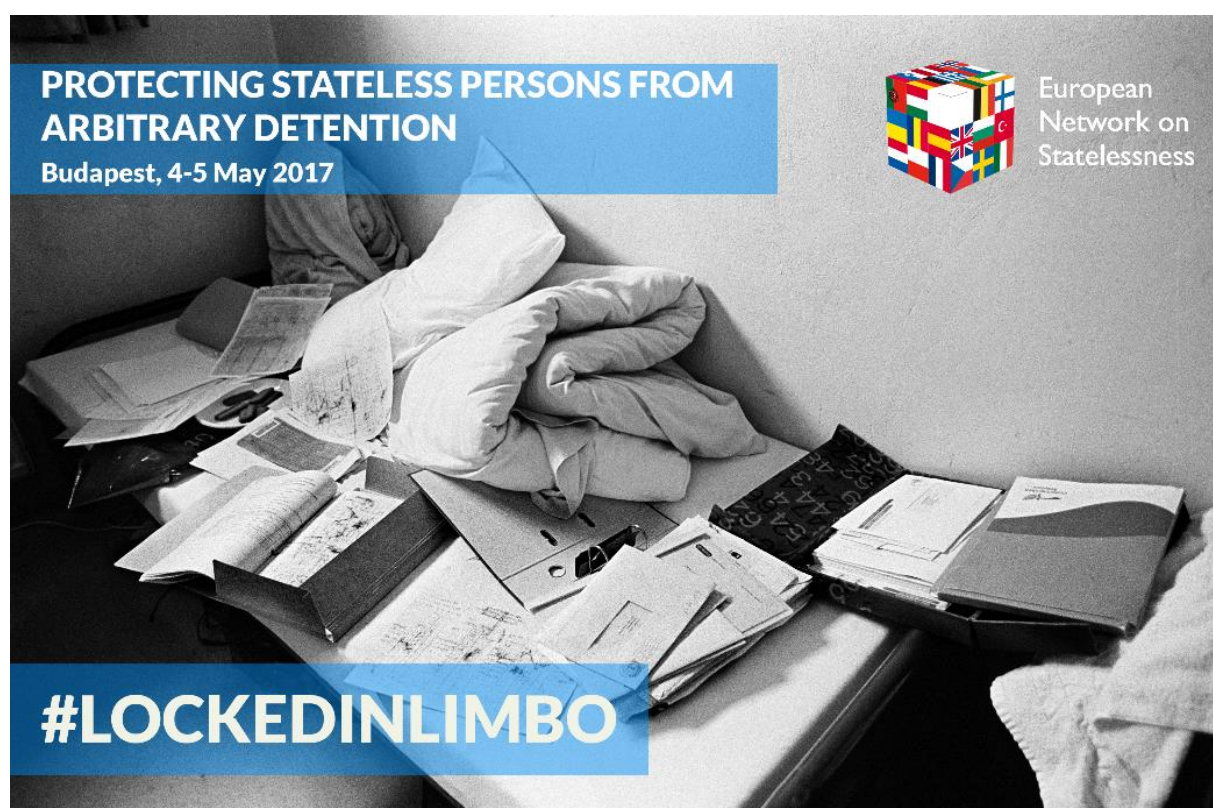


# Conference Report



On 4-5 May 2017, the European Network on Statelessness (ENS) brought together in Budapest, 115 civil society actors, lawyers, government officials, academics, and international agencies from across Europe to discuss and find ways to protect stateless people from arbitrary detention.

Marking the launch of a major campaign - #LockedInLimbo – and report, the culmination of three years of research on the issue, the event provided a platform for the exchange of ideas and search for solutions, shining a light on this often-hidden violation of human rights in Europe.

The atmosphere at the event was one of inspiration and solidarity. Delegates were reminded throughout by the stories of stateless people detained around Europe of the devastating human impact of days, months and years spent locked in limbo. A clear consensus was reached on the urgent need to find solutions to protect stateless people from arbitrary detention and build a movement towards a fundamental shift away from increasing reliance on detention as a tool for migration governance.

