

UNIVERSAL PERIODIC REVIEW SPAIN – IV CYCLE

STANDARDS FOR THE RECOGNITION AND PROTECTION OF STATELESS PERSONS RIGHTS

Situation of stateless persons' rights

Reducing statelessness

Spanish legislation, when regulating access to nationality by residence for stateless persons not born in Spain, unlike in the case of refugees, does not include any reduced period for the granting of Spanish nationality, so the general rule is 10 years. (1954 Convention Relating to the Status of Stateless Persons (art. 32)).

Statelessness Determination Procedure

Spain has a specific procedure established by national legislation. However, this procedure contains a number of potential obstacles for applicants: shortage of ex officio initiation, digital divide, forms in Spanish, burden of proof, no authorization to work, limitation of free legal aid.

Detention of stateless persons

There are no procedural safeguards preventing stateless persons from being detained for deportation. Statelessness (and the risk of statelessness) is not taken into account in vulnerability assessments, and the law does not require the identification of a country proposed for removal before a person is detained, so the competent authorities do not take into account the unrealistic likelihood of expelling a stateless person.

Recommendations:

- Allow for facilitated naturalization of stateless persons, with a reduced time limit of 2 years and the elimination of other potential barriers, such as strict language requirements, fees and citizenship tests, in line with Spain's obligations to facilitate access to nationality for stateless persons under Article 32 of the 1954 Convention.
- Ensure that the statelessness determination procedure is easily accessible to applicants. Remove all possible barriers, such as language, computer literacy, lack of legal assistance and lack of information, and encourage the ex officio initiation of the Statelessness Determination Procedure, to ensure that the procedure is easily accessible to all persons.
- Guarantee those standards necessary for the procedure to be fair and efficient, such as non-removal of applicants and their access to the territory during the processing of the file, right to an interview, shared burden of proof, free legal assistance, and obtaining a decision within a short and reasonable period of time.
- Strengthen legal and policy measures, including alternatives to detention, to protect persons who are stateless or at risk of statelessness from arbitrary detention, and ensure that all persons in immigration detention have access to the statelessness determination procedure.
- Accede to the 1997 European Convention on Nationality, the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.