

European Network on Statelessness submission to inform the European Commission 2023 Enlargement Package

Progress towards addressing statelessness in Enlargement countries

April 2023

The [European Network on Statelessness \(ENS\)](#) is a civil society alliance with over 180 members in 41 countries, committed to addressing statelessness in Europe. Everyone has the right to a nationality. We believe this must be respected and that the human rights of people who lack a nationality – stateless people – must be protected. We are dedicated to working with stateless people in Europe to advocate for their rights. We aim to reach our goals through law and policy development, awareness-raising, and capacity-building.

We welcome the opportunity to inform the European Commission's 2023 Enlargement Package. This submission covers Kosovo, Montenegro, Serbia, North Macedonia, Albania, Bosnia & Herzegovina, Ukraine, Georgia and the Republic of Moldova, and is based on information provided by our members working in those countries¹, our [Statelessness Index](#), and [our work in the region](#).

1. General Comments

Across the region of EU enlargement countries, statelessness is a key factor driving a mutually reinforcing cycle of discrimination and denial of fundamental rights. Statelessness is an issue that affects both migrants and refugees² as well as people who have lived in the same place for generations. Meanwhile in most of the countries under consideration, statelessness is a particular concern for members of the Roma, Ashkali, and Egyptian communities, where it is entangled with a long history of antigypsyism and systematic exclusion.

Statelessness in the region is caused by factors including state succession, displacement, and gaps and conflicts in nationality and civil registration laws. Being stateless usually means being unable to benefit from all of the fundamental basic rights afforded to people recognised as citizens of a country, including healthcare, education, the right to get married, open a bank account and access the labour market on an equal basis. Not only does it impact and hinder access to these very basic rights and entitlements, but it also impacts the psychological sense of belonging and inclusion that is so vital to achieving equality throughout our societies. In this sense, it is a very real part of the cycle of discrimination experienced by minority populations, including Roma populations.

All the enlargement countries have obligations to address the issue of statelessness under international law, and as part of the EU enlargement process. This is especially relevant to the impact of statelessness on Roma communities, and the obligations of enlargement states under the 2019 Poznan Declaration and their Action Plans on Roma Inclusion, Integration and Equality. Under these programmes, progress has been made in many countries on paper and in legislation, but gaps in implementation, sometimes driven by marginalisation of Roma communities or by prejudice, hamper efforts to eradicate statelessness and prevent new cases from occurring in the future. Better

¹ With thanks to Roma Veritas Kosovo; Phiren Amenca – Walk With Us, Montenegro; Praxis, Serbia; Macedonian Young Lawyers Association, North Macedonia; Roma Active Albania; Vasa Prava, Bosnia & Herzegovina; Right2Protection, Ukraine; Rights Georgia; Law Centre of Advocates, Republic of Moldova.

² For more information on statelessness in the migration context in Europe, see www.statelessjourneys.org

data collection, through more inclusive outreach into affected communities is an important and too often overlooked tool to support progress on the issue at the state level.

This year, for the first time, Ukraine is included in the enlargement countries, alongside Georgia and the Republic of Moldova. The impact of the Russian full-scale invasion of Ukraine – which was already one of the European countries with the largest estimated stateless populations before issues were exacerbated by occupation and war – has resulted in enormous upheaval, including the displacement, within Ukraine and across borders, of stateless persons. Moreover, around 10-20 % of the estimated 400,000 Roma living in Ukraine lack the civil documentation needed to acquire or confirm their Ukrainian citizenship. More information on the impact of the war and occupation on statelessness in Ukraine and among those forced to flee and their reception in Europe can be found [here](#).

2. Kosovo

In Kosovo, the Roma, Ashkali, and Egyptian communities are disproportionately affected by statelessness. Before the Kosovo War in the late 1990s, many members of these communities were classified as Yugoslav citizens and when Kosovo declared independence in 2008, many lost their citizenship, and some were unable to acquire Kosovar citizenship due to administrative barriers and discrimination. However, Kosovo has made some significant progress in addressing statelessness among the Roma, Ashkali and Egyptian communities. In 2022, the government of Kosovo adopted a strategy and action plan to prevent and reduce statelessness, which included specific measures to address the situation of the Roma and Ashkali communities.

Nevertheless, there are still many members of the communities in Kosovo who are stateless or at risk of statelessness. Some members of the communities remain unaware of their rights or are afraid to come forward and register due to discrimination and persecution. In Kosovo, Roma still faces difficulties in obtaining birth certificates and civil registration. The major Roma communities reside in five regions Gračanica, Plemetina, Priluzhije, Strpce, and communities in all of these remain isolated and lacking key information about their rights. Language barriers pose difficulties in their efforts to obtain documentation.