**Thursday 4 May**

## **Keynote Presentations**



**ENS Director, Chris Nash**, opened the conference, welcoming delegates to Budapest and introducing [ENS' work](#) on protecting stateless people from arbitrary detention. The increasing use of detention and criminalisation of irregular migration is a disturbing trend in Europe. Moreover, despite international standards, national frameworks to deal with statelessness effectively are lacking.

There is a gulf between the notional protection provided under legal standards and the actual realisation of those rights in practice. The lack of protection on the one hand and the growth of the immigration detention industry on the other has left many stateless people facing arbitrary, and sometimes indefinite, detention in Europe because there is no country to which they can be returned nor any prospect of regularisation in their host country.



Since 2014, ENS has [published six country reports, a regional toolkit for practitioners, and the testimonies of stateless people detained around Europe](#). This programme of work culminated at the conference in the launch of an [Agenda for Change](#) and [#LockedInLimbo campaign](#), calling for urgent reform to law, policy and practice. Delegates were encouraged to endorse a [joint statement](#) calling for an end to the detention of stateless people.

## **#LockedInLimbo Recommendations**

1. Implement a range of alternatives to detention
2. Develop statelessness determination procedures
3. Put in place robust mechanisms to protect rights, respond to vulnerabilities and not discriminate
4. Facilitate integration in the community
5. Improve recording and reporting on statelessness

**Award-winning photographer, Greg Constantine**, set the tone for the conference with a powerful address in which he spoke eloquently of his work to ensure that human stories have been integral to efforts to end statelessness over the last ten years. Through his photographs and the compelling words of stateless people he has met over the years, Greg reminded delegates why they had gathered in Budapest.



*"Everything leads to nowhere. My hands have been tied... It's like a spider web. I'm trapped and anywhere I move I get stuck."*

(Stateless man detained in the UK)

**Deputy Director, UNHCR Bureau for Europe, Angela Li-Rosi**, spoke of the agency's role in tackling statelessness and its [#IBelong campaign](#), noting the double jeopardy of being stateless and a refugee, as well as the challenges posed by a lack of routes to protection for stateless people.



The importance of advocacy on alternatives to detention and monitoring places of detention were also highlighted and new UNHCR guidance to support the identification of stateless people in detention, introduced. She closed with a call to be bold in leading the way to reform.

**Council of Europe Parliamentary Assembly Member, Manlio di Stefano**, congratulated those gathered on their 'life-changing and life-saving work' in the field of human rights. The recent focus in the Council of Europe on childhood statelessness, including the 2016 [report from its Committee on Migration, Refugees and Displaced Persons, was noted](#). Manlio urged states to



develop their own action plans and support UNHCR's work towards ending statelessness in a decade. He endorsed the joint statement and committed to actively supporting and encouraging others in the Council of Europe to do the same.

The ensuing **plenary discussion** touched on integration, decisions to detain, ending immigration detention, and the relevance of statelessness to the Sustainable Development Goals (SDGs) and Global Compacts on Migration and Refugees. It was noted that statelessness is intrinsically linked to the work of development actors, with discussions ongoing at country level to ensure SDG action plans explicitly include statelessness. It was noted that ExCom 2018 would address the issue and a proposal to build trigger questions on statelessness into



Refugee Status Determination procedures was on the agenda for inclusion in the Global Compact on Refugees.

The **Council of Europe Commissioner for Human Rights, Nils Muiznieks**, gave [a video address](#), warmly welcoming the conference and Agenda for Change as being ‘of crucial importance’. He noted the particular vulnerability of stateless people in detention due to their invisibility and lack of status, and committed to supporting the work of ENS to tackle this issue, calling for much more to be done to develop human rights based alternatives to detention.

