

## **A Note on Statelessness - Globally and in Serbia**

**Today, at least 10 million people around the world are denied a nationality. As a result, they often aren't allowed to go to school, see a doctor, get a job, open a bank account, buy a house or even get married. They face a lifetime of obstacles and disappointment.**

A stateless person is “a person who is not considered as a national by any State under the operation of its law”. In other words, a stateless person does not have the nationality of any country. Some people are born stateless, but others become stateless.

The reasons for statelessness vary. It can occur as a result of discrimination against a particular ethnic or religious group, or on the basis of gender; as a result of the emergence of new States or the transfer of territory between existing States in combination with gaps in nationality laws. Whatever the cause, statelessness has serious consequences for people in almost every country in all regions of the world.

The international legal bases for the eradication of statelessness and the protection of stateless persons are the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*. Through a series of resolutions beginning in 1995, the UN General Assembly gave UNHCR the formal mandate to identify stateless people, prevent and reduce statelessness around the world, as well as to protect the rights of stateless people. Twenty years earlier, the Assembly had asked the UN refugee agency to provide assistance to individuals under the 1961 Convention.

In 2013, the UN High Commissioner for Refugees called for the “total commitment of the international community to end statelessness”. In 2014, on the 60<sup>th</sup> anniversary of the 1954 Convention, the UN Refugee Agency launched the global #IBelong campaign to eradicate statelessness by 2024. The *Global Action Plan to End Statelessness: 2014 – 2024 (Global Action Plan)*, developed in consultations with States, civil society and international organisations, recommends 10 actions to end statelessness within 10 years. These actions seek to resolve existing cases of statelessness, prevent new ones from emerging and to strengthen the identification and protection of stateless populations.

Also in Serbia, UNHCR has long supported authorities in reducing and preventing statelessness. Joint surveys confirmed that it is mainly persons with Roma, Ashkali or Egyptian background, including internally displaced persons from Kosovo and Metohija, which are threatened by statelessness, as they face greater obstacles to register births and to access personal documents to demonstrate citizenship, which - in turn - prevents them from effectively enjoying social, economic, cultural and political rights.

In 2011, the Republic of Serbia, which is a party to both statelessness conventions, expressed a growing interest in combating statelessness, leading to a tripartite Memorandum of Understanding (MOU) between the Ministry of Public Administration and Local Self-Government, the Ombudsman and the Representation of UNHCR in Serbia.

2012-2016, diverse local activities as well as amendments of regulations were implemented under this MOU. New judicial procedures of birth registration together with amendments to regulations governing residence eased the obtaining of personal documents and thus citizenship status for

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persons whose ancestors had been living in Serbia for generations. Systemic changes were accompanied by targeted trainings of judges, registrars, employees in social welfare centres and the Ministry of Interior. *In lieu* of a law on free legal aid, the UN Refugee Agency continued to fund representation of persons at risk of statelessness before various government authorities as well as assistance in obtaining personal documents. Implementation of the MOU was greatly strengthened through a Technical Group in which representatives of all responsible government agencies, the UN Refugee Agency and civil society regularly solved specific individual cases and exchanged information on practical obstacles in accessing personal documents.

UNHCR's survey *Persons at Risk of Statelessness in Serbia – Progress Report 2010 – 2015* counted a 43% decrease in persons without basic identity documents amongst Roma, Ashkali and Egyptians in Serbia (from 6.8% in 2010 to 3.9% in 2015).

Serbia's achievements in the prevention and reduction of statelessness are remarkable. Some of its approaches have been used as good models in other countries of the region and beyond.

Regional and global alliances underpin support to the implementation of States' commitments under the stateless conventions and other relevant international law, including the Convention on the Rights of the Child. UNHCR and UNICEF, for example, cooperate with other organisations in a *Coalition on Every Child's Right to a Nationality*, both globally as well as in Serbia and have called on States and regional organisations to take urgent action to ensure no child is born, or remains, stateless in Europe.<sup>1</sup> Serbia has joined other states in a global coalition on Sustainable Development Goal 16 of Agenda 2030, which commits to i.a. "provide legal identity for all, including birth registration" (SDG 16.9). Regional partners in the prevention and reduction of statelessness include the OSCE, the Council of Europe as well as the EU Council and Parliament.

In view of the progress made to date, Serbia is amongst countries that can eradicate statelessness by 2024, or even earlier. The UN Refugee Agency and its partners remain committed to support further positive developments especially regarding actions 6, 7 and 10 of the Global Action Plan (GAP):

1. To "Ensure birth registration for the prevention of statelessness" (Action 7 of the GAP) and thus prevent reoccurrence of statelessness, remaining obstacles that prevent all children from being registered into birth registries immediately after birth should be removed. The main obstacles that prevent birth registration for children whose parents are undocumented are two bylaw (*Instruction on administering registry books and forms of registry books* and *Rulebook on the procedure for the issuance of birth notification and form of the issuance of birth notification in a health care institution*), which stipulate that data on parents may be entered into the birth registry books only on the basis of parents' identity cards. Having in mind that previous efforts<sup>2</sup> to address this issue haven't been successful, possible solution should be in modifying existing regulations and thus creating prospects for immediate birth registration of all children born in Serbia.

