

Handbook on Statelessness in the OSCE Area

International Standards
and Good Practices



Handbook on Statelessness in the OSCE Area

International Standards and Good Practices



**Office of the United Nations High Commissioner for Refugees
OSCE Office for Democratic Institutions and Human Rights
OSCE High Commissioner on National Minorities**

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Gratitude is expressed to the OSCE Conflict Prevention Centre for its support to this project.

Page 4: **Bosnia and Herzegovina.** A Roma woman and her child who were at risk of statelessness receive birth and citizenship certificates thanks to a UNHCR-supported free legal aid programme. © UNHCR/Midhat Poturovic

Table of Contents

Foreword by the OSCE Secretary General and UN High Commissioner for Refugees	5
I. Introduction	9
II. Definitions and cross-cutting issues	13
III. Background and mandates	21
IV. International legal framework and OSCE commitments	29
V. Identification, prevention, and reduction of statelessness, and the protection of stateless persons	41
VI. Advocacy and partnerships	79
VII. Resource materials and recommended reading	95
Notes	103
Annexes	117
Annex I: States Parties to the 1954 and 1961 Statelessness Conventions in the OSCE Area	117
Annex II: Model instrument of accession to the 1954 Convention relating to the Status of Stateless Persons	121
Annex III: Model instrument of accession to the 1961 Convention on the Reduction of Statelessness	122
Annex IV: UNHCR Campaign and Global Action Plan to End Statelessness: 2014–2024	123
Annex V: Sample Template	125



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Foreword by the OSCE Secretary General and UN High Commissioner for Refugees

It is estimated that at least 10 million people worldwide are stateless. Approximately one-third of them are children. Statelessness frequently arises from problems related to weaknesses in the rule of law, such as discrimination and arbitrary laws or practices. Stateless persons are often excluded from society throughout their lives, and denied the basic human rights that most of us take for granted: a legal identity upon birth; access to education, health care, official marriage and job opportunities; and even the dignity of a death certificate and official burial when they die. Many pass on the plight of statelessness to their children, who then pass it on to the next generation.

No region in the world is free from statelessness. The dissolution of the Soviet Union and the Socialist Federal Republic of Yugoslavia led to a massive increase in statelessness in the OSCE area. Even today, many people in the successor States remain affected but, thankfully, there is an increasing willingness among States, including in the OSCE area, to tackle the problem. Past experience shows that solutions are not necessarily complex or costly to implement. Addressing statelessness is largely a question of political will and often requires only minor changes to laws and policies. By contrast, the cost of excluding one segment of the population may prove higher in terms of social cohesion, stability and peace over the long term. In order to secure the necessary political will to deal with statelessness, more robust State-to-State engagement is critical.

The UN General Assembly has entrusted UNHCR with a global mandate for the identification and protection of stateless persons, and the prevention and reduction of statelessness. In 2014 – the 60th anniversary of the 1954 UN Convention relating to the Status of Stateless Persons – UNHCR launched the #IBelong Campaign to End Statelessness by 2024. A key component of the Campaign is the Global Action Plan, which comprises the 10 Actions that States are encouraged to take, with the support of UNHCR

Foreword

and other actors, to resolve major instances of statelessness, and to prevent new cases from emerging.

The OSCE, as the world's largest regional security organization under Chapter VIII of the UN Charter, has a specific interest in supporting such efforts. Statelessness is not only a serious human rights issue for the people affected and for society as a whole, but it can also lead to tensions within communities that need to be addressed. At the same time, the participation of stateless persons in public life and their inclusion in decision-making processes are fundamental elements of OSCE commitments and principles, and are critically important to peace and security.

The OSCE participating States have made a number of commitments regarding the protection of stateless persons, the right to nationality, access to citizenship, civil registration and the provision of documents, among others. Through its Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities (HCNM), the OSCE has been identifying difficult situations that stateless persons and affected groups find themselves in, and has been working with participating States to address these challenges.

In recent years, key stakeholders in the UN system, relevant international, regional and non-governmental organizations, and civil society have built strong partnerships for joint advocacy, technical advice and operational support to reduce statelessness. The OSCE and UNHCR have also consolidated their co-operation. Numerous joint activities in Central Asia, South-Eastern Europe, the South Caucasus, and Eastern Europe have helped to call attention to the risks and consequences of statelessness and increase the willingness of States to address them.

Based on the positive feedback from the *OSCE-UNHCR Protection Checklist – Addressing Displacement and Protection of Displaced Populations and Affected Communities along the Conflict Cycle: A Collaborative Approach*,¹ our organizations decided to join forces again to develop this *Handbook on Statelessness in the OSCE Area*. This publication, which draws on the combined efforts of ODIHR, HCNM and UNHCR, highlights the complex and multifaceted human rights implications of statelessness, not only for affected individuals, families, and groups, but also for societies and States. The information and good practices presented in this Handbook are

intended to encourage further engagement and concrete actions by participating States toward eradicating statelessness in the OSCE area.



Lamberto Zannier
*Secretary General
Organization for Security and
Co-operation in Europe*



Filippo Grandi
UN High Commissioner for Refugees

Next page: **France. An identity – at last:** Railya Abulkhanova enjoys a walk in Lille shortly after being naturalized as a French citizen. Until then, she had been stateless for 24 years. © UNHCR/Benjamin Loyseau



I. Introduction

The international legal definition of a stateless person is “*a person who is not considered as a national by any State under the operation of its law*”². In simple terms, this means that a stateless person does not have the nationality of any country. Some people are born stateless, but others become stateless later in life. Indeed, some families have been stateless for generations. Statelessness can occur for several reasons, such as discrimination against particular ethnic or religious minorities, or on the basis of gender; or due to the dissolution of States and the emergence of new ones (State succession), transfers of territories between existing States, or gaps in nationality laws. Lack of birth registration and difficulties in accessing civil registration documents may also create a risk of statelessness. Further possible contributing factors include wars, conflicts and displacement of people. Whatever the cause, statelessness has serious consequences for people in almost every country and in all regions of the world, including the 57 OSCE participating States³ and the 11 OSCE Mediterranean and Asian Partners for Co-operation⁴.

According to the statistics that UNHCR compiles each year, at the end of 2015, there were more than 722,000 stateless persons with no or unclear citizenship status in the OSCE area. The majority of them are former Soviet Union citizens. Almost 10,000 are still found in the countries that made up the former Socialist Federal Republic of Yugoslavia (SFRY), mostly among Roma, Ashkali and Egyptian communities.⁵ The stateless population in the other countries in Europe mostly consists of persons who moved from successor States to the former Soviet Union and the former SFRY, or from beyond Europe, as well as their children born stateless in Europe.

Under UNHCR’s statelessness mandate, around 130,000 persons have been reported in Central Asia.⁶ While primarily a by-product of the dissolution of the former Soviet Union, other contributing factors are migration, including in the context of civil war and mixed marriages; gaps in nationality legislation; and policy or administrative obstacles that prevent the

I. Introduction

acquisition or confirmation of nationality. This number does not include persons at risk of statelessness.

Statelessness has dire consequences for the affected individuals and groups. Being stateless often limits access to birth registration, identity documentation, education, health care, legal employment, property ownership, political participation, and freedom of movement. Denial of these rights affects not only the individuals concerned but also their families and society as a whole, specifically because excluding an entire sector of the population may significantly impair efforts to promote economic and social development, create social tension, and fuel conflict. Moreover, statelessness may lead to displacement, including forced displacement, in particular where it results from mass arbitrary denial or deprivation of nationality, putting stateless persons further at risk.

For these reasons, OSCE participating States are encouraged to redouble their efforts to address statelessness and to capitalize on the assistance available from OSCE executive structures, UNHCR and other UN agencies, regional bodies and civil society.

This Handbook is intended to be a practical tool to help OSCE participating States and Partners for Co-operation, as well as OSCE Institutions and field staff:

- understand the effects of statelessness and the scale of the problem;
- get acquainted with the legal framework surrounding statelessness;
- comprehend the key issues of identification, prevention, reduction of statelessness and protection of stateless persons;
- identify stateless persons and those at risk of becoming stateless;
- know which concrete steps to take to tackle statelessness; and
- liaise with UNHCR, ODIHR, HCNM, and other specialized agencies that can assist authorities in their endeavours to eradicate statelessness.

This Handbook also contains good practice examples from the OSCE area, where participating States have taken the initiative – sometimes together with international organizations and local partners, including civil society – to effectively address statelessness on their territories. Some

selected examples also highlight the fruitful co-operation between the OSCE and UNHCR on these matters to identify lasting solutions to the phenomenon of statelessness in the OSCE area.

Next page: **Kyrgyzstan.** Fleeing the 1992-97 civil war in Tajikistan, Sadakhan is one of many who settled in the Chui region, but became stateless. One of her three children suffers from epilepsy. As a stateless person, she has no access to health care or social assistance. Unable to leave her son, she cannot work or afford medicine. “How does it feel? How would you feel if you could give nothing to your children?” © UNHCR/Alimzhan Zhorobaev



ҶУМҲУРИИ ТУҶИКИСТОН
РЕСПУБЛИКА ТАДЖИКИСТАН



ШИНОСНОМА
НАСПОРТ

САН
0

II. Definitions and cross-cutting issues

Terms and definitions

At the heart of international efforts to tackle statelessness lie two United Nations (UN) Conventions: the 1954 *Convention relating to the Status of Stateless Persons* (hereafter also 1954 Convention) and the 1961 *Convention on the Reduction of Statelessness* (hereafter also 1961 Convention). Article 1(1) of the 1954 Convention defines the term “stateless person”:

*For the purpose of this Convention, the term ‘stateless person’ means a person who is not considered as a national by any State under the operation of its law.*⁷

In the Handbook, the following terms will be used:

(i) **Stateless persons** are defined as persons who are not considered as nationals by any State under the operation of its law, as set out in Article 1 of the 1954 Convention.

(ii) **De facto stateless persons** are described as persons outside the country of their nationality who are unable or, for valid reasons, are unwilling to avail themselves of the protection of that country. Protection in this sense refers to the right of diplomatic protection exercised by a State of nationality in order to remedy an internationally wrongful act against one of its nationals, as well as to provide diplomatic and consular protection and assistance generally, including in relation to return to the state of nationality.⁸

In practice, this situation is evidenced by (i) the refusal of the country of nationality to allow a person to return, even though that country still formally recognizes the individual as a national or (ii) the refusal of a diplomatic mission to issue a passport to one of its nationals where there are no

II. Definitions and cross-cutting issues

reasonable grounds for the refusal (reasonable grounds would include, for example, existence of an outstanding detention order related to a criminal investigation).

(iii) **Persons with undetermined nationality** are considered as such when a preliminary review has not determined whether they possess a nationality or are stateless. Such cases arise in a wide range of contexts and, in most instances, can be resolved through existing State procedures for confirmation of nationality and provision of related identity documentation. These persons can fall within UNHCR's statelessness mandate if they:

- lack proof of possession of any nationality; and
- have links to more than one State on the basis of birth, descent, marriage or habitual residence; or
- are perceived and treated by the authorities in the State of residence as possessing links which give rise to a claim of nationality of another State on the basis of such elements as historic ties, race, ethnicity, language or religion.

Persons at risk of statelessness is another frequently used term, yet there is no formal definition in international law specifying what “at risk of statelessness” means. However, from various sources it can be concluded that persons are at risk of statelessness when they have difficulties proving that they have relevant links to a State. This can happen, for example, when a person does not have a birth certificate or identity documents. The following categories of persons, which are not mutually exclusive, may be at risk of statelessness, in particular, in the absence of birth registration or identity documentation:

- migrant populations for which difficulties to prove identity and nationality affect two or more generations;
- persons living in border areas, whose births are not registered in either country;
- national or ethnic minorities who have perceived or actual ties with other countries;

- nomadic or semi-nomadic populations, whose territories cross international borders;
- persons who have been trafficked or smuggled.

Statelessness can arise both in a migratory and non-migratory context. The profile of stateless persons in a country may fit one or the other scenario or be mixed. Some stateless populations in a non-migratory context remain in their “own country” and may be referred to as **in situ populations**.

Throughout the text, the terms **nationality** and **citizenship** are used interchangeably.

De jure or *de facto* stateless?

