenzione relativa allo status degli apolidi, adottata a New York il 28 settembre 1954: http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1962-06-07&atto.codiceRedazionale=062U0306&elenco30giorni=false (IT)
SDS	1	b	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a). 2. There is no dedicated SDP but	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. UNHCR (2016) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	#1 - The Italian legal system provides for two paths to the recognition of the status of stateless persons: an administrative procedure and a judicial one.	DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT) DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonche’ per il contrasto dell’immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT) As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per

				<p>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>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>			<p>l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p>
SDS	2	a	Access to procedure	Is the examination of statelessness claims conducted	UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local	In the administrative procedure, the Ministry of the Interior is responsible for the certification of statelessness -	DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della

				<p>by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.</p>	<p>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>applications are processed by the Nationality Office. Since reforms in 2017 (Decree 13/17; Law 46/17), competence for the judicial procedure is now attributed to specialised sections of the Civil Court in the applicant’s place of residence. Both the Ministry of Interior and the Civil Court are the appropriate authorities to process the application, however the level of expertise may vary depending on the judge or official handling the procedure. The administrative procedure is easily accessible to stateless people, as all applicants can present the application personally or send the application to the Ministry of Interior through the Prefecture of the place of residence.</p>	<p>legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell’immigrazione illegale, Art 3(2): http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT)</p> <p>As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l’accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all’immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</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.). UNHCR (2016): Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	<p>With regard to the administrative procedure, the law states the documentation needed to lodge the application (birth certificate, documentation certifying residence in Italy and documentation demonstrating statelessness). The Ministry of Interior provides an application form to submit the claim.</p>	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT).</p> <p>Application Form:</p>

						<p>In the judicial procedure, applicants must be assisted by a lawyer who lodges the application on their behalf.</p> <p>http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/modulo_istanza_apolidia_0.pdf</p> <p>DECRETO LEGISLATIVO 1 settembre 2011, n. 150, Disposizioni complementari al codice di procedura civile in materia di riduzione e semplificazione dei procedimenti civili di cognizione, Art. 19 bis, introduced by the Decree 13/17 as converted into Law 46/17: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2011-09-01;150!vig=</p> <p>Tavolo Apolidia, April 2020: https://tavoloapolidia.org/app/uploads/2020/04/Advocacy-Paper-Tavolo-Apolidia_v2020_def.pdf (IT)</p> <p>Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 14: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf</p>
SDS	2	c		Can submissions be made orally and/or in writing in any language?	<p>ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>There is no provision requiring that the application in the administrative procedure be submitted in any specific language. Practice shows that applicants present their applications in Italian. In the judicial procedure, the appeal must be lodged in Italian and there is no obligation to present evidence in Italian (certified</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Codice di procedura civile, Libro I, Titolo VI, Art. 122: http://www.altalex.com/documents/news/2014/10/29/disposizioni-general-degli-atti-processuali (IT)</p>

						<p>translations). In practice, depending on the language, translation is required to understand the content. Most lawyers prefer to have a certified translation of the documents. In the administrative procedure applications should be made in written form, through the local Prefecture, to the Ministry of Interior. An applicant who wants to claim stateless status at the Police Headquarters, for example, can ask for information orally, but they are then invited to lodge the application with the Prefecture. All judicial procedures require a written application.</p>	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>CIR, IN THE SUN: Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p>
SDS	2	d		<p>Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements.</p>	<p>ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>In the administrative procedure, the application must be submitted in a written format. The Ministry of Interior provides a model application form, but the applicant is not obliged to use it. Moreover, the applicant must provide several documents including a birth certificate, documentation certifying residence in Italy, and either documentation demonstrating statelessness or a declaration from the consulate of the state of origin or former residence certifying they are not a national. The Ministry of Interior may ask for additional documentation and will only determine statelessness based on the documentation provided, so the application may be refused without an</p>	<p>Application Form: http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/modulo_istanza_apolidia_0.pdf</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale,</p>

						<p>interview if the applicant does not provide all the required documentation.</p> <p>In the judicial procedure, the application must be lodged by a lawyer on behalf of the applicant and submitted in the form provided for by the Code of Civil Procedure. The applicant does not need to provide specific documents to access the procedure, but must be assisted by a lawyer throughout the proceedings before the Civil Court. Hearings are scheduled by the Judge taking into consideration the complexity of the case.</p>	<p>nonche' per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 as converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> <p>Art. 702 bis of the Civil Procedural Law: https://www.brocardi.it/codice-di-procedura-civile/libro-quarto/titolo-i/capo-iii/sezione-v/art702bis.html (IT)</p>
SDS	2	e		<p>Are competent authorities authorised to initiate SDPs <i>ex officio</i>?</p>	<p>UNHCR (2016): It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i>.</p> <p>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.</p>	No.	
SDS	2	f		<p>Are there obligations in law on authorities to consider the application?</p>	<p>UNHCR (2016): Access to the SDP must be guaranteed.</p>	<p>As there is a specific procedure in law, the authorities are obliged to consider all applications.</p>	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17:</p>

						http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)
SDS	2	g	Is there an application fee?	<p>UNHCR (2016): Access to the SDP must be guaranteed.</p>	<p>No, there is no fee for submitting an application in the administrative procedure. Applicants can be requested to pay bureaucratic expenses or taxes (e.g. stamps). In the judicial procedure free legal assistance can be obtained by law if the applicant can fulfil specific income requirements (annual income of around EUR 11,000 (amount is modified every year) and no assets.</p> <p>Bianchini reports that ‘a stateless person has the right to receive legal aid if he resides lawfully in the territory of the State. Nevertheless, the majority of the case law also extends this right to persons with unlawful status. In these cases, to access legal aid, the person is exempt from providing a number of documents, such as the Italian Tax Code for himself and his family. The Constitutional Court held that in these cases, it is sufficient that the person states on his application for legal aid his name, last name, place and date of birth and State in which he is normally liable to pay taxes. The main problems concern the availability and quality of legal aid, which vary considerably, depending on the region where an applicant resides.’ If the applicant does not qualify for legal aid, they must pay a fee for the judicial procedure, which is usually EUR 259 for first instance courts.</p>	<p>D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spese-di-giustizia (IT)</p> <p>ASGI, Il patrocinio a spese dello stato nei procedimenti giurisdizionali per l'accertamento della protezione internazionale e/o umanitaria, 2016: https://www.asgi.it/wp-content/uploads/2016/09/2016_DEF-Scheda-ASGI-patrocinio-a-spese-dello-Stato.pdf (IT)</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172</p> <p>Testo unico in materia di spese di giustizia (D.P.R. 115/2002, Art. 13 comma 1 lett. d) e comma 3: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spese-di-giustizia (IT)</p>

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SDS	2	h		Is there a lawful stay requirement to access the SDP?	<p>UNHCR (2016): Access to the procedure needs to be open to anyone regardless of lawful stay or residence.</p> <p>ENS (2013): There is no basis in the 1954 Convention for requiring lawful stay.</p>	Yes, in practice, in the administrative procedure. The law does not require an applicant to demonstrate “lawful” residence in Italy, referring only to “residence”. In practice the Ministry of Interior requires a residence permit to submit the application. There is no requirement to demonstrate lawful stay to access the judicial procedure.	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17:</p> <p>http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p>
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, there is no time limit to access either the administrative or judicial procedure.	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17:</p> <p>http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p>
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 compulsory trainings are provided in the administrative procedure. Since reforms to the judicial procedure in 2017, which attributed the competence to conduct SDPs to specialised sections of the Civil Court, a specific annual training is provided by the "Scuola Superiore della Magistratura" (Judicial Training Centre). UNHCR delivers ad hoc stateless related training to courts and asylum decision-makers.	<p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>DECRETO-LEGGE 17 febbraio 2017 n. 13, Art. 2:</p> <p>http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13</p> <p>as converted into, LEGGE 13 aprile 2017 n. 46:</p> <p>http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> <p>Scuola Superiore della Magistratura website:</p> <p>http://www.scuolamagistratura.it/formazione-permanente/2014-11-12-13-09-5/365-formazione/formazione-</p>

							permanente/formazione-permanente-anno-2019/2143-p19061-il-diritto-ed-il-processo-dell-immigrazione.html
SDS	2	k		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	UNHCR (2016) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	The asylum determining authorities may inform stateless persons about the SDP but there is no standardised procedure for referral or cooperation.	Consiglio Italiano per i Rifugiati (CIR) practice
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>	The burden of proof in the administrative procedure is on the applicant who must provide all required documentary evidence for the application to be processed. In the judicial procedure, caselaw has underlined that the burden of proof is shared between the applicant and the authority. The applicant should make all possible efforts to clarify their condition of statelessness and support their declarations with evidence. If the applicant does not manage to provide evidence, despite all efforts, the judge can use ex officio powers to assist them.	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 162</p> <p>Corte di Cassazione, sez. I Civile, sentenza n. 28153 del 23/06/2017: http://briguglio.asgi.it/immigrazione-e-asilo/2017/dicembre/sent-cass-28153-2017.pdf (IT)</p> <p>Cass. civ. Sez. I, 18/01/2018, no. 1183</p>

