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ENS Statelessness Index Survey: Republic of North Macedonia



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International and Regional Instruments

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
|-----|---|-----|-----------------|---|---|---|--|
| IOB | 1 | a | 1954 Convention | Is your country state party to the 1954 Statelessness Convention? | <ul style="list-style-type: none"> UN Convention Relating to the Status of Stateless Persons, 1954 | Yes. The former SFRY acceded to the 1954 Convention on 9 April 1959. With its dissolution all the successor States have in turn succeeded to the Convention, with no reservations. The Republic of North Macedonia gained its independence from the former Socialist Federal Republic of Yugoslavia (SFRY), where it was a federal state, and became a sovereign parliamentary democracy on 8 September 1991. | Signatories to the 1954 Convention (available at: http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3bbb0abc7&query=1954%20convention) |
| IOB | 1 | b | | If yes, when was ratification? | | The country acceded by succession on 18 January 1994. | |
| 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 effect on the rights of stateless persons. | None | |
| IOB | 1 | d | | Does Convention have direct effect? | Best practice is that the Convention has direct effect, though this may depend on legal regime. | Yes. According to the Constitution of the Republic of North Macedonia, the courts judge on the basis of the Constitution, the laws and the international agreements ratified in accordance with the Constitution. International agreements ratified in accordance with the Constitution are part of the internal legal order and thus cannot be changed by law. | Article 98 and Article 118 of the Constitution of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.52/1991 The Assembly of the Republic of North Macedonia (available at: http://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nspix) |
| IOB | 2 | a | 1961 Convention | Is your country state party to the 1961 Statelessness Convention? | <ul style="list-style-type: none"> UN Convention on the Reduction of Statelessness, 1961 | No. A Government decision to consider adherence to the 1961 Convention was announced at the 63rd session of the UNHCR Executive Committee (ExCom) in 2012. But the country has still not acceded to the 1961 Convention. | UNHCR, List of state parties to the 1961 Convention (available at: http://www.unhcr.org/protection/statelessness/3bbb24d54/states-parties-1961-convention-reduction-statelessness.html) |

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| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
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| IOB | 2 | b | | If yes, when was ratification? | | N/A | |
| IOB | 2 | c | | Are there reservations in place? Please list them. | As above | N/A | |
| IOB | 2 | d | | Does Convention have direct effect? | As above | N/A | |
| IOB | 3 | a | Other conventions | State party to European Convention on Nationality 1997? Are there reservations in place? Please list them. | European Convention on Nationality, 1997 | Yes. On 26 February 2002, the Law on Ratification of the European Convention on Nationality was promulgated, and the Convention entered into force on 1 October 2003. At the time, a reservation was entered to Article 6(3) retaining the right for citizenship by naturalisation to require a period of uninterrupted lawful residence of at least 15 years, but this was withdrawn on adoption of the (first) 2004 Law Changing and Amending the Law on Citizenship of the Republic of North Macedonia. | Official Gazette of the Republic of North Macedonia n.13/2002 Details of Treaty No.166, European Convention on Nationality (available at: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=LtvZjh8L) |
| IOB | 3 | b | | State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them. | European Convention on Human Rights, 1950 | Yes. The Convention was signed on 9 November 1995 and entered into force on 10 April 1997. | Details of Treaty No.005, Convention for the Protection of Human Rights and Fundamental Freedoms (available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=LtvZjh8L) |
| IOB | 3 | c | | State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are | Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 | No. | Details of Treaty No.200, Council of Europe Convention on the avoidance of statelessness in relation to State succession (available at: https://www.coe.int/en/web |

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
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| | | | | there reservations in place? Please list them. | | | /conventions/full-list/-/conventions/treaty/200/signatures?p_auth=nDAjGbia) |
| IOB | 3 | d | | Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them. | Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive) | N/A | N/A |
| IOB | 3 | e | | State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them. | Convention on the Rights of the Child 1989 | Yes. The Republic of North Macedonia became state party to the Convention on the Rights of the Child in 1993 with no reservations. | Law on Ratification of the Convention on the Rights of the Child, Official Gazette of the Socialist Republic of Yugoslavia, No. 150/1990 - Official Gazette, 1993. OHCHR, (available at: http://indicators.ohchr.org/) |
| IOB | 3 | f | | State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them. | International Covenant on Civil and Political Rights 1966 | Yes. The Republic of North Macedonia became state party to the International Covenant on Civil and Political Rights in 1994 with no reservations. | OHCHR, (available at: http://indicators.ohchr.org/) |
| IOB | 3 | g | | State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them. | International Covenant on Economic, Social and Cultural Rights 1966 | Yes. The Republic of North Macedonia became state party to the International Covenant on Economic, Social and Cultural Rights in 1994 with no reservations. | OHCHR, (available at: http://indicators.ohchr.org/) |

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
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| IOB | 3 | h | | State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them. | <ul style="list-style-type: none"> • 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, The Republic of North Macedonia became state party to the Convention on the Elimination of all Forms of Discrimination Against Women in 1994, with no reservations. | OHCHR, (available at: http://indicators.ohchr.org/) |
| IOB | 3 | i | | State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them. | <ul style="list-style-type: none"> • Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 | Yes, The Republic of North Macedonia became state party to the Convention in 1994, and to the Optional Protocol in 2009, with no reservations. | OHCHR, (available at: http://indicators.ohchr.org/) |
| IOB | 3 | j | | State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965? Are there reservations in place? Please list them. | <ul style="list-style-type: none"> • International Convention on the Elimination of All Forms of Racial Discrimination 1965 | Yes, The Republic of North Macedonia became state party to the International Convention on the Elimination of All Forms of Racial Discrimination in 1994, declaring that it accepted competence of the Committee. | OHCHR, (available at: http://indicators.ohchr.org/) |
| 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? Are there reservations in place? Please list them. | <ul style="list-style-type: none"> • International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990 | No. | |

