



# Concept Note

## Study on Statelessness in Slovakia

### Background of the study

The Regional Representation of UNHCR in Central Europe intends to carry out a study in order to map the situation of stateless persons in Slovakia.

### International Legal framework

Slovakia has acceded to the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) and to the 1961 Convention on the Reduction of Statelessness (1961 Convention). Both Conventions entered into force in 2000. Slovakia has made only one reservation to Article 27 of the 1954 Convention which provides that 1954 Convention Travel Documents shall be issued by the Slovak Republic only to those stateless persons who have been granted permanent or long-term residence in Slovakia. Slovakia has also ratified the European Convention on Nationality that entered into force in 2000.

### National Legal Framework

At present, there is no designated statelessness determination procedure in place in Slovakia though legislation does provide a protection ground for stateless persons. Statelessness usually is dealt with in the course of the asylum procedure or an application procedure for residence or Slovak citizenship.

### Objectives of the study

A number of provisions in the Slovak *Act on Residence of Aliens* (the “Aliens Act”) provide for protection of stateless persons. One of the objectives of the present study will be an assessment of **the way in which the Aliens Act is applied in practice**. One of the challenges, for example, is the fact that granting permanent residence under the Aliens Act does not automatically apply to all stateless persons, even if they meet all conditions set forth therein. Whether someone is granted a permanent residence remains at the discretion of the Ministry of Interior.

This is also the case with the possibility for a stateless person to obtain Slovak citizenship. The *Act on Citizenship* contains provisions that allow stateless persons with a permanent residence permit to apply for Slovak citizenship after 3 years of continuous lawful residence in Slovakia (compared to 4 years of continuous residence in case of a refugee and 8 years of permanent residence as a general condition). According to a report of the Ministry of Interior of 2014,

one stateless person was granted Slovak citizenship in 2014 and 4 stateless persons were granted Slovak citizenship in 2015. One obstacle for lodging an application for Slovak citizenship is the administrative fee of 700 EUR. In addition, as is in the case with the residence permit, the granting of citizenship is remains at the discretion of the Ministry of the Interior. **This study will therefore also analyse the implementation of the relevant provisions of the Act on Citizenship in relation to stateless persons.**

In addition, this study will map the situation concerning statelessness at birth in Slovakia by assessing the compatibility of existing provisions related to statelessness in the national legislative framework with the 1961 Convention. This assessment should *inter alia* determine whether sufficient and effective safeguards are in place to ensure that statelessness at birth is prevented. For example, pursuant to Article 5 § 1 b) of the Act on Citizenship, Slovak citizenship shall be granted to a child provided he/she was born on the territory of the Slovak Republic and his/her parents are stateless persons. However, no specific information regarding the implementation of this provision is available. Therefore, **another objective of this study is also to analyse how relevant provisions of the Act on Citizenship were applied in the past and what the current government practice is with regard to preventing statelessness at birth.**

Further, there is little up to date information available on the number of people affected by statelessness in Slovakia. The Statistical Office reported that in the 2011 Population and Housing Census 1,523 persons had declared being stateless. However, these data cannot be verified as no effective mechanism is in place for the identification of stateless persons. As the last census took place 5 years ago, the situation may be different now. In addition, before 2012, data on the number of stateless persons reflected those who hold a certain type of residence, such as tolerated, temporary or permanent stay. Since 2012, these data are no longer included in the Annual Statistical Overview of Legal and Illegal Migration drawn up by the Border and Aliens Police. Therefore, given the lack of accurate and recent data, **another objective of this study is to gain a better understanding of the profile and numbers of stateless persons or persons at risk of statelessness in Slovakia.**

### Specific objectives

The present study will endeavor to map the number, profile, needs and challenges that stateless persons in Slovakia face. To that end, the specific objectives of the study include:

1. Identify the profile of stateless persons or people at risk of statelessness in

Slovakia, including their demographic profile, location, causes of their statelessness, legal history and current legal status in Slovakia. The study will also look at these components in relation to the Roma living in Slovakia.

2. Identify gaps, challenges and main challenges that stateless persons face in Slovakia and in relation to the prevention of statelessness at birth or later in life.
3. Provide recommendations on how to address the identified gaps; these recommendations may be used as an advocacy tool with Government counterparts.
4. Analyze the existing legal procedures available to stateless persons to obtain protection in Slovakia against international standards as described in the UNHCR Handbook on Protection of Stateless Persons: access to the procedure; burden and standard of proof with regard to statelessness; decision-making procedure, including the relevant national case-law; procedural rights of the applicant; access to information, access to interpretation and legal assistance to applicants.
5. Suggest recommendations on how to address procedural shortcomings, including as regards the possibility of establishing a designated statelessness determination procedure.

#### **Expected outputs of the study**

The output of the study is a report in English presenting an analysis of gaps in the current legislative framework and its implementation in relation to the identification and protection of stateless persons. It will further provide a detailed overview on the situation of stateless persons or person at risk of statelessness in Slovakia, including challenges and protection concerns that these individuals face, and obstacles to their acquisition or confirmation of nationality. In addition, the study will look at the safeguard against statelessness at birth in light of international instruments and at its implementation. Recommendations will include suggestions for amendments of legislation and / or change in practice in order to establish an effective and functional statelessness determination procedure in Slovakia and to ensure statelessness is prevented and reduced. Upon completion of the study, a translation into Slovak language will be made.

#### **Expected results**

Based on the outputs of this study **UNHCR will be able to develop an advocacy strategy with regard to improving the situation of stateless persons and persons at risk of statelessness in Slovakia and to preventing statelessness.** The outputs will be used as the main advocacy tool with the Government in order to change current practices and address identified gaps and deficiencies. The study should also help UNHCR increase awareness at both public and expert levels and to advocate with the

Government for the introduction of a designated statelessness determination procedure and protection framework and promote facilitating their naturalization.

## **Methodology for the study**

The methodology shall include the following activities:

- Desk research of existing national legislation, the relevant international legal framework, existing data sources that may cover stateless persons such as asylum, immigration and naturalization statistics, Roma participation, as well as internal practices, studies and available data and publications on the issue of nationality, Roma or statelessness in Slovakia;
- Interviews with Government representatives and bodies responsible for the identification of stateless persons and reduction of statelessness in Slovakia (asylum authorities, the Border and Alien Police, relevant departments of the Ministry of Interior that are dealing with the citizenship requests);
- Interviews with Government representatives and bodies who may encounter possible stateless persons or persons at risk of statelessness in their work (asylum, immigration and deportation authorities, border police, immigration detention centres, civil registry offices, the government body responsible for the 2005-2015 EU decade of Roma inclusion etc)
- Interviews with Government entities responsible for statistics (the Border and Alien Police and the Statistical Office);
- Interviews with relevant human rights bodies (for example, the Ombudsman's Office) and experts dealing with statelessness in Slovakia;
- Interviews with identified stateless persons or persons at risk of statelessness in Slovakia;
- Interviews with NGOs or other relevant stakeholders who are involved in assisting stateless persons or potentially stateless persons (such as lawyers and Roma community leaders).

## **Duration of project**

1 June 2017 – 1 December 2017

The first 5 months of the project are intended for desk and field research, including the elaboration of the study and completion of the report. The report will be reviewed and, where necessary, revised during the month of November. The report shall be finalized by 30 November 2017.