						<p>http://www.rassegnasentenze.it/cass-civ-sez-18-01-2018-n-1182-4/ (IT)</p> <p>Corte di Cassazione, I sez. civile, Ordinanza n. 16114/2019: http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=./20190614/snciv@s10@a2019@n16114@tO.clean.pdf</p> <p>Perin G., La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 12-13 https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT)</p>
SDS	3	b	What is the standard of proof? Is it the same as in refugee status determination procedures?	<p>UNHCR (2014): States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').</p> <p>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.</p> <p>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>The standard of proof is the same as in the asylum procedure. The reduced standard of proof is the result of case law. For example, in 2017, the Cassation Court stated that formal proof of loss of nationality is not required to be granted stateless status. Statelessness can be inferred from other facts, such as the refusal to grant the person rights usually linked to nationality.</p>	<p>Bittoni G., Statelessness determination procedure in Italy: who bears the burden of proof? ENS Blog, 6 May 2015: https://www.statelessness.eu/blog/statelessness-determination-procedure-italy-who-bears-burden-proof</p> <p>Corte Cassazione, Sentenza 4262/2015: http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=./20150304/snciv@s61@a2015@n04262@tS.clean.pdf (IT)</p> <p>Corte di Cassazione, Sentenza n. 28153/2017:</p>

						<p>http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=./20171124/snciv@s10@a2017@n28153@tS.clean.pdf</p> <p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 166</p> <p>Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017, p. 12: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT)</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.</p> <p>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>There are no such provisions.</p>

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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.	There is no public information on this. It is possible that the Ministry of Interior has distributed internal guidance for their decision makers, but this is not publicly available.	
SDS	4	a	Procedural safeguards	Is free legal aid available during the procedure?	UNHCR (2014) : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. 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.	It is not necessary to have the assistance of a lawyer for the administrative procedure and the law does not provide for legal aid in this matter. NGOs may assist applicants to complete the form. In the judicial procedure free legal assistance can be obtained by law if the applicant can fulfil specific income requirements (annual income of around EUR 11,000 (amount is modified every year) and no assets. Bianchini reports that ‘a stateless person has the right to receive legal aid if he resides lawfully in the territory of the State. Nevertheless, the majority of the case law also extends this right to persons with unlawful status. In these cases, to access legal aid, the person is exempt from providing a number of documents, such as the Italian Tax Code for himself and his family. The Constitutional Court held that in these cases, it is sufficient that the person states on his application for legal aid his name, last name, place and date of birth and State in which he is normally liable to pay taxes. The main problems concern the availability and	Consiglio Italiano per i Rifugiati (CIR) practice Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172 Corte Costituzionale, ordinanza n. 144 del 14/05/2004 https://www.cortecostituzionale.it/actionPronuncia.do

						quality of legal aid, which vary considerably, depending on the region where an applicant resides.'	
SDS	4	b		Is an interview always offered (unless granting without interview)?	UNHCR (2014) : The right to an individual interview [is] essential.	In the administrative procedure, an individual interview is not foreseen. In the judicial procedure, the judge arranges the hearing according to the complexity of the case.	<p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA, 12 ottobre 1993, n. 572, Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza, Art 17: http://www.gazzettaufficiale.it/eli/id/1994/01/04/093G0625/sg (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 as converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> <p>Art. 702 bis of the Civil Procedural Law: https://www.brocardi.it/codice-</p>

							di-procedura-civile/libro-quarto/titolo-i/capo-iii/sezione-v/art702bis.html (IT) DECRETO-LEGGE 12 settembre 2014, n. 132, Misure urgenti di degiurisdizionalizzazione ed altri interventi per la definizione dell'arretrato in materia di processo civile, (14G00147) (GU Serie Generale n.212 del 12-09-2014): http://www.gazzettaufficiale.it/eli/id/2014/09/12/14G00147/sg (IT)
SDS	4	c	Is free interpreting offered for statelessness determination interviews?	UNHCR (2014): The right to assistance with interpretation/translation [is] essential. ENS (2013): Assistance should be available for translation and interpretation.	No, in the administrative procedure there is no individual interview. In the judicial procedure, claimants can be heard, but interpreters are usually not provided in practice.	Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 175.	
SDS	4	d	Are there quality assurance audits of the SDP?	UNHCR (2016): Quality assurance audits of SDPs are considered good practice.	No.		
SDS	4	e	What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	UNHCR (2014): States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.	UNHCR does not participate in the proceedings. Nevertheless, UNHCR is the main actor in providing (non-compulsory) training and guidelines.	Consiglio Italiano per i Rifugiati (CIR) practice	
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.	Administrative decisions are notified to the persons concerned in writing with reasons, but these are usually very brief. The recognition provided by the Civil Court in the judicial procedure gives the reasons on which the judgment is based.	Bianchini K., Protecting Stateless Persons, International Refugee Law Series, V. II, 2018, pp. 170-171 Codice di procedura civile, Libro I, Titolo VI, Art. 132 & 133: http://www.altalex.com/documents/	

							news/2014/10/29/disposizioni-generali-degli-atti-processuali (IT)
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.	A maximum timeframe of 350 days - or 895 days in case the opinion of a foreign authority or Ministry of Foreign Affairs is requested - is set for the administrative procedure, but it is seldom respected in practice. Some clients assisted by CIR have waited for five years for a decision in the administrative procedure and in one case, the person concerned waited approximately 13 years.	Decreto Ministeriale 18 aprile 2000 n.142, p.46: http://www.sanzioniamministrative.it/collegamenti/RicercaGiuridica/altra_Normativa/Leggi/Semplif_proc_amministrativo/DM_18Aprile2000-142_Tab-A.pdf (IT) Bianchini K., The Implementation of the Convention Relating to the Status of Stateless Persons: Procedures and Practice in Selected EU States, Phd thesis, University of York, 2015, p. 100: http://etheses.whiterose.ac.uk/11243/1/PhD%20thesis%20-%20Katia%20Bianchini.pdf Consiglio Italiano per i Rifugiati (CIR) practice
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.	Consiglio Italiano per i Rifugiati (CIR) practice
SDS	5	a	Protection during SDP	Does the applicant have automatic legal admission	UNHCR (2014) : An individual awaiting a decision is entitled, at a minimum, to all rights based on presence in the	People who apply for recognition of stateless status to the Ministry of the Interior or Civil Court may apply and are	CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy,

				<p>while their claim for stateless status is assessed or is there a risk of expulsion?</p>	<p>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. ENS (2013): States should refrain from expelling or removing an individual pending the outcome of the determination process.</p>	<p>generally granted temporary permission to stay, renewable while their application is being processed. However, practice shows that the issuance of a residence permit pending the judicial procedure is discretionary to the Police. It is possible that pending the judicial procedure applicants may be stopped by the police and asked about their status. If the applicant is already in possession of a residence permit (e.g. for study) when applying for stateless status, a specific temporary residence permit is issued pending the SDP. Article 31 of the 1954 Convention provides that a stateless person cannot be expelled except in cases of well-documented reasons related to national security and public order. In 2019, the Court of Cassation ruled that this rule shall also apply to people at risk of statelessness and/or pending the SDP, when the statelessness situation of the person emerges clearly from the information or documentation of the competent public authorities of the Italian State, of the State of origin or of the State with which it is established the person has a significant link.</p>	<p>February 2013: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p> <p>ASGI Project, Out of Limbo: Promoting the right of undocumented and stateless Roma migrants to a legal status in Italy, May 2015: http://www.asgi.it/progetti/out-of-limbo-english-version/</p> <p>D.P.R. n. 394/1999, Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, Art. 11, comma, 1 lett c): https://www.normattiva.it</p> <p>Court of Cassation, n. 16489, 19/06/2019: http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=./20190619/snciv@s10@a2019@n16489@tS.clean.pdf</p>
SDS	5	b		<p>Do applicants for stateless status have permission to work and access to assistance to meet their basic needs?</p>	<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</p>	<p>The law does not specify the right to work pending the procedure. In practice, different sources report different and inconsistent practice in relation to the temporary permit and the right to work. The law does not specify the right to assistance for applicants to meet their basic needs. The temporary residence</p>	<p>Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 166-167</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p>

					human rights such as, assistance to meet basic needs.	permit issued to applicants that were already in possession of another residence permit (e.g. for study) allows the right to work. In practice, it is quite unusual for a person to hold a residence permit before applying for stateless status.	D.P.R. n. 394/1999, Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero, Art. 11, comma, 1 lett c): https://www.normattiva.it
SDS	5	c		Do applicants for stateless status face a risk of detention?	UNHCR (2014) : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. 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 to safeguard the lawful governmental objective pursued by detention.	In the administrative procedure applicants are issued with a temporary residence permit, so they are not detained. In the judicial procedure, if applicants are not in possession of a residence permit, there is a risk of detention.	CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013, pp.16-17: http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 168 Tavolo apolidia (coalition of civil society organisations in Italy working together to protect stateless people): https://tavoloapolidia.org/apolidia-italia/diritti/ (IT)
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.	In the case of a negative outcome in the administrative procedure it is possible to undertake the judicial procedure before the Civil Court. In the judicial procedure it is possible to appeal before the Court of Appeal and then before the Court of Cassation.	DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonche' per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT)