## Panel Discussions

### Panel 1: Presentation of ENS research findings - what needs to change & why?



Panel moderator, **Amal de Chickera, Institute on Statelessness and Inclusion**, asked delegates to reflect on the last seven years, to imagine what Anton, an interviewee in Bulgaria, had been through during seven years of detention. He challenged us to remember the person amidst the legal technicality, before providing an overview of the legal framework and jurisprudence on arbitrary detention. Amal called for a culture among immigration authorities of only truly using detention as a last resort, noting the dangerous link between detention and statelessness, and the need to focus on addressing both.

Panellists, **Kasia Przybysławska, Halina Niec Legal Aid Center, Katia Bianchini, Max Planck Institute, and Denitsa Georgieva, Foundation for Access to Rights**, who had led country research in [Poland](#), [the UK](#) and [Bulgaria](#) respectively, set out the standards and practices pertaining to the detention of stateless people in each context and discussed what changes were required to better protect people from arbitrary detention and discrimination.



The **plenary discussion** raised a range of issues from how the translation of the definition of statelessness impacts on its meaning in domestic law, to the development of regional jurisprudence following the *Kim v. Russia* (ECHR) case, and the challenge of access to socio-economic rights for stateless people in the community. In Poland and Bulgaria, for example, the rights afforded stateless people are basic and more limited than those granted to refugees. In general, rights under Statelessness Determination Procedures (SDPs) in Europe vary significantly. Support is generally not available to applicants for statelessness status, and rights are more limited than those granted to refugees. Brazil was identified as an example of



good practice where all 1951 Refugee Convention rights have been extended to stateless people, and applicants are supported.

## **Panel 2: Additional national and global perspectives - practical steps and tools to protect stateless people from arbitrary detention**

Presentations in this session explored the identification of statelessness, assessment of vulnerability, implementation of alternatives to detention, monitoring of detention conditions and other ways in which existing standards can be utilised to strengthen protection.



Panel moderator, **Neil Falzon, Aditus Foundation**, spoke of Ibrahim Suso, detained in Malta and who had to reach crisis point in his mental health before he was afforded protection. His story is a reminder that the constant re-detention of people who have nowhere to go is inhumane. Malta has not yet ratified the Statelessness Conventions nor established an SDP, leaving people like Ibrahim in limbo. The tools presented aimed to address such gaps and improve the identification and referral of stateless people to appropriate support.



**Marie Huberlant, UNHCR**, noted a range of tools for protection in this area, including UNHCR's Beyond Detention Strategy, which delegates were encouraged to review and engage with at national level. Marie introduced new UNHCR guidelines for identifying stateless people in detention, aimed at legal practitioners, case workers and others, which provide a series of guiding questions and follow-up steps to support the identification of statelessness. The guidelines are currently in draft and feedback was welcomed ahead of publication in the next few months.

**Stephania Kulavea, ADC Memorial**, presented on the cooperation between advocates, lawyers, and stateless people in Russia, highlighting successful litigation and jurisprudence, as well as how ADC Memorial has worked with stateless people in detention to document conditions through photography and film. She encouraged others to adopt an approach that combines strategic litigation with awareness raising and empowerment.





**Ostap Tymchii, HIAS**, presented on the Right to Protection Project in Ukraine, which is working through research and advocacy to evidence statelessness and influence the Government's response. He noted that an SDP is currently being drafted in Ukraine, which presents an important advocacy opportunity to influence the development of a procedure in line with international standards and good practice.

**Ben Lewis, International Detention Coalition (IDC)**, discussed a forthcoming position paper on statelessness and detention, which will address discrimination in the

application of detention; repeated, prolonged or indefinite detention; and the severe physical and psychosocial impact of detention. In calling for an end to detention for administrative convenience and a shift towards alternatives, Ben encouraged delegates to be bolder about promoting the right to liberty, developing alternatives in practice and looking beyond Europe for good examples of law, policy and practice.



