

Statelessness Update



Through the joint efforts of UNHCR partner NEEKA, Velikobychkiv village council and Rakhiv District Civil Registry Department in Zakarpatska region, Yuri received his first document - a birth certificate at the age of 26.

What is statelessness?

"[stateless persons are] individuals who are not considered citizens or nationals under the operation of the laws of any country."

1954 Convention relating to the Status of Stateless Persons

There are an estimated **10 million** stateless persons worldwide¹. **One-third** are children. A person's citizenship and nationality may be determined based on the laws of a country where an individual is born or where her/his parents were born. A person can also lose citizenship and nationality in a number of ways, including when a country ceases to exist or a country adopts nationality laws that discriminate against certain groups. Stateless persons are often **excluded** from society, and denied basic human rights such as a legal identity at birth; access to education, health care, marriage, employment opportunities, and even a death certificate when they die.

In 2014, UNHCR launched the **#IBelong campaign** to end statelessness by 2024 through a Global 10-Point Action Plan. To learn more, visit:
www.unhcr.org/ibelong/

¹ According to the Handbook on Statelessness in the OSCE Area: <https://www.osce.org/handbook/statelessness-in-the-OSCE-area?download=true>

UNHCR and statelessness in Ukraine

From the 1990's until 2013, UNHCR has had a **historic role** and has worked extensively on the prevention and reduction of statelessness in Ukraine. UNHCR supported Formerly Deported Persons (FDPs) and their dependents returning to Ukraine in the process of relinquishing their previous citizenship and acquiring Ukrainian citizenship. Those assisted were mainly **ethnic Crimean Tatars** returning to the Autonomous Republic of Crimea from forced exile in Central Asia (mostly Uzbekistan).



Amendments to the Citizenship Law in 1997 led to the naturalization of some 25,000 stateless FDPs between 1997 and 2001. In addition, Uzbekistan and Ukraine concluded an agreement backed by both UNHCR and the OSCE High Commissioner

on National Minorities facilitating the naturalization of a further 90,000 FDPs.²

82,550 persons declared themselves to be stateless in Ukraine in a 2001 population census.

UNHCR estimates that as many as **35,000** persons are stateless in Ukraine.

In 2001, following intensive lobbying by UNHCR and the Council of Europe, a new Citizenship Law introduced a simplified naturalization procedure as a result of which applicants no longer had to renounce their previous nationality (becoming stateless in the process) before applying for Ukrainian citizenship. The previous requirements for Ukrainian language proficiency and five years of lawful residence were also waived for persons with links to Ukraine, including FDPs.

In 2013, Ukraine acceded to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. To date, despite acceding to the Conventions, Ukraine has not yet established a functioning statelessness determination procedure in order to identify and grant full protection to stateless persons on its

territory.

The majority of persons at risk of statelessness identified by UNHCR partners in Ukraine include:

Roma minority

Holders of Soviet passports

Children born in non-government controlled areas

Homeless persons

Persons released from prisons

² "Agreement between Uzbekistan and Ukraine on co-operation on resolving citizenship issues for FDPs" valid from October to December 1999, and from November 2000 to December 2001.

In addition, there are those who arrived in Ukraine from other former Soviet republics after the collapse of the USSR who do not hold any nationality due to conflicting nationality laws or gaps in nationality legislation. A study commissioned by UNHCR in 2016 confirmed that these categories are indeed at higher risk of statelessness.

Birth Registration

The conflict that erupted in eastern Ukraine, as well as the annexation of the Autonomous Republic of Crimea, has resulted in an increased number of persons at risk of statelessness, notably because the Government of Ukraine does not automatically recognize the birth certificates issued in these territories. While a judicial procedure does exist in Ukraine allowing children from the non-government controlled areas (NGCA) to obtain birth certificates, the steps are cumbersome and expensive. NGCA residents must travel to the government controlled areas for several days in order to obtain the certificates, which can be burdensome, especially for vulnerable families. UNHCR has been strongly advocating for facilitation of this process. In the first half of 2018, Ukraine took the first steps toward establishing an administrative procedure for birth registration of children born in NGCA. The law providing for the blanket invalidity of all documents issued by the *de facto* authorities in NGCA, introduces an exception for documents certifying facts of birth or death of a person that may be attached to birth/death registration in Ukraine. The next step is for the authorities to establish by-laws with detailed modalities for how the administrative procedure will work. UNHCR in partnership with other UN agencies is ready to lend support to authorities in identifying reasonable measures of risk mitigation.

A review of court records suggests that an estimated

49%

of children born in the non-government controlled areas of Donetsk and Luhansk regions have obtained a birth certificate issued by the Government of Ukraine

15%

of children born in the Autonomous Republic of Crimea have obtained a birth certificate issued by the Government of Ukraine

Achievements

In 2017 UNHCR partnered with NGOs capable of conducting outreach and providing legal services to persons at risk of statelessness in three regions of Ukraine (Kyiv, Odesa, and Zakarpatska). A study commissioned by UNHCR in 2016 had found that these regions have significant numbers of persons at risk of statelessness. As a result, UNHCR has been able to address individual cases of statelessness throughout Ukraine. Legal services were

2,006

Stateless or persons at risk were identified and provided with legal aid by UNHCR partners between June 2017 and August 2019.

expanded to undocumented persons in Kharkiv region (from Feb 2018), Donetsk (from Mar) and Luhansk (from Sept 2019) regions.