							As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)
SDS	6	b	Is legal aid available for appeals?	<p>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.</p> <p>ENS (2013): Applicants should have access to legal counsel both at first instance and on appeal.</p>	<p>In a court procedure free legal assistance can be obtained if the applicant can fulfil specific income requirements (annual income of around EUR 11,000 (amount is modified every year) and no assets. Bianchini reports that 'a stateless person has the right to receive legal aid if he resides lawfully in the territory of the State. Nevertheless, the majority of the case law also extends this right to persons with unlawful status. In these cases, to access legal aid, the person is exempt from providing a number of documents, such as the Italian Tax Code for himself and his family. The Constitutional Court held that in these cases, it is sufficient that the person states on his application for legal aid his name, last name, place and date of birth and State in which he is normally liable to pay taxes. The main problems concern the availability and quality of legal aid, which vary considerably, depending on the region where an applicant resides.'</p>	<p>Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 171-172</p> <p>D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spese-di-giustizia (IT)</p>	

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.	If free legal aid is provided there is no fee to lodge the appeal. If the applicant does not qualify for legal aid, they should pay a fee for the judicial procedure, which is usually EUR 259 for first instance courts. If the first instance claim is rejected by the Judge, the applicant may lodge a further appeal. Legal aid is available for eligible applicants, otherwise the fee for proceedings before the Appeal Court is usually EUR 388.50.	D.P.R., testo coordinato 30/05/2002 n. 115, Testo unico in materia di spese di giustizia, Gazzetta Ufficiale N. 139 del 15 Giugno 2002: http://www.altalex.com/documents/codici-altalex/2015/01/14/testo-unico-in-materia-di-spese-di-justizia (IT) Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_sche-da-apolidia.pdf (IT)
SDS	6	d		Is there any evidence of significant errors in decision-making?		No.	Consiglio Italiano per i Rifugiati (CIR) practice
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.	Recognition of statelessness by the Ministry of the Interior or a civil court allows the person to immediately apply for a residence permit. As there is no law or decree providing detailed rules on this matter, the issuing of the residence permit is based on the 1954 Convention. Once recognised as stateless, there are no additional requirements.	Bianchini K., Protecting Stateless Persons. The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), p. 241 Tavolo Apolidia, April 2020: https://tavoloapolidia.org/app/uploads/2020/04/Advocacy-Paper-Tavolo-Apolidia_v2020_def.pdf (IT) Consiglio Italiano per i Rifugiati (CIR) practice

SDS	7	b		How long is initial status granted for and is it renewable?	<p>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.</p>	<p>Legally recognised stateless persons are normally granted a permit to stay that is valid for two years and is renewable. However, in practice, the duration of the residence permit is at the discretion of the Police, so there is huge variation. As there is no law or decree providing detailed rules on this matter, the issuing of the residence permit is based on the 1954 Convention.</p>	<p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Giulia Perin, La tutela degli apolidi in Italia, Scheda pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT)</p>
SDS	7	c		Is a travel document issued to people recognised as stateless?	<p>UN Convention Relating to the Status of Stateless Persons, 1954, Article 28.</p>	<p>Individuals recognised as stateless may apply for a 1954 Convention travel document for stateless persons.</p>	<p>Convention relating to the Status of Stateless Persons. New York, 28 September 1954 Art. 18 - Travel Documents: https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf</p> <p>DECRETO 7 maggio 2015, Caratteristiche di sicurezza ed elementi biometrici dei documenti di viaggio di apolidi, rifugiati e stranieri. (15A03553) (GU Serie Generale n.111 del 15-05-2015): http://www.gazzettaufficiale.it/eli/id/2015/05/15/15A03553/sg (IT)</p> <p>Paolo Farci, “Apolidia” Il diritto di famiglia e delle persone, Giuffrè editore, pag 324 e segg.</p>

Statelessness Determination and Status – 2019

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.	There are no specific family reunion provisions for stateless people, so the same family reunion rules for lawfully resident non-EU nationals apply.	Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 29: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)
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 proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account.	Although reference to the withdrawal of residence status is not explicitly provided for stateless persons, by analogy, the same provisions as are in place for refugees apply.	Decreto legislativo 19 novembre 2007, n. 251 come modificato dal Decreto legislativo 21 febbraio 2014, n. 18, Attuazione della direttiva 2004/83/CE recante norme minime sull'attribuzione, a cittadini di Paesi terzi o apolidi, della qualifica del rifugiato o di persona altrimenti bisognosa di protezione internazionale, nonché norme minime sul contenuto della protezione riconosciuta testo in vigore dal: 19-1-2008: https://www.unhcr.it/wp-content/uploads/2015/12/decreto_2014.pdf (IT)
SDS	7	f		Do people granted stateless status have permission to work?	UN Convention Relating to the Status of Stateless Persons, 1954 : Article 17 UNHCR (2014) : The right to work must accompany a residence permit.	Persons with recognised stateless status are granted permission to stay, which allows employment and self-employment on the basis of the relevant provisions in the 1954 Convention.	Perin G., La Tutela degli apolidi in Italia, Scheda Pratica, June 2017: https://www.asgi.it/wp-content/uploads/2017/07/2017_scheda-apolidia.pdf (IT) Tavolo apolidia (coalition of civil society organisations in Italy working together to protect stateless people):

						https://tavoloapolidia.org/apolidia-italia/diritti/ (IT)
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	<p>Yes, in line with other lawful residents. The IDOS Study Centre, based on data collected by MIUR (Ministry of Education, University and Research), published figures on stateless students attending Italian schools. The research shows that, in the school year 2017-2018, 354 stateless persons attended Italian schools (58 kindergarten, 179 primary school, 105 secondary school and 12 high school).</p> <p>Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell’immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>The Constitution of the Italian Republic, Art. 34: http://www.quirinale.it/page/costituzione (ENG available)</p> <p>The Constitution of the Italian Republic, Art. 34: http://www.quirinale.it/page/costituzione (ENG available)</p> <p>1954 Convention</p> <p>Paolo Farci, “Apolidia” Il diritto di famiglia e delle persone, Giuffrè editore, pag 324 e segg.</p> <p>Centro Studi e Ricerche IDOS, Dossier Statistico Immigrazione 2019, p. 471 https://www.dossierimmigrazione.it/</p>

SDS	7	h		Do people granted stateless status have access to social security and healthcare?	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Articles 23 & 24</p> <p>UNHCR (2014): The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.</p>	Yes, in line with other lawfully resident foreigners.	<p>Decreto Legislativo 25 Luglio 1998, N. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell’immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>Bianchini K., Protecting Stateless Persons: The Implementation of the Convention Relating to the Status of Stateless Persons Across Europe (Brill 2018), pp. 166-167</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 lawfully and habitually resident on its territory.</p> <p>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.</p>	Persons with stateless status may apply for naturalisation after five years (reduced from 10 years for other non-EU nationals) of uninterrupted lawful residence if other requirements are also met (i.e. income, good character, etc.)	<p>La Cittadinanza Italiana (website of the Italian Government): http://www.integrazionemigranti.gov.it/normativa/procedureitalia/Pagine/Cittadinanza.aspx (IT)</p> <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9(1)(e): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p> <p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9(1)(e): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p>

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.	<p>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.</p>	<p>Yes, criminal records are grounds for exclusion from obtaining Italian nationality. However, caselaw issued by the Council of State in 2014 established that nationality cannot be denied only because the applicant has committed a crime. The new Nationality Law introduces the possibility for revocation of nationality in the event of a final sentence for the following crimes: terroristic acts; subversion of the constitutional order; subversive association; constitution, promotion or participation to armed groups; assistance and training of members of armed groups; assistance of members of subversive associations and of terroristic associations; misappropriation of properties and funds seized in order to prevent from financially supporting terroristic activities.</p>	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 6 & Art. 14(1)(e): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p> <p>Sentenza n. 5544 del 11 novembre 2014 Consiglio di Stato: http://briguglio.asgi.it/immigrazione-e-asilo/2014/dicembre/sent-cds-5544-2014.pdf (IT)</p> <p>Cons. Stato, sez. III, sent. n. 5262 del 06.11.2018 and Cons. Stato, sez. III, Sent. n. 3121 del 14.05.2019: https://www.giustizia-amministrativa.it/web/guest/dcsnpr?p_p_id=GaSearch_INSTANCE_2NDgCF3zWBwk&p_p_state=normal&p_p_mode=view&GaSearch_INSTANCE_2NDgCF3zWBwk_javax.portlet.action=searchProvvedimenti&p_auth=HiNY4LNR&p_p_lifecycle=0</p>
SDS	8	c	Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements? Please describe the	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32 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</p>	<p>No, there are no exemptions for stateless people. All applicants who have not adhered to the integration contract as provided by the Immigration Law, and are not beneficiaries of a long-term EU residence permit, must demonstrate a B1 level of Italian language. In addition, applicants must demonstrate an annual</p>	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9.1, come modificato dalla L. 132/2018: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p>

				<p>requirements and cost of the procedure for stateless people.</p>	<p>facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p>	<p>income of approximately EUR 8,200 (plus approximately EUR 516 for each child or family dependants). The cost to initiate the procedure is EUR 250, and additional bureaucratic expenses may have to be paid (e.g. stamps).</p>	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, Legge 132/18, Art. 9bis(2), come modificato dall'art. 14 della L. 132/2018 : http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf</p> <p>Guida Fisco, 'Cittadinanza Italiana: a chi Spetta, Requisiti e Come Richiederla?', 28 August 2018: https://www.guidafisco.it/cittadinanza-italiana-stranieri-richiesta-online-1293 (IT)</p>
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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).	ICCPR Article 9(1) ECHR Article 5 (1)	<p>Yes, immigration detention is provided for in the Consolidated Immigration Act (TUI), which, although amended several times, constitutes the main legislation relevant to immigration detention. The last reforms were in Law 46/2017 and Law 132/2018. Law 132/2018 introduces an additional article for the detention of applicants for the purpose of identification and verification of nationality. There is a specific provision for the detention of asylum seekers Decree 142/2015.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> <p>DECRETO LEGISLATIVO 18 agosto 2015, n. 142, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, (15G00158), Art. 6.8: http://www.cir-onlus.org/2018/12/19/decreto-legislativo-18-agosto-2015-n-142/ (IT)</p>
DET	1	b		Does domestic law allow immigration detention for purposes other	ECHR Article 5(1)(f)	<p>No, but in practice there are some violations of ECHR highlighted by caselaw (not necessarily referred to stateless people).</p>	<p>Grand Chamber Judgment <i>Khlaifia and Others v. Italy</i> - holding of irregular migrants on Lampedusa and Palermo:</p>

				than those listed under ECHR 5(1)(f)?		<p>http://hudoc.echr.coe.int/eng-press?i=003-5579738-7042078</p> <p>European Court of Human Rights, Migrants in detention, April 2018: https://www.echr.coe.int/Documents/FS_Migrants_detention_ENG.pdf</p> <p>Global Detention Project and Access Info Europe, THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe, December 2015: https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Rapporto Sui Centri di Identificazione ed Espulsione in Italia, Jan 2017: https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf (IT)</p> <p>ECRE in collaboration with CIR and others, Strengthening NGO involvement and capacities around EU 'hotspots': Update on the implementation of the hotspots in Greece and Italy, 2017: https://www.cir-onlus.org/2017/11/29/18134/</p>
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							<p>ECRE in collaboration with CIR and others, The implementation of the hotspots in Italy and Greece: A study, December 2016: http://www.refworld.org/docid/584ad1734.html</p> <p>AIDA, ITALY, Country Report 2017, p. 103: http://www.asylumineurope.org/reports/country/italy</p>
DET	1	c		<p>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>	<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. Aaad v Bulgaria ECtHR (2011): The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. EU Returns Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	<p>There is no explicit provision in law on the obligation to identify the country of removal before a person is detained for the purpose of removal. Administrative immigration detention is subject to judicial review within 30 days from the first judicial validation for the detention. If it is necessary to ascertain the person’s identity, nationality or to acquire travel documents the length of detention can be extended to further 30 days. The Police Headquarters Chief can ask the judge for an extension of detention up to 180 days if it is likely that the person can be identified or if preparation for removal requires more time. In practice, the identification of country of removal is not a condition to authorise detention and it is possible to be detained in order to be identified. Moreover, information acquired during interviews carried out in the detention centre in Rome (CPR) suggests that nationality information is provided initially by the detainee.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell’immigrazione e Norme sulla Condizione dello Straniero, Art. 14: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>LEGGE 1 dicembre 2018, n. 132, Conversione in legge, con modificazioni, del decreto-legge 4 ottobre 2018, n. 113, recante disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, ...etc. (18G00161) (GU Serie Generale n.281 del 03-12-2018): http://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg (IT)</p>

DET	1	d		<p>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>	<p>Auad 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. UNHCR (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. 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. 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>	<p>Yes, statelessness is juridically relevant in administrative immigration detention decisions because it affects the prospects of removability. Administrative detention cannot be applied to a recognised stateless person who is legally resident in the territory. If a person is at risk of statelessness, they are at risk of detention if lacking documents and/or a residence permit. In the Italian system, the juridical position of a person at risk of statelessness is similar to that of an irregularly staying migrant. The authorities must verify the nationality of foreign nationals on arrival, during detention, and in the course of reviews of the lawfulness of detention. Referral to an SDP is possible in practice from detention but there is no specific mechanism or rule on this matter. Importantly, in June 2019, the Court of Cassation issued a judgment affirming that people awaiting determination of their statelessness are comparable to people whose statelessness has been determined as regards the impossibility of expelling them (unless the person poses a threat to security and public order). The Court noted that the individual received multiple expulsion orders and was detained on several occasions, but he was always released due to the expiry of the maximum term for detention as it was not possible to acquire the documentation required for return. The Court affirmed the following principle: "Article 31 of the</p>	<p>CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013, p. 52 (footnote 73): http://www.cir-onlus.org/wp-content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf</p> <p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Corte di Cassazione, sez. I Civile, sentenza n. 16489/19 del 19 giugno 2019, http://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snciv&id=./20190619/snciv@s10@a2019@n16489@tS.clean.pdf</p> <p>Melting Pot Europa, "Non è espellibile l'apolide di fatto", 4 July 2019, https://www.meltingpot.org/Non-espellibile-l-apolide-di-fatto.html#.Xe0qgZNKg6j</p>
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						<p>New York Convention, which provides that a stateless person may not be expelled except in cases of documented existence of reasons of national security and public order, extends by analogy to situations of de facto statelessness and/or pending the procedure to ascertain statelessness, when the situation of the person emerges clearly from the information or documentation provided by the competent public authorities of the Italian State, the State of origin or of the State to which a significant connection with the person concerned may be established". This ruling could have an important impact to counter the repeated detentions of Romani people who are stateless or at risk of statelessness in Italy.</p>	
DET	1	e		Are stateless people detained in practice?		<p>Yes, people at risk of statelessness can be detained in practice as a direct consequence of their lack of documents and their irregular status in Italy. Although no official data is published on the detention of stateless people, the Human Rights Committee of the Italian Senate in 2017 noted the detention of a number of people at risk of statelessness, many from Roma communities living in Italy for many years. There is also a 2015 judgement concerning a woman with five children detained in a pre-removal centre despite it being clear that repatriation was impossible because of the impossibility to identify a 'country of origin'. The judge ruled in favour of the family, reasoning that in the absence of the actual</p>	<p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Rapporto Sui Centri di Identificazione ed Espulsione in Italia, Jan 2017: https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf (IT)</p> <p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14: https://www.altalex.com/documents</p>

						<p>possibility to be removed, detention in pre-removal centres is illegal. There are reports stating that stateless people have been detained in recent years, in particular members of the Roma community who have been repeatedly detained.</p>	<p>/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>ASGI, Cassazione: se mancano le prospettive di rimpatrio, il trattenimento nel CIE è illegittimo (Cass.civ.sez. VI, ord. 7.7.2015, n. 19201): https://www.asgi.it/notizie/cassazione-apolidia-se-mancano-le-prospettive-di-rimpatrio-il-trattenimento-e-illegittimo/ (IT)</p> <p>ASGI, Out of limbo: Verso uno status legale per le persone rom prive di documenti, apolidi o a rischio di apolidia, maggio 2015: https://www.asgi.it/wp-content/uploads/2014/04/Rapporto-OUT-OF-LIMBO_def.pdf (IT)</p> <p>Annalisa Camilli, "Chi sono le donne rinchiuso nel centro di espulsione di Roma", Internazionale, 11 February 2019: https://www.internazionale.it/report-age/annalisa-camilli/2019/02/11/cpr-roma-ponte-galeria-cie</p> <p>Melting Pot Europa, "Non è espellibile l'apolide di fatto", 4 July 2019: https://www.meltingpot.org/Non-e-espellibile-l-apolide-di-fatto.html#.Xe0ggZNKg6j</p>
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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?	<p>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.</p> <p>EU Returns Directive: Article 15(1)</p>	The principle of the state being obliged to consider all less coercive measures prior to issuing a decision to detain is not clearly laid down in law.	Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)
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 factor increasing vulnerability.	<p>ENS (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p>EU Returns Directive: Article 16(3)</p> <p>EU Returns Handbook (2017): Attention should be paid to the specific situation of stateless persons.</p> <p>Council of the European Union (2013): European entities should assess the situation of LGBTI persons in detention.</p>	According to the Reception Decree (as amended) vulnerable persons cannot be detained in pre-removal centres (CPR). Both the Procedure and Reception Decrees define as vulnerable: minors, unaccompanied minors, pregnant women, single parents with minor children, victims of trafficking, disabled, elderly people, persons affected by serious illness or mental disorders, persons for whom it has been proved they have experienced torture, rape or other serious forms of psychological, physical or sexual violence, victims of genital mutilation. In practice, the experience of CIR is that the only vulnerabilities considered in practice are victims of human trafficking, drug addiction, and mental ill-health. Stateless people are not considered per se as vulnerable.	<p>DECRETO LEGISLATIVO 18 agosto 2015, n. 142, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti protezione internazionale, nonché della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, (15G00158), Art. 7(5): http://www.cir-onlus.org/2018/12/19/decreto-legislativo-18-agosto-2015-n-142/ (IT)</p> <p>LEGGE 1 dicembre 2018, n. 132, Conversione in legge, con modificazioni, del decreto-legge 4 ottobre 2018, n. 113, recante disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, ...etc. (18G00161) (GU Serie Generale n.281 del 03-12-2018): http://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg (IT)</p>

						<p>Decreto Legislativo 28 gennaio 2008, n. 25, Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato, Art. 2(1)(h-bis): http://www.cir-onlus.org/2018/12/19/decreto-legislativo-28-gennaio-2008-n-25/ (IT)</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13 Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2017-02-17;13 (IT)</p> <p>As converted into, LEGGE 13 aprile 2017 n. 46 (GU n.90 del 18-4-2017), Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto all'immigrazione illegale: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-13;46 (IT)</p> <p>De Donato M., and. Di Rado D, (CIR), AIDA Country Report: Italy, ECRE, December 2015:</p>
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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</p>	<p>Alternatives to detention are set in law. The Consolidated Immigration Act (TUI) states that a foreign national notified with an expulsion order, may ask the Prefecture for the possibility to benefit from voluntary departure if:</p> <ol style="list-style-type: none"> 1. No expulsion order for state security and public order grounds has been issued against them; 2. There is no risk of absconding; 3. The request of permit to stay has not been rejected as manifestly unfounded or fraudulent. 	<p>DECRETO-LEGGE 23 giugno 2011, n. 89, Disposizioni urgenti per il completamento dell'attuazione della direttiva 2004/38/CE sulla libera circolazione dei cittadini comunitari e per il recepimento della direttiva 2008/115/CE sul rimpatrio dei cittadini di Paesi terzi irregolari, (11G0128) (GU n.144 del 23-6-2011): http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legge:2011;89 (IT)</p>

					<p>alternatives before resorting to detention should be established by law.</p> <p>EU Returns Directive: Article 15(1)</p> <p>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.</p> <p>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>If the prefecture authorises voluntary departure, the Chief of Police Headquarters applies one or more of the following measures:</p> <p>a) handing over a valid national passport or an equivalent document;</p> <p>b) residing at a specific domicile;</p> <p>c) reporting to the police.</p> <p>The timeline for voluntary departure is from 7 to 30 days, which can be prolonged in specific circumstances and on a case by case basis (e.g. family related-needs). Note that the measure a) handling over a valid national passport also inhibits the possibility for stateless people to be granted this alternative.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 13(5):</p> <p>https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>ASGI, AIDA, ITALY, Country Report 2017, p. 103:</p> <p>http://www.asylumineurope.org/reports/country/italy</p>
DET	2	b	Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	<p>Yes, there are reports confirming that in practice immigration detention is used prior to alternatives to detention.</p>	<p>Denise Venturi, The Grand Chamber's ruling in <i>Khlaifia and Others v Italy</i>: one step forward, one step back?, Strasbourg Observers, 10 January 2017</p> <p>Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Rapporto Sui Centri di Identificazione ed Espulsione in Italia, Jan 2017:</p> <p>https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf (IT)</p> <p>Global Detention Project, Italy Immigration Detention Profile, January 2018:</p>	

							https://www.globaldetentionproject.org/immigration-detention-in-italy-2 ASGI, "Country Report: Italy", Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE), 2019, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2018update.pdf
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>	Yes, there is. The maximum length of pre-removal detention under the Consolidated Immigration Act is 180 days. For asylum seekers in pre-removal centres (under the Reception Decree), the time limit is 12 months.	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14(5): https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>LEGGE 1 dicembre 2018, n. 132, Conversione in legge, con modificazioni, del decreto-legge 4 ottobre 2018, n. 113, recante disposizioni urgenti in materia di protezione internazionale e immigrazione, sicurezza pubblica, ...etc. (18G00161) (GU Serie Generale n.281 del 03-12-2018): http://www.gazzettaufficiale.it/eli/id/2018/12/03/18G00161/sg (IT)</p> <p>DECRETO LEGISLATIVO 18 agosto 2015, n. 142, Attuazione della direttiva 2013/33/UE recante norme relative all'accoglienza dei richiedenti</p>

							protezione internazionale, nonche' della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale, (15G00158), Art. 6.8: http://www.cir-onlus.org/2018/12/19/decreto-legislativo-18-agosto-2015-n-142/ (IT)
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> <p>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.</p>	Yes. Under the Consolidated Immigration Act, the expulsion must contain the reasons for detention and remedies. The order is delivered in writing in a language the person understands or French, English or Spanish. It also provides for legal aid to appeal against an expulsion order.	Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 13: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (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	There is no reference to an SDP for detainees. The administrative immigration detention centre regulations provide for an obligation to inform all detainees of their rights and duties in an understandable language, and a list of lawyers.	Criteri per l'organizzazione e la gestione dei Centri di identificazione ed Espulsione di cui all'art 14 del TU 286/98 e successive modificazioni, Ministero dell'Interno, 20/10/2014, Art. 2: http://www.meltingpot.org/IMG/pdf/2014_12_02_regolamento_cie.pdf (IT)	

					to challenge the legality of their detention and their treatment as detainees.		
DET	3	d		Are there regular periodic reviews of detention before a court or independent body, which can order release?	<p>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.</p> <p>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.</p>	Regular periodic reviews are provided for in the Consolidated Immigration Act. The first validation (judicial check) is made by the Judge of Peace within 96 hours of issuing the expulsion order. The subsequent validation (judicial check) takes place if the Chief of the Police Headquarters asks for an extension of the detention. The second validation made by the Judge, takes place after 30 days. Additional validations are possible but within a maximum detention length of 180 days.	Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)
DET	3	e		What remedies are available to challenge detention? Please any obstacles to accessing effective remedies in practice.	<p>ICCPR Article 9(4) ECHR: Article 5(4) 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.</p> <p>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.</p>	Detainees can appeal to the Court of Cassation against the “validation” (judicial check) order and the appeal does not have suspensive effect. An appeal can be lodged against each validation during the period of detention. Validation hearings have been subject to criticism for multiple reasons. Following its visit to Italy in 2016, the Sub-Committee on the Prevention of Torture (SPT) reported the perception among migrants that judicial hearings regarding detention and expulsion "were a pro forma exercise and did not take the individual circumstances of migrants adequately into account". Other criticisms can be found in the latest Global Detention Project country report and in the AIDA/ECRE report on Italy (detention section).	Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14(6): https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT) Global Detention Project, Italy Immigration Detention Profile, January 2018: https://www.globaldetentionproject.org/immigration-detention-in-italy-2 Sub-committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report on the visit made by the

							<p>Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Italy, 23 September 2016, CAT/OP/ITA/1: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fITA%2f1&Lang=en</p> <p>Global Detention Project, Immigration Detention in Italy: Complicit in Grave Human Rights Abuses? October 2019, https://www.globaldetentionproject.org/italy-complicit-in-grave-human-rights-abuse</p> <p>ASGI, "Country Report: Italy", Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE), 2019, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2018update.pdf</p>
DET	3	f	Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	<p>Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p>ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.</p>	Not to our knowledge.	Consiglio Italiano per i Rifugiati (CIR) practice	

DET	3	g		<p>Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.</p>	<p>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)</p>	<p>The right to legal aid is provided by law, however, in practice, some lawyers have reported that it is difficult to contact clients in detention. NGOs have also reported that legal assistance in pre-removal facilities is sometimes of low quality.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero, Art. 14(4): https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p> <p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>ASGI, "Country Report: Italy", Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE), 2019, https://www.asylumineurope.org/sites/default/files/report-download/aida_it_2018update.pdf</p>
DET	4	a	Protections on release	<p>Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?</p>	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 27 UNHCR (2014) : Being undocumented cannot be used as a general justification for detention. ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention. Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	<p>People who are released from detention without any identification or confirmation of their statelessness do not have any guarantee against re-detention and are not routinely issued with documentation.</p>	<p>Consiglio Italiano per i Rifugiati (CIR) practice</p>

Detention – 2019

DET	4	b		<p>If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?</p>	<p>Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrehnite raboti ECJ (2009): After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p>Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	<p>Generally, the person is released with an expulsion order. In the absence of legal status, they have only basic rights including access to medical care.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p>
DET	4	c		<p>If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?</p>	<p>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.</p>	<p>No.</p>	<p>Decreto Legislativo 25 Luglio 1998, n. 286, Testo Unico delle Disposizioni Concernenti la Disciplina dell'immigrazione e Norme sulla Condizione dello Straniero: https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione (IT)</p>
DET	5	a	Return & readmission agreements	<p>Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?</p>	<p>UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p>	<p>Scarce information is available on the content of bilateral return or readmission agreements. However, there are examples of agreements stipulating the readmission of stateless individuals, such as the 2014 agreement with Kosovo. In this agreement, statelessness is not considered from a protection perspective and Art. 13 stipulates the possibility of returning stateless people from Italy to Kosovo (under certain conditions).</p>	<p>Consiglio Italiano per i Rifugiati (CIR) practice</p> <p>Accordo fra il Governo della Repubblica Italiana e il Governo della Repubblica del Kosovo sulla riammissione delle persone che soggiornano senza autorizzazione, Roma, 15 Aprile 2014. Available at ATRIO Archivio dei Trattati internazionali Online: http://itra.esteri.it/</p>

Detention – 2019

DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		Not to our knowledge.	Consiglio Italiano per i Rifugiati (CIR) practice
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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>In the Italian system, nationality is regulated by Law 91/1992 and implementing decrees 572/1993 and 362/1994. Generally, the acquisition of nationality is based on the jus sanguinis principle. The criterion of jus soli is applied exclusively in a residual manner. An Italian national at birth is anyone “(...) who is born on the territory of the Republic if both parents are unknown or stateless, or if the child does not follow the nationality of his/her parents in accordance with the laws of their State of origin”. In practice, children born in Italy to stateless parents acquire nationality:</p> <ol style="list-style-type: none"> 1. When both parents are unknown or recognised as stateless by law; 2. When under the law of the parents’ country of origin, children born abroad do not acquire their parents’ nationality (e.g. because ius soli is applied). <p>Italian Nationality is also recognised at birth to a child found on the Italian territory, whose parents are both unknown. However, a further requirement must be fulfilled in that “it has not been proven [that the person concerned] possesses any other nationality”.</p>	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Arts. 1(1)(b) & (2): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994): https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>Decreto del Presidente della Repubblica di 18 aprile 1994, n. 362, Regolamento recante disciplina dei procedimenti di acquisto della cittadinanza italiana, G.U. No. 136, June 13, 1994, https://perma.cc/ZF3K-U6XM (IT)</p> <p>Ministry of the Interior, Circular K.60.1 of 5 Jan 2007; Circular N.22/07 of 7 Nov 2007; Circular N.9 of 7 Aug 2009.</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</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 optimal method is to grant nationality automatically at birth.</p>	It is automatic by law, but non-automatic in practice. Italian law states that children born in Italy obtain Italian nationality at birth by operation of the law when born to stateless parents or to parents who cannot transmit their nationality according to the law of their country of origin. However, in practice, parents must provide relevant supporting documents to the municipal Nationality Office for their children to obtain Italian nationality (e.g. in the case of a child born in Italy to Cuban parents (where jus soli applies), parents are often requested to provide a declaration from the Cuban Embassy to confirm this).	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p>
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>	No.	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</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	<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</p>	The provision is automatic in law, but in practice parents must provide relevant supporting document. At the registration of birth, parents are required to provide a declaration of birth and an identification document (e.g. a permit to stay or a passport). Documentation can be substituted by two witnesses in the case of undocumented migrants. In this situation, the child is registered with the nationality of their parents based on their	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015:</p>

				determined in practice.	considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	alleged origin. In the case of statelessness, undetermined or uncertain nationality (e.g. Roma people facing problems acquiring evidence from their 'country of origin'), or parents who cannot transmit their nationality due to the law in their country of nationality, they must be proactive in filing a request and supporting it with relevant documentation for the acquisition of Italian nationality at birth to the municipal Nationality Office. Practice shows for example that parents are required to provide a declaration by their country of origin stating that the child is not a national under domestic law. When the evidence is seemed insufficient, the child will not be granted Italian nationality, even if they don't acquire another nationality.	https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy
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.	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) 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. Convention on the Rights of the Child, 1989 : Articles 3 & 7 Committee on the Rights of the Child (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of	No, but there is a further safeguard in law based on residence without interruption until the age of majority for otherwise stateless children who, albeit born on Italian territory, do not obtain Italian nationality at birth under Art. 1 Law 91/92.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(1)(b): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994): https://www.refworld.org/docid/46b84a1f2.html (IT)

					residency status, have access to nationality without any conditions. European Convention on Nationality, 1997 : Article 6(2)(b)		Art. 33 Testo del decreto-legge 21 giugno 2013, n. 69 (in S.O. n. 50/L alla Gazzetta Ufficiale - Serie generale - n. 144 del 21 giugno 2013), coordinato con la legge di conversione 9 agosto 2013, n. 98 (in questo stesso S.O. alla pag. 1), recante: «Disposizioni urgenti per il rilancio dell'economia». (13A07086) (GU Serie Generale n.194 del 20-08-2013 - Suppl. Ordinario n. 63), (known as 'Decreto del Fare'): http://www.gazzettaufficiale.it/eli/id/2013/08/20/13A07086/sg (IT)
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.	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. ENS (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	
PRS	1	g		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	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.	In addition to situations where nationality is granted at birth, Italian legislation provides another mode of acquisition of nationality based on conditional jus soli. This criterion is applied to otherwise stateless children who, albeit born on Italian territory do not obtain Italian nationality at birth since they do not fall in the legal situations enshrined in art 1 of law 91/92. Article 4 paragraph 2 of Law n. 91/1992 states that "the foreign person born in Italy, who has been legally resident	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Arts. 4(2) & 1(1)(b): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) Read in conjunction with: DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante

						<p>without interruption on its territory until the age of majority, becomes a national upon application, filed within one year from turning 18, where (s)he expresses the willingness to acquire Italian nationality". This rule must be considered as a safeguard for children born in Italy whose parents are at risk of statelessness. If the child remains stateless on reaching the age of majority, they may submit an application for Italian nationality up to the age of 19 if they can meet certain conditions, including a declaration of will (dichiarazione di volontà) to the competent authority, and uninterrupted residence proven through residence permits, school reports, vaccination records, medical certificates etc.</p>	<p>nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994), Art. 3(4): https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>Art. 33 Testo del decreto-legge 21 giugno 2013, n. 69 (in S.O. n. 50/L alla Gazzetta Ufficiale - Serie generale - n. 144 del 21 giugno 2013), coordinato con la legge di conversione 9 agosto 2013, n. 98 (in questo stesso S.O. alla pag. 1), recante: «Disposizioni urgenti per il rilancio dell'economia». (13A07086) (GU Serie Generale n.194 del 20-08-2013 - Suppl. Ordinario n. 63), (known as 'Decreto del Fare'): http://www.gazzettaufficiale.it/eli/id/2013/08/20/13A07086/sg (IT)</p> <p>CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy</p> <p>ASGI, L'acquisto della Cittadinanza Italiana da Parte dello Straniero Nato in Italia ai Sensi dell'Art. 4, Comma 2, Legge 91/1992, Scheda Pratica, 2016: http://www.asgi.it/wp-content/uploads/2016/08/ASGI-scheda-cittadinanza-straniero-nato-in-Italia-ex-art.-4-comma-2.pdf (IT)</p>
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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)	By law, a person found on the Italian territory is an Italian national at birth. However, a further requirement is that 'it has not been proven [that the person concerned] possesses any other nationality'. This criterion is impossible to satisfy so the provision is interpreted to mean the child acquires Italian nationality unless there is proof that (s)he has obtained another. If an unrecognised child is abandoned in a hospital or other institution, or anywhere on Italian territory, the child is automatically granted Italian nationality at the moment of registration at the Population Registry Office. The civil officer who receives the communication of abandonment, drafts a report, gives a name and surname to the child, immediately informs the competent authorities, and registers the child in the Municipality as an Italian national.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 1(2): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy
PRS	2	b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying	UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the	There is no reference to an age limit in the nationality law. In the Civil Code, the word 'foundling' is connected to the birth of the child. In CIR's opinion, the concept of	D.P.R. 3 novembre 2000, n. 396 (1), Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, a norma

				when a foundling would qualify for nationality?	identity of their parents or their place of birth.	'foundling' could not be connected to a teenager, for example.	dell'articolo 2, comma 12, della L. 15 maggio 1997, n. 127, Art. 38: https://www.esteri.it/mae/doc/dpr396_2000.pdf (IT)
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.	Not to our knowledge.	Consiglio Italiano per i Rifugiati (CIR) practice
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.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 11: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)
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.	Law 91/92 states that any minor adopted by an Italian national is considered an Italian national. The age limit is 18 years-old. In the framework of Italian legislation there is no risk of statelessness for minors during the adoption process.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18, Art. 3(1): http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) LEGGE 4 maggio 1983, n. 184, Disciplina dell'adozione e dell'affidamento dei minori. (GU Serie Generale n.133 del 17-05-1983 - Suppl. Ordinario), Art. 34: http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=1983-05-

							17&atto.codiceRedazionale=083U0184&elenco30giorni=false (IT)
PRS	4	a	lus 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.	Jus sanguinis is the principle determining Italian nationality irrespective of where the child is born. The acquisition of nationality occurs automatically where Italian descent is registered at birth.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) Arts. 231 & 250 of the Civil Code: https://www.altalex.com/documents/news/2014/08/22/della-filiazione (IT)
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	The law states that for children born in wedlock, the father is the person married to the mother. Whereas, for children born out of wedlock, paternity must be declared. The law however does not provide any different treatment for children and parents. As far as same-sex parents, no legislative provisions are in place for the adoption of children.	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) Arts. 231 & 250 of the Civil Code: https://www.altalex.com/documents/news/2014/08/22/della-filiazione (IT)
PRS	5	a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of	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	Birth registration is compulsory by law. Italian legislation ensures birth registration for every child born on the territory, regardless of nationality and legal status of the parents, as well as to every child born abroad to an Italian	DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, a norma dell'articolo 2, comma 12, della legge