**Laura Lungarotti, International Organization for Migration (IOM)**, discussed IOM's work on detention and documentation, giving examples of cooperation in Italy to document children who cannot be returned, and in Libya to release pregnant women from detention and secure birth registration for children born in transit. Challenges such as undocumented migrants in transit, and a lack of consular authorities were highlighted. Further examples of good practice focusing on cooperation and engagement around alternatives to detention, birth registration, access to consular authorities, ending child detention and developing guidelines, were provided.

During the **plenary discussion**, all the tools and mechanisms presented were welcomed. It was suggested the new UNHCR guidance could usefully be translated into different languages. The need for improved information about stateless people in detention and post-release or removal was raised, with a call for a common methodology for recording and reporting on statelessness. Delegates were reminded that the right to liberty cannot be derogated from, even in times of crisis, and that a shift towards an alternative, holistic way of engaging with people to build trust and compliance with procedures is needed as part of a strategy to push back on the growing reliance on detention for migration governance.



## Workshops

### Workshop A: Piloting alternatives to immigration detention for stateless people

Facilitated by **Jem Stevens, International Detention Coalition**, and **Danae Psilla, Detention Action**, this workshop explored how to use alternatives to detention (ATD) for practical advocacy, explaining that alternatives should be thought of as any type of measure that leads to a reduction of detention, not just physical or practical changes, or alternative *forms* of detention, such as tagging. An ATD is any law, policy, or practice, with the most effective being those built on trust, which support and empower people to comply with immigration regimes. Detention Action presented a model being developed in the UK, focused on tailored support work, referral, and planning with individuals, led by an NGO but with buy-in from the Government to facilitate detainees' release into the project. Participants discussed how NGOs can pilot engagement-based ATD as a strategy for achieving change and heard about a new network of NGOs piloting alternatives in different national contexts in Europe.

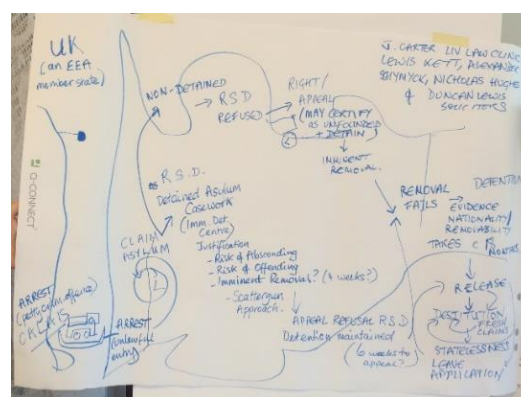
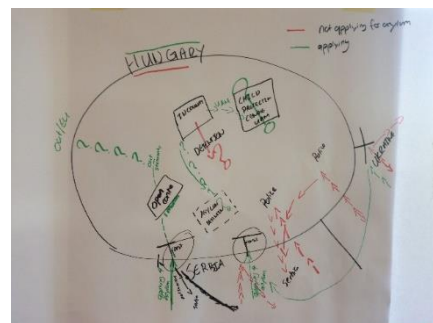
### Workshop B: Visual storytelling and documenting stateless people in detention

**Photographer Greg Constantine** facilitated this lively session examining how visual storytelling can be employed to boost advocacy and campaigning, as well as to convey simple stories of resilience and the needless suffering of those stateless people who end up in detention. He presented hard-hitting short film, '[No one will notice](#)', which explores the devastating impact detention has on stateless people throughout Europe. Participants discussed what makes for successful long-term partnerships between organisations and journalists and how organisations can integrate story-telling into their core work. The discussion focused in on the important issue of consent and how difficult it can be to balance the need to ensure that people are empowered and in control of their stories, at the same time as responding to the demands of advocacy and media pressures to influence public opinion and decision makers.



## Workshop C: Mapping a stateless migrant's journey from arrival to detention

This interactive workshop, facilitated by **Cynthia Orchard**, **Asylum Aid**, examined - through the eyes of a recently arrived migrant - how the risk of detention may arise at any stage in the journey through host state institutions. Different points at which detention might occur were mapped, and potential solutions and opportunities for influencing policy and practice identified at each stage. Participants were encouraged to visually map out their discussions and present them to the group for further discussion.