To address these challenges, there is a need for greater awareness-raising efforts and outreach to the Roma, Ashkali and Egyptian communities. Historically there has been a lack of resourcing for relevant Kosovo Roma, Ashkali and Egyptian civil society organizations to enable them to play a crucial role in this process by providing legal advice and assistance to those who are at risk of statelessness. In response to this need, the Civil Registration Agency has in Kosovo initiated a process of updating the law for civil registration. Receiving expert input and recommendations for amendments for the registration law in Kosovo. It is essential that these are implemented in full in the new draft law, in order to close protection gaps for stateless people.

3. Montenegro

The Government of Montenegro made four political commitments to addressing statelessness at the UNHCR High-Level Segment in October 2019.³ While public commitments are welcome and

³ Montenegro pledged to strengthen implementation of the statelessness determination procedure and access to rights; to improve communication between relevant ministries to facilitate the immediate birth registration 'of children abandoned by their mothers or whose mothers are missing identification documents'; to implement simplified procedures for obtaining identification documents in cooperation with neighbouring countries and grant remaining pending cases of refugees from the former Yugoslavia the status of 'foreigners with permanent residence' by 2023; and to sharing its experiences of work to prevent statelessness with other countries. See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>

implementation of these pledges could have a significant impact on reducing statelessness, Montenegro has not yet taken sufficient steps to implement the pledges.

There remain important gaps in Montenegro's approach to addressing statelessness and implementing international standards. The last census to take place in Montenegro, in 2011, recorded 4,312 individuals with 'no nationality' of which 3,471 stated they were born in Montenegro. In November 2017, the Government and UNHCR jointly carried out an exercise to map refugees from the Former Yugoslavia in Montenegro, which covered 2,318 people. The mapping confirmed that lack of documentation remains widespread, especially among Roma and Egyptian communities, and identified at least 450 people at risk of statelessness. According to UNHCR, there were 502 stateless persons in Montenegro at the end of 2021.

The majority of stateless persons in Montenegro belong to the Roma community, many of whom came to Montenegro after the 1999 Kosovo war. Many of these people were not able to apply for legal status as they missed the deadline to apply under a public call in 2015, and so are residing in Montenegro with insecure legal status. They face the risk of deportation to Kosovo at any time. Most applications by these individuals to resolve their legal status in Montenegro are rejected and they are denied the opportunity to realize all other economic, social and cultural rights, and also civil and political rights. All persons over the age of 18 are requested by the Ministry of the Interior to go to Kosovo and make subsequent registrations in the birth and citizenship registers. This is not possible because the laws of Kosovo do not allow it. Because of this barrier, many persons in Montenegro cannot regulate their legal status and cannot be registered in the register of citizens.

In 2021, Montenegro adopted a Strategy for Social Inclusion of Roma and Egyptians 2021-2025, which includes an operational objective to "improve the position of Roma and Egyptian communities by resolving the issue of civil status and personal ownership documents". It also adopted a Strategy on Migration and Reintegration of Returnees in Montenegro 2021-2025¹⁵ which includes two relevant objectives to "resolve the legal status of internally displaced persons (IDPs) as well as other persons who are not registered in the basic registers and registers of citizens in Montenegro and in the surrounding countries", and "resolve the legal status of persons at risk of statelessness and creating conditions for effective access to rights for persons with recognised status of stateless persons". The accompanying Action Plan to these strategies includes an action point to tackle antigypsyism, a first step towards tackling discrimination of Roma and Egyptian communities in the country, and actions to address civil registration and statelessness issues.

Montenegro introduced a statelessness determination procedure (SDP) in 2018, a positive step towards addressing statelessness in the context of migration. Nevertheless, the procedure has many shortcomings both in law and practice. The SDP is difficult to access for applicants due to procedural and practical issues, a fact reflected in the fact that only nine people have been recognised as stateless since 2018, with 13 applications pending in the procedure. Furthermore, the SDP does not result in automatic permission to stay in Montenegro or a renewable residence permit, nor does it ensure access to all other rights as stipulated in the 1954 Convention. In 2022, UNHCR issued recommendations on how to improve the SDP and rights accorded to recognised stateless persons. It is imperative the Government implement these recommendations promptly.⁴

4. Serbia

There has been limited progress to address statelessness in Serbia since our last submission in April 2022. Some commitments to prevent and reduce statelessness were made by the Serbian

⁴ UNHCR, UNHCR Observations on the Amendments to the Law on Foreigners of Montenegro: Statelessness Determination Procedure, 10 February 2022, available at: <https://www.refworld.org/docid/6229fa0a4.html>

Government under the Poznan Declaration and follow-up process in 2019, 2020, 2021 and 2022, but significant gaps remain in law and practice. Civil registration and statelessness were not included in the new Strategy on Roma Equality, Inclusion and Participation, and the Government has signalled that no legislative changes on these matters are planned.

Although Serbia is Party to both the 1954 and 1961 Conventions and has a 'statelessness status' in law providing for a right to work, education, social security, legal aid, protection against discrimination, healthcare under certain conditions and a travel document, it still does not have a dedicated mechanism in place to determine statelessness and grant stateless people on its territory the protection they are due under international law.

The problem of access to immediate birth registration for undocumented parents in Serbia remains. According to the existing bylaws, to register the birth and the name of their child immediately upon birth, parents must possess birth certificates and ID cards. Children cannot be registered immediately after birth if parents are undocumented. Despite numerous appeals to the relevant ministries, government working groups, and international bodies, including the UN Human Rights Committee and CESCR, which has made recommendations in this regard, no significant progress has been achieved to date. In October 2019, the Ministry for Public Administration and Local Self-Government, the Ombudsperson and UNHCR signed a Memorandum of Understanding, which refers to further cooperation to resolve the problems faced in particular by Roma communities in Serbia to exercise their right to civil registration and legal identity, with special emphasis on new-born children.

At the end of 2020, competent Ministries adopted the 'Instruction for dealing with cases of birth of a child whose parents are undocumented in order to enable birth registration', a non-legally binding Act. The instruction does not address the question of how to register a child of an undocumented mother immediately after birth but only instructs the authorities on how to act to subsequently register the mother in the birth books and/or obtain personal documents for her, leaving the child unregistered until the mother obtains an ID card. Moreover, Praxis reports that in the cases of their undocumented beneficiaries who gave birth in 2021 and 2022, this instruction has not been applied in practice leaving undocumented mothers without a facilitated route to obtain documents. In February 2022, the same Ministries signed a new Memorandum of Understanding, which envisages the continuation of cooperation in the field of eradicating statelessness in Serbia. The European Commission's 2021 and 2022 annual progress reports on Serbia helpfully addressed these issues through the recommendations stating that all children be registered immediately after their birth and regardless of their parents' status.

Challenges described in previous years with access to late birth registration under the non-contentious procedure also remain. Prescribed deadlines are often not met, fees are sometimes requested of applicants who should be exempt by law, court decisions are often not forwarded to the registrars and data is not entered in the birth registry books for a long time after decisions are concluded. Decisions sometimes contain errors or do not contain all the necessary data, inhibiting a person's ability to confirm their nationality. Registrars sometimes do not enter the nationality into the birth registry books, even when the legal requirements for nationality are fulfilled. These practical challenges must be urgently addressed to ensure the legal procedure to facilitate late birth registration is being implemented as intended.

As reported in 2021 and 2022, the Supreme Court of Cassation brought a Conclusion in 2020 in which it took the position that non-contentious procedures for determining the date and place of birth could be conducted only if the administrative procedure of subsequent registration in birth registry books had been previously unsuccessfully conducted. It also took the position that persons

who are registered in the birth registry books of Kosovo could not ask the non-contentious court to establish the fact of their date and place of birth (even though Serbia has not recognised Kosovo and people cannot exercise any rights in Serbia on the basis of Kosovar documents). The implementation of the Conclusion by first instance courts would significantly prolong and complicate registration in the birth registry books, while many people who were born and registered in the birth registry books in Kosovo will be left without the possibility of registering in Serbia, regardless of the fact that they have not lived in Kosovo for years, have lived in cohabitation and had children in Serbia, and meet the requirements for Serbian citizenship. Courts have followed this Conclusion in cases in 2021 and 2022, making late birth registration increasingly difficult, if not impossible.

Legal safeguards are in place in Serbian citizenship law to prevent statelessness in the case of children born on the territory (Article 13) or to Serbian citizens abroad, foundlings and adopted children. However, there are implementation gaps. The authorities interpret the safeguard for stateless children born in Serbia as applying only to minors, and in practice, a request must be submitted to the competent authority for a decision to be made on the acquisition of nationality, and documentary evidence of the child and/or parents' statelessness must be provided.

Serbia does not have a dedicated statelessness determination procedure nor any other mechanism to identify and determine statelessness. Since 2018, the Law on Foreigners provides for a definition of a stateless person in national law, but it is narrower than the 1954 Convention definition. Rights granted to stateless people include a travel document, right to work, social security, education, legal aid, healthcare under certain conditions and protection against discrimination. The law also prescribes that the 1954 Convention should be applied to stateless individuals if this is more favourable for them, but without an SDP, the risk is that these rights cannot be obtained in practice. There is no simplified or accelerated route to naturalisation for stateless people in Serbia.

5. North Macedonia

Although there has been some progress towards addressing statelessness in North Macedonia in recent years, significant gaps and challenges remain. North Macedonia acceded to the 1961 Convention on the Reduction of Statelessness in January 2020, and new regularisation routes were introduced in 2019 and 2020 to facilitate access to socio-economic rights for people at risk of statelessness due to a lack of civil status, and stateless people from the former Yugoslavia (and their children) residing on the territory. However, there is no statelessness determination procedure nor protection status for stateless people on the territory, and the new regularisation route for those at risk of statelessness is limited to a specific group of identified people and does not resolve their nationality status, nor prevent new cases of statelessness arising.

There remain significant barriers to universal birth registration and gaps in the legal framework for civil registration and the prevention of childhood statelessness, which disproportionately impact on Roma, Ashkali and Egyptian communities.

The Ombudsperson and various senior level officials have met with statelessness experts to discuss solutions, but concrete progress remains slow. Positively, the 2021 census included a specific 'stateless' category, however the census results did not provide clear picture on the number of stateless persons in the country.

Issues reported in 2022 regarding the 'Law on Persons without Regulated Civil Status' remain. The Law provided a temporary solution to facilitate access to some socio-economic rights for persons without civil status, but it does not provide for any route to determine or confirm their citizenship, to enable them to enjoy their right to a nationality. The law ceased in June 2022 and only a fraction of the 750 people identified by the Government as being in this group obtained personal

documentation and/or birth certificates. Those who obtained this registration still face barriers to accessing their rights and services in practice. The registration number that they received does not match the PIN number and they cannot access any rights, for example to open bank accounts, access healthcare and other social rights.

In November 2022, a coalition of civil society organisations dedicated to the support of Roma people in north Macedonia submitted an *Actio Popularis* lawsuit for discrimination on behalf of the individuals that were registered under the law on persons without regulated civil status but have still not been able to access their rights. The first hearing for this lawsuit will be held in April 2023.

In February 2023 the Parliament held a hearing session regarding the implementation of this law, where stakeholders including the Minister of Interior, Minister of Labour and Social Policy, Deputy Minister of Justice as well as representatives from other institutions testified. Although the conclusion from the session have not yet been published, there was a general understanding that the law had not delivered the expected results.

There is an urgent need for a more proactive approach by government institutions to complete this process in timely manner. There was significant progress with the adoption of the amendments of the Law on citizenship in August 2021, where persons who resided in Republic of Macedonia before 1991 who can provide any evidence of this will be able to access citizenship in a facilitated and accelerated procedure.

Still, there is no sustainable solution to prevent the risk of statelessness arising in future cases. It is still not possible for the births of children born to undocumented mothers to be registered immediately and parents must routinely produce many and varied documents at the discretion of registry officials for late birth registration. The requirements for late birth registration are extremely difficult to meet and the risk of births remaining unregistered impacts disproportionately on marginalised communities, including Roma, Ashkali and Egyptians, due to a range of factors, including inability to meet documentary evidence requirements, discriminatory attitudes of registry officials, and poverty and marginalisation.

In June 2022 the Ministry of Justice established a working group for preparation of new law on birth registration that will provide systematic solutions for unregistered persons. MYLA is member of the working group and was assigned to prepare the draft text of the new law for birth registration. It is expected that the law will be adopted in 2023.

There is only a partial safeguard in nationality law to prevent children being born stateless in North Macedonia (Article 6(1)), which is not in line with the 1961 Convention. A child born on the territory to stateless or unknown parents acquires North Macedonian citizenship, but the provision focuses on the status of the parents rather than the statelessness of the child, so does not cover children born to parents who may have a nationality but cannot confer this to their child. As there is no procedure for determining statelessness in North Macedonia, proving the statelessness of the parents can be very challenging in practice; nor is there any framework for identifying where a child would otherwise be stateless at or after birth registration. The law stipulates that only children can benefit from the provision, so this is interpreted as under 18 years-old, leaving a protection gap for young adults.

Free legal aid is only available to stateless persons who have a residence permit or otherwise have a right to stay, including people who have been registered under the Law on Persons without Regulated Civil Status. Stateless people can apply for naturalisation after six years of legal and permanent residence in North Macedonia, which is accelerated in comparison to others. However, other conditions for naturalisation must be met, including submission of a certificate confirming no

criminal convictions or prosecutions and birth registration documentation. There are no exemptions from these requirements for stateless people.

6. Albania

Roma people have lived in Albania for more than 600 years and their communities are to be found in almost all parts of the country, but they are mostly in central and south-eastern areas.⁵ During the communist regime, part of the Roma population was assimilated into Albanian society. The obligatory education system, agrarian reforms, employment policies and other factors, made it possible for some members of the Roma population to be equally integrated into the society. In this context of assimilation, social problems such as stereotypes and discrimination were formally considered non-existent. However, after the communist regime collapsed, the Roma population faced economical difficulty, while stigmatization and discrimination re-emerging to a certain extent.

Despite some efforts by the Albanian Government with the support of civil society organizations, the data from the last five years indicate that there are still issues with civil registration, education, and employment, healthcare, housing and social protections for Roma populations. These issues are further exacerbated by social stigma, stereotypes and discrimination, which unfortunately are still present against Roma and Egyptians.

The exact size of Albania's Roma population is not known. In 1995 the Minority Rights Group estimated the number of Roma lies between 90,000 – 100,000. In the Census of 2011, which was not approved by Roma NGOs, the number of Roma registered was 8,301. The next Census that will take place in October 2023 may provide more insight into the number of Roma and their living conditions and thus provide a basis for better targeting and monitoring of existing policies. Nonetheless, there is a risk that the many Roma will not participate in the census or may avoid identifying themselves as Roma due to poor preparation, communication and a lack of involvement of Roma mediators in the census. The postponement of the census to 2023 offers the opportunity to remedy this. It is vital that INSTAT (National Institute on Statistics) engage with statelessness experts and use this opportunity to better identify and gather reliable statistics on Roma (and other affected populations) residing in Albania to gather more accurate data on the population at risk of statelessness and help resolve outstanding issues with legal identity and civil registration.

The National Action Plan for Equality, Inclusion and Participation of Roma and Egyptians 2021-2025 has been prepared by the Ministry of Health and Social Protection in coordination and consultation with other relevant ministries, local government units, independent institutions, civil society organizations and international organizations working in the area of integration of Roma and Egyptians in Albania.

This plan is a new commitment from 2021 to 2025 and it focuses on Roma and Egyptian minorities. The plan is an escalation of the measures already taken and those under implementation and provide for new activities to be initiated to promote the integration of Roma and Egyptians with funds from the state budget. It also identifies the financial gap for 2021-2025. The plan has been developed in close consultation with other relevant ministries, representatives from the Roma and Egyptian communities, local government units, civil society organizations and other stakeholders. The group of interest have had the opportunity to give their recommendations and inputs about the

⁵ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups (e.g. Roma, Sinti, Kale, Gypsies, Romanichels, Boyash, Ashkali, Egyptians, Yenish, Dom, Lom, Rom, Abdal...) without denying the specificities of these groups.

Action Plan for Equality, Inclusion and Participation of Roma and Egyptian each of the issues such as education, employment, healthcare, housing and social protection.

The Albanian government sought to draft the plan in compliance with the new EU Roma strategic framework for equality, inclusion and participation 2020-2030, so it could be in cohesion with EU policies. Furthermore, the National Roma Strategic Framework for Equality, Inclusion and Participation that was drafted by Ministry of Health and Social Protection during 2020, was approved in 2021. In this context, for the first time, political commitments have been undertaken to address antigypsyism in the priority areas of the national plan for the integration of Roma and Egyptians. With regard to the law on protection for persons belonging national minorities, the related by-laws still need to be adopted.

Significant numbers of Roma are not registered at the civil registry office due to births outside the health system, births from under-aged parents, and births while in mobility, or a failure to understand the relevance and importance of registration, due to a lack of outreach and education regarding the community's rights. In order to resolve this, an increased level of cooperation and coordination among the authorities and those organisations working directly at the grassroots level is needed.

There is a lack of government and institutional capacity to address antigypsyism issues, and it is difficult to know the true scale of the issue of Roma becoming victims of hate crime and violence due to incomplete data. Strengthened mechanisms to recognize and to sanction discrimination and hate speech is required. Statistical data on hate crimes based on race, disaggregate according to ethnicity must be collected.