				<p>the legal status and/or documentation of parents?</p>	<p>children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown. UNHCR (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR (2014): Action 7 UN Sustainable Development Goal 16.9</p>	<p>national. Children of irregular migrants are not prevented from registering a birth by law. A ministerial circular (19/2009) states that “in order to file a declaration of birth or a document concerning the recognition of filiation for registration in the municipal population registry it is not required to exhibit a permit of stay since the mentioned declarations are made with the purpose of protecting the minor concerned as well as in the public interest of the certainty of factual situations”.</p>	<p>15 maggio 1997, n. 127. (GU Serie Generale n.303 del 30-12-2000-Suppl. Ordinario n. 223): http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT)</p> <p>Ministero dello’Interno, Circolare n.19 del 7 agosto 2009, Legge 15 luglio 2009, n. 94, recante “Disposizioni in materia di sicurezza pubblica”. Indicazioni in materia di anagrafe e di stato civile: http://dait.interno.gov.it/servizi-demografici/circolari/circolare-n19-del-7-agosto-2009 (IT)</p>
PRS	5	b		<p>Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.</p>	<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. 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>	<p>Yes, following birth registration, a copy of the birth certificate is issued by the Registry Office.</p>	<p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, Art. 30: http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT)</p>

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 formal procedure, if information on both parents is recorded etc.)	Convention on the Rights of the Child, 1989: Articles 3 & 7	The child's nationality is recorded at the time of registration on the Municipal Population Registry. The nationality is automatically attributed to the child on the basis of the parent's nationality. If this is not clear or not proved, practice shows that the tendency is to attribute a presumed nationality, such as that of the parents' country of origin.	DECRETO DEL PRESIDENTE DELLA REPUBBLICA 30 maggio 1989, n. 223 Approvazione del nuovo regolamento anagrafico della popolazione Residente, Art. 20: https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.pr esidente.della.repubblica:1989-05-30;223!vig=2017-12-07
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	Yes, it is possible to ask for the correction/revision or integration of the birth certificate. The claim must be lodged before the Civil Court in the district of the Civil Registry Office where the birth certificate has been registered. There is no timeframe nor deadline to lodge the claim and it is not necessary to be assisted by a lawyer. There is no fee for submitting the claim although applicants can be requested to pay bureaucratic expenses or taxes (e.g. stamps).	DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Art. 95 <a "="" href="https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.pr esidente.della.repubblica:2000-11-03;396!vig=">https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.pr esidente.della.repubblica:2000-11-03;396!vig=

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.	Despite the good practice of children explicitly being allowed to be registered regardless of the status of their parents in Italy, there is concern that children born outside hospitals or health structures may remain unregistered because parents do not register their births. The scale of this phenomenon is hard to estimate.	Canetta, T. & Pruneddu, P., Neonati 'clandestini' invisibili per lo Stato, Linkiesta, 20 dicembre 2013: http://www.linkiesta.it/immigrati-figli-anagrafe (IT) CIR-ENS, Ending Childhood Statelessness: A study on Italy, Working paper 07/15, June 2015: https://www.statelessness.eu/resources/ending-childhood-statelessness-study-italy
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.	No.	
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.	The law states that the declaration of birth may be presented either to the municipality within 10 days of the birth, or to the hospital management within three days. Late registration is possible and the reason for the delay should be provided. The reasons for the delay are assessed by the public prosecutor (procuratore della Repubblica). If reasons are not well-	DECRETO DEL PRESIDENTE DELLA REPUBBLICA 3 novembre 2000, n. 396, Regolamento per la revisione e la semplificazione dell'ordinamento dello stato civile, a norma dell'articolo 2, comma 12, della legge 15 maggio 1997, n. 127. (GU Serie Generale n.303 del 30-12-2000-Suppl. Ordinario n. 223), Art. 31(2):

					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.	founded or supported by reliable documents, the birth certificate can be registered only after an order adopted by the judge. The judge assesses the legality and authorises the registration in the Population Registry.	http://www.gazzettaufficiale.it/eli/id/2000/12/30/000G0442/sg (IT) Consiglio Italiano per i Rifugiati (CIR) practice
PRS	5	h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	The reasons for the delay are assessed by the public prosecutor (procuratore della Repubblica). If reasons are not well-founded or supported by reliable documents, the birth certificate can be registered only after an order adopted by the judge. The judge assesses the legality and authorises the registration in the Population Registry. This provision is considered as a protective measure for children.	
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	Not to our knowledge.	Consiglio Italiano per i Rifugiati (CIR) practice
PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of	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	Yes. There are estimated to be between 3,000 to 15,000 people stateless or at risk of statelessness in Italy. Most belong to the Roma community originating from former Yugoslavia; the rest come from Tibet, Palestine, Eritrea and Ethiopia.	CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013, p. 52 (footnote 73): http://www.cir-onlus.org/wp-

				<p>statelessness? Please provide details and source of information.</p>	<p>aimed at eliminating statelessness affecting minorities.</p>	<p>Since the dissolution of Yugoslavia, it became difficult (or impossible), for ex-nationals of the former Yugoslavia to obtain nationality from the new states that emerged. The problem disproportionately affected Roma communities who had already arrived in Italy before the dissolution but also those who arrived after. They often lack any documentation and encounter obstacles when seeking to clarify their civil status. Roma children born in Italy to displaced families from the former Yugoslavia are thus disproportionately impacted. They often face difficulties accessing legal status and obtaining Italian nationality, passing on the risk of statelessness from generation to generation.</p>	<p>content/uploads/2018/07/In-the-sun_CIR_last-review_final.pdf ASGI, Out of limbo: Verso uno status legale per le persone rom prive di documenti, apolidi o a rischio di apolidia, maggio 2015: https://www.asgi.it/wp-content/uploads/2014/04/Rapporto-OUT-OF-LIMBO_def.pdf (IT)</p> <p>UNHCR, UNHCR Recommendations on the Relevant Aspects of the Protection of Stateless Persons in Italy, October 2014: https://www.refworld.org/docid/5513cff14.html</p> <p>Associazione 21 luglio ONLUS- Rapporto Annuale 2016, Aprile 2017: http://www.21luglio.org/21luglio/wp-content/uploads/2018/04/Rapporto-Annuale-2017_web.pdf (IT)</p> <p>Tavolo Apolidia, April 2020: https://tavoloapolidia.org/app/uploads/2020/04/Advocacy-Paper-Tavolo-Apolidia_v2020_def.pdf (IT)</p> <p>Presidenza del Consiglio dei Ministri, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull'origine étnica, Strategia Nazionale d'inclusione dei Rom, dei Sinti e dei Caminanti, Attuazione</p>
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							Comunicazione Commissione Europea N.173/2011: https://www.comune.roma.it/resources/cms/documents/Strategia_italiana_rom.pdf (IT)
PRS	6	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	UN Convention on the Reduction of Statelessness, 1961 UNHCR (2014) : Actions 1 & 8 UNHCR (2015) : States parties to the 1954 Convention are required to help stateless persons become naturalised.	No. In 2012, a ‘National Strategy for the Social Inclusion of Roma People’ was introduced, which aimed to reduce statelessness/risk of statelessness by 2020. However, no significant activity or campaign has been undertaken towards achieving this goal. Under the National Strategy, a ‘Juridical Roundtable’ was established with the support of the Italian Ministry of Interior along with other competent ministries and civil society (including CIR) to elaborate concrete proposals for the reduction of statelessness among Roma Communities. However, it has not met for some time.	Presidenza del Consiglio dei Ministri, Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull’origine étnica, Strategia Nazionale d’inclusione dei Rom, dei Sinti e dei Caminanti, Attuazione Comunicazione Commissione Europea N.173/2011: https://www.comune.roma.it/resources/cms/documents/Strategia_italiana_rom.pdf (IT) Consiglio Italiano per i Rifugiati (CIR) practice
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 law sets out when loss and/or deprivation of nationality can occur. Automatic loss occurs when a person joins the army of another state; accepts a public position with another state or public body or an international body that Italy does not recognise; acquires nationality or a government post in a state with which Italy is in a state of war. The competent authority in ordering any procedure for loss of nationality is the Ministry of the interior. The Civil Officer registers a declaration of loss of nationality in the Population Register and transfers it to the Mayor. The assessment	LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT) DECRETO DEL PRESIDENTE DELLA REPUBBLICA 12 ottobre 1993, n. 572 Regolamento di esecuzione della legge 5 febbraio 1992, n. 91, recante nuove norme sulla cittadinanza. (GU Serie Generale n.2 del 04-01-1994):

					<p>should be carried out within 120 days from the receipt of the documentation. The nationality law, recently amended, introduces the possibility for revocation of nationality in the event of a final sentence for the following crimes: terrorist acts; subversion of the constitutional order; subversive association; constitution, promotion or participation in armed groups; assistance and training of members of armed groups; assistance of members of subversive associations and of terrorist associations; misappropriation of properties and funds seized in order to prevent from financially supporting terrorist activities. This provision does not apply to people who acquired Italian nationality by birth.</p>	<p>https://www.refworld.org/docid/46b84a1f2.html (IT)</p> <p>DECRETO DEL PRESIDENTE DELLA REPUBBLICA 18 aprile 1994, n. 362, Regolamento recante disciplina dei procedimenti di acquisto della cittadinanza italiana, (GU Serie Generale n.136 del 13-06-1994 - Suppl. Ordinario n. 91): http://www.gazzettaufficiale.it/eli/id/1994/06/13/094G0368/sg</p> <p>OHCHR Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination, 28 January –1 February 2019, p. 20: https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf</p>
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)?	<p>UN Convention on the Reduction of Statelessness, 1961: Article 8(4) European Convention on Nationality, 1997: Article 11</p>	<p>The deprivation of nationality can be proposed by the Ministry of Interior within 3 years from the criminal conviction and it is adopted through a Decree of the President of the Republic. There are no exceptions even where the measure results in statelessness.</p>	<p>LEGGE 5 febbraio 1992, n. 91, Nuove norme sulla cittadinanza, modificata dalla Legge 132/18: http://www.cir-onlus.org/wp-content/uploads/2018/12/Legge-91_92-modificata-legge-132_18.pdf (IT)</p>