**Friday 5 May**

## Workshops

### Workshop D: Using checklists and tools to identify and protect from arbitrary detention

Facilitated by **Nina Murray**, **European Network on Statelessness**, **Inge Sturkenboom**, **UNHCR**, and **Ben Lewis**, **International Detention Coalition**, this workshop presented three complementary and practical tools to identify and protect stateless people from detention: the [ENS regional toolkit for practitioners](#); UNHCR Guidance on identifying stateless persons in detention (forthcoming); and the [IDC/UNHCR Vulnerability Assessment Tool](#).







Participants gained a more in-depth understanding of the tools and put them into practice through a role play exercise. Comments from participants on the content and usage of the tools were welcomed. The tools generated significant engagement and discussion from participants who noted their value and committed to using and disseminating the tools in their work.

### Workshop E: Gathering data on immigration detention for evidence-based advocacy

**Mariette Grange, Global Detention Project (GDP)**, led this discussion on the challenges of researching detention and statelessness, providing tips on assessing practice, measuring trends, and holding states accountable. Participants learnt about the GDP database, containing information on more than 100 countries and 2000 places of detention. The discussion addressed methodological, linguistic and legislative challenges as well as the discrepancy between law and practice, making civil society, academics and the media important sources of information for the GDP. More research on immigration detention is urgently needed to improve transparency in the treatment of detainees, encourage adherence to fundamental norms, reinforce advocacy, and promote scholarship and comparative analysis of migration control regimes.



### Workshop F: Un-returnability and evidencing statelessness

In this workshop, facilitators, **Marlotte van Dael, ASKV Refugee Support, Attila Szabo, Menedek and Catherine Blanchard and Sarah Joy, British Red Cross**, drew on their experience of working with stateless people in the UK, Netherlands, and Hungary respectively to discuss the issue of un-returnability and how to evidence statelessness.

British Red Cross presented the recent research project [Can't Stay. Can't Go: Refused asylum seekers who cannot be returned](#), which aimed to explore what un-returnability means for this group in the UK and what changes could improve their lives. It makes a series of recommendations to the UK Government, concluding that people who cannot be returned should be granted discretionary leave to remain and have access to support to prevent destitution.

Menedek shared a case study documenting the experiences of a woman recognised as stateless in Hungary after 13 years of applications and appeals. Despite there being an SDP in Hungary, she had been refused on credibility grounds. Her case was finally decided in court

where she was recognised as stateless. It was noted that where the country of origin refuses to respond it should be accepted that the person concerned is not a national, and that there needs to be improved cooperation between states.

ASKV Refugee Support presented a practical checklist and case management approach for evidencing statelessness, developed through their work in the Netherlands. The checklist includes questions identifying indicators that may demonstrate someone's nationality is unknown or cannot be proven. The checklist was presented and participants discussed additional questions that could be included.



## Final Plenary

### **An Agenda for Change: taking action against the arbitrary detention of stateless persons**

The final plenary heard from five speakers who drew on discussions over the course of the conference to identify practical steps, advocacy, litigation, and campaign actions to push for stronger commitment at national and regional levels towards ending the arbitrary detention of stateless people.

**Jean Lambert MEP** highlighted opportunities for strategic advocacy at the EU level to improve the situation of stateless people in Europe. She noted the ongoing review of the Common European Asylum System, pinpointing the Reception and Return Directives, and Dublin Regulation. She also spoke of ways to build evidence through collaboration with the European Asylum Support Office and election observation missions in third countries. She noted the Parliament's [2015 report](#) on statelessness and the Commission's recent [Communication on children in migration](#), as well as the joint LIBE/PETI hearing on statelessness to be held in the Parliament on 29 June, and encouraged delegates to ask their MEPs to attend and suggest questions to raise.