7. Bosnia & Herzegovina

Bosnia and Herzegovina (BiH) has made progress in the realization of the pledges⁶ made during the 2019 High-Level Segment on Statelessness to end statelessness by 2024. At the end of 2022, the number of identified stateless persons and those at risk of statelessness was reduced to only 28 persons, and BiH could become the first country in Europe to end statelessness and resolve all identified cases.

While BiH has significantly reduced the number of people at risk of statelessness over the years, remaining gaps in law and practice need to be resolved to prevent reoccurring circumstances which place persons at risk of statelessness.

The Council of Ministers of BiH adopted a Decision on adoption of the 2021-2025 Action Plan for Social Inclusion of Roma in BiH.⁷ The adoption of a document "Road map for stopping the risk of statelessness of Roma in Bosnia and Herzegovina" is foreseen as part of one of the goals from action plan.

The Federal Minister of Interior in May 2022 adopted amendments to the bylaw on the procedure, evidence and manner of registration of citizenship of BiH in registry of birth and citizenship.⁸ Expert

⁶ BiH committed to developing, by the end of 2020, a state action plan for ending statelessness by 2024 in cooperation with all relevant stakeholders; to developing a dedicated statelessness determination procedure and providing stateless people rights in accordance with international conventions by 2022; to issuing nationality documents to people who cannot acquire documentary proof of their nationality and creating a mechanism for regulating the status of long-term residents (formerly displaced SFRY citizens) by 2022; and improving birth registration for all children regardless of their or their parents' status (in particular children born to BiH parents abroad and the children of undocumented parents born in BiH) and improving birth registration law and practice, by 2023.

⁷ Decision on adoption of the 2021-2025 Action Plan for Social Inclusion of Roma in BiH (BiH Official Gazette, 40/22)

⁸ Article 17 of the Bylaw on the procedure, evidences and manner of registration of citizenship of FBIH in registry of birth and citizenship (FBIH Official Gazette, 38/22).

contributors to the process of amending the bylaw advocated for improvements to enable registration as citizens for stateless children born or found in BiH. The draft initially placed the burden of formal documentary evidence solely on stateless persons. Under the amended law, stateless persons still require legal assistance to navigate the procedures determining the time and place of birth for unregistered persons, who cannot prove their place of birth in the manner prescribed in the regulations. In most cases this affects people born outside of hospital, who do not have medical birth documentation, and people born abroad who do not have a birth certificate from abroad.

The amended law requires mandatory medical examination of a person's age, at their own expense, which constitutes a serious barrier to access for some. Nonetheless, the Law will enable persons at risk of statelessness (who cannot prove the time and place of birth in the manner prescribed in the regulations) to be registered in the registers and obtain a legal identity. The provision that imposes a mandatory medical examination to establish the date of birth must be removed and discretion of whether this is necessary left to the judge. Furthermore, the costs of the medical exam are prohibitively high and must not be borne by the applicants. To ensure that this procedure is available to all those in need of it, the procedure must entail no financial burden on affected persons, free legal aid should be available and proactive role of civil society should be ensured. A lack of government funded legal aid, an excessively bureaucratic approach and excessive administrative requirements present difficulties to civil registration for Roma people and other marginalised communities in the country.

Permanent residence remains one of the most important factors for the enjoyment and exercise of many rights, including to civil registration, identity documents, healthcare, social welfare and travel documents. Vulnerable individuals including Roma people living in informal settlements are sometimes unable to register their permanent residence at the address where they live. The authorities have discretion when assessing the evidence of those in vulnerable circumstances, but rarely use it in such cases, exacerbating documentation challenges and the risk of statelessness.

Although regulations related to permanent and temporary residence remain the same, in the last period some positive developments were noted in the actions of social welfare centres who established the practice of issuing consent for registration of residence at the address of centres for people falling into vulnerable categories. This allows people who do not have their own property to register residence and obtain ID documents.

8. Ukraine

The actual size of the stateless population in Ukraine is challenging to estimate. According to the 2001 population census, 82,550 persons declared themselves to be stateless. The next census was expected to be held in 2023 but since the war broke out in Ukraine, it has been postponed indefinitely. According to UNHCR there are about 35,000 stateless people and people at risk of statelessness reside in Ukraine.

