

PROTECTING STATELESS PERSONS FROM ARBITRARY DETENTION



European
Network on
Statelessness

aditus
accessing rights

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PRESS RELEASE

A new report published today by the European Network on Statelessness and aditus foundation on the use of detention of stateless persons in Malta, reveals that the widespread use of administrative detention has a severe impact on stateless persons. The absence of procedures to identify and recognize statelessness results in detention that in many cases is not in conformity with Malta's human rights obligations. Furthermore, stateless persons are unable to receive any form of legal and social protection since their status remains largely unidentified. The report is nonetheless optimistic that up-coming changes to Malta's detention regime, as also possible steps towards the 1954 Stateless Convention, could result in dramatic changes to the way stateless persons are treated.

Neil Falzon, director of aditus foundation said:

The report confirms the urgency for Malta to revise its detention regime. It also stresses that the absence of any procedure to identify stateless persons results, in many cases, in their unlawful detention and their lack of social and legal protection. Nonetheless, despite the shortcomings identified in the report, we are looking forward to Malta's announced plans to revise its detention regime and to consider approaching the 1954 Convention.

The report is the most recent in a series of publications forming part of a Europe wide research and advocacy effort by the European Network on Statelessness to investigate the law, policy and practice related to the detention of stateless persons. Detention of stateless persons is a concerning trend across Europe and is happening despite the fact that protection against arbitrary detention is well entrenched under international and regional law. ENS is committed to raising awareness and finding durable solutions and is, in addition to country research reports, publishing a regional toolkit for practitioners on protecting stateless persons from arbitrary detention on 30 November at an event in London.

The report outlines a number of key recommendations and calls on the Government to:

- Accede to the UN Convention relating to the Status of Stateless Persons of 1954;
- Establish a procedure to identify and recognize stateless persons, building on experiences and lessons learnt by the Office of the Refugee Commissioner;
- Shift from automatic detention towards a system based on individual assessments, in line with Malta's human rights obligations. For stateless persons, this is particularly relevant in the context of pre-removal detention;

- Detention should be used as a last resort, after all less coercive remedies have been explored;
- Detained persons should have access to an effective remedy to challenge the legality of their detention;
- Organize training sessions on statelessness, for public authorities engaging with this issue;
- Conduct an internal assessment of scenarios whereby Maltese law or practice gives rise to or heightens the risk of statelessness;
- Ensure access to protection for stateless persons.

Chris Nash, director of the European Network on Statelessness said:

This new report shows that we are dealing with a small-scale issue which can be addressed quickly and effectively by establishing a dedicated statelessness determination procedure. As a first step, Malta should follow the example of other European countries and accede to the two UN conventions on Stateless Persons and on the Reduction of Statelessness, which would provide the legal framework for reducing statelessness and protecting those who find themselves stateless. We are optimistic that the Government will continue working with civil society organisations and engage in a constructive discussion to find ways to improve legislation and policy through the recommendations made in this report.

MEDIA CONTACT

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NOTES TO EDITORS

- [aditus foundation](#) is a Maltese human rights organization working to monitor, report and act on access to human rights in Malta. Its main activities involve advocating, through research, campaigns and public awareness, for laws and policies that fulfil Malta international and regional human rights obligations, whilst also offering legal information advice through its Pro Bono Unit.
- The [European Network on Statelessness](#) (ENS) is a civil society alliance with 103 members in 39 countries. It is committed to ending statelessness and ensuring that the estimated 600,000 people living in Europe without a nationality are protected under international law.
- ENS is undertaking a 3 year project aimed at better understanding the extent and consequences of the detention of stateless persons in Europe, and advocating for protecting stateless persons from arbitrary detention through the application of regional and international standards. The project will deliver a series of country reports (including the report on Malta published today) investigating the law, policy and practice related to the detention of stateless persons in selected European countries and its impact on stateless persons and those who are ‘unreturnable’ and therefore often at risk of statelessness.
- The project has developed a regional toolkit for practitioners on protecting stateless persons from arbitrary detention – which sets out regional and international standards that states must comply with. The toolkit, along with the full version of this and other country reports, will be available on the ENS website at <http://www.statelessness.eu/protecting-stateless-persons-from-detention>