Stateless Population Data

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
|-----|---|-----|--------------------------|---|--|---|--|
| POP | 1 | a | Availability and sources | Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how? | <ul style="list-style-type: none"> • Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends... • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons... • UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations... • Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory... | The last official statistics are provided in the results of the 2002 national census published in May 2005, which included persons without citizenship (i.e. non-nationals) as a category (total: 17,652). However, the 2002 census did not include those whose births/personal names were never registered in the Birth Registry Records, which is one of the reasons for the discrepancies between official and unofficial numbers for persons at risk of statelessness. Census data is disaggregated by ethnicity. | Republic of North Macedonia, State Statistical Office (available at: http://www.stat.gov.mk/Publikacii/knigalX.pdf , p. 591) |
| POP | 1 | b | | Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics. | As above | Yes. For internal use, the Ministry of Interior, Foreigners' Section uses the category "unknown nationality". | According to information obtained during an interview conducted with an official at the Ministry of Interior, Foreigners' Section. |

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| POP | 1 | c | | <p>What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?</p> | As above | <p>The caseload of beneficiaries at risk of statelessness as of November 2017 is 573 persons of whom: 270 have 'unregulated citizenship' (Macedonian citizens but births/names are not registered in civil registry); 303 'undetermined Macedonian nationality' (long term habitual residents such as those residing in the Republic of North Macedonia after dissolution of SFRY or their children born in N. Macedonia, facing the problem of unregulated Macedonian citizenship).</p> | <p>Casework information from UNHCR supported project 'Prevention and Reduction of Statelessness', implemented by the Macedonian Young Lawyers Association. Between Feb 2008 to Oct 2011, UNHCR implemented the regional project 'Social Inclusion of, and Access to Human Rights for Roma, Ashkali and Egyptian Communities in the Western Balkans', funded by the European Union and UNHCR, the goal of which was identification of persons facing documentation issues.</p> |
| POP | 1 | d | | <p>Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.</p> | As above | <p>Yes. Persons with unregulated citizenship (see above). The majority have unregistered birth or personal name. All of them are in situ, born in the country. A one-off Government-led Action to identify people with unregistered births and personal names in 2011 (led by the Ministry of Labour and Social Policy, with the Ministries of Interior and Justice, and Roma civil society) identified 441 people not registered in the Birth Registry Records. The Government announced a new campaign in April 2018 to identify and record people who lack birth certificate or other documentation. This campaign resulted in 650 people who signed up for the special registry due to lack of personal documentation</p> | <p>Casework information from UNHCR supported project 'Prevention and Reduction of Statelessness', implemented by the Macedonian Young Lawyers Association.</p> <p>Information on the Ministry of Labour and Social Policy website about the 2011 action: http://www.mtsp.gov.mk/akcija-za-evidencija-na-lica-vo-maticna-kniga-na-rodenite.nspix (MK)</p> <p>Statement of the Minister of Labour and Social Policy, Премиерот Заев на дебатата на тема „Системски решенија за регистрација на лицата без документи“: Во општество еднакво за сите, секој мора да има еднаков пристап до сервисите и услугите на државата, (Systemic solutions for registration of persons without documentation): https://vlada.mk/node/15918 (MK)</p> |

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| POP | 1 | e | | Have there been surveys or mapping studies done to estimate the population of stateless persons in the country? | <ul style="list-style-type: none"> UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10 | As part of a project implemented between February 2008 and March 2011 aiming to reduce the number of people lacking registration or identity documents, raise awareness about the importance of civil registration, and provide legal aid, UNHCR conducted a survey, which covered 70% of the territory and reached 13,770 Roma, Ashkali and Egyptians. It found that many lacked personal documentation, birth and/or personal name registration, or had unregulated legal residence or citizenship. | UNHCR Representation in the Republic of North Macedonia: http://www.unhcr.org/pages/49e48d8f6.html |
| POP | 1 | f | | Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures. | As above | No. | |
| POP | 1 | g | | Are there issues with reliability of stateless data? If yes, please describe why. | As above | There are issues with reliability since the Government-led action was not systematic and left many potential areas where people at risk of statelessness reside uncovered. 70% of people identified by the government had already been identified in the previous survey conducted by UNHCR and partners. Census data is outdated as no census has been carried out since 2002. | |
| POP | 1 | h | | Are there indications that the stateless population is either over or under reported? Please describe. | As above | Initiatives to quantify (risk of) statelessness has focused only on Roma, Ashkali and Egyptian communities and only covered 70% of the country. The remaining 30% is mostly rural, so there is a risk that people at risk of statelessness have not yet been identified. The Law Changing and Amending the Law on | Macedonian Young Lawyers Association |

Stateless Population Data – March 2019

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| | | | | | | Citizenship in 2004 introduced a new transitional provision facilitating the naturalisation of those who were habitually resident in the country prior to the dissolution of SFRY. The 2002 census did not capture this population. Roma NGOs estimate the number of people at risk of statelessness to be higher than official figures. | |
| POP | 1 | i | | Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting). | As above | The Government does not publish any data on the number or origin of asylum applications. Data received by MYLA records that in 2018, 297 asylum seekers resided in the asylum reception centre. The top three countries of origin of asylum seekers is Pakistan 88, Afghanistan 46 and Iran 20. There were no stateless persons in the asylum procedure in 2018. | Information received by MYLA through free access of information request. |
| POP | 2 | a | Stateless in Detention data | Number of stateless persons in immigration detention | As above and see also norms in Detention section. | The Government collects but does not publish data on the number or origin of people detained. According to the Government, there were no stateless people in detention in 2018. | Information received by MYLA through free access of information request. |
| POP | 2 | b | | Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide. | As above | The Government does not publish data on individuals released from detention. | |