The causes of the occurrence of statelessness in Ukraine are primarily the collapse of the USSR, and the occupation and war that has been going on since 2014, which has caused the loss of paper files and archives, many of which have been destroyed, or are currently located in the territories occupied by the Russian Federation. Approximately 10-20% of the estimated 400,000 Roma people living in Ukraine are stateless or at risk of statelessness. Additionally, 55% of children born in

Donetsk and Luhansk and 88% of children born in Crimea were reported to lack Ukrainian birth certificates or personal documents, putting them at risk of statelessness.⁹

Even though the law in Ukraine theoretically grants a right for children born in the country who otherwise would be stateless to become Ukrainian nationals, it also limits this right to those whose parents legally reside on the territory of Ukraine. This contradicts the provisions of the 1961 UN Convention on reduction of statelessness; the UN CRC has given a recommendation to Ukrainian government to implement protections for children born to parents with insecure migration status or without documentation.

The Ukrainian statelessness determination procedure (SDP) was established by the Parliament in June 2020 through amending the Law of Ukraine On Legal Status of Foreigners and Stateless Persons. On March 24, 2021 the Government adopted a resolution “On Some Issues Related to Recognition as a Stateless Person”, the latter has entered into force on Apr. 16, 2021. The SDP is a lengthy procedure, it takes up to 12 months to be recognized as stateless person. Aside from delays, however, the procedure is well written: people have the possibility to apply to the SDP regardless of the legality of their residency in Ukraine and apply without any documents. The procedure is quite simple and continues to operate even under martial law in Ukraine. According to the UN, in practice there have been only 1,028 applications made under the SDP (as of Dec. 31, 2022) with 664 people being recognized as stateless persons. Despite the clear provisions of the legislation regarding the procedure for recognizing a stateless person, administrative and bureaucratic implementation gaps still exist, which become obstacles to obtaining the status of a stateless person in Ukraine and exercising their legal rights. In some cases for example, when submitting documents to start the procedure, applicants receive verbal refusals based on a requirement to provide proof of lack of citizenship or due to a reluctance to accept documents from persons whose country of origin is Russia or Belarus.

The status of newly recognized stateless persons is not clear in Ukrainian legislation. Especially for the first two years after being recognized as stateless person, people will not have access to many rights or such access is not clearly established in Ukrainian legislation which may lead to inconsistent practices. According to the law of Ukraine “On Status of Foreigners and Stateless Person”, those who have already applied for recognition as stateless person may have access to state free legal aid. Recent changes to the law have been introduced in May 2022, which allow people without documents to receive free legal assistance (both primary and secondary) in questions regarding confirmation of their nationality. It should be noted, however, that state legal aid centres lack capacity: they are overload with cases and lack skills and knowledge related to statelessness, the procedure for obtaining an immigration permit, temporary or permanent residence permits and the rights coming with those legal statuses.

Positive changes also concern the access of stateless persons to the labour market. Thanks to changes adopted in September 2022 to the relevant legislation, all categories of stateless persons (starting from the moment of submitting an application for recognition as a stateless person) have the opportunity to officially find employment on a basis similar to those of Ukrainian nationals.

Answering the challenges of war, the Government established a procedure for persons returning to the territory after being forcibly deported to Russia, including Ukrainian stateless persons. In order to return stateless persons who lived on the territory of Ukraine and were forcibly deported to

⁹ European Network on Statelessness, Briefing: Statelessness and people at risk of statelessness forcibly displaced from Ukraine, May 2022, available at: https://www.statelessness.eu/sites/default/files/2022-03/ENS%20Briefing%20-%20Stateless%20people%20displaced%20from%20Ukraine%20-%20March%202022_1.pdf

Russia, the government adopted a procedure for issuing an identity card on the territory of Ukraine for return to Ukraine. An important provision of this Order is granting the right to issue a certificate of return to Ukraine not only to stateless persons who have a temporary or permanent residence permit in Ukraine, but also to persons who have been recognised as a stateless person.

In contrast to these positive developments, which are designed to ensure the rights of stateless persons, a Law № 7475 "On Amendments to Certain Laws of Ukraine Regarding the Protection of the State Border of Ukraine" was also adopted in March 2023 that can cause the unjustified deprivation of liberty of stateless persons and hinder their access to justice. The Law unreasonably significantly expands the range of persons who can be detained and deprived of liberty regardless of a court's decision. Secondly, the specified law enforcement authorities will be able to independently make decisions on the forced deportation of foreigners and stateless persons without a court order, that is, in fact, the powers of the court are transferred to the specified law enforcement authorities.