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<sup>1</sup><https://www.unhcr.org/news/press/2019/2/5c654e634/unhcr-unicef-urge-action-europe-end-childhood-statelessness.html>

<sup>2</sup> The Project "Baby, Welcome to the World" successfully introduced simplified procedures of birth notification, permanent residence registration and registration for health insurance in cases where mothers possessed personal documents. It did not introduce these, though, for children whose parents lack personal documents, leading to the conclusion that the problem can only be solved through changes in the two bylaws. <https://www.praxis.org.rs/index.php/en/reports-documents/praxis-reports/item/1404-review-of-the-remaining-obstacles-in-exercise-of-the-right-to-birth-registration-acquisition-of-citizenship-and-permanent-residence-registration>

All stakeholders cooperating in achieving positive changes in the past - the government, independent state bodies, civil society and international organizations - should reunite once again in resolving this outstanding issue, also in line with the recommendations of the Committee on the Rights of the Child<sup>3</sup>, Committee on the Elimination of Discrimination against Women<sup>4</sup>, and the Human Rights Committee.<sup>5</sup>

2. In order to enjoy the rights attached to their nationality equally to other citizens of Serbia, most vulnerable persons should be exempted from paying for their identity cards<sup>6</sup>.

3. To “Grant protection status to stateless migrants and facilitate their naturalization” (Action 6 of the GAP) Serbia should implement its commitments under the 1954 Convention through the introduction of fair and effective statelessness determination procedures<sup>7</sup> and the amendment of citizenship legislation allowing accelerated access to citizenship for stateless persons.

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<sup>3</sup>[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/SRB/CO/2-3&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/SRB/CO/2-3&Lang=En) The Committee on the Rights of the Child, *Concluding observations on the combined second and third periodic reports of Serbia*: “The Committee recommends that the State party ensure full implementation of the new regulations that enable immediate birth registration of children whose parents do not have personal documents, and initiate procedures to establish the nationality of children born to stateless parents or those whose nationality is unknown.”

<sup>4</sup>[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/SRB/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/SRB/CO/4&Lang=En) The Committee on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Serbia*: “The Committee recommends that the State party: a) Take measures, including legislative measures, to ensure immediate birth registration, access to identity documentation and citizenship for all children, regardless of whether their parents lack personal documentation or are stateless; b) Extend electronic birth registration to home births and to all parents; c) Establish a system to track all cases involving child marriage among stateless children, particularly Roma girls.”

<sup>5</sup> [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SRB/CO/3&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SRB/CO/3&Lang=En) The Human Rights Committee, *Concluding observations on the third periodic report of Serbia*: “The State party should increase its efforts to: (a) promote non-discriminatory access to opportunities and services in all fields for members of the Roma community; (b) facilitate and enable registration of children born to parents without identification documents and allow internally displaced Roma who live in informal settlements to register their place of residence and to acquire identification documents, including by reviewing the law on permanent and temporary residence; (c) work with internally displaced Roma communities to develop durable solutions that are suitable to them, including their local integration into Serbian society; and (d) take all steps necessary to implement the strategy for the social inclusion of Roma.”

<sup>6</sup> [http://www.unhcr.rs/media/docs/UNHCR\\_Brosura\\_Apatridi\\_ENGLESKI.pdf](http://www.unhcr.rs/media/docs/UNHCR_Brosura_Apatridi_ENGLESKI.pdf)

Slobodan Cvejic, *Persons at Risk of Statelessness in Serbia – Progress Report 2010-2015*, June 2016: “An identity card (ID) is the key document for the identification of a person and is necessary for the exercise of fundamental rights. Persons registered in birth registries are looking at additional administrative steps and financial costs when the time comes for them to obtain an ID card at the age of 16. It is therefore logical that the percentage of those who have no ID is higher than the percentage of those who have not been registered in birth registry books....The single most commonly stated reason in both surveys is that obtaining of an ID card is expensive.”

<sup>7</sup> The *Law on Foreigners*, adopted in 2018, contains the definition of a stateless person and prescribes that a competent authority should issue travel documents to stateless persons. The same law also prescribes that the 1954 Convention should be applied to stateless individuals, if this is more favourable for them. Some other laws of the Republic of Serbia guarantee certain rights to stateless persons: the Labour Law grants the right to work to stateless persons, the Law on Social Protection prescribes that stateless persons can be beneficiaries of social protection, the Law on Fundamentals of the Education System envisages that stateless persons are entitled to education (primary and secondary) under the same conditions and in the same manner as Serbian citizens, the Law on the Prohibition of Discrimination guarantees stateless persons the right to initiate legal action for protection against discrimination. Facilitated naturalisation of stateless persons as per 1954 Convention provisions, however, has not yet been envisaged in Serbian legislation. There is a risk that stateless persons would not be able to exercise these rights in practice, because of the lack of a formal statelessness determination procedure.

4. Also in the context of supporting Serbia in its EU accession and Agenda 2030 processes, the UN Refugee Agency and its partners remain committed to advise responsible authorities on how to collect reliable, disaggregated data on stateless persons and persons at risk of statelessness in Serbia, and to make this data publicly available, with the aim of also meeting the tenth and last goal of the Global Action Plan, namely, to “Improve quantitative and qualitative data on stateless populations”.

The High-Level Segment on Statelessness to mark the mid-point of the #IBelong Campaign to End Statelessness by 2024 (planned for 7 October 2019 in Geneva during the seventieth annual session of UNHCR’s Executive Committee) will provide an important opportunity also for Serbia to take stocks on achievements and good practice to date, and to ensure concrete, time-bound pledges towards ending statelessness by 2024.

The Representation of UNHCR in Serbia  
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