Statelessness Determination and Status

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
|-----|---|-----|----------------------------------|--|---|--|--|
| IOB | 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. | <ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Article 1(1) and 1(2). | Yes, there is a definition of a stateless person in Macedonian law, which states that: <i>‘a ‘foreigner’ is a person who is not a citizen of Republic of North Macedonia as well as a stateless person, meaning a person who is not considered as a national by any state under the operation of its law’.</i> | Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Art. 2: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab2894 (MK) http://www.refworld.org/pdfid/44b2668a4.pdf (ENG) |
| IDP | 1 | b | Existing SDP procedure | <p>Which of the following best describes the situation in your country (choose only one and then proceed to question indicated)?</p> <ol style="list-style-type: none"> 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 procedure but there are other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence permit and international protection procedures or ex-officio) (proceed to Question 10a). 3. There is a dedicated statelessness status even if no formal procedure | <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. • UNHCR (Good Practices Paper 6): Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention. • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness. | Group 4. | |

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| | | | | <p>exists for determining this (proceed to Question 16a).</p> <p>4. If none of the above describe the situation in your country, are there other possibilities by which stateless persons can regularise their stay without their statelessness being determined (proceed to Question 17a)?</p> | | | |
| IDP | 10 | a | <p>Alternative administrative procedures for identification</p> | <p>If there is no dedicated SDP in your country, are there other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence, and international protection procedures or ex-officio)?</p> <p>If yes, provide details and then proceed to question 11a.</p> <p>If no, proceed to question 16a.</p> | <ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: There is no general rule for appointing the most appropriate authority for statelessness determination... the structure must be evaluated in light of the specific national circumstances. | <p>No, there is no law or procedure for the identification of statelessness.</p> | |
| IDP | 17 | a | <p>Other routes to regularisation</p> | <p>If none of the above questions can be answered, are there other possibilities by which stateless persons can regularise their stay without their statelessness being determined? For each such status please explain the rights during the procedure. For each such status explain the rights granted to beneficiaries. [Section complete]</p> | <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: For procedures to be fair and efficient, access to them must be ensured. Dissemination of information, including through targeted information campaigns where appropriate and counselling on the procedures, facilitates access... Given that individuals are sometimes unaware of SDPs or hesitant to apply...procedures can usefully contain safeguards permitting State authorities to initiate a procedure. • UNHCR (Good Practices Paper 6): Accepted that good practice existed in countries where applications were accepted orally or in writing and in any language. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: Bureaucratic difficulties (such as complicated application forms, inflexible procedures, strict | <p>Under the Law on Foreigners, a stateless person may regularise their stay and obtain a temporary residence permit on humanitarian grounds as a ‘foreigner’, at the discretion of the Government. Documentary evidence from the person and their parents is usually required, and decisions are made on a case by case basis. The Ministry of Interior carries out checks with neighbouring countries to see if the person is a citizen of another former Yugoslav republic. If not, they request a certificate of non-conviction in North Macedonia and proof of accommodation and financial support. If stay is regularised and the person</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Art. 80: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab2894 (MK) http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>Information on implementation of the procedure obtained from an interview with an official from the</p> |

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| | | | | <p>language requirements, limited places where claims can be submitted, high costs, etc.) can encumber, or even impede access to SDPs. The protection-oriented framework therefore requires a flexible interpretation of such rules, especially since the majority of the population of concern may be in a vulnerable position and may not have the necessary language skill, financial means or possibility to travel that may be justifiably expected in other types of standard administrative procedures.</p> <ul style="list-style-type: none"> • ENS (2016), Protecting Stateless Persons from Arbitrary Detention in the United Kingdom: Any application form to apply for stateless status should be simplified and offered in a variety of languages... [and] made freely available, including in immigration detention centres. | <p>granted a temporary residence permit, they can apply for facilitated naturalisation after six years of continuous legal residence, but there are other conditions that need to be met in law and practice. Private health insurance is required. Police checks on foreigners are also conducted.</p> | <p>Foreigners' Section, Ministry of Interior.</p> <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 and n.158/2011, Article 7a: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabc9824 (ENG)</p> |
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Detention

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
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| DET | 1 | a | Detention screening | Are immigration detention powers provided for in law? | <ul style="list-style-type: none"> • ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. • ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. | The Law on Foreigners and the Law on Border Control constitute the legal framework for immigration detention in North Macedonia. The “Rulebook for the Reception Centre for Foreigners” supplements the legal mandate for the detention centre and provides operating rules. | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?eldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>Law on Border Control, Official Gazette of the Republic of North Macedonia N.171/2010: http://www.mvr.gov.mk/Upload/Documents/%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD%20%D1%82%D0%B5%D0%BA%D1%81%D1%82%20granicni.pdf and http://www.slvesnik.com.mk/Issues/4612565AE44D754083A7000F9011D94A.pdf (MK)</p> |
| DET | 1 | b | | Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)? | <ul style="list-style-type: none"> • ECHR Art 5 (1)(f) | No, immigration detention provisions are in line with ECHR 5(1)(f). By law a person can be detained for the purposes of border control procedures and to ensure their deportation. However, recent practice shows that immigration detention may also occur to secure the presence of migrants before the courts as witnesses in people-smuggling cases. | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Art. 108: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?eldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>Law on Border Control, Official Gazette of the Republic of North Macedonia N.171/2010, Art. 13: http://www.mvr.gov.mk/Upload/Documents/%D0%BF%D1%80%D0%B5%D1%87</p> |