A problem that has been observed recently is that of obtaining a temporary residence permit by newly recognized stateless persons who have a court decision on forced return, forced deportation, prohibition of entry or imposition of administrative fines or property obligations. This situation arises due to the fact that the norms of the Procedure for Issuing a Temporary Residence Permit do not take into account the newly introduced procedure of recognition of a stateless person. This inconsistency does not allow stateless persons to exercise their right to obtain legal grounds for residence in Ukraine.

9. Georgia

The last decade has seen significant progress in addressing the statelessness issue from the side of the Georgian Government. Georgia is a state party to both the 1954 Convention relating to the Status of Stateless Persons since 2011 and the 1961 Convention on the Reduction of Stateless Persons since 2014. In 2019, at the High-Level Segment on Statelessness, the Government of Georgia submitted pledges to improve the law and practice concerning statelessness, focusing on the identification, reduction, and protection of stateless persons in the country.¹⁰

Georgia not only introduced a separate stateless status determination procedure in 2012 but the respective legislation includes the definition of a stateless person in compliance with the 1954 Convention. Furthermore, the national legislation guarantees access to the state healthcare system for stateless persons, the right to work, education, and other rights. Though the stateless status applicants still are not provided with free legal aid – an issue that was pledged to be solved by the Government but still remains challenging. While the state provides emergency healthcare for stateless applicants it is advised for the package to be enhanced on equal footing as for asylum seekers in Georgia.

As of today, the total number of stateless individuals in Georgia is fairly small. In order to further identify stateless persons in 2022 the state addressed one of its important pledges and conducted a full-scale “door-to-door” campaign that took place in the period of April-December. During the campaign, the mobile teams of the Public Service Development Agency identified stateless persons in the regions of Georgia and determined and documented their citizenship status by granting an identity document for free.

¹⁰ Georgia pledged to facilitate naturalization by reducing the 10-year residence period required for naturalization in half; to reduce the application fee for the stateless status determination procedure; to include stateless status applicants in state healthcare system; to provide state-funded legal aid; to undertake “Door-to-door” campaign; and to commit to the awareness-raising with UNHCR.

See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>

The Stateless Status Determination Procedure fee was reduced first from 50 to 25 GEL and then entirely omitted last year while the service fee for stateless persons to apply for naturalization under the regular procedure has also been revoked completely.

Alongside the improvements in legislation, practice, and policy for eliminating statelessness in Georgia, there still remain a few challenges that need to be addressed to achieve the main goal of ending statelessness and preventing future cases. One of such major concerns is the absence of a legislative provision that would grant Georgian citizenship to children born in Georgia who otherwise would be stateless. Such a provision would further align national law with the 1961 Convention and would be an additional step forward in eradicating statelessness in Georgia. The remaining challenges also include the work to facilitate naturalization for stateless persons by reducing the required years of residence from 10 to 5 years, undertaking a more flexible approach toward stateless persons while determining the necessary level of knowledge of the Georgian language as a precondition for naturalization, as well as improving data on stateless persons in the Public Service Development Agency database.

10. Republic of Moldova

Law, policy, and practice on the protection of stateless people and prevention and reduction of statelessness is generally positive in Moldova. The country's record on treaty accession is good and it has established a dedicated Statelessness Determination Procedure (SDP) in law. The SDP is accessible, with a mandatory interview, an option to initiate the procedure ex officio, and some rights are granted to applicants. People recognized as stateless in Moldova are granted rights in line with nationals, but do not have any political rights (for example, they cannot vote in any elections). Although there is an accelerated route to naturalization, reduced from ten years, a stateless person must still wait eight years before being eligible to apply for naturalization.

There are partial safeguards in nationality law to prevent statelessness at birth. At the end of 2022, the Moldovan Parliament adopted in first reading a draft of amendment for citizenship law, which aims to provide full protection from statelessness at birth.

However, access to birth registration and a birth certificate is hindered in practice by the requirement that parents (especially mothers) must be documented to register a birth, with some communities at higher risk of remaining unregistered, including Roma.

Provisions for deprivation of nationality are broadly in line with international standards.

At the end of 2022 in the State Register of Population, there were 1,907 recognized stateless persons, including 1,903 persons recognized as stateless by the Republic of Moldova, and four persons recognized by other countries living in the Republic of Moldova with resident permits. Notably, 1,358 of these recognized stateless persons live in Transnistria (unrecognized territorial entity).

There are 966 recognized stateless persons who were born on the national territory and therefore they are entitled to be recognized as citizens of the Republic of Moldova.

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