Achievements in the last 27 months:

286

persons obtained **passports**
 (of these 256 Ukrainian passports)

99

persons obtained **Ukrainian birth certificates**

298

persons obtained **duplicates** of birth certificates due to its loss

Breakdown by region

766

stateless or persons at risk of statelessness (25 of them are Roma) in **Kyiv city, Kyiv region, Kharkiv and Donetsk regions** identified and provided with legal support

644

Roma at risk of statelessness in **Zakarpatska region** identified and provided with legal support

596

stateless persons or persons at risk of statelessness in **Odesa region** (1/3 of them are Roma). identified and provided with legal support

Capacity Building and Advocacy

- In 2017, UNHCR organized a study visit to Serbia for key government stakeholders (Ministries of Justice, Social Policy and Interior, as well as the State Migration Service) to learn good practices related to documentation of IDPs and issuance of birth certificates.
- In 2017, UNHCR assisted the Austrian OSCE Chairmanship in organizing a practical seminar in Vienna on exchanging good practices on the prevention of statelessness in OSCE states.
- UNHCR also organized five outreach visits for state officials to Roma settlements in Odesa and Zakarpatska regions in 2017-19. The visits were followed by an inter-agency meetings, which addressed the identified problems and provided recommendations to the authorities.
- Together with OHCHR and UNICEF, UNHCR advocated for the establishment of an administrative procedure for birth registration that is flexible and responsive to the circumstances of families living in the NGCAs, by simplifying documentary requirements, offering registration services close to the line of contact, and disseminating information about the procedure.
- In Feb 2019, UNHCR organized a meeting with stakeholders to discuss preparations for the 7 October High Level Segment on Statelessness and possible pledges from Ukraine. The MoJ suggested that the ongoing awareness-raising campaign “I have a right” could be used to raise awareness on obtaining documents. The MinToT and IDPs underlined the need to elaborate an administrative procedure for birth registration of individuals born in NGCA.

- In Jul 2019, UNHCR, its partner R2P jointly with Chief Directorate of SMS in Donetsk region conducted a meeting with its 25 district units (GCA) to discuss documentation problems of the Ukrainian citizens registered at NGCA as well as stateless persons and persons at risk of statelessness.

In parallel, UNHCR supports the authorities in developing procedures for determining the status of stateless persons and lobbies for inclusion of clauses on statelessness determination procedure in accordance with the 1954 Convention. The draft law 9123 on *Amendment of Certain Legislative Acts of Ukraine Regarding Recognition as a Stateless Person* was registered at the Parliament in September 2018. Its re-registration and adoption by a new Parliament is anticipated in 2019. UNHCR also advocates for other legislative amendments to improve the protection of the applicants for stateless status, in particular providing them with smooth access to legal employment during the determination procedures; free emergency medical aid.



Meet Marta, who could not obtain a passport of a citizen of Ukraine, since the mother's passport and her birth certificate did not match the mother's first name, while the father never cared for her from her birth. In 2017, UNHCR's legal partner NEEKA requested a birth certificate and a full birth extract from the Civil Registry data, which revealed the father's address. It also revealed that five years earlier the father admitted its paternity, though Marta was not aware of this. After obtaining a father commitment to confirm her identity at SMS in Lviv (at the place of the father residence), Marta underwent the setting identity procedures and obtained the Ukrainian passport in 2019.

Challenges

- The absence of a birth certificate, late registration of birth are among the main problems in obtaining passports by Roma minority. Children, whose parents have died are particularly vulnerable as they cannot confirm their lawful residence in Ukraine and their legal links with the parents. Many Roma parents do not know the date and place of birth of their children. Its even more problematic, if children were born abroad and MoJ assistance is needed to verify that. However, the MoJ can not process undocumented by passport parents.
- Correction of mistakes (letters in names and family names) in the birth acts record is another challenge. The MOJ Civil Registry open a file on introduction of amendments to the birth acts record. If mistakes were committed in the CIS countries, the MoJ submits it to the relevant authorities within *the Minsk Convention on legal aid in civil and criminal cases*.
- Non inclusion of poor persons at risk of statelessness into the scope of Free Legal Aid beneficiaries in particularly affects undocumented Roma minority and the convited persons.
- Non-issuance by SMS to an undocumented applicant with a temporary certificate containing the person's photo, which could have enable the applicant to apply to

the different bodies, obtain free legal aid and collect the necessary information is a key problem.

- Absence of a provision on identification procedures in the Civil-Procedural Code of Ukraine, charges of court fees for consideration of such cases, cases on confirming facts of birth/residence in Ukraine – complicate finding durable solutions for poor applicants.
- The lack of simplified procedures for issuing/renewing/replacing internal passports for persons who have residence registration in NGCA. It is important for human rights and social cohesion that all Ukrainian citizens can access their ID documents without undue burden and discrimination.

Working in partnership

UNHCR cooperates with the Ministry of Interior, the SMS, the Parliamentary Human Rights Committee, the Parliamentary Commissioner for Human Rights, courts, the Coordination Center for Legal Aid Provision, and civil society organizations on establishing statelessness determination procedures and working towards the eradication of statelessness in Ukraine. UNHCR works with partner NGOs NEEKA, Right to Protection (R2P), and Tenth of April in the field of statelessness in Ukraine, providing support to persons of concern, conducting advocacy, and policy development.



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