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| DET | 1 | c | Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice. | <ul style="list-style-type: none"> • ICCPR Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment. • ECHR Art 5 (1)(f) • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • EU Returns Directive: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. | No, there is no such requirement prescribed by law and it is not clear whether this happens in practice. | | |

Detention – March 2019

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| DET | 1 | d | Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime? | <ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – 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, Migration and International Human Rights Law: a Practitioner’s Guide 2014: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’. | No. | |
| | 1 | e | Are stateless persons detained in practice? Please provide figures and source of information if available. | <ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: as above. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: as above. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: as above. | No information available. | |
| DET | 1 | f | Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to | <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention is therefore 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. | No, there is no such requirement prescribed by law. | |

Detention – March 2019

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| | | | | detention have been exhausted? | <ul style="list-style-type: none"> • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. | | |
| DET | 1 | h | | Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group? | <ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed... • EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons... • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention: The special circumstances and needs of particular asylum-seekers must be taken into account... • Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention... | There is no specific requirement in law to perform a vulnerability assessment prior to the decision to detain. However, in practice some sort of assessment is carried out on entering detention. | MYLA casework practice. |
| DET | 2 | a | Alternatives to immigration detention | Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they | <ul style="list-style-type: none"> • ICCP Art 9 • FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends... • UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all States ... to adopt, where applicable, alternative measures to detention. • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to | The law prescribes that where a foreigner has ensured means of subsistence and accommodation in the country and their accommodation in the Reception Centre is therefore not deemed necessary, the Ministry of Interior may decide instead to limit their movement within their place of residence with an obligation to report regularly to the nearest police station at a specified time. In | Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Art. 110: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?eldoc=y&docid=5aabd2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG) MYLA casework practice. |

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| | | | <p>subject to a statutory time limit and periodic reviews of their necessity and proportionality?</p> | <p>detention...are part of any assessment of the necessity and proportionality of detention.</p> <ul style="list-style-type: none"> • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards. • Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial measures) before resorting to detention should be established by law. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems. • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) | <p>practice, according to MYLA’s experience, this alternative has never been used. Although not provided for in law, there is a facility that serves the function of an alternative to detention – the Safe House - which is managed by the Jesuit Refugee Service, on behalf of the Ministry of Labour and Social Policy (MLSP). The Safe House houses unaccompanied minors and vulnerable families, including family members of heads of household detained in the Reception Centre for Foreigners.</p> | <p>Jesuit Refugee Service, Annual Report 2016, p.21. Available at: https://jrseurope.org/Assets/Publications/File/JRS_Europe_annual_report_2016.pdf</p> |
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| | | | | <p>...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual.</p> <ul style="list-style-type: none"> • International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): 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. | | | |
| DET | 2 | b | | <p>Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.</p> | As above | No information available. | |
| DET | 3 | a | Procedural safeguards | <p>Is there a maximum time period for immigration detention set out in the law? What is it?</p> | <ul style="list-style-type: none"> • UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : to guard against arbitrariness, maximum periods of detention should be set in national legislation. • EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries). | <p>For the purpose of an immediate deportation foreigners can be temporarily detained for no longer than 24 hours. Detention decisions must be provided for periods that exceed this length. A foreigner will be temporarily detained in the Reception Centre until the reasons preventing their deportation from the territory of the Republic of North Macedonia cease to exist, but not longer than 12 months. A foreigner can also be temporarily detained in the Reception Centre for Foreigners if there is a decision for expulsion, but the person does not possess a valid or recognised</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Arts. 108, 109 & 132: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> |

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| | | | | <ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention. | <p>travel document. If the foreigner refuses or is unable to prove their identity, the authorised officers of the Ministry of the Interior may detain them for the purposes of establishing identity for a period not longer than 12 hours. Provided that it is impossible to establish the foreigner’s identity within the time limit, the authorised officers shall file a request for initiation of a misdemeanour procedure with the competent court. Based on the court decision on “detention of the foreigner in the Reception Centre”, the authorised officers shall detain the foreigner in the Reception Centre. The foreigner can, upon a decision of a court, be detained in the Reception Centre until information on their identity is supplied.</p> | |
| DET | 3 | h | Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention? | <ul style="list-style-type: none"> • UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him. • EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they understand and this must outline the reasons for their detention. | <p>Yes, the person shall be issued with the detention decision, which will contain an explanation for the reasons for detention. According to the bylaws, the person should be notified of the content of the decision (or the decision itself) in a language understandable to them. In practice the decisions are issued in Macedonian.</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006: https://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?rldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>Standard operating procedures for the treatment of detainees.</p> <p>Rulebook on the house rules of the Reception Centre for Foreigners:</p> |

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| | | | | | | | http://www.mvr.gov.mk/Upload/Documents/1(2).pdf (MK) |
| DET | 3 | b | | <p>Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?</p> | <ul style="list-style-type: none"> • International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition): The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and that contains information on all their rights and entitlements during detention. | <p>In the case of expulsion or deprivation of liberty, the foreigner concerned shall be informed of their right to legal aid as well as the right to contact the representative of their country in the Republic of North Macedonia. According to MYLA’s findings, detainees are not provided with information about their rights, contact details of organisations and the right to appeal the decision in a language they understand.</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Art. 142: https://www.refworld.org/cgi-bin/telex/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>MYLA, Annual Report on Immigration Detention in Macedonia, 2016: http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf</p> |
| DET | 3 | c | | <p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their removal will not be</p> | <ul style="list-style-type: none"> • ICCPR Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. • EU Returns Directive: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. • Aquad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued. | <p>There is no provision in law for regular periodic review of detention before a court or independent body. According to MYLA’s findings, there have been no reviews by judicial or other bodies on the length and necessity of detention. No official information is available.</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006: https://www.refworld.org/cgi-bin/telex/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>MYLA, Annual Report on Immigration Detention in Macedonia, 2016: http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf</p> |

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| | | | possible within a reasonable time? | <ul style="list-style-type: none"> • Kim v Russia [2014] Application no 44260/13 (ECTHR): The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. • A. v. Australia, CCPR/C/59/D/560/1993, (HRC): Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed. • Saïd Shamilovich Kadzoev v Direksia Migratsia' pri Ministerstvo na vatreshniteraboti [2009] Case C-357/09 (ECJ): There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not executed with due diligence the detention will cease to be permissible. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 41 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. | | |
| DET | 3 | d | What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice? | <ul style="list-style-type: none"> • ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. • ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention | The foreigner shall have the right to file an appeal with the State Commission for Decision-Making in Administrative Procedure and Labour Relations Procedure against the decision to detain, within 8 days of receipt of the decision. However, the complaint shall not postpone the execution of the decision. An administrative dispute | Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Article 108(5&6): https://www.refworld.org/cgi-bin/telex/vtx/rwmain/opendocpdf.pdf?rdoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG) |

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| | | | | <p>shall be decided speedily by a court and his release ordered if the detention is not lawful.</p> <ul style="list-style-type: none"> • Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. | <p>can be initiated in a competent court against the decision brought by the State Commission. In practice, people in immigration detention are not informed of their rights in a language they understand, they are not notified of the possibility to appeal their detention decision and they are not given contacts for organisations or lawyers that can provide legal assistance.</p> | <p>Law on Administrative Procedure: http://www.pravda.gov.mk/dui/pdf/LA_WGAP.pdf</p> <p>Law on Administrative Disputes, Official Gazette of the Republic of North Macedonia no. 62/2006 & 150/2010: http://www.refworld.org/pdfid/44b264974.pdf</p> |
| DET | 3 | e | <p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of removal? Do these rules articulate the respective roles that state and individual are expected to play? Are there time limits clearly set out? Are the outcomes of such processes used/considered relevant for subsequent determination of</p> | <ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible. | <p>No.</p> | |

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| | | | | whether an individual is stateless? | | | |
| DET | 3 | f | | Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice? | <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: 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: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance. | <p>According to law, in case a procedure for deprivation of liberty is initiated against the foreigner, the foreigner shall be informed of their right to legal assistance as well as to contact the representative of their country in the Republic of North Macedonia. MYLA conducts weekly visits to the detention centre and informs detainees of their right to seek asylum in North Macedonia. However, legal assistance for challenging detention is not available. The Ministry of Interior decides who can visit the Centre and talk to detainees.</p> | <p>Law on Foreigners, Official Gazette of the Republic of North Macedonia N.35/2006, Article 142: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?r=eldoc=y&docid=5aab2894 (MK); http://www.refworld.org/pdfid/44b2668a4.pdf (ENG)</p> <p>MYLA, Annual Report on Immigration Detention in Macedonia, 2016: http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf</p> |
| DET | 4 | a | Protections on release | Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention? | <ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 • UNHCR (2014), Handbook on Protection of Stateless Persons: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons. • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have | No. | |

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| | | | | <p>an obligation to provide stay rights to stateless persons who have been released from detention.</p> <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guidelines 55 & 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation. | | |
| DET | 4 | b | <p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare? Do they have the right to work?</p> | <ul style="list-style-type: none"> • Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshnite raboti [2009] Case C-357/09 (ECJ): Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 55 as above. | <p>In practice in most recent cases, people released from detention have entered the asylum process and therefore been granted rights under the Law on Asylum and Temporary Protection, such as basic healthcare and access to the labour market if their request for international protection has not been resolved within a year. If people were to be released with a temporary residence permit on humanitarian grounds, rights would be very limited (i.e. access to primary education only).</p> | <p>MYLA, Annual Report on Immigration Detention in Macedonia, 2016: http://myla.org.mk/wp-content/uploads/2016/09/MYLA-2016-Report-on-Immigration-Detention-in-Macedonia.pdf</p> |
| DET | 4 | c | <p>If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?</p> | <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 40 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>No information available.</p> | |

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| DET | 5 | a | Readmission agreements | Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements? | UNHCR (2014), Handbook on Protection of Stateless Persons : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness. | Stateless people are included in return and readmission agreements entered into by the Republic of North Macedonia. | For example, Readmission Agreement between the European Union and North Macedonia: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22007A1219(01)&from=EN |
| DET | 5 | b | | Are you aware of cases of cases of stateless people being returned under such agreements? | | There is no official data available on stateless persons being returned to Macedonia. In our practice we have not encountered stateless persons being returned under the readmission agreement with the European Union. | MYLA |

Prevention and Reduction

| Cat | Q | Sub | Subcat | Question | International Norms / Good Practice | Answer | Source |
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| PRS | 1 | a | Stateless born on territory | Is there a provision in law for stateless children born on the territory to be granted nationality? | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... • Convention on the Rights of the Child 1989: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 | Yes. A child who is found or born on the territory of the country whose parents are unknown, of unknown nationality or stateless acquires citizenship of the Republic of North Macedonia under Article 6 of the Law on Citizenship. | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6(1): https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) |
| PRS | 1 | b | | Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)? | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ... • ENS (2015), No Child Should Be Stateless: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, and optimal, method – as it is all-encompassing and does not tolerate even a temporary | The provision is automatic but in practice a request must be submitted to initiate the procedure. | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6(1): https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) Interview with the Citizenship Section, Ministry of Interior. MYLA casework practice. |