Persons who fall within the scope of Article 1(1) of the 1954 Convention are sometimes referred to as *de jure* stateless persons even though that term is not used in the Convention itself. By contrast, reference is made in the Final Act of the 1961 Convention to *de facto* stateless persons, and there is also an implicit reference in the Final Act of the 1954 Convention.⁹ Unlike the term “stateless person” as defined in Article 1(1), the term *de facto* statelessness is not defined in any international instrument and there is no treaty regime specific to this category of persons (with the recommendations in the Final Acts being limited and non-binding in nature).¹⁰

Therefore, care must be taken from a legal point of view to ensure that those qualifying as “stateless persons” under Article 1(1) of the 1954 Convention be recognized as such. If mistakenly referred to as *de facto* stateless persons, they may fail to receive the protection guaranteed under the 1954 Convention. This Handbook addresses a range of issues related to stateless persons as defined in Article 1(1) of the 1954 Convention, yet avoids qualifying them as *de jure* stateless persons as that term appears nowhere in the Convention itself.

II. Definitions and cross-cutting issues

Cross-cutting issues and principles

It is also important to take note of the cross-cutting issues and principles that should be considered and addressed when tackling statelessness in any country or situation to ensure the effectiveness, acceptance and sustainability of proposed solutions. These include: the principle of non-discrimination; the age, gender and diversity approach; and the participation of stateless persons in decision-making processes.

The principle of non-discrimination

The principle of non-discrimination has been enshrined in various international human rights instruments, and the respective human rights bodies created under the different treaties are monitoring States' compliance. The OSCE has also committed to eradicating discrimination and promoting tolerance and non-discrimination in various documents (see Chapter IV).

Despite this, discrimination on the basis of ethnicity, race, religion, gender¹¹, language or disability is a recurrent cause of statelessness. In fact, the majority of the world's known stateless populations belong to minority groups that experience discrimination. Instances of denial, loss and deprivation of nationality on discriminatory grounds that lead to statelessness continue to occur across a range of countries worldwide.

To ensure that State authorities refrain from denying or depriving people of nationality on discriminatory grounds, States should introduce non-discriminatory provisions in their constitutions and nationality laws and uphold the principle of non-discrimination when implementing such laws. There needs to be adequate supervision of compliance with such provisions, including through complaint mechanisms, the possibility of judicial review, and restitution of nationality.

UNHCR has a specific mandate to identify, prevent and reduce statelessness and to protect stateless persons. However, OSCE actors, such as ODIHR and HCNM, also engage States to help them effectively comply with their legal obligations vis-à-vis individuals or groups experiencing discrimination and in need of protection.

The age, gender and diversity approach

As their lack of nationality limits their enjoyment of human rights, stateless persons are generally among the most vulnerable in any society. Stateless persons are affected differently whether they are children, adults, elderly, single, widowed, divorced or married, physically or mentally disabled, or whether they belong to a certain national or religious minority. As stateless people often lack identity documentation, they are susceptible to arrest or detention, forcible eviction, expulsion, and even trafficking.

An approach that is age, gender and diversity sensitive should therefore be included in all efforts and at all stages when tackling statelessness. In practice, the following need to be taken into consideration:

Age – people’s capacities and needs change over time depending on where they are in their life cycle. Age influences and can enhance or diminish a person’s capacity to exercise his or her rights. Children – especially those that are unaccompanied, or separated from both parents or their primary care giver – may face acute challenges in communicating basic facts with respect to their nationality. States that establish statelessness determination procedures must follow the principle of the best interests of the child and the need to protect children.¹² Additional procedural and evidentiary safeguards for child claimants in statelessness determination procedures, or in any other immigration, civil registration or nationality verification context, include priority processing and the provision of appropriately trained legal representatives, interviewers, and interpreters.

Gender – refers to the socially constructed roles of women and men that are often central to the way in which people define themselves and are defined by others. Gender roles are learned, changeable over time, and variable within and between cultures. Gender often defines the duties, responsibilities, constraints, opportunities and privileges of women and men in any context. In turn, gender equality refers to the equal enjoyment of rights, responsibilities and opportunities of women, men, girls and boys, and implies that their respective interests, needs and priorities are respected. As a result of gender discrimination, women may face additional barriers in acquiring

II. Definitions and cross-cutting issues

relevant documentation, such as birth certificates for themselves or for their children, or other identification documents that would be pertinent to establishing their nationality status and that of their children.

Diversity – refers to different values, attitudes, cultural perspectives, beliefs, ethnic background, nationality, sexual orientation, gender identity, ability, health, social status, skills and other specific personal characteristics. While age and gender dimensions are present in everyone, other characteristics vary from person to person. These differences must be recognized, understood and valued in each specific context/ intervention in order to ensure that the equal the rights of all people are respected.¹³

Certain groups in society may face particular challenges in establishing their nationality status. Age, gender and diversity considerations may require that some individuals be afforded additional procedural and evidentiary safeguards to ensure that they obtain nationality documents, and that that they are able to access civil registration procedures or a statelessness determination procedure. In certain circumstances, this may apply to persons with disabilities¹⁴ who face difficulties communicating information about their nationality status. Decision makers and government officials need to take into account that, owing to discrimination, persons with disabilities may be less likely to possess identity and other documentation.

One way that gender specific challenges can be addressed in procedures relevant to nationality and statelessness is through the provision of interviewers and interpreters of the same sex as the claimant. Interviewers and interpreters should also be trained to be aware of and responsive to any cultural or religious sensitivities or personal factors such as age and level of education.

Participation of stateless persons in decision-making processes

Persons affected by statelessness should always be informed, consulted and represented in decision-making processes – especially in those that concern them – and their participation should be actively sought. They particularly

II. Definitions and cross-cutting issues

need to be included in the decision-making process when States are trying to find solutions to their respective situations. Giving affected populations a voice is not only a necessary step toward making them visible to society at large and raising awareness about their situations, but also an important tool for empowerment. Most importantly, including affected persons from the outset in key activities and processes that address statelessness makes it easier to understand the kinds of activities, policies, and programmes that could or should be elaborated to effectively target the issues pertinent to them. Furthermore, including affected groups usually increases the sustainability of results and makes those results more widely accepted within their communities.

Next page: **Italy. Stateless youth – Valentino’s dream:** Never having been recognized as Serbian citizens after the breakup of Yugoslavia, Valentino and his entire family are stateless. He has 13 siblings, four of which are in foster care. Anxious to find a job, Valentino dreams of opening a pizzeria and reuniting his family.
© UNHCR/France Malavolta



Comune TORINO
Cognome VALENTIN
Nome JARAFIN
Data di nascita 21/01/1988
Ateneo IED
APPODIA
RISIA
VIALE RALFONE S. LUTIZIA
10138 TORINO
SELEZIONATO
L.P. 1/2008
L.P. 1/2008
L.P. 1/2008

AROMA
21 GEN 2008
L.P. 1/2008
L.P. 1/2008

TESSELA & SANTAGIA
Credito Card
Numero Card 5000 0000 0000 0000
Valida fino al 31/12/2008
Cassa di Credito
Cassa di Credito
Cassa di Credito

UNIONE JUCCALI
MEMBERSHIP CARD
Numero Card 1234567890
Valida fino al 31/12/2008
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III. Background and mandates

As the 1948 *Universal Declaration of Human Rights* makes clear, “everyone has the right to a nationality” (Article 15). Without nationality, individuals face an existence characterized by insecurity and marginalization. In 1954, the international community negotiated and adopted the UN *Convention relating to the Status of Stateless Persons* – the first global agreement to tackle this problem through a specific convention. It establishes the universal definition of a “stateless person” and provides a core set of principles for the treatment of stateless persons to ensure that they are not consigned to a life without dignity, rights or security. The UN *Convention on the Reduction of Statelessness* adopted in 1961 further develops the right to a nationality and provides a comprehensive set of standards to prevent and reduce statelessness. Both the 1954 Convention and the 1961 Convention have been complemented by developments in international human rights law (see Chapter IV).

In the last decade, there has been a renewed impetus on the part of States to ensure that all persons enjoy the right to a nationality – for example, through improved access to civil registration and documentation – and to ensure that internationally codified human rights are applied to stateless persons while they are awaiting the acquisition of a nationality. Despite these efforts, the framework provided by both Conventions remains as relevant today as it was at the time they were adopted.

Tackling the phenomenon of statelessness is an issue of keen interest to both the OSCE and UNHCR. This is not only because it is a serious human rights concern that affects hundreds of thousand people across the OSCE area, but because it is a potential cause of conflict, undermining social cohesion, national and even regional security. While both organizations have dealt with statelessness issues in the past and continue this work today, their mandates and scope are different.

III. Background and mandates

Mandates

United Nations High Commissioner for Refugees, UNHCR

UNHCR's responsibilities for stateless persons begin with refugees who are stateless under the *Statute of the Office of the United Nations High Commissioner for Refugees*, paragraph 6(A) (II), and Article 1(A) (2) of the 1951 *Convention relating to the Status of Refugees*, both of which refer to stateless persons who meet the criteria of the refugee definition.

UNHCR's mandated responsibilities concerning statelessness were expanded following the adoption of the 1954 *Convention relating to the Status of Stateless Persons*, and the 1961 *Convention on the Reduction of Statelessness*. General Assembly resolutions 3274 (XXIV) and 31/36 designated UNHCR as the body mandated to examine the cases of persons who claim the benefit of the 1961 Convention, and to assist such persons in presenting their claims to the appropriate national authorities.¹⁵

Subsequently, the UN General Assembly conferred upon UNHCR a global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons.¹⁶ This mandate has continued to evolve as the UN General Assembly endorsed the conclusions of the UNHCR Executive Committee, notably Conclusion No. 106 (2006) on "*Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*".¹⁷

The UN General Assembly resolutions which set out UNHCR's mandate on statelessness are universal in scope and do not restrict UNHCR's activities to States party to either the 1954 Convention or the 1961 Convention. The mandate is not limited to addressing known situations of statelessness. It also includes the prevention of statelessness, meaning that UNHCR works to identify and address risks of statelessness, which may affect a broad cross-section of the population.

UNHCR's statelessness mandate covers all situations of statelessness. There is some overlap between UNHCR's statelessness mandate and its refugee mandate when stateless persons also meet the criteria that define a refugee under the 1951 Refugee Convention. When refugee status ceases,

individuals may remain stateless and therefore of concern to UNHCR. In addition, UNHCR's statelessness mandate may also apply to individuals who are internally displaced.

UNHCR's statelessness activities are grouped around four pillars: (1) **identification**, which entails gathering information on statelessness, its scope, causes and consequences, and mechanisms to identify stateless persons (2) **prevention**, by addressing the causes of statelessness and promoting accession to the 1961 Convention, (3) **reduction**, by supporting legislative changes and procedural improvements to allow stateless people to acquire nationality, and (4) **protection**, which foresees interventions to help stateless people exercise their rights, and the promotion of accession by States to the 1954 Convention.¹⁸

In 2014, UNHCR published a *Handbook on Protection of Stateless Persons*. This doctrinal tool is intended to help governments, policy makers, administrative adjudicators, the judiciary, NGOs, legal practitioners, UNHCR staff and others to interpret and apply the 1954 Convention, and to facilitate the identification and proper treatment of such persons.¹⁹ While Part One of the Handbook introduces the criteria for determining statelessness (i.e. definitions, general considerations, and interpretation of terms), Part Two covers the modalities for creating statelessness determination procedures that enable States to recognize and grant protection status to stateless persons, including questions of evidence that arise in the course of such procedures. Part Three discusses the status of, or minimum protection to be afforded to, stateless persons under national law.

In the same year, November 2014, UNHCR launched the #IBelong Campaign to End Statelessness by 2024. The Campaign features a *Global Action Plan* for the years 2014 to 2024 (see Annex IV) with the following objectives: resolve existing major situations of statelessness; prevent new cases of statelessness from emerging; and better identify and protect stateless populations. The *Global Action Plan* sets out 10 actions that States are encouraged to take, if applicable to their context, to achieve these objectives.²⁰

III. Background and mandates

Organization for Security and Co-operation in Europe, OSCE

Participating States of the OSCE – the world’s largest regional security organization under Chapter VIII of the UN Charter – made several commitments regarding the protection of stateless persons, including their right to nationality and access to citizenship, registration and other relevant documents. This is articulated, for example, in the 1992 *Helsinki Document* – decisions in the Human Dimension²¹; the *Charter for European Security* adopted at the Istanbul Summit in 1999²²; in the *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area* (Maastricht 2003)²³; and in *Ministerial Council Decision No. 10/07 on Tolerance And Non-Discrimination: Promoting Mutual Respect And Understanding* (Madrid 2007)²⁴. Also of relevance are the provisions related to citizenship in the 2008 *Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations*²⁵, and the 2012 *Ljubljana Guidelines on Integration of Diverse Societies*²⁶.

In line with its core mandate to assist OSCE participating States with the development of frameworks for the protection and promotion of fundamental rights as well as other civil and political rights, the support provided by the **OSCE Office for Democratic Institutions and Human Rights (ODIHR)** focuses on administrative and legislative frameworks for civil registration. Such frameworks are of key importance in enabling the legal recognition of each individual, which is a precondition to accessing other important fundamental, civil and political rights. In line with its 2009 *Guidelines on Population Registration*²⁷, ODIHR supports OSCE participating States, upon request, in modernizing their civil registration systems. Such support includes raising awareness among policymakers, conducting assessments of existing procedures, developing reform strategies, and providing policy advice. Building on its expertise in civil and residency registration, ODIHR also assists participating States in establishing the legal identity of citizens for the issuance of travel and identity documents, and in improving the quality of voter lists.

Moreover, through its **Contact Point for Roma and Sinti Issues** established in 1994, ODIHR is specifically tasked to promote the human

rights of Roma and Sinti, and their integration into society. The *OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area* (Action Plan), adopted in 2003 in Maastricht, provides ODIHR with a comprehensive set of commitments and proposed measures, “to eradicate discrimination against them and to bring about equality of opportunities, consistent with OSCE commitments.”²⁸

Furthermore, OSCE participating States committed through the 2003 Action Plan to be “(...) proactive in ensuring that Roma and Sinti people, (...) have all necessary documents, including birth certificates, identity documents and health insurances certificates” and to “work in partnership with Roma and Sinti civil society organizations (...) in resolving problems related to the lack of basic documents.”²⁹

Within the framework of the 2003 Action Plan, particular attention is also given to the circumstances of Roma in crises and post-crisis situations by tasking the ODIHR Contact Point for Roma and Sinti Issues to respond effectively “by, inter alia, co-operating with relevant governments, inter-governmental bodies and international organizations, in particular the UNHCR, to ensure protection of Roma communities at risk.”³⁰ In crises and post-crisis situations, the commitments also underline the need to pay particular attention to Roma and Sinti women and children and to provide them with access to health care, housing and schooling.

To that end, ODIHR has been raising awareness about the vulnerability of Roma and their difficulties in accessing birth certificates and identification documents, in particular in South-Eastern Europe and Ukraine. Strategies and action plans for Roma integration do recognize the need for targeted action to ensure civil registration documents for all. Furthermore, ensuring access to documents has been flagged as a fundamental aspect of the return and reintegration of displaced Roma, Ashkali and Egyptians from Kosovo*.³¹

At its 1992 Helsinki Summit, the OSCE established the **High Commissioner on National Minorities (HCNM)** as an instrument of conflict prevention at the earliest possible stage in regard to tensions involving

* All references to Kosovo should be understood in full compliance with Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

III. Background and mandates

national minority issues. As part of its conflict prevention mandate, the HCNM has been engaged with issues of citizenship for several reasons. Firstly, the benefit of minority protection is bestowed, in some cases, on those having the citizenship of the State. However, as outlined in the 1995 Council of Europe's *Framework Convention for the Protection of National Minorities*, minority rights are part of human rights; restricting minority rights to citizens should be the exception rather than the rule and the exception should be made in clearly defined cases, such as the right to participate in local elections.³²

Secondly, leaving vulnerable people in a legal limbo with no possibility to fully access their rights is not only a human rights concern, it is also a threat to long-term stability and the peaceful development of societies: having a large number of statelessness persons creates challenges for the integration of society as a whole, going far beyond the individual.³³ The HCNM, therefore, encourages OSCE participating States to grant citizenship to persons who have been stateless for a considerable amount of time in order to facilitate their local inclusion. Some persons still formally possess the citizenship of their country of residence or country of origin but may not be able to enjoy it in practice owing to various obstacles, including access to documents. Granting citizenship in such cases may require cooperation and exchange of information among the States concerned.

Thirdly, minority issues often engage the interests of more than one State with regard to the conferral and acquisition of dual or multiple nationalities, especially (but not solely) by persons belonging to national minorities. States may confer citizenship based on preferred linguistic competences, and cultural and historical ties. Such citizenship policies may have an external impact: the HCNM has been involved in situations where citizenship issues could jeopardize the good and friendly relations between States. Such considerations have been further explained in the 2008 *Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations*³⁴ and the 2012 *Ljubljana Guidelines on Integration of Diverse Societies*³⁵.

At the policy level, the HCNM has been involved in addressing disputed issues of citizenship between individual participating States. Mandated to act confidentially, the High Commissioner has also extended specific recommendations to the States concerned in this regard. At the regional

level, the HCNM has engaged with other international stakeholders, such as UNHCR and the European Commission, to identify concrete actions to address and resolve the lack of civil status registration and documentation in South-Eastern Europe (see Chapter VI).

Concrete examples of the fruitful collaboration between OSCE Institutions and UNHCR are given in Chapter VI on advocacy and partnerships, as well as in the good practice examples provided throughout this Handbook. Building on the existing collaboration with several participating States at the national and regional levels, the OSCE and UNHCR will continue their partnership in providing guidance and supporting the efforts of participating States to address statelessness in line with the international legal framework, and OSCE principles and commitments.

Next page: **Montenegro. Limbo of statelessness:** The Ademaj family lives in the Konik refugee camp on the outskirts of Podgorica. Although the births of all five children were registered, they are unable to obtain citizenship because their parents have no IDs. Despite several visits by the Kosovo Ministry of Interior's mobile team, no solution for the children has been found. © UNHCR/Miomir Laban



IV. International legal framework and OSCE commitments

International legal framework on the right to a nationality

As part of their sovereign power, States set the rules for the acquisition, change and loss of nationality. At the same time, the discretion of States with regard to nationality is limited by obligations under the international treaties to which they are party, customary international law and general principles of law. The **1930 Hague Convention** on certain questions relating to the conflict of nationality laws, adopted by the League of Nations, represents the first attempt by the international community to ensure that all persons have a nationality:

Article 1

It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality.

In 1948, Article 15 of the **Universal Declaration of Human Rights** laid down that,

Article 15

Everyone has the right to nationality. No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

The **1954 UN Convention relating to the Status of Stateless Persons** is the cornerstone of the international protection regime for stateless persons. This Convention is similar in many respects to the 1951 Convention relating to the Status of Refugees. The 1954 Convention was originally

IV. International legal framework and OSCE commitments

drafted as an addendum (Protocol on stateless persons) to the 1951 Refugee Convention but was later made into a Convention in its own right. It establishes an internationally recognized status for stateless persons and recognizes a number of key rights that stateless persons should be able to enjoy, such as such as freedom of religion (Article 4), freedom of association (Article 15), access to courts (Article 16), freedom of movement (Article 26), identity documentation (Article 27), and internationally recognized travel documents (Article 28).

As the enjoyment of the rights guaranteed under the 1954 Convention does not equate to the possession of a nationality, the Convention calls upon States to facilitate the naturalization of stateless persons (Article 32). Protection of stateless persons under the 1954 Convention should be seen as a temporary response while avenues for the acquisition of nationality are explored.

The minimum standards of the 1954 Convention are complemented by the provisions of international human rights treaties that guarantee the enjoyment of basic human rights by everyone regardless of nationality or lack thereof. Such treaties include:

- the International Covenant on Civil and Political Rights,
- the International Convention on the Elimination of All Forms of Racial Discrimination,
- the Convention on the Rights of the Child,
- the Convention on the Elimination of All Forms of Discrimination against Women,
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and
- the Convention on the Rights of Persons with Disabilities.

Specific obligations relating to the prevention and reduction of statelessness are established under the **1961 UN Convention on the Reduction of Statelessness**. It requires that States establish safeguards in legislation to address statelessness occurring at birth or later in life.

By applying the safeguards elaborated in the 1961 Convention, States can prevent new cases of statelessness from arising, thereby leading to a

IV. International legal framework and OSCE commitments

decrease of statelessness over time. In addition, States may retroactively apply newly introduced safeguards, allowing for acquisition of nationality by stateless people.

There are four main areas in which the 1961 Convention provides concrete safeguards to be implemented by States in order to prevent statelessness. Firstly, the Convention prescribes measures to avoid statelessness among children by ensuring that a Contracting State grants its nationality to children who would otherwise be born stateless on its territory or to its nationals abroad, either at birth, by operation of law, or upon application (Articles 1-4).³⁶ Article 2 provides for granting nationality to foundlings, specifying that, “A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.”

Secondly, the Convention includes measures to avoid statelessness due to loss or renunciation of nationality (Articles 5-7). Thirdly, measures to avoid statelessness due to deprivation of nationality are prescribed, stipulating that the deprivation of nationality when it would lead to statelessness is prohibited, except in certain limited circumstances (Article 8) and that nationality may not be deprived on racial, ethnic, religious or political grounds (Article 9). Finally, the Convention includes measures to ensure that no one is rendered stateless as a result of a transfer of territory from one State to another (Article 10).³⁷

International human rights instruments also include provisions that are relevant to the right to a nationality. The **1989 UN Convention on the Rights of the Child** – the most widely ratified international human rights treaty – re-affirms every child’s right to be registered after birth and to acquire a nationality, in particular if the child would otherwise be stateless:

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant

IV. International legal framework and OSCE commitments

international instruments in this field, in particular where the child would otherwise be stateless.

Furthermore, this Convention lays down the obligation of States to respect every child's right to preserve his or her nationality:

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Other international human rights instruments that recognize the right to a nationality, albeit with varying formulations, include:

- the International Covenant on Civil and Political Rights (ICCPR, Article 24)
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, Article 5)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, Article 9)
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW, Article 29); and
- the Convention on the Rights of Persons with Disabilities (CRPD, Article 18).

Many human rights treaties have a greater numbers of State Parties and, as such, also play an important role in complementing the 1954 and 1961 Statelessness Conventions.³⁸ Moreover, the bodies created to supervise the implementation of these treaties can examine issues related to statelessness to the degree that those issues fall under the purview of each treaty,

thereby supplementing UNHCR's supervisory responsibilities.

Some human rights norms form part of customary international law and therefore apply to all States, irrespective of a State's treaty obligations. In particular, the prohibition of discrimination is a key customary norm that applies both to the acquisition/ loss of nationality and the treatment of stateless persons. An overview of the relevant international legal framework applicable to the right to nationality, in particular the prohibition of arbitrary deprivation of nationality, is provided in the 2009 UN report *Human rights and arbitrary deprivation of nationality: report of the Secretary-General*.³⁹

Moreover, the UN Human Rights Council has adopted several resolutions related to statelessness. Two such resolutions were adopted during the 32nd regular session of the Council in June and July 2016: The resolution "*The right to a nationality: women's equal nationality rights in law and in practice*" urges States to eliminate gender discriminatory nationality laws and practices – a major cause of statelessness globally. It also calls on the UN Office of the High Commissioner on Human Rights (OHCHR) and UNHCR to organize an inter-sessional workshop to showcase good practices in promoting women's equal nationality rights in law and in practice. The resolution was adopted by consensus and had more than 100 State co-sponsors.⁴⁰ The second resolution "*Human rights and arbitrary deprivation of nationality*" calls on States to refrain from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including disability.⁴¹

Other regional instruments that recognize the right to a nationality

The 1954 and 1961 Statelessness Conventions and international human rights treaties are complemented by the standards contained in regional treaties. Such treaties in the Americas, in Europe, in the Commonwealth of Independent States, and in Islamic countries recognize the right to a nationality. They further establish additional obligations for States Parties

IV. International legal framework and OSCE commitments

relating to the prevention of statelessness by, among other means, requiring that nationality be granted to children born in the territory of a State if they would otherwise be stateless.

The most detailed standards have been adopted in Europe. Specifically, the **1997 European Convention on Nationality**, adopted by the Council of Europe, regulates the acquisition (Article 6) and loss of nationality (Articles 7 and 8) and includes, *inter alia*, a range of safeguards against statelessness, most of which mirror those of the 1961 Convention. Article 4 of the European Convention lays out the principles that govern each State Party's rules on nationality:

*The rules on nationality of each State Party shall be based on the following principles: (a) everyone has the right to a nationality; (b) statelessness shall be avoided; (c) no one shall be arbitrarily deprived of his or her nationality; (d) neither marriage nor the dissolution of marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse.*⁴²

Subsequently, the Council of Europe adopted the **2006 Convention on the Avoidance of Statelessness in Relation to State Succession**, which contains the most detailed provisions of any international treaty on State obligations to prevent and reduce statelessness in the context of State succession.⁴³

In addition, the **1969 American Convention on Human Rights** provides every person with the right to a nationality, affirming that every person has the right to the nationality of the State on whose territory he or she was born if he or she does not have the right to any other nationality. The Convention also stipulates that no one should be arbitrarily deprived of his or her nationality or of the right to change it (Article 20).⁴⁴

Members of Commonwealth of Independent States (CIS) adopted two conventions that are regularly used for the confirmation of nationality: first, the **1995 CIS Convention on Human Rights and Fundamental Freedoms** which lays down that everyone shall have the right to citizenship and that no one shall be arbitrarily deprived of his or her citizenship or of the

IV. International legal framework and OSCE commitments

right to change it (Article 24).⁴⁵ Secondly, Articles 23 and 26 of the **1993 CIS Convention on Legal Aid and Legal Relations in Civil Family and Criminal Cases** also refer to “persons without citizenship”.⁴⁶

The **2005 Covenant on the Rights of the Child in Islam**, adopted by the Organisation of the Islamic Conference, underlines every child’s right to a name, title and nationality (Article 7).⁴⁷

OSCE Commitments

Participating States of the, then-called Conference on Security and Co-operation in Europe (CSCE), now OSCE, made several political commitments regarding the protection of stateless persons, including their right to nationality and access to citizenship, registration and relevant documents. The OSCE documents outlining the commitments and recommendations related to statelessness are listed chronologically below.

Helsinki 1992 (Decisions: VI. The Human Dimension):

Nationality

The participating States

(55) Recognize that everyone has the right to a nationality and that no one should be deprived of his/ her nationality arbitrarily;

(56) Underline that all aspects of nationality will be governed by the process of law. They will, as appropriate, take measures, consistent with their constitutional framework not to increase statelessness;

(57) Will continue within the CSCE the discussion on these issues.⁴⁸

Istanbul 1999 (Charter for European Security: III. Our Common Response)

19. (...) We reaffirm our recognition that everyone has the right to a nationality and that no one should be deprived of his or her nationality arbitrarily. We commit ourselves to continue our efforts to ensure that everyone can exercise this right. We also commit ourselves to further the international protection of stateless persons.⁴⁹

Maastricht 2003 (Decisions: Annex to Decision
No. 3/03: Action Plan on Improving the Situation
of Roma and Sinti within the OSCE Area

Recommended action by participating States:

8. Adopt and implement effective anti-discrimination legislation to combat racial and ethnic discrimination in all fields, including, inter alia, access to housing, citizenship and residence, education, employment, health and social services. Involve Roma and Sinti representatives in the design, implementation and evaluation process.

77. Develop policies that address the full range of factors which contribute to low-school attendance by Roma and Sinti children. This includes, inter alia, ensuring that Roma and Sinti families have the necessary documentation for registration as any other inhabitants.

87. Participating States must be proactive in ensuring that Roma and Sinti people, like any other inhabitants, have all the necessary documents, including birth certificates, identity documents and health insurance certificates. In resolving problems related to the lack of basic documents, participating States are strongly advised to work in partnership with Roma and Sinti civil organizations.

108. Ensure that Roma and Sinti populations in a forced displacement situation (refugees and IDPs) are duly registered and provided with the relevant documents.⁵⁰

IV. International legal framework and OSCE commitments

Madrid 2007 (Decision No. 10/07 on Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding)

The Ministerial Council,
(...)

Recognizing that manifestations of intolerance and discrimination can undermine the efforts to protect the rights of individuals, including migrants, refugees and persons belonging to national minorities and stateless persons,
(...)

7. Calls on participating States to protect migrants legally residing in host countries and persons belonging to national minorities, stateless persons and refugees from racism, xenophobia, discrimination and violent acts of intolerance and to elaborate or strengthen national strategies and programmes for the integration of regular migrants, which also requires active engagement of the latter.⁵¹

2008 Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations

III. Benefits accorded by states to persons belonging to national minorities abroad:

11. States may take preferred linguistic competencies and cultural, historical or familial ties into account in their decision to grant citizenship to individuals abroad. States should, however, ensure that such a conferral of citizenship respects the principles of friendly, including good neighbourly, relations and territorial sovereignty, and should refrain from conferring citizenship en masse, even if dual citizenship is allowed by the State of residence. If a State does accept dual citizenship as part of its legal system, it should not discriminate against dual nationals.⁵²

2012 Ljubljana Guidelines on Integration of Diverse Societies

32. An inclusive and non-discriminatory citizenship policy is an important aspect of integration policy. In addition, citizenship also has a symbolic value as a signal of common belonging on the part of both the holder and the granter of citizenship.

33. Citizenship is in the competence of the State and should be based on a genuine link of the individual to the State. Nevertheless, contemporary developments set clear and increasing limits to States' discretion in formulating policies regarding access to and stripping of citizenship, including prohibiting discrimination when conferring citizenship.

34. Citizenship is a human right and everyone has the right to a citizenship. In particular, laws should not generate statelessness at birth, regardless of the source of statelessness.

35. States should consider granting citizenship to persons who have been de jure or de facto stateless for a considerable amount of time, even when other objective grounds may not be present.

36. Policies that foresee privileged access to citizenship to individuals abroad based on cultural, historical or familial ties should ensure respect for the principles of friendly, including good neighbourly, relations and territorial sovereignty. Such policies should be designed so as to avoid creating ambiguities in relation to jurisdiction. Protecting the rights of minorities is primarily the obligation of the State in which they reside.⁵³

Next page: **Kyrgyzstan.** This man, like thousands of other stateless people in the country, has only an expired Soviet passport. He was photographed in the rural office of a local NGO providing advice how to get Kyrgyz citizenship. © UNHCR/ Alimzhan Zhorobaev



Содержание
1. Введение
2. Описание предмета
3. Описание предмета
4. Описание предмета
5. Описание предмета
6. Описание предмета
7. Описание предмета
8. Описание предмета
9. Описание предмета
10. Описание предмета
11. Описание предмета
12. Описание предмета
13. Описание предмета
14. Описание предмета
15. Описание предмета
16. Описание предмета
17. Описание предмета
18. Описание предмета
19. Описание предмета
20. Описание предмета
21. Описание предмета
22. Описание предмета
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95. Описание предмета
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97. Описание предмета
98. Описание предмета
99. Описание предмета
100. Описание предмета

Книжка
1910

V. Identification, prevention, and reduction of statelessness, and the protection of stateless persons

As mentioned in Chapter IV, States have the primary responsibility to identify and protect stateless persons on their territories and take action to prevent and reduce statelessness. This ensures that affected individuals or populations can enjoy basic human rights, allowing them to live in dignity until their situations can be resolved through the acquisition of a nationality.

According to their respective mandates, UNHCR and the OSCE Institutions ODIHR and HCNM can assist States in a variety of ways when there are indications that individuals or groups (such as minority groups) are stateless or could become stateless. For example, OSCE Institutions can address rule of law and other issues that help protect human rights and promote long-term stability. Both UNHCR and the OSCE will generally draw the attention of States to a cause or risk of statelessness due to such factors as gaps in legislation, administrative hurdles to the acquisition or confirmation of nationality, or State succession.

The following sections set out types of responses which can be undertaken by States with regard to the identification, prevention, and reduction of statelessness, and the protection of stateless persons.

V.1. Identification – “mapping” stateless populations and their situations

Government officials might encounter the question of whether a person is stateless in a range of contexts, which reflect the critical role that nationality plays in everyday life. For example, consideration of nationality status is relevant when individuals apply for passports or identity documents, seek employment in the public sector, need access to health-care, receive pensions, register their children at kindergarten and school,

V. Identification, prevention, and reduction of statelessness

exercise their voting rights, perform military service, or attempt to access government services. Moreover, the issue of nationality and statelessness may arise when an individual's right to be in a country is challenged in removal procedures.⁵⁴

It is an implicit obligation of States party to the 1954 Convention to identify stateless persons within their jurisdictions in order to provide them with appropriate treatment and a range of rights, including juridical status, gainful employment, welfare, and administrative measures.⁵⁵ Naturally, States that are not State Parties should also identify stateless persons so that they can become aware of the nature and magnitude of the problem and identify appropriate solutions. The 1954 Convention, however, is silent on how States are to determine whether an individual is stateless.

Identification goes beyond the acquisition of basic statistics on the number of stateless persons. In fact, it requires a broad “mapping” of the statelessness situation, including populations at risk of statelessness, and their profiles and needs. There are a number of identification tools, such as mapping exercises, nationality verification campaigns, and statelessness determination procedures, which can be efficient mechanisms for States to identify their nationals and beneficiaries of the 1954 Convention.⁵⁶

In 2011, UNHCR commissioned a *guidance document on measuring stateless populations*, which provides practical information on how to plan and implement a mapping exercise with the necessary methodology and research tools.⁵⁷ The results of a mapping project may also be used to determine or improve the allocation of resources to deal with statelessness. They can also provide valuable information when advocating for government target-setting to facilitate the prevention and reduction of statelessness over the longer term. This, for example, might include suggesting ways to improve birth registration procedures and practices.

The identification and risks of statelessness include:

- assessing the scale of the problem (numbers, geographical spread etc.);
- establishing the profile of the population affected (demographic composition, including data disaggregated by sex, age and ethnicity,

V. Identification, prevention, and reduction of statelessness

with due respect for international standards on personal data safety and protection);

- determining causes and obstacles to solutions to statelessness (gaps in legislation, administrative practice, etc.);
- uncovering any protection issues faced; and
- identifying all stakeholders (affected persons, governments, international organizations, non-governmental organizations, civil society, etc.).

Good practice: Tajikistan takes steps to resolve statelessness

In recent years, the Government of Tajikistan has made continued efforts to address the statelessness situation in the country. In 2014, the Ministry of Internal Affairs and the Apparatus of the President, together with UNHCR, launched a national **pilot project to better understand the scope of the phenomenon** in regions where a high number of stateless or at risk populations are estimated. Between 2014 and mid-2016, with the participation of the Government of Tajikistan, civil society organizations and with UNHCR's technical support, about 22,000 people were identified as persons with undetermined nationality, including former USSR passport holders. 3,400 people submitted their applications to confirm nationality and the nationalities of over 2,100 people were confirmed by mid-2016. The support of local authorities, including *khukumat* (local executive bodies) and *jamoat* (administrative divisions) was critical to the success of the project.

In August 2015, a new Constitutional Law “**On Nationality of the Republic of Tajikistan**” was adopted. The new law contains a number of safeguards for the prevention and reduction of statelessness in the country. For example, the provision whereby nationals residing abroad for five years could be deprived of their nationality if they failed to register with Tajik consular authorities was removed.

Furthermore, the Government, through an **Inter-Ministerial Working Group on Nationality/ Statelessness**, co-chaired by the Apparatus of the

V. Identification, prevention, and reduction of statelessness

President and the Ombudsman's Office, has been developing an amnesty law to facilitate solutions for stateless persons whose situations have not been addressed owing to concerns about possible administrative penalties and criminal sanctions.

Another important element of resolving the situation of stateless or at risk populations is improved access to citizenship and citizenship documentation in the rural border areas of the country. Progress in this respect has been made through the **provision of free legal assistance** by the State Agency "Legal Aid Centre" (SALAC).

See UNHCR Statement at the 10th OSCE Preparatory Human Dimension Implementation meeting, Dushanbe, 30 May 2016 (unpublished document).

Identifying statelessness begins with a situational analysis, including a desk review and, where possible, a participatory assessment. The information on statelessness relevant for a desk review can be found in a variety of sources, including:

- relevant legislation (e.g. in relation to the definition of a stateless person, to civil registration and to the acquisition and loss of nationality);
- studies by government bodies; UN agencies or other international organizations; regional organizations (such as OSCE Institutions); NGOs; and academic institutions;
- statistical data from population censuses; relevant public registers, such as civil registries, residence registries, data from social service agencies or data from electoral authorities; and statelessness databases (if existent).

During the **desk review**, information gaps will become apparent. An assessment can then be made about how such gaps may be filled and how information can be updated through other information-gathering mechanisms. Primary among such mechanisms is the involvement of affected persons through a participatory assessment, which should reflect the different

V. Identification, prevention, and reduction of statelessness

age, gender, ethnicity, and diversity of participants.⁵⁸ Results of participatory assessments will, in particular, inform States, international organizations and partners about the causes of statelessness; obstacles to the acquisition of nationality; the protection needs of stateless populations, including status and documentation; and the population's own capacity to contribute to a solution.⁵⁹

If a **national census** is being planned, this opportunity can be used to promote the inclusion of specific questions in the census questionnaires that permit the identification of possible stateless persons and to obtain socio-economic data about them.⁶⁰ In June 2015, the United Nations Economic Commission for Europe (UNECE) endorsed the Conference of European Statisticians' Recommendations for the 2020 Censuses of Population and Housing, which highlighted the need to identify stateless persons.⁶¹

A common challenge when measuring statelessness through a population census is that persons may identify themselves as stateless even though they have a nationality, or they may think they have citizenship when, in fact, they do not. However, responses to questions on nationality in a census may indicate statelessness concerns that can and should be further analysed and cross-checked. Census-takers should, therefore, be made aware of potential statelessness issues and trained accordingly. UNHCR and other UN agencies can assist relevant authorities in formulating questions for census questionnaires as well as coding for responses and parameters for data analysis.⁶²

Population profiling, including targeted surveys are also important tools for identification and planning purposes. Where a governmental policy framework and adequate procedures exist, a survey may be combined with registration, information, and legal advice to assist individual stateless persons in accessing relevant procedures for the acquisition of citizenship, documentation procedures or, in the absence of solutions, a determination procedure that is linked to a secure status. A survey is particularly suited to situations in which the target population is relatively concentrated and located in a geographically-limited area.⁶³

OSCE participating States have increasingly turned to ODIHR for technical advice and support in modernizing their **population registers**, especially in response to recommendations on voter registration made by

V. Identification, prevention, and reduction of statelessness

election observation missions. The recognition of legal identity is a precondition for access to other important fundamental, civil and political rights. In line with its mandate, ODIHR's assistance also focuses on administrative and legislative frameworks for civil registration, owing to their key importance in enabling the legal recognition of each individual.

Good practice: Identification and registration campaign in Turkmenistan

The political and operational will of the Government of Turkmenistan to resolve the protracted situation of thousands of former USSR citizens with undetermined nationality was demonstrated through an **identification and registration campaign**. One factor that enabled the campaign's success was the technical expertise gained by the authorities when collaborating with UNHCR on the identification and registration of 11,000 long-term refugees for naturalization in 2004 and 2005.

An initial registration drive from 2007 to 2010 by the Turkmenistan authorities found some 4,000 individuals of undetermined nationality. The registered individuals completed and filed applications for naturalization or residence status, depending on their personal circumstances, for the Government's review.

A dialogue process on statelessness that began in 2008 between the Turkmenistan Government and UNHCR, led to the adoption in 2010 of an **Action Plan for Joint Activities on Prevention and Reduction of Statelessness** between the Government and UNHCR. This created a framework for collaboration on completing the identification and registration of individuals with undetermined nationality, and then reviewing and revising the relevant laws.

The Government re-launched the **registration campaign in 2011** as a collaborative multi-stakeholder process. Mobile registration teams consisting of representatives of the Government and civil society, including legal

experts, were deployed to assist individuals with the registration and application process.

In reducing statelessness, 4,000 stateless persons received Turkmen citizenship between 2007 and 2014, while over 6,000 more awaited naturalization in 2015.

See *UNHCR Good Practices Paper – Action 1: Resolving Existing Major Situations of Statelessness*, 2015, available at: <http://www.refworld.org/docid/54e75a244.html>

Statelessness determination procedures

It is not only beneficial for stateless persons but also in the interest of States to establish statelessness determination procedures. Doing so enhances the ability of States to fulfil their obligations under the 1954 Convention. Statelessness determination procedures also help governments assess the size and profile of stateless populations on their territory so that they can determine the government services required. In addition, identifying stateless persons can help prevent statelessness by revealing the root causes of and new trends in statelessness.⁶⁴

Determination procedures should be simple and efficient, building, to the extent possible, on existing administrative procedures that establish relevant facts. Some State practice has, for instance, integrated the determination of statelessness into procedures regulating residency rights. In principle, statelessness determination procedures should be conducted on an individual basis. Nevertheless, there may be occasions where determination of status on a group or *prima facie* basis may be appropriate, relying on evidence that all members of the group satisfy the stateless person definition in Article 1 of the 1954 Convention.⁶⁵

The question of where to situate statelessness determination procedures institutionally is a matter of State discretion and can vary from one country to the next. Regardless of where a statelessness determination procedure is placed within the State structure, it is recommended that States provide specialized training on nationality laws and practices, international standards, and statelessness to the officials responsible for conducting

V. Identification, prevention, and reduction of statelessness

statelessness determination. UNHCR and the OSCE can assist States in these endeavours. In addition, it is important to raise awareness about and publicize the existence of statelessness determination procedures to enhance stateless persons' access to them.

Procedural guarantees

Statelessness determination procedures should be formalized by law so as to ensure fairness and transparency. They must include basic procedural guarantees.⁶⁶ Some of the most fundamental guarantees reflected in current State practice include:

- access to an interview;
- interpretation assistance;
- legal aid;
- respect for the specific protection needs of women, children, and people with disabilities;
- making and communicating decisions in a reasonable time following the submission of a statelessness status application;
- communicating decisions in writing with an explanation of the grounds on which they were made; and
- the right to appeal against a first-instance rejection of an application on the basis of fact or law.

In addition, State practice also reflects the right to liberty and freedom of movement by not detaining those seeking recognition of their stateless status.⁶⁷

Only a small number of countries⁶⁸ have established statelessness determination procedures or proper registration systems but there is growing interest in introducing such mechanisms. At UNHCR's 2011 Ministerial Meeting to commemorate the 60th and 50th anniversaries of the 1951 Convention relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness, 10 States pledged to establish statelessness determination procedures.⁶⁹ These were Australia, Belgium, Brazil, Costa Rica, Georgia, Moldova, Peru, the Philippines, Uruguay, and the United States of America, while Hungary pledged to improve its existing

V. Identification, prevention, and reduction of statelessness

procedure. The Republic of Moldova became the first State to fulfil its pledge, adopting its statelessness determination procedure at the end of 2011. Moldova's procedure is established through legislation and, as one of the most detailed, serves as a good practice example for other States to follow.⁷⁰

In May 2016, UNHCR organized training for authorities working in the field of migration and citizenship in Turkmenistan, where information on statelessness determination procedures was provided. The Georgian Government and a Georgian NGO facilitated the training, sharing good practices based on their experiences. Further similar meetings, including knowledge transfer between participating States, have taken place in Armenia and Ukraine.

Good practice: Moldova establishes a statelessness determination procedure to protect stateless persons

In 2011, The Republic of Moldova adopted legislation establishing a statelessness determination procedure by introducing Chapter X (Law on Amendment and Completion of Certain Legislative Documents) to the Law on the Regime of Foreigners (Moldovan Law). This legislation contains some of the most detailed provisions of any statelessness determination procedure, outlining how the procedure is to be conducted. An application for statelessness status can be initiated either by an individual or *ex officio* by the Bureau for Migration and Asylum of the Ministry of Internal Affairs, where there is a specialized administrative unit dealing with statelessness and information within the Refugee Directorate. The application must contain a clear and detailed description of the facts, including the evidence necessary to substantiate a claim for statelessness, and must indicate an individual's place of birth, parentage and countries of habitual residence.

The Moldovan Law takes particular consideration of the special protection concerns of unaccompanied minors and persons with mental disabilities, both of whom are to be represented by a legal guardian. Applicants for

V. Identification, prevention, and reduction of statelessness

statelessness status will be granted the right to stay in Moldova during the review of their claim and can only be removed from the territory for reasons of national security and public order.

In practice, the burden of establishing statelessness is shared. Applicants are obliged to co-operate fully with the authorities by submitting all evidence regarding their status and by presenting themselves to the authorities for as many interviews as may be required. The examiner is obliged to collect additional information about an applicant's case, including through contacts with foreign authorities or with Moldovan embassies and consulates abroad.

A decision accepting or rejecting an application for statelessness status must be issued and communicated to the concerned individual within three working days after the application is made. Reasons for negative decisions must be communicated to the applicant and an appeal can be lodged against a negative decision in a court of law, in accordance with Moldovan legal procedures. Individuals with recognized statelessness status will be given **appropriate identity documents** and will be entitled to enjoy all the **rights, freedoms and obligations** stipulated by Moldovan legislation. They can also benefit from dedicated social integration activities offered by the Ministry of Culture, and language classes offered to foreigners by the Ministry of Education – all free of charge.

Between 2011, when the statelessness determination procedure was established, and December 2015, 617 persons applied for statelessness status in Moldova and 256 persons had it granted. It is noteworthy that among the 261 individuals rejected, a significant number were eligible to apply for Moldovan citizenship and were directed to the appropriate government institution. The outcome was the granting of Moldovan citizenship to many persons of undetermined nationality.

See UNHCR, *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, 2016, available at: <http://www.refworld.org/docid/57836cff4.html>

V.2. Prevention – addressing causes of statelessness

Prevention of statelessness means addressing possible causes of future statelessness. This entails analysing and addressing such issues as: legal provisions on the acquisition, loss, renunciation and deprivation of nationality, as well as implementation of these provisions in practice; determination of nationality status; and removing administrative obstacles to obtaining birth registration or identity documentation, among others.

An important element to keep in mind is that – although the apparent causes of statelessness are often legal or technical – discrimination on gender or racial, ethnic, religious, linguistic or other grounds is frequently a key factor. Accession to the 1961 *Convention on the Reduction of Statelessness* is a useful first step to address many of these issues.

Removing gaps in nationality legislation

Prevention of statelessness requires verifying whether there are safeguards in legislation that prevent statelessness at birth, or in case of the loss, renunciation or deprivation of nationality.⁷¹ Where causes of statelessness are found in constitutional provisions or nationality legislation, UNHCR can provide advice on international standards and how they may be implemented at the national level.⁷² In addition, ODIHR and HCNM, within their respective mandates, can assist participating States with legislative support to address gaps in legislation and other concrete activities based on existing OSCE norms, principles and commitments.

There are a number of safeguards to prevent statelessness at birth and later in life. The most important is that children born on the territory of a State should acquire the nationality of that State if they would otherwise be stateless. This safeguard is the cornerstone of efforts to reduce statelessness over time. It is not only relevant where the parents are stateless but in any situation in which the child would otherwise be stateless, including where one or both parents possess a nationality but may be restricted from conferring it on their children. For example, statelessness may result when children cannot acquire the mother's nationality and when the father possesses a nationality but cannot confer it on his children owing to limitations

V. Identification, prevention, and reduction of statelessness

in the law of his State of nationality, or where he is stateless.⁷³ A UNHCR survey in 2012 (unpublished) found that women are treated unequally in nationality laws in most continents of the world: At least 25 countries maintained nationality laws that did not allow women to confer nationality on their children.⁷⁴

A consequence of gaps in nationality laws: stateless children in the world

- At least 70,000 children born in the 20 major reported non-refugee statelessness situations each year are unable to acquire any nationality.
- At least 29% of all States have *no* provision in their nationality laws to grant nationality to stateless children born on their territory and at least 28% of all States have *inadequate* provisions.
- At least 29% of all States have *no* provision in their nationality laws to grant nationality to children of unknown origin found in their territory (foundlings) and at least 37% of all States have *inadequate* provisions.
- At least 3% of all States have *no* safeguards in their nationality laws to grant nationality to children born to nationals abroad and who are unable to acquire another nationality, and at least 44% of all States have *inadequate* safeguards.

See UNHCR, *Global Action Plan to End Statelessness 2014-2024*, 2014, pg. 9, available at: <http://www.unhcr.org/54621bf49.html>

Preventing statelessness through birth registration and provision of identity documentation

The safeguard against children being born stateless is not only required by the 1961 Convention but also, albeit with slightly different formulations, by the regional instruments mentioned in Chapter IV. As a result, 100 States

V. Identification, prevention, and reduction of statelessness

worldwide have a clear international legal obligation to grant nationality to children that would otherwise be stateless. In addition, the 57 OSCE participating States can draw upon their politically binding commitments and principles. Birth registration can be fundamental in acquiring a nationality because:

- Birth registration provides official documentation of *where* a person was born (relevant where nationality is acquired by *jus soli*, i.e. birth on the territory); and
- Birth registration provides official documentation of *who* a person's parents are (essential for acquisition of nationality by *jus sanguinis*, i.e. based on descent).

The following categories of persons, which are not mutually exclusive, may be at particular risk of statelessness owing to the absence of or incomplete birth registration:

- persons living in border areas where the lack of birth registration may lead to confusion as to whether they are nationals of one State or another;
- minorities and persons who have perceived or actual ties with other States;
- nomadic or semi-nomadic populations whose territories cross international borders;
- children of refugees and asylum-seekers born abroad;
- migrant populations in which difficulties to prove nationality of the country of origin may occur when one or more generations of children are born abroad (a risk that increases with each successive generation);
- children born to undocumented parents.

The risk of statelessness for such groups may increase as a result of other circumstances. For example, in some cases girls are not registered because the family is not able or willing to take the necessary administrative action for them; or because children are born out of wedlock, particularly

V. Identification, prevention, and reduction of statelessness

as a result of sexual exploitation and abuse. It is also difficult to properly register those children whose parents are undocumented themselves, no matter where they are born.

Birth registration is also relevant to the protection of a range of other rights, including education, preventing child marriages, trafficking and other forms of exploitation, and the recruitment of children into armed forces or armed groups. States, therefore, have a two-fold interest in birth registration: to prevent statelessness and as a protection tool. Where necessary, States can work together with agencies specialized in this field, such as UNHCR, the United Nations International Children's Emergency Fund (UNICEF), the United Nations Population Fund (UNFPA) and many other organizations, to ensure that all persons are registered at birth.⁷⁵

Most States issue nationality certificates or identity cards that attest nationality⁷⁶ and, in many countries, a passport is also considered proof of nationality. In order to address risks of statelessness arising from difficulties in proving nationality, States need to ensure accessible procedures for the issuance of nationality documentation, and simplify evidentiary requirements.

Simplifying procedures and evidence requirements

Sometimes States have strict and numerous evidence requirements that impede the registration of births and/or the issuance of nationality documents. For example, the parents' marriage certificate, the birth certificate of both parents, and the valid residence permit of both parents can all be required before a child's birth can be fully registered. Sometimes even the grandparents' identity papers are required to register a child's birth. Difficulties in meeting such requirements may leave the child without any proof of legal identity for a long time or even indefinitely.⁷⁷

Simply waiving or lifting some of the requirements (e.g. the parent's marriage certificate and the parents' birth certificate) would contribute considerably to simplifying birth registration processes. Another way that birth registration can be improved is through the facilitation of (late) birth registration with the use of witnesses and testimonies instead of documentary evidence. This allows older children or adults to have their birth registered even though they do not meet the formal requirements for (late) birth registration.⁷⁸

V. Identification, prevention, and reduction of statelessness

In some countries, people can only obtain a nationality certificate or an identity document (ID) that confirms their nationality if they have proof of registered residence. This is an insurmountable hurdle, in particular, for poor communities living in illegal housing or informal settlements and who, therefore, do not meet the requirements to obtain an ID.⁷⁹

In many States across the OSCE area, a number of international stakeholders, such as ODIHR, HCNM, UNHCR, UNICEF, the Council of Europe, and the European Union, as well as national organizations, have recognized and documented that Roma and Sinti living in marginalized situations are particularly vulnerable to the lack of civil registration and documentation. The ODIHR Contact Point for Roma and Sinti Issues has, in the past, organized national, regional and international consultation meetings to raise awareness about the most vulnerable groups, inviting experts and representatives of affected populations to identify possible solutions. Collaborating closely on these matters, the OSCE HCNM and UNHCR have actively contributed to such meetings and provided their expertise.

Despite the progress achieved over recent years, there is still much that remains to be done to fully eliminate legal invisibility, especially among Roma and Sinti populations, and to ensure the protection of the socio-economic and political rights of those who do not have personal documents.

Good practice: Joint advocacy of diverse stakeholders leads to amended Law on Non-Contentious Procedures in Serbia

The joint advocacy of a wide range of stakeholders in Serbia – including civil society, the international community, the Ombudsman’s Office and relevant ministries – shows how co-ordinated actions and committed partnership can help remove obstacles to the civil registration and documentation of marginalized individuals.

Starting in 2007 and following the adoption of the **Law on Registries in 2009**, UNHCR and the NGO Praxis drew public attention to shortcomings in the procedure for late birth registration; unregistered and undocumented

V. Identification, prevention, and reduction of statelessness

individuals of Roma ethnicity often did not meet the criteria. Unable to go through the complex procedures without legal assistance, they were frequently left without birth certificates.

Together with the Serbian Centre for the Advancement of Legal Studies – and funded by the ODIHR Project “Best Practice for Roma Integration” – Praxis and UNHCR gathered experts to develop a proposal for an appropriate legislative solution, taking the specific situation of undocumented individuals into consideration. With critical support from the Ombudsman’s Office, project partners engaged in intensive dialogue with parliamentarians, **joint advocacy work and continuous efforts to raise public awareness** on the seriousness of the problem and the efficacy of the solution. These efforts resulted in a draft model law on legal subjectivity, and subsequent amendments to the **Law on Non-Contentious Procedures**, adopted on 31 August 2012. The amendments facilitated a simplified procedure for establishing the time and place of birth of persons who had been long unsuccessful in meeting the complex administrative requirements, allowing for their births to finally be registered.

This has reduced the number of “legally invisible” persons and bolstered prevention at the same time, since this phenomenon is passed on to the next generation. The results are evidenced in a June 2016 UNHCR survey conducted among Roma, Ashkali and Egyptians in Serbia (“Persons at Risk of Statelessness in Serbia – Progress Report 2010–2015”), which showed that the number of persons without identity documents among those populations **dropped significantly from 2010 to 2015**: from 6.8% to 3.9%. The report recommends further steps to address the final obstacles to birth and residence registration, and obtaining identity cards – steps that are essential to confirming nationality for all.

See UNHCR, *Persons at Risk of Statelessness in Serbia – Progress Report 2010–2015*, Belgrade, June 2016, available at: http://www.unhcr.rs/media/docs/UNHCR_Brosura_Apatridi_ENGLESKI.pdf

Enhancing access to civil registration and documentation

Most States keep track of the persons living in their territory through civil registries.⁸⁰ Access to civil registration and documentation is often the precondition for being formally recognized as a national. While stateless persons may have legitimate ties to a State and may even have a nationality under the laws of the country, the challenge may lie in proving these ties in the absence of civil registration and documentation.

In 2013, the UN Human Rights Council emphasized the importance of ensuring access to documentation that certifies nationality.⁸¹ According to UNHCR, at least 20% of all States have populations which are entitled to nationality under the law but cannot acquire documentary proof of nationality.⁸² Statelessness often results from costly, complex procedures and bureaucratic requirements for the acquisition or confirmation of nationality, and the issuance of relevant documentation that proves nationality. Procedures to obtain such documentation must therefore be accessible, affordable and implemented in a non-discriminatory manner. When such gaps are identified, the relevant authorities may seek technical advice from specialized agencies and legal experts on how they may be addressed.

There are numerous ways for States to simplify and enhance access to civil registration and documentation. The UNHCR's governing Executive Committee laid down in its 2013 Conclusion on civil registration that,

(...) civil registration and documentation, especially birth registration as a proof of birth of a person, contribute to enhancing protection and the implementation of durable solutions, including by documenting links with countries of origin,

(...) the lack of civil registration and related documentation makes persons vulnerable to statelessness and associated protection risks, and that birth registration is often essential to the reduction and prevention of statelessness, (...).

V. Identification, prevention, and reduction of statelessness

Furthermore, the Executive Committee,

(d) Encourages States to make accessible civil registration, in particular through

- i. adopting simplified administrative procedures and, where appropriate, integrating civil registration with other public services including those relating to childbirth, maternal-infant care, immunization and education;*
- ii. carrying out regular awareness campaigns or community outreach activities;*
- iii. putting in place measures, as appropriate, to ensure that rural or remote locations are reached, such as through, for example, mobile registration units;*
- iv. considering free birth and death registration in accordance with national laws and regulations; in particular facilitating late registration and the waiving of late registration fees and penalties;*
- v. supporting the recording of medically certified cause of death, as appropriate;*

(e) Encourages States to request technical and other assistance, if required, from other States, UNHCR and other United Nations agencies, funds and programmes, as well as civil society and regional organizations.⁸³

Upon request, UNHCR and OSCE Institutions can assist participating States with technical and other assistance in enhancing access to civil registration and documentation. One such example is joint work between UNHCR, the HCNM, and the European Commission to support governments in South Eastern Europe in tackling the long-term problem of undocumented persons and causes of statelessness in the region. A *Conference on the Provision of Civil Status Documentation and Registration in South-Eastern Europe* (Zagreb, 26-27 October 2011) resulted in the adoption of the Zagreb Declaration by Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia, and the former Yugoslav Republic of Macedonia and their agreement to “remove all obstacles to the documentation and registration needs, particularly of vulnerable persons”⁸⁴ through a variety of means.

V. Identification, prevention, and reduction of statelessness

Among others, the Zagreb Declaration recommends that the participating countries amend legislation to facilitate birth and subsequent registration; waive fees for the issuance of documentation; establish national co-ordination mechanisms; strengthen co-operation between the various stakeholders at all levels; actively involve Roma and other minority groups through the entire process; and enhance bilateral co-operation to facilitate the exchange of information of undocumented people and the recognition of documents.

Two years later, a stock-taking exercise co-chaired by the European Commission, HCNM and UNHCR was conducted. While much progress had been made, the Co-Chairs specifically recommended in their Conclusions that States “*exempt socially vulnerable individuals from fees for civil registration and documentation, as well as for residence registration and provide them with free legal aid when needed*”⁸⁵, fundamental mechanisms to facilitate civil registration (for more details see Chapter VI – Joint collaboration of HCNM, UNHCR, and the European Commission: The Zagreb Declaration on the Provision of Civil Status and Registration in South-Eastern Europe).

The ODIHR Contact Point for Roma and Sinti Issues has also continuously emphasized the importance of civil registration, in particular for Roma and related groups, and has organized numerous activities on this topic. The following good practice example illustrates such endeavours.

Good practice: Identifying obstacles for Roma in obtaining civil registration and identification documents in Ukraine

In 2014, in its “*Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis*”, the OSCE/ODIHR recognized the lack of identification and civil registration documents – such as birth certificates or passports – as one of the key challenges Roma continue to face in Ukraine. The national “**Strategy on the Protection and Integration of the Roma National Minority into Ukrainian Society up to 2020**”, approved by the Ukrainian government in April 2013, and the subsequent “**National Action Plan on Implementation of the Strategy**” both recognize that a significant

V. Identification, prevention, and reduction of statelessness

number of Roma have no identification documents and there is a need to address this situation with specific policy measures.

To support the Ukrainian authorities in their efforts to gain a deeper understanding of the obstacles Roma face in obtaining civil registration and identification documents, and to identify concrete steps to overcome these obstacles, the OSCE/ ODIHR Contact Point for Roma and Sinti Issues, in co-operation with the Office of the Ukrainian Parliament Commissioner for Human Rights, hosted an expert seminar on **access to identification and civil registration documents by Roma in Ukraine** in November 2015. UNHCR experts from Serbia and Montenegro were invited to share good practices.

For the first time, a forum for discussion between authorities and Roma civil society was provided in Ukraine to: (i) identify obstacles and practical solutions to address the on-going lack of personal identification and civil registration documents among Roma in Ukraine; (ii) share working practices from different parts of Ukraine; (iii) present good practices and lessons learned from other parts of the OSCE area that can be translated into OSCE commitments and international human rights standards.

See OSCE/ODIHR, *Summary Report: Expert Seminar on Access to Identification and Civil Registration Documents by Roma in Ukraine*, 2015, available at: <http://www.osce.org/odihr/211996>

Enhancing co-operation among stakeholders

While legislation governing registration and the issuance of documents is important, it must also be supported by administrative structures with a sufficient capacity to maintain accurate and inclusive legal identity management systems as envisaged by the law. In other words, good legislation, linking population registration, birth registration, the issuance of identity and travel documents, and access to health and education services, etc., should be effectively supported by administrative, technical and human resources to ensure that the system is as strong and inclusive as possible.

V. Identification, prevention, and reduction of statelessness

To establish whether a State considers an individual as its national, it is necessary to identify the competent institutional authorities for nationality matters. Competence in this context relates to the authority for conferring or withdrawing nationality from individuals, or for clarifying nationality status where nationality is acquired or withdrawn automatically. The competent authority or authorities will differ from State to State. In many cases there will be more than one competent authority involved, which makes inter-institutional co-operation and co-ordination a pre-requisite to overcome existing hurdles.⁸⁶

As an example, both the 2011 Zagreb Declaration and the 2013 Co-Chair Conclusions refer to the need to strengthen co-operation between government institutions, civil society organizations, UN agencies and other stakeholders. This can be done, for instance, by establishing a national co-ordination mechanism or by formalizing co-operation through a Memorandum of Understanding (MoU). In this regard, the Co-Chairs noted some positive legislative and administrative developments since the adoption of the Zagreb Declaration: for example, that co-operation between stakeholders had advanced from ad-hoc exchanges at the working level to the signing of an MoU between government institutions, civil society organizations and UNHCR, and that this was accompanied by the establishment of a technical working group to implement the MoU.⁸⁷

The need to step up bilateral and regional co-operation and the reciprocal recognition of documents by countries is a recurring issue that is frequently recommended by international organizations. The Co-Chairs remained concerned about “*the need for undocumented persons to travel across borders to their country of former residence to obtain civil documentation required to register their child, to regularize their own stay in their current country of residence or to confirm or acquire nationality*”. Therefore, their Conclusions include the recommendation to “*enhance bilateral exchanges at the working level to find practical solutions and alternative ways of assisting undocumented individuals that do not require, inter alia, travelling across borders*.”⁸⁸

Next page: **Kosovo**. A displaced person receives his identity documents. © ODIHR



Good practice: Croatia's accession to the 1961 Convention is followed by efforts to improve the regional situation of undocumented Roma

Following its accession in 2011 to the 1961 Convention on the Reduction of Statelessness, Croatia demonstrated its commitment to resolving statelessness, not only on its own territory but also in the region. It hosted the **Regional Conference on Provision of Civil Documentation and Registration in South-Eastern Europe**, co-convened in Zagreb in October 2011 by UNHCR, the OSCE HCNM and the European Commission. The conference resulted in the joint **Zagreb Declaration** adopted by Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia and the former Yugoslav Republic of Macedonia, which calls for improvements in the provision of civil documentation to Roma communities through both national and regional collaborative efforts.

Since the Conference in October 2011, numerous developments at the regional and national level have contributed towards implementing many of the Declaration's recommendations. These include legislative and administrative changes to facilitate registration and the acquisition of civil documentation, and increased bilateral co-operation.

In 2012, the Croatian Government adopted its **National Strategy for Roma Inclusion 2013-2020**, which aims to regulate the status of all Roma with firm ties to Croatia by 2020.

See UNHCR, *Good Practices Paper – Action 9: Acceding to the UN Statelessness Conventions*, 2015, available at: <http://www.refworld.org/docid/553f617f4.html>, and Stephanie Woldenberg, *Access to Civil Documentation and Registration in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, 2013, available at: <http://www.refworld.org/docid/5280c5ab4.html>

Avoiding statelessness in cases of State succession

The emergence of new States and transfers of territory between existing States have led to mass statelessness on numerous occasions. According to

V. Identification, prevention, and reduction of statelessness

UNHCR, at least 620,000 people worldwide remain stateless as a result of State succession within the last 30 years.⁸⁹

State succession occurs where there is:

- a transfer of part of one State’s territory to another State;
- the separation of part of one State’s territory and formation of one or more new States; or
- the dissolution of a State and formation of two or more States.

In the case of State separation or dissolution, although most individuals residing on the territory automatically become citizens of newly independent States when nationality legislation is adopted, large numbers can be left stateless. Migration movements before and at the time of independence as well as discrimination against marginalized ethnic and social groups may create particular risks of statelessness. The transfer of territory between States can have similar results.

Therefore, it is vital to promote co-operation between the authorities of the (future) States concerned and advocate for the adoption of agreements and legislation to avoid statelessness, for instance, by granting nationality based on residence on the territory affected. The concerned States shall put in place appropriate measures to prevent statelessness situations from arising as a result of State succession and take action to address such situations.⁹⁰

Article 10 of the 1961 Convention contains specific obligations in this respect:

1. Every treaty between Contracting States providing for the transfer of territory shall include provisions designed to secure that no person shall become stateless as a result of the transfer. A Contracting State shall use its best endeavours to secure that any such treaty made by it with a State which is not a Party to this Convention includes such provisions.

2. In the absence of such provisions a Contracting State to which territory is transferred or which otherwise acquires territory shall confer its nationality

V. Identification, prevention, and reduction of statelessness

on such persons as would otherwise become stateless as a result of the transfer or acquisition.

In 1999, the International Law Commission adopted comprehensive *Articles on Nationality of Natural Persons in Relation to the Succession of States*⁹¹, which set out principles that serve to avoid statelessness in cases of State succession. The UN General Assembly is to consider whether it will elaborate a convention or declaration based on these Articles. Actors in Europe may also rely on the 2006 *Convention on the Avoidance of Statelessness in relation to State Succession* as well as on Articles 18-20 of the 1997 *European Convention on Nationality*.

Good practice: State succession – Moldova issues identity documents to former Soviet citizens to prevent statelessness

Until late 2012 – 21 years after the break-up of the Soviet Union – over 220,000 people in The Republic of Moldova were holding expired Soviet ID cards but had no identity documents from Moldova or any of the other successor States. The expired ID cards did not grant them access to all basic citizenship rights, such as voting or social assistance. The Government repeatedly called upon the population to acquire Moldovan IDs but, only when it launched a campaign in 2014 offering the new IDs for free, did they start to see success.

As many elderly people live on 1000 Moldovan Lei (some 50 USD) a month, the cost of a new ID at approximately 10 USD, had been too expensive for many to afford. With support from UNHCR, all pensioners in Moldova received an information leaflet about the campaign. The authorities sent mobile teams to those who were unable to visit the Passport Office and UNHCR's partner, the Legal Center of Advocates (LCA), established a hot-line for free legal information.

Between January 2013 and June 2015 alone, a total of 212,000 people benefited from the campaign – one out of every 20 Moldovan citizens – making

V. Identification, prevention, and reduction of statelessness

the campaign **one of Europe's largest campaigns to address statelessness** since the turn of the century.

According to UNHCR, political will was a fundamental aspect that contributed to the success of this project, which provides a good practice that can be replicated in other situations. As part of its #IBelong Campaign to End Statelessness by 2024, UNHCR helped arrange a study visit by Armenian officials and NGO representatives to learn from Moldova's success story.

See *UNHCR web story, How small Moldova ran one of Europe's largest campaigns to prevent and address statelessness*, available at: <http://www.unhcr.org/ibelong/2674/>

Accession to the UN Statelessness Conventions

Until 1995, when the UN General Assembly requested that UNHCR actively promote accessions⁹², no international agency had been doing so with regard to the Statelessness Conventions. As a result, and despite their importance, they have attracted far fewer States Parties than many other treaties related to human rights. Some States have been reticent to accede because of misconceptions about the nature of the obligations imposed by the Conventions, such as the belief that they impose onerous reporting requirements (in fact, there are no reporting requirements under the 1961 Convention and minimal requirements under the 1954 Convention).⁹³ As statelessness is an area regulated by international law in which commonly agreed standards are particularly important, the UN General Assembly⁹⁴ and the UNHCR Executive Committee⁹⁵ have continued to encourage States to consider acceding to the 1954 and the 1961 Conventions over the past decade.

Recent years have seen a significant forward momentum on this issue. Since 2011, when UNHCR launched a campaign to increase accessions to the Statelessness Conventions, an additional 24 States acceded the 1954 Convention and 31 more States acceded the 1961 Convention worldwide.⁹⁶ As of October 2016, of the 57 OSCE participating States, 40 are States Parties to the 1954 Convention and 33 to the 1961 Convention. Among those OSCE participating States that acceded to one or both Conventions in the past five years are: Turkey (2015), Italy (2015), Belgium (2014),

V. Identification, prevention, and reduction of statelessness

Georgia (2014 and 2011), Lithuania (2013), Montenegro (2013), Ukraine (2013), Bulgaria (2012), Portugal (2012), Moldova (2012), Turkmenistan (2012 and 2011), Croatia (2011), and Serbia (2011). (See Annex I for an overview of States party to the 1954 and the 1961 Conventions among OSCE participating States and Partners for Co-operation. See Annexes II and III for Model instruments of accession to both Conventions).

The OSCE and UNHCR have served as a platform for the exchange of information and good practices among participating States on statelessness-related issues. A recent example includes a *Regional Conference on Accession to the Statelessness Conventions*, held in September 2016, where governmental representatives from Kazakhstan, Kyrgyzstan, and Tajikistan exchanged detailed information on legislation, procedures, broader migration challenges, national security issues, issuance of documentation, and others, with representatives from Turkmenistan, Georgia, and Moldova, which had already acceded to the Conventions.

At the country level, in August 2016, Tajik authorities deliberated about acceding to the Statelessness Conventions at a roundtable organized by UNHCR. Representatives of the Moldovan and the Georgian governments were invited to share their experiences and the challenges their countries encountered before and after accession to the Conventions.⁹⁷

Good practice: Solving a major situation of statelessness – Kyrgyz Republic

In the early 1990s, Kyrgyzstan was one of the primary destinations for refugees from Tajikistan, who also became stateless because they left Tajikistan before the country adopted its first nationality law. Facilitating the naturalization of around 10,000 of these refugees between 2004 and 2007 was a major achievement in ensuring durable solutions for refugees through **local integration**, as well as in **resolving a protracted statelessness situation**.

Recognizing that many individuals had yet to replace their USSR passports and confirm their citizenship, Kyrgyzstan adopted the Law on Citizenship of the Kyrgyz Republic in 2007. The new citizenship law created several

V. Identification, prevention, and reduction of statelessness

avenues for reducing statelessness, including by recognizing as nationals former USSR citizens that were stateless provided they could prove they had been residents of Kyrgyzstan during the preceding five years. The law also created a **simplified naturalization procedure** for individuals able to prove a link with Kyrgyzstan. Subsequent amendments expanded the criteria for persons who could benefit from these procedures so that statelessness among particular populations could be resolved.

Surveys conducted by UNHCR and partners resulted in the creation of an **inter-ministerial process to address statelessness**, particularly through the convening of annual High-Level Steering Meetings on the Prevention and Reduction of Statelessness and the adoption of a **National Action Plan to Prevent and Reduce Statelessness**.

Several important **initiatives** have been undertaken on the further steps needed to resolve statelessness in Kyrgyzstan. Between 2009 and 2012, these initiatives helped approximately 45,000 people to replace old USSR passports, and some 2,000 formerly stateless individuals to obtain citizenship by presidential decree, many with the assistance of UNHCR and its Kyrgyz NGO partners. In addition, the new 2013 citizenship regulations contain some important procedural guarantees pertaining to the process of determining if an individual is a citizen of Kyrgyzstan, a non-citizen, or a stateless person.

Among those who benefitted from these initiatives are representatives of the **Mugat (Lyuli) community** in Kyrgyzstan. Since 2014, 550 members of the Lyuli community received free legal assistance and 535 individuals obtained national identity documents allowing them to access medical services, child support and the right to vote.

Between 2014 and 2016, the Kyrgyz Government, legal NGOs and UNHCR launched a joint endeavour to address the remaining cases of statelessness in the country as part of the National Action Plan. 68 mobile teams have worked throughout the country, including in remote villages, providing free legal consultations and helping to file for documentation or citizenship

V. Identification, prevention, and reduction of statelessness

determination. By November 2016, the Government had registered about 12,000 applications and had resolved nearly 9,000 cases with documentation, citizenship acquisition or determination.

See *UNHCR Good Practices Paper – Action 1: Resolving Existing Major Situations of Statelessness, 2015*, available at: <http://www.refworld.org/docid/54e75a244.html>

UNHCR News, *Kyrgyzstan restores documentation for 9,000 citizens, Updates National Action Plan on Eradication of Statelessness*, 11 November 2016, available at: <http://unhcr.kz/eng/news-of-the-region/news/2619/>

V.3. Reduction – seeking solutions for stateless populations

Major statelessness situations are often linked to the failure to include specific groups at the time of independence or dissolution of a State, sometimes for discriminatory reasons. These situations are generally of a protracted nature. One particular focus of UNHCR has been on assisting States in finding definitive solutions to such protracted statelessness situations⁹⁸ and a central goal of UNHCR's *Global Action Plan to End Statelessness: 2014-2024* is to resolve existing major situations of statelessness.

States have increasingly recognized the negative impact of statelessness on the enjoyment of a broad range of human rights, including the right to work, health, and education as well as the right to birth registration and identity documentation. These negative impacts are also of increasing concern from the perspectives of economic and social development and human security. As a result, a growing number of States have taken steps to resolve protracted situations, and recent developments in a number of countries point to the likelihood of improvements in the coming years.

Some States have resolved situations in which large numbers of people are stateless by **amending the rules for acquisition of nationality** so that stateless persons are automatically considered nationals, provided that they fulfil specific objective criteria that demonstrate their strong links to the country. Most commonly, these criteria cover stateless individuals born in the territory or resident there before a specific date (or who are descended from such persons). This is usually the most effective way to resolve

V. Identification, prevention, and reduction of statelessness

large-scale statelessness, as it does not require the individuals concerned to take any action to acquire a nationality. However, procedures need to be in place to ensure that these individuals can acquire documents that prove they are nationals.

Other States have used **non-automatic but facilitated acquisition procedures**. These include procedures where nationality is only acquired upon application (but where granting nationality is non-discretionary) or naturalization (which is normally a discretionary procedure). Non-automatic procedures are generally less effective in resolving statelessness because they require the person concerned to apply for nationality. For various reasons, including lack of information about the right to apply and related procedures, or owing to problems of physical access or poverty, some stateless persons may not be able to benefit from such procedures. In addition, naturalization procedures usually give government authorities the discretion to reject applicants and may, in some cases, also lead to unreasonable delays in the granting of nationality. Most successor States to the Soviet Union have included facilitated naturalization or acquisition procedures in their nationality laws for former Soviet citizens with links to the country, but who did not become citizens automatically at the time of dissolution.

Under the 1954 Convention, States have an obligation to facilitate the naturalization of stateless persons (Article 32). This may be achieved, for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence. The 1997 *European Convention on Nationality* also establishes an explicit obligation to facilitate the naturalization of stateless persons.⁹⁹ Regardless of whether States are party to either of these Conventions, the principle of non-discrimination must be respected with regard to the criteria and procedures for naturalization.

The effectiveness of naturalization and other nationality processes generally requires that adequate information and counselling is available to stateless persons and that they have effective access to procedures.¹⁰⁰ In practice, the operational involvement of organizations and civil society, through information and citizenship campaigns or legal aid programmes, has been particularly useful.

V. Identification, prevention, and reduction of statelessness

Despite some positive developments over the past years to resolve protracted situations of statelessness, the continuous high number of stateless persons highlights the need for reinforced efforts in this area and strengthened operational responses.¹⁰¹

Good practice: Statelessness following state succession – legal and administrative reforms in the Russian Federation facilitate the naturalization of stateless citizens

The break-up of the former Soviet Union left millions of people stateless in the newly-independent Russian Federation. Pursuant to Article 13.1 of the 1991 Federal Law on Citizenship (1991 Citizenship Law) former Soviet citizens, who were permanent residents of the Russian Federation on the day the law took effect, were considered to be Russian citizens. However, they were entitled to make a declaration that they did not wish to be considered as citizens within one year from the entry into force of the Law.

After 1992, the Russian Federation continued to attract many migrants from other former Soviet constituent republics, which had also become independent States. By the end of the 1990s, many former Soviet citizens in the Russian Federation had not undertaken affirmative steps to regulate their citizenship status either there or in other States they had ties with. Some had automatically become citizens of other newly-independent States, sometimes without knowing it, while others remained stateless because their personal circumstances were such that they did not qualify for nationality anywhere.

Over the past 15 years, the implementation of **legal and administrative reforms** in the Russian Federation facilitated the naturalization of hundreds of thousands of stateless former Soviet citizens: A highly effective set of reforms was introduced in the **2002 Russian Law on Citizenship**, which drew on the technical advice of international legal experts on how to address statelessness in the context of State succession.

V. Identification, prevention, and reduction of statelessness

A **facilitated naturalization procedure**, available from 2003 to 2009, allowed former USSR citizens to acquire Russian nationality by waiving the requirements that were most difficult to fulfil. In 2009, the 2002 Law on Citizenship was amended to extend the list of persons eligible to acquire citizenship through the simplified procedure.

More than 650,000 stateless persons acquired Russian nationality through naturalization between 2003 and 2012. This represents one of the most successful efforts at reduction of statelessness in the past decade.

See *UNHCR Good Practices Paper – Action 1: Resolving Existing Major Situations of Statelessness*, 2015, available at: <http://www.refworld.org/docid/54e75a244.html>

V.4. Protection of stateless persons

Despite efforts by participating States to prevent and reduce statelessness, the phenomenon continues. Stateless persons must, therefore, be afforded protection until such time as their predicament can be resolved through the acquisition of an effective nationality.

Common protection issues faced by stateless persons

Stateless populations often face a broad range of protection risks and limitations of their rights. These risks and limitations can be addressed or at least mitigated when a protection regime for stateless persons is in place at the national level. The following non-exhaustive list provides an overview of common challenges frequently faced by stateless persons. The challenges often have to do with a lack of legislative provisions that address the situation of stateless persons but also sometimes with discrimination and abuse by authorities.

Common protection issues faced by stateless persons

- difficulties to register births and obtain birth certificates;
- lack of identity documentation and, as a result, difficulties to be recognized as a person before the law;
- difficulties to legally marry;
- limited or no access to education and health care;
- lack of access to the labour market;
- limits on property ownership;
- difficulties to enter into contracts, obtain business licenses or open bank accounts;
- non-recognition of the right to reside in one's own country, resulting in risk of detention and/or expulsion;
- limitations on freedom of movement, restricting the ability to leave and return to the country of residency, and also sometimes restricting the ability to move freely within the country;
- repeated and prolonged detention, particularly in a migratory context and where the country of origin refuses to allow return;
- heightened risk of exploitation, trafficking, and sexual and gender-based violence.

Stateless children are particularly vulnerable and their problems are often invisible to authorities, as they do not have a voice to draw attention to their plight. In 2015, to show what it means for children and young people to be stateless, UNHCR undertook consultations in seven countries focusing on this particular group. The ensuing report, *I am here, I Belong: The Urgent Need to End Childhood Statelessness* highlights how not being recognized as a national of any country can create insurmountable barriers to education and adequate health care, and stifle job prospects for children and youth. It revealed the devastating psychological toll of statelessness and its serious ramifications not only for young people, whose whole futures are before them, but also for their families, communities and countries.¹⁰²

UNHCR's consultations with stateless children and youth: the urgent need to end childhood statelessness

In 2015, UNHCR spoke with more than 250 children and youth, and their parents and guardians, in seven countries around the world (Côte d'Ivoire, the Dominican Republic, Georgia, Italy, Jordan, Malaysia, and Thailand) about their experiences of childhood statelessness. This is the first geographically diverse survey of the views of stateless children and youth. Many of the children and young people had never spoken to anyone about what it is like to be stateless.

Education:

UNHCR's consultations with stateless children and youth found that they were confronted with a myriad challenges when it came to pursuing their education. In some cases, schools denied non-nationals entry to the classroom or demanded the far higher fees applicable to foreigners, putting education out of reach. In others, stateless children were refused admission to final exams or had their diplomas and graduation certificates withheld, halting their progress to higher education and better job prospects. Such children also frequently found themselves ineligible for scholarships or student loans. Whatever the obstacle, the outcome was the same: another young person unable to reach his or her potential.

Health:

Many young stateless people and their parents were forced to forgo professional treatment, even in cases of serious illness or injury. Travel restrictions, the prohibitively high medical costs imposed on foreigners, discrimination and lack of health education often conspired to impede access to health care for these young people. In some cases, lack of nationality documents meant that stateless mothers gave birth at home

rather than in a hospital, thereby complicating access to birth registration. Even those who were able to acquire nationality as adults continued to pay a psychological toll as a result of their stateless childhoods.

Being a child:

In addition to denying children their right to education and health, statelessness also threatened the freedom of many to feel secure, to play, to explore – to simply be children. Labelled as outsiders in what they saw as their own country, many had to deal with discrimination from an early age. Some had already lived through experiences that had forced them to grow up far too quickly, such as working from a young age, living in insecure housing arrangements or suffering harassment by the authorities. In more extreme cases, stateless girls and boys were vulnerable to exploitation and abuse.

Employment:

Left unresolved, statelessness created new and insurmountable roadblocks for many of the young people moving from adolescence to adulthood. The single most-cited frustration of the young stateless women and men consulted for this report was the lack of jobs that matched their abilities, ambitions and potential. Barriers to education and freedom of movement played a major role in limiting job opportunities and denied many the chance to break previous cycles of poverty and marginalization – the impacts of statelessness being passed from one generation to the next. All the young stateless adults consulted had settled for a life that allowed them to meet their basic needs but fell far short of the future they had imagined for themselves.

See UNHCR, *I Am Here I Belong, The Urgent Need to End Childhood Statelessness*, November 2015, available at: http://www.unhcr.org/ibelong/wp-content/uploads/2015-10-StatelessReport_ENG16.pdf

V. Identification, prevention, and reduction of statelessness

Standards of treatment for stateless persons

Under international human rights law, States assume obligations and duties to respect, protect and fulfil human rights. In seeking adequate protection for stateless persons in particular, adequate legislation and good administrative practices should be in place. The 1954 Convention remains the only international treaty aimed specifically at regulating the standards of treatment for stateless persons.¹⁰³ The Convention, therefore, is of critical importance in ensuring the protection of this vulnerable group.

Articles 12 to 32 of the 1954 Convention establish a broad range of civil, economic, social and cultural rights for States to accord to stateless persons. The 1954 Convention divides these rights into the following categories:

- juridical status (including personal status, property rights, right of association, and access to courts);
- gainful employment (including wage-earning employment, self-employment, and access to the liberal professions);
- welfare (including rationing, housing, public education, public relief, labour legislation, and social security); and
- administrative measures (including administrative assistance, freedom of movement, identity papers, travel documents, fiscal charges, transfer of assets, expulsion, and naturalization).

International human rights law supplements the protection regime set out in the 1954 Convention.¹⁰⁴ While a number of provisions of international human rights law replicate the rights found in the 1954 Convention, others provide for a higher standard of treatment or for rights not found in the Convention at all. Of particular importance to stateless persons is the right enshrined in Article 12(4) of the ICCPR to enter one's "own country". This goes beyond a right of entry to one's country of nationality. It also guarantees the right of entry, and thus the right to remain, of individuals with special ties to a State. This includes, for instance, stateless persons who are long-established in a State as well as stateless persons who have been stripped of their nationality in violation of international law, or who have been denied the nationality of a State that has acquired through State succession the territory in which they habitually reside.

V. Identification, prevention, and reduction of statelessness

Recognition of statelessness as a result of a statelessness determination procedure plays an important role in enhancing respect for the human rights of stateless persons, particularly through access to a secure legal status and enjoyment of rights afforded to stateless persons under the 1954 Convention.¹⁰⁵ However, these rights are not limited to individuals who have been recognized as stateless following a determination made by a State or UNHCR. Instead, the rights afforded to an individual under the Convention are linked to the nature of that person's presence in the State, assessed in terms of the degree of attachment to the host country.¹⁰⁶

Currently, all States with statelessness determination procedures grant residence rights to recognized stateless persons, though some deny this right if the person is considered to be a danger to national security or public order, or if the person is admissible to another country.¹⁰⁷ To be consistent with the standards set out in the 1954 Convention, the granting of a residence permit to a stateless person should be accompanied by the right to work, access to health care and social assistance, and the issuance of identity papers and a travel document. Next to granting residence rights, it is also recommended that States facilitate, to the extent possible, the naturalization of stateless persons.¹⁰⁸

States should promote access by stateless persons to administrative and judicial remedies, including through legal counselling programmes. As statelessness is often a result of discrimination, efforts to promote economic and social integration may also be necessary in the development of solutions. In 2006, the UNHCR Executive Committee encouraged States, “*to consider measures to allow the integration of persons in situations of protracted statelessness, through developing programmes in the field of education, housing, access to health and income generation, in partnership with relevant United Nations agencies.*”¹⁰⁹

The 2014 *UNHCR Handbook on Protection of Stateless Persons* provides comprehensive guidance for government officials, judges and practitioners and a valuable resource for both statelessness determination and the development and implementation of law and policies relating to the protection of stateless persons.



VI. Advocacy and partnerships

Identifying key stakeholders and raising awareness among them are often the first steps necessary to address statelessness. Sharing available knowledge and drawing attention to existing gaps is important to increase understanding, which in turn serves as a basis for developing strategies to address the problem. To ensure that the plight of stateless people is understood and their voices are heard, it is not only necessary to raise awareness but also to undertake sustained advocacy and strengthen partnerships among key stakeholders.

State institutions such as legislative bodies, ministries, local authorities, the judiciary, and national human rights institutions play a key role in addressing statelessness, and their involvement is of paramount importance. Although there is sometimes an overlap, the authorities dealing with nationality and statelessness may not be the same as those responsible for national minorities, forced displacement issues or migration. Effective responses may, therefore, require developing new government partnerships. Outreach activities with the concerned populations, including with a view to gathering evidence that feeds into targeted awareness-raising campaigns and advocacy, is often most effectively conducted by local grass-roots and community-based groups who are familiar with the stateless or at risk populations and the local context.

The following sections provide information on existing partnerships among key stakeholders and their roles in addressing statelessness. Concrete activities and examples of the joint engagement of diverse actors from within OSCE participating States will be shown.

Left page: **Montenegro. Limbo of statelessness:** The Feta family fