



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR's comments on the draft proposal of the Social Welfare Act

I. INTRODUCTION

1. The United Nations High Commissioner for Refugees Representation in Croatia (hereafter “UNHCR”) is grateful to the Ministry of Labor, Pension System, Family and Social Policy of the Republic of Croatia for the opportunity to express views on the Proposal for the Social Welfare Act (hereafter the “Proposal”)¹ dated October 2021.
2. The UN General Assembly has entrusted UNHCR with a global mandate to provide protection to stateless persons worldwide and to engage in prevention and reduction of statelessness.² UNHCR’s Executive Committee has further requested UNHCR to undertake “targeted activities to support the identification, prevention and reduction of statelessness and to further the protection of stateless persons”.³ The Executive Committee also requests the Office “to provide technical advice to States Parties on the implementation of the 1954 Convention so as to ensure consistent implementation of its provisions”.⁴ UNHCR thus has a direct interest in national legislation that regulates the protection of stateless persons, including implementation of the 1954 Convention relating to the Status of Stateless Persons.⁵
3. UNHCR comments below are thus based on international standards on statelessness set out in particular in the 1954 Convention Relating to the Status of Stateless Persons⁶ and

¹ Proposal of Social Welfare Act, available at: <https://esavjetovanja.gov.hr/ECon/MainScreen?entityId=18793>.

² UN General Assembly Resolution A/RES/50/152, 9 February 1996, available at <http://www.unhcr.org/refworld/docid/3b00f31d24.html>. Reiterated in subsequent resolutions, inter alia, A/RES/61/137 of 25 January 2007, available at <http://www.unhcr.org/refworld/docid/45fa902d2.html>, A/RES/62/124 of 24 January 2008, available at <http://www.unhcr.org/refworld/docid/47b2fa642.html>, and A/RES/63/148 of 27 January 2009, available at <http://www.unhcr.org/refworld/docid/4989619e2.html>

³ ExCom Conclusion 106, see above footnote 13, para. (a)

⁴ Ibid, para. (x); see also para. (i).

⁵ The Government of the Republic of Croatia brought the decision on notification on the succession of the Republic of Croatia as a party to certain international treaties, including 1954 Convention Relating to the Status of Stateless Persons. A list of multilateral international treaties for which the decision on notification on succession into their membership was made, was published in the Official Gazette - International Treaties, Official Gazette – International Treaties, no. 12/1993., available at: https://narodne-novine.nn.hr/clanci/medunarodni/1993_10_12_27.html.

⁶ UN General Assembly, Convention Relating to the Status of Stateless Persons, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <https://www.refworld.org/docid/3ae6b3840.html>.

the 1961 Convention,⁷ Conclusions on International Protection of the UNHCR Executive Committee,⁸ UNHCR Handbook on the Protection of Stateless Persons,⁹ UNHCR Handbook for Parliamentarians N° 29 on Good practices in nationality laws for the prevention and reduction of statelessness,¹⁰ and relevant guidelines.¹¹

4. UNHCR notes that the Proposal covers the overall scope of social benefits for all categories of beneficiaries, while its comments will solely concentrate on those that relate to protection of stateless people.

II. COMMENTS

5. UNHCR commends the efforts of the Government of Croatia to further improve the Social Welfare Act (hereinafter the “Act”)¹² in particular in relation to ensuring access to organized accommodation for unaccompanied stateless children. Article 109, para 3, of the Proposal prescribes a new provision which stipulates that “*a right to organized accommodation is granted to an unaccompanied foreign or stateless child*”. Organized accommodation is a social service that ensures accommodation in a housing unit with permanent or periodical professional assistance to ensure basic living needs and social, working, cultural, educational, recreational, and other needs to establish and maintain their social roles, ensure equality of their possibilities, improve quality of life, and encourage active participation, independence and social inclusion.
6. UNHCR commends the introduction of the new provision of proposed Article 115 which prescribes in point 4 that “*temporary accommodation in crisis situations when danger to life, health and welfare occurs is granted to an unaccompanied foreign or a stateless child*”.
7. **UNHCR welcomes provisions in proposed Articles 109 and 115 and considers them a significant improvement in protection of unaccompanied stateless children.**

⁷ UN General Assembly, Convention on the Reduction of Statelessness, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: <https://www.refworld.org/docid/3ae6b39620.html>.

⁸ UNHCR, UNHCR’s Executive Committee Conclusions on Statelessness, updated 2010, available at: <http://www.unhcr.org/protection/statelessness/41b4607c4/executive-committee-conclusions-relating-statelessness.html>

⁹ UNHCR, Handbook on Protection of Stateless Persons, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>.

¹⁰ Inter-Parliamentary Union and UNHCR, Good practices in nationality laws for the prevention and reduction of statelessness, Handbook for Parliamentarians N° 29, November 2018, available at: <https://www.refworld.org/docid/5be41d524.html>.

¹¹ UNHCR, Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, 21 December 2012, HCR/GS/12/04, available at: <http://www.refworld.org/docid/50d460c72.html>.

¹² Social Welfare Act, Official Gazette [157/13](#), [152/14](#), [99/15](#), [52/16](#), [16/17](#), [130/17](#), [98/19](#), [64/20](#), [138/20](#), available at : <https://www.zakon.hr/z/222/Zakon-o-socijalnoj-skrbi>.

8. UNHCR notes that the proposed Article 19 stipulates categories of eligible groups for social welfare which include stateless people with granted permanent leave but does not appear to include stateless people on temporary and long-term residence. UNHCR recommends that the proposed Article 19, para 1 of the Act reads as follows:

“Fees and services in the social welfare system, under the conditions prescribed under this Act, can be allowed or approved to:

- 1) *Croatian citizen with domicile in the Republic of Croatia*
- 2) *Foreigner with permanent residence and stateless person with temporary, long-term or permanent residence in the Republic of Croatia.”*

9. Article 23 of the 1954 Convention Relating to the Status of Stateless Persons requires that *“a Contracting State shall accord to stateless persons lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.”*

10. The 1954 Convention grants set of rights to stateless persons who are “lawfully staying” in a State party. One of the “lawfully staying” rights is the right to public relief (Article 23). The “lawfully staying” requirement envisages a greater duration of presence in a territory. This need not, however, take the form of permanent residence. Shorter periods of stay authorized by the State may suffice so as long as they are not transient visits.¹³ Stateless people who have been granted a residence permit would fall within this category.¹⁴

11. **Based on the afore-mentioned international norms, UNHCR recommends that stateless people on temporary, long-term and permanent residence in the Republic of Croatia are entitled to social welfare assistance.**

**UNHCR Croatia
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¹³ UNHCR, Handbook on Protection of Stateless Persons, 30 June 2014, section 137, available at: <http://www.refworld.org/docid/53b676aa4.html>.

¹⁴ UN High Commissioner for Refugees (UNHCR), “Lawfully Staying” - A Note on Interpretation, para 23, 3 May 1988, available at: <https://www.refworld.org/docid/42ad93304.html>