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| | | | | | period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth. | | |
| PRS | 1 | c | | Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state? | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child’s parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions. • ENS (2015), No Child Should Be Stateless: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child’s parent(s) do hold a nationality themselves, but are unable to pass this on... | Yes, the parents should be stateless or with unknown citizenship. It is important to note that since there is no SDP, it is difficult to prove that a child has been born to stateless parents (see below). | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) |
| PRS | 1 | d | | Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth? If yes, please describe the requirement e.g. what is the standard and burden of proof, and how lack of any other | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: A Contracting State to the 1961 Convention 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 where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... ‘reasonable degree’... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected. | No, the authorities conduct a background check about the child prior to granting Macedonian nationality. The authorities contact the Foreigners’ Section to check if the child and parents are stateless. If they do not have another nationality, the Foreigners’ Section issues a temporary residence permit with ‘XXX’ in the nationality section, meaning that the person does not have any nationality or that their nationality is unknown. | MYLA casework practice. Meeting with the Foreigners’ Section, who said that they ‘determine’ the fact of unknown nationality for their own purposes only. |

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| | | | | nationality (i.e. statelessness) is determined in practice? | | | |
| PRS | 1 | e | | <p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p> | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all. • UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence” This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence. • Convention on the Rights of the Child 1989: Arts 3 & 7 • Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of | No. | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> |

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| | | | | <p>residency status, have access to citizenship without any conditions.</p> <ul style="list-style-type: none"> • European Convention on Nationality, 1997: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application. • ENS (2016), Ending Childhood Statelessness: The ECN cannot be interpreted as undermining states' obligations under the CRC...and the requirement of lawful residence should be removed. | | |
| PRS | 1 | f | <p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p> | <ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application for citizenship, legal residence or similar status 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 party where the child would otherwise be stateless. • ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention which permits only the condition of a certain period of habitual residence. | No | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> |
| PRS | 1 | g | <p>What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?</p> | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years... • UNHCR Guidelines on Statelessness #4 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 in accordance with Article 1(2)(a) of the 1961 Convention. | <p>The Law on Citizenship stipulates that only children can benefit from this safeguard, meaning that they must be under 18 years of age.</p> | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> |

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| | | | | | <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents. | | |
| PRS | 1 | h | | Are there specific provisions for the nationality or statelessness of children born to beneficiaries of international protection? | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. 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 citizenship <i>by law</i> ? If it's not automatic, is there an application procedure? | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless. | Yes, foundlings are granted citizenship automatically and shall be entered in the register of births in the place where they were found. | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> <p>Law on Records of Births, Deaths and Marriages of the Republic of North Macedonia, Official Gazette</p> |

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| PRS | 2 | b | | <p>If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?</p> | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities. | <p>The Law on Citizenship stipulates that only children can benefit from this safeguard, meaning that they must be under 18 years of age.</p> | <p>n.8/1995, Art. 8: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9454 (MK); https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9894 (ENG)</p> | |
| PRS | 2 | c | | <p>Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?</p> | <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality. | <p>No. It can only be withdrawn if the parents are identified before the child reaches the age of 15 and they have foreign citizenship, and this does not result in the child's statelessness.</p> | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> | |

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| PRS | 3 | a | Adoption | <p>Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?</p> | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption. • ENS (2015), No Child Should Be Stateless: ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process. | <p>In the event of full adoption by foreign citizen parents, the child shall lose citizenship of the Republic of North Macedonia by renunciation upon request of the adoptive parents only once a guarantee of the new citizenship is obtained. The decision to release the child from citizenship can be revoked if the child continues to live in the country and has not obtained the new citizenship. If the adoptee has reached the age of 15 years, the adoptee's consent shall also be necessary for the loss of citizenship.</p> | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 20: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> |

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| PRS | 3 | b | | <p>Does a foreign child adopted by national parents acquire nationality? Is there a risk of statelessness during the adoption process? Are there any age limits?</p> | <ul style="list-style-type: none"> • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: ...ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between...arrival...and formal adoption. | <p>In the case of full adoption, if both parents are Macedonian by birth or at least one of the adoptive parents has acquired citizenship of the Republic of North Macedonia by naturalization, the adoptee who is under 18 years-old and lives in the Republic of North Macedonia together with the adoptive parent will also acquire citizenship. The child's consent shall also be necessary for the acquisition of citizenship if they have reached 15 years-old.</p> | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 12: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> |
| PRS | 4 | a | ius sanguinis and discrimination | <p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory?</p> | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Art 4 • UNHCR Guidelines on Statelessness #4 2012: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011: While the right to citizenship is not as | <p>Yes, a child born abroad to a Macedonian national acquires citizenship if reported for registration before the age of 18 or if the child has moved to reside in the Republic of North Macedonia with their Macedonian parent/s before the age of 18. Parent/s can apply at the Macedonian Embassy in the foreign country to register the birth. If parents do not report the birth, the young person may request registration themselves on reaching the age of 18, and before the age of 23.</p> | <p>Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 5(1): https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG)</p> <p>ENS (2015), Ending childhood statelessness: a study on Macedonia, p.7: http://www.statelessness.eu/site/www.statelessness.eu/files/Macedonia_0.pdf</p> |

