

**Annex to UNHCR Submissions: Overview of the Standard and Burden of Proof applied in other signatory States to the 1954 Convention relating to the Status of Stateless Persons**

As of February 2018, fewer than 25 signatory States to the 1954 Convention have established statelessness determination procedures. Fifteen States have statelessness determination procedures established through legislative or sub-legislative acts<sup>1</sup> while four States have administrative or judicial statelessness determination procedures.<sup>2</sup>

The table below summarizes information received by UNHCR with regard to States that have enacted a statelessness determination procedure, in which the standard and burden of proof applied is sufficiently clear. UNHCR has not selected the States on the basis that they are considered to help advance its position. The information in the table is based on UNHCR’s knowledge of the practice of signatory States<sup>3</sup> and, where available guidance or legislation from the national authorities.

<b>France</b>	A claim of statelessness will be established on the basis of all available evidence that is “ <i>sufficiently precise and serious</i> ”. <sup>4</sup> The burden of proof is shared in practice.
<b>Italy</b>	The Italian Supreme Court has held that an “ <i>attenuated burden of proof</i> ” applies to stateless persons. <sup>5</sup> The burden of proof is shared in practice during the judicial procedure.
<b>Spain</b>	The standard of proof is similar to that applied in refugee status determination procedures. In 2001, the standard of proof for applicants to satisfy their part of a shared burden to evidence statelessness was lowered from “ <i>prove</i> ” (“ <i>acreditar</i> ”) to “ <i>declare</i> ” (“ <i>manifestar</i> ”). <sup>6</sup> The burden of proof is shared in practice.
<b>Luxembourg</b>	An applicant must submit “ <i>sufficiently precise and serious evidence</i> ” in support of his/her statelessness claim. <sup>7</sup> The burden of proof is shared.
<b>Hungary</b>	The burden and standard of proof applied to statelessness determination is the same as that applied in refugee determination. National law does not define <i>per se</i> the required level of the standard of proof; an applicant must be able to “ <i>prove or substantiate</i> ” his/her claim. <sup>8</sup> The burden of proof is shared in practice.
<b>Philippines</b>	The “ <i>reasonable degree</i> ” standard of proof recommended in the UNHCR Handbook is applied. <sup>9</sup> The burden of proof is shared.

<sup>1</sup> France (1953), Spain (2001), Latvia (2004), Hungary (2007), Mexico (2007), Moldova, Georgia and the Philippines (2012), UK (2013), Turkey (2014), Kosovo (2015), Costa Rica (2016), Bulgaria (2016), Ecuador (January 2017), Brazil (November 2017).

<sup>2</sup> Italy (since 1970s), Switzerland (2005), Slovakia (2012), Greece (2016).

<sup>3</sup> UNHCR, Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons, 11 July 2016, pp 16-18.

<sup>4</sup> French Office for the Protection of Refugees and Stateless Persons (OFPRA), *Guide des Procédures a L'OFPRA*, 2015, Section 9.2.

<sup>5</sup> Italian Supreme Court (Corte Suprema di Cassazione), Case No. 4262/15 of 4 November 2014.

<sup>6</sup> Article 34 of the Organic Law on the rights and freedoms of foreigners in Spain and their social integration, the "Aliens Act" 2000 (as amended) (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*, available at - <https://www.boe.es/buscar/act.php?id=BOE-A-2000-544>). See also the Supreme Court decision of STS 6925/2008 (available at: <http://www.poderjudicial.es/search/contenidos.action?action=contentpdf&database=TS&reference=3471369&links=%228597%2F2004%22&optimize=20090115&publicinterface=true>).

<sup>7</sup> Summary of the official information that is available on the government’s website.

([www.guichet.public.lu/citoyens/fr/immigration/cas-specifiques/apatriide/demande-statut-apatriide/index.html](http://www.guichet.public.lu/citoyens/fr/immigration/cas-specifiques/apatriide/demande-statut-apatriide/index.html))

<sup>8</sup> The same wording is used in the Act II of 2007 on the Entry and Stay of Third-Country Nationals and the Act LXXX of 2007 on Asylum.

<sup>9</sup> Department Circular No. 058 - Establishing the Refugees and Stateless Status Determination Procedure [Philippines], 18 October 2012, Section 9, available at: <http://www.refworld.org/docid/5086932e2.html>