Prevention and Reduction – 2019

PRS	7	c		Are withdrawal provisions applied in practice?		No information is available.	
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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.		<p>There are several significant Supreme Court judgments adjudicating statelessness in Italy. Key issues decided on include:</p> <ul style="list-style-type: none"> · Court of Cassation n.14918, 20/03/2007: Formal proof of loss of nationality is not required to be granted stateless status; statelessness can be inferred from other facts, such as refusal to grant the person rights usually linked to nationality. · Court of Cassation SU n.28873, 09/12/2008: Stateless persons can access the ordinary jurisdiction for the statelessness determination procedure, instead of the more complicated administrative one. · Court of Cassation n.7614, 04/04/2011: Requests to be granted stateless status must be presented and decided within the ordinary jurisdiction system, and the adversarial principle needs to be respected. · Court of Cassation n.15679, 21/06/2013: Statelessness determination procedures must consider the provisions regulating nationality in the state with which the applicant has significant legal links. The 1954 Convention applies only to those who do not have any nationality and not to those who, although entitled, 	<p>Court of Cassation judgments: http://www.italgiure.giustizia.it/</p> <p>Council of State case-law: https://www.giustizia-amministrativa.it/web/guest/dcsnpr?p_p_id=GaSearch_INSTANCE_2NDgCF3zWBwk&p_p_state=normal&p_p_mode=view&GaSearch_INSTANCE_2NDgCF3zWBwk_javax.portlet.action=searchProvvedimenti&p_auth=HiNY4LNR&p_p_lifecycle=0</p> <p>Accertamento dello status di apolide: il richiedente deve allegare i non possedere la cittadinanza dello Stato con cui intrattenga o abbia intrattenuto legami significativi, Cass. civ. Sez. I, 18/01/2018, n.1183: http://www.rassegnasentenze.it/cass-civ-sez-18-01-2018-n-1182-4/ (IT)</p> <p>Progetto Melting Pot, Riconoscimento dello status di apolide a rifugiato proveniente dal Kuwait di etnia Bedoon, Tribunale di Roma, ordinanza del 24 gennaio 2018: http://www.meltingpot.org/Riconoscimento-dello-status-di-apolide-a-rifugiato.html#.W2qu2rh9jI (IT)</p>

						<p>did not activate the procedure to obtain it.</p> <ul style="list-style-type: none"> · Court of Cassation n.25212, 08/11/2013: The condition of statelessness must be evaluated not only formally, but also substantially. · Court of Cassation n.4262, 03/03/2015: The burden of proof on the claimant in statelessness determination procedures should be attenuated and judges may use their investigative powers when intervention is needed. Stateless persons are entitled to the same reduced burden of proof as international protection seekers. · Court of Cassation n.19201, 28/09/2015: When deciding on the validation of a measure to detain a person for the purpose of expulsion, the Justice of the Peace must duly take into account the absence of reasonable prospects of repatriation, such as in cases of stateless persons. · Court of Cassation n.12643, 17/06/2016: A formal act demonstrating loss of nationality is not required in the context of a statelessness determination procedure, since statelessness can also be proven de facto. At the same time, applicants must give proof of such facts from which it is possible to infer that they are deprived of (some of) those prerogatives linked to nationality. 	
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					<ul style="list-style-type: none"> · Court of Cassation n.28153, 24/11/2017: The burden of proof is shared between the applicant and the authority. The applicant should make all possible efforts to clarify their condition of statelessness. The declarations provided by the applicant should be supported by evidence. If the applicant, despite all possible efforts, does not manage to provide evidence, the judge can use ex officio powers to assist the applicant. · Court of Cassation n.1183, 18/01/2018: Recognition of stateless status to a bidoon refugee from Kuwait · Court of Cassation n. 16489, 19/06/2019: Pending the SDP and/or under a condition of persons at risk of statelessness, the stateless person cannot be expelled when the situation of statelessness clearly emerges from the information or documentation provided by the competent public authorities of the Italian State, the State of origin or the State with which a significant link with the person is established. · Corte di Cassazione, I sez. civile, Ordinanza n. 16114/2019: Reaffirms the shared burden of proof. <p>Case-law issued by the Council of State establishing that nationality cannot be denied only because the applicant has committed a crime:</p>	
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						<ul style="list-style-type: none"> · Sentenza n. 5544 del 11 novembre 2014 Consiglio di Stato · Cons. Stato, sez. III, sent. n. 5262 del 06.11.2018 · Cons. Stato, sez. III, Sent. n. 3121 del 14.05.2019: 	
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		There are too many to list here.	<p>Tavolo Apolidia, Giurisprudenza: https://tavoloapolidia.org/apolidia-italia/giurisprudenza/ (IT)</p> <p>ASGI, Banca dati – giurisprudenza, Temática: Cittadinanza/Apolidia: https://www.asgi.it/giurisprudenza/?fwp_tematica=cittadinanzaapolidia (IT)</p>
LIT	2	a	Legal training	Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	<p>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.</p> <p>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.</p>	<p>There is no compulsory training on statelessness. A draft law on the recognition of stateless status submitted during the previous parliamentary term (2015) provided that public administration personnel and administrative stakeholders should receive basic training on the implementation of the regulations of the offices and services in which they perform their activity. The parliamentary term ended in December 2017, so this draft law must now be resubmitted. UNHCR occasionally cooperates with the courts to deliver ad hoc statelessness trainings. Law 13/2017 states that specialised training is compulsory for judges of the specialised sections and members of territorial commission.</p>	<p>DISEGNO DI LEGGE COMUNICATO ALLA PRESIDENZA IL 26 NOVEMBRE 2015, Disposizioni concernenti la procedura per il riconoscimento dello status di apolidia in attuazione della Convenzione del 1954 sullo status delle persone apolidi, No. 2184, Art.14: http://www.senato.it/japp/bgt/show_doc/17/DDLPRES/0/967066/index.html?stampa=si&spart=si&toc=no (IT)</p> <p>Scuola Superiore della Magistratura website: http://www.scuolamagistratura.it/formazione-permanente/2014-11-12-13-09-5/365-formazione/formazione-permanente/formazione-permanente-anno-2019/2143-</p>

						<p>Training courses are mostly provided by academics, professionals, lawyers' associations, NGOs, UNHCR and other civil society associations with trainers from different professional backgrounds. They are mainly focused on immigration issues and are not exclusively concerned with statelessness but do provide some knowledge, tools and skills to address statelessness and the right to nationality.</p>	<p>p19061-il-diritto-ed-il-processo-dell-immigrazione.html</p> <p>DECRETO-LEGGE 17 febbraio 2017, n. 13, Disposizioni urgenti per l'accelerazione dei procedimenti in materia di protezione internazionale, nonché per il contrasto dell'immigrazione illegale. (17G00026) (GU Serie Generale n.40 del 17-02-2017), Art. 2: http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2017-02-17&atto.codiceRedazionale=17G00026&elenco30giorni=false (IT)</p> <p>Fondazione Formazione Forense Ordine Avvocati di Firenze, Firenze, L'apolidia secondo il diritto interno e nel diritto internazionale, Giugno 2013</p> <p>Fondazione Formazione Forense Ordine Avvocati di Pistoia, Pistoia, Il diritto degli apolidi e stato della giurisprudenza in Italia. Il progetto "In the sun", Aprile 2013</p> <p>Consiglio Nazionale Forense CIR – Europe Consulting, Roma – Corso sull'apolidia, Peregrini sine civitate, Novembre 2012-Marzo 2013</p>
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LIT	3	a	Pro Bono	<p>Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.</p>	<p>UNHCR (2014): Applicants must have access to legal counsel.</p>	<p>Yes, there are several law firms and organisations providing specialist advice, including civil society organisations providing free advice and specialist services. In 2016, UNHCR set up a network of organisations and lawyers working on statelessness. The network - Tavolo Apolidia – aims to elaborate proposals and recommendations on addressing statelessness for governments and authorities and to raise public awareness</p>	<p>Some examples of organisations providing specialist advice include:</p> <ul style="list-style-type: none"> · Progetto Meltingpot · ASGI – Associazione per gli Studi Giuridici sull’Immigrazione · Consiglio Italiano per I Rifugiati · Association 21 luglio · Council of Europe JUSTROM Programme (legal clinic)

						on the issue. In addition, several members of the network also provide individual counselling to stateless people.	Tavolo Apolidia: https://tavoloapolidia.org/ (IT)
LIT	4	a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		Yes, there is - it is mostly concerned with jurisprudence, law analysis and application.	Tavolo Apolidia: https://tavoloapolidia.org/app/uploads/2020/04/Advocacy-Paper-Tavolo-Apolidia_v2020_def.pdf (IT)