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| | | | | <p>such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant’s social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [. . .] must ensure that the right is secured without discrimination within the meaning of Article 14.</p> <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: States are free to impose additional conditions [to <i>Ius Sanguinis</i> conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result.... • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 • Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012 • Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 | | |
| PRS | 4 | b | Can children of a parent who is a national, born outside the country, access nationality by descent (<i>ius sanguinis</i>) if they would otherwise be stateless? Are there any | As above | As above. Conditions are not discriminatory. | |

| | | | | conditions? Could these conditions be regarded as discriminatory? | | | |
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| PRS | 5 | a | Access to birth registration | <p>Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?</p> | <ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired. • UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Ensure birth registration for the prevention of statelessness. • UN Sustainable Development Goal 16: By 2030, provide legal identity for all, including birth registration. • UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure free birth | <p>The law provides for the immediate registration of a birth of a child. Hospitals are under an obligation to report the birth of a child to the civil registration office. However, the parents must visit the civil registration office within two months after the birth to complete the registration, register the name of the child and obtain a birth certificate. Late birth registration is also possible, but there are additional requirements. Children cannot be registered to parents who have no identification documents. The civil registration authorities require a valid identification document to complete the registration. Parents without legal status, particularly refugees, can register their children and obtain a birth certificate despite their irregular status, but only if they have an official identification document.</p> | <p>Law on Records of Births, Deaths and Marriages of the Republic of North Macedonia, Official Gazette n.8/1995, Art. 8: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabd9454 (MK); https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabd9894 (ENG)</p> <p>ENS (2015), Ending childhood statelessness: a study on Macedonia, pp. 13 & 16: http://www.statelessness.eu/sites/www.statelessness.eu/files/Macedonia_0.pdf</p> |

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| | | | | | <p>registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights.</p> | | |
| PRS | 5 | b | | <p>Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents' legal residence?</p> | <ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Art 7(1) • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • UNHCR Guidelines on Statelessness #4 2012: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • UN Sustainable Development Goal 16 • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above | <p>Yes. There are many credible reports by NGOs, the Ombudsperson, the European Commission, and UN agencies, of children being prevented in practice from accessing civil registration due to parents' lack of documentation. The problem disproportionately impacts on Roma communities.</p> | <p>MYLA (2016), Regional research on Statelessness, UNHCR Report</p> <p>Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration, UNHCR, 2013: https://www.refworld.org/pdfid/5280c5ab4.pdf</p> <p>MYLA, Legal Opinion of the Influence of the Changes of the Law on Registry Records on Registering Birth or Personal Name of the Persons in Risk of statelessness (MK)</p> <p>Local Integration of Refugees, Internally Displaced Persons and Minority Groups, POLICY BRIEF ON STATUS AND PERSONAL IDs FOR UNREGISTERED ROMA, 29 June 2016, EPTISA, EU, pp. 9-16</p> <p>European Commission, Commission Staff Working</p> |

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| PRS | 5 | c | | <p>Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical authorities required to report undocumented migrants)?</p> | <ul style="list-style-type: none"> • UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... • PICUM, Rights of Accompanied Children in an Irregular Situation, 2011: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often below the standards set out in human rights law, inexplicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements. | <p>MYLA lawyers have witnessed cases where medical authorities have reported undocumented migrants to the authorities.</p> | <p>MYLA casework practice.</p> |
| PRS | 6 | a | Late Birth Registration | <p>Is there a statutory deadline before which birth registration should be completed? If yes, what is it?</p> | <ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older | <p>The birth of a child can be reported in writing or orally to the registry in the municipality where the child was born within a period of 15 days from the day of birth. When a child is born in a means of transport they will be reported to the registry in the municipality</p> | <p>Law on Records of Births, Deaths and Marriages of the Republic of North Macedonia, Official Gazette n.8/1995, Art. 6(1)&(2): https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9454 (MK);</p> |

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| | | | | <p>Is late birth registration possible by law?</p> | <p>children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis.</p> <ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births... | <p>where the mother's journey ends. After 30 days from the day of birth, the birth can be registered through a procedure for subsequent birth registration, on the basis of a decision issued by the Directorate of the Ministry of Justice. The law does not stipulate what facts and proof are required to evidence and determine the fact of birth.</p> | <p>https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9894 (ENG)</p> |
| PRS | 6 | b | | <p>Is late birth registration possible in practice?</p> | <ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: as above. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: as above. | <p>It is possible in practice, but it is a very cumbersome administrative procedure that puts additional requirements on the parents, which are not easily met.</p> | |
| PRS | 6 | c | | <p>Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?</p> | <ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. | <p>Yes, there are. Parents must pay 250 MKD (4 EUR) for the procedure of additional inscription of personal name. In addition, they need to present (depending on the registry official and at their discretion) additional documents such as:</p> <ul style="list-style-type: none"> - ID cards of the parents - marriage certificates (or birth certificates for the parents if they are not married) - medical certificate that the mother give birth (if the child was born in hospital) or vaccination | <p>Law on Records of Births, Deaths and Marriages of the Republic of North Macedonia, Official Gazette n.8/1995, Art. 6(1)&(2):</p> <p>https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9454 (MK);</p> <p>https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aab9894 (ENG)</p> |

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| | | | | | | <p>certificate (if the child was born in home conditions)</p> <ul style="list-style-type: none"> - pediatrician’s certificate - certificate of education (if the child attend school, if not, notary verified statement from the parents that the child does not attend school and why) - in some cases, registry officers request additional notary verified statements (for example, that the parents are really parents of the child) - DNA analysis (in some cases, especially if the child is born in home conditions) | |
| PRS | 7 | a | Reduction | <p>Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.</p> | <ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless... | <p>There was a Government-led action in 2011 – ‘Action of additional inscription of births and personal names’ – whereby the Ministry of Labour and Social Policy covered the costs for DNA analysis for complicated cases of unregistered birth and/or personal name. In April 2018 the Government announced a public call for registration of persons who lack personal documentation.</p> | <p>Information on the Ministry of Labour and Social Policy website about the 2011 action: http://www.mtsp.gov.mk/akcija-za-evidencija-na-lica-vo-maticna-kniga-na-rodenite.nspх (MK)</p> <p>Statement of the Minister of Labour and Social Policy, Премиерот Заев на дебатата на тема „Системски решенија за регистрација на лицата без документи“: Во општество еднакво за сите, секој мора да има еднаков пристап до сервисите и услугите на државата, (Systemic solutions for registration of persons without documentation): https://vlada.mk/node/15918 (MK)</p> |