**Tamas Molnar, EU Fundamental Rights Agency**, spoke about how the EU Charter on Fundamental Rights can be used to promote the rights of stateless people, including the specific provisions on non-discrimination and protection from arbitrary detention. Significant case law from the Court of Justice of the EU was highlighted, including the Kadzoev case, which defines when there is ‘no prospect of removal’. Tamas drew attention to the work of FRA including its [2010 report](#) on the detention of third country nationals in return procedures, and [handbook](#) on European law relating to asylum, borders and immigration.

**Marlotte van Dael, ASKV Refugee Support**, presented ASKV’s project on litigating statelessness in the Netherlands describing their efforts to advocate for a formal Statelessness Determination Procedure in line with international standards and good practice.



**Tim Parritt, Oak Foundation**, shared the perspective of a private philanthropy organisation supporting civil society to take a human rights-based approach to empowering excluded and marginalised communities. Tim explained that systemic change is long-term and requires a multi-track approach, highlighting the critical role of networks in creating this change. The indications of a healthy network are how active its members are and how diverse its partners are. He reminded delegates that private philanthropists want to see progress and change, and that a clear and proactive agenda is a good foundation for targeted action and advocacy. He urged everyone to ensure recommendations reach different audiences with tailored

messages that are convincing to the general public.

**Jan Brulc, European Network on Statelessness**, closed the panel outlining next steps for the [#LockedInLimbo](#) campaign, including identifying champions among Council of Europe Parliamentary Assembly Members, developing and implementing national level advocacy plans and litigation strategies, storytelling, and joint messaging. Jan asked delegates to write down two actions they could commit to after the conference, encouraging them to take ownership of the campaign and use it in their day-to-day work.





## Concluding summary

This first major regional conference to address the issue of protecting stateless men, women and children from arbitrary detention in Europe successfully brought together over a hundred representatives from civil society organisations, academic institutions, international agencies and law and policy makers. Over two days in Budapest, ideas were exchanged and debated with energy, creating a platform and catalyst for reform. The contribution of such influential participants as the Council of Europe Commissioner for Human Rights, EU Fundamental Rights Agency, UNHCR, IOM, and elected representatives, among others, was an indication of the currency and relevance of the topic, as well as the commitment of senior policy makers and agenda-shapers to addressing the human rights of stateless people in the region.

The ENS Agenda for Change and accompanying research reports were welcomed as a clear framework for collective advocacy towards law, policy and practice reform in this area. Many other conference participants showcased innovative and important work being implemented at national and regional levels right across Europe, including the development of new tools to identify statelessness and protect those in vulnerable circumstances, litigation and legal representation, advocacy, storytelling, and research.

The overarching message emerging from the conference is that it is time for change. There needs to be a shift away from reliance on detention as a tool for migration governance, and procedures must be put in place to identify and protect stateless people from arbitrary detention. Forthcoming opportunities at international and regional levels, such as the Global Compacts, SDGs, the Universal Periodic Review and other UN Treaty Body processes, global campaigns, legislative reform in the European Parliament, Council of Europe working groups and committees, as well as targeted national level advocacy, must all be used to press for reform in the five key areas outlined in the joint statement and Agenda for Change:

- Developing and implementing alternatives to detention
- Putting in place effective procedures to identify statelessness
- Identifying and responding to vulnerability and preventing discrimination
- Facilitating integration in the community and routes to naturalisation
- Monitoring and reporting on detention and statelessness

We must now capitalise on the energy and ideas emerging from Budapest 2017 to continue to build momentum for reform. ENS' #LockedInLimbo campaign provides a vehicle for collective advocacy in this area and will be developing and driving forward the agenda in the coming months. For updates and links to all the resources related to the campaign and the conference, go to: <http://lockedinlimbo.eu>.

The conference and campaign received coverage in [Euronews](#), [Open Democracy](#), [EurActiv](#), [Time of Malta](#), as well as extensive reach on social media, a summary of which can be found [here](#).

For further information, please contact: [info@statelessness.eu](mailto:info@statelessness.eu) / [www.statelessness.eu](http://www.statelessness.eu)