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| PRS | 7 | b | Are there sections of the population believed to be stateless/at risk of statelessness? Are minorities disproportionately affected? Please provide details and source of information. | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 Article 9 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 | Yes. The majority of people who are unregistered belong to the Roma community. One UNHCR survey, which covered 70% of the country and reached 13,770 members of the Roma, Ashkali and Egyptian communities, found that many people face one or more of the following problems: lack of personal documentation, lack of registration of birth or personal name, or unregulated legal residence or citizenship. Minorities are disproportionately affected, most of the people identified as stateless or at risk of statelessness are Roma although Romani people make up only 2.66% of the total population in the country. | <p>UNHCR, The right to have Rights: legal identity, citizenship and civil registration key to social inclusion of marginalised communities, 2008-2011</p> <p>Ministry of Justice, Повик за прибирање на податоци за лица - нерегистрирани во матична книга на родени (Call for collecting data for persons unregistered in the birth register), 2018: https://www.uvmk.gov.mk/mk/uvmk-mtsp-22032018 (MK)</p> <p>Census of Population, Households and Dwellings in the Republic of North Macedonia, 2002: http://www.stat.gov.mk/Publikacij/knigaXIII.pdf</p> |
| PRS | 7 | c | Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 1, Action 8 • UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015 | No. | |

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| | | | | removal of treaty reservations, reform of discriminatory laws, etc.) | | | |
| PRS | 8 | a | Withdrawal of nationality | Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be found? Do any provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice? | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8: A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless. • European Convention on Nationality, 1997: Article 7(3): A State party may not provide in its internal law for the loss of its nationality...if the person concerned would thereby become stateless... • Universal Declaration of Human Rights: Article 15(2) No one shall be arbitrarily deprived of his nationality ... | The Law on Citizenship sets out provisions for the loss of citizenship. The citizenship of the Republic of North Macedonia shall be lost 'by renouncing, and in accordance with international agreements'. One of the conditions is that the person holds a foreign citizenship or has proven that they shall be given a foreign citizenship. In general, this provision is applied in practice. | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 16: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) |
| PRS | 8 | b | | Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are there? (e.g. judicial | <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8(4): A contracting state shall not exercise a power of deprivation...except in accordance with the law, which shall provide for ...the right to a fair hearing by a court or other independent body. • European Convention on Nationality, 1997: Article 11: Each state party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing... | The competent authority for any procedure related to citizenship is the Ministry of Interior. It is possible to appeal decisions of the Ministry of interior before the Administrative Court as a second instance, and to the High Administrative Court as a third instance. There is a law on free legal aid in Macedonia, but it is not functional. To get free legal aid, you must prove that you do not | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 16: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) |

Prevention and Reduction – March 2019

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| | | | | oversight, time limit, subject to prior sentencing, appeal rights, legal aid) | | have any income or property. It takes more than 30 days to get approval for state funded free legal aid and the total state budget for free legal aid is 50 000 EUR annually. So, in practice, there is no effective free legal aid available for these cases, and people must hire a private attorney at law to challenge decisions before the courts. | |
| PRS | 8 | c | | Are withdrawal provisions (both for loss and deprivation) applied in practice? | | It is only possible to 'renounce' citizenship. There are no procedures for automatic loss or deprivation of citizenship in Macedonian law. | Law on Citizenship, of the Republic of North Macedonia, Official Gazette of the Republic of North Macedonia n.67/1992, n.8/2004, n.98/2008 & n.158/2011, Art. 16: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5aabca124 (MK); https://www.refworld.org/pdfid/3f54916b4.pdf (ENG) |

Jurisprudence and Training

| Cat | Q | Sub | Subcat | Question | International Norms/Good Practice | Answer | Source |
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| LIT | 1 | a | Published Judgements | Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list. | | No publicly available information. | |
| LIT | 1 | b | | Number of published judgements mentioning statelessness (broken down by level of jurisdiction). | | No publicly available information. | |
| LIT | 2 | a | Legal training | Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency). | <ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. | No. | |
| LIT | 2 | b | | Is there training for lawyers on statelessness? If yes, please describe. | <ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: as above | MYLA and UNHCR provide training to lawyers and NGOs. The trainings are project-based, thus organised on an ad hoc basis. MYLA trains its lawyers and attorneys as well as NGOs working with high school students and Roma. | MYLA practice. |

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| LIT | 3 | a | Pro Bono | Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe. | <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Applicants are to have access to legal counsel. • UNHCR (Good Practices Paper 6): Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK. | MYLA is the only NGO that provides free legal assistance to stateless persons and those at risk of statelessness. With UNHCR support MYLA covers the cost of administrative taxes. There are other, especially Roma NGOs that provide assistance with birth registration. | MYLA practice |
| LIT | 4 | a | Literature | Is there domestic legal academic literature on statelessness? If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc. | | | <p>Gazmend Gudaci, The situation of statelessness within mixed migration flows: The case of Republic of North Macedonia, MA Thesis (unpublished)</p> <p>Prof. Borce Davitkovski, Analysis of the Legal Framework Related to Birth and Civil Registration in the Context of Prevention of Statelessness, 2018: http://myla.org.mk/wp-content/uploads/2018/11/MYLA-Statelessness-Analysis-2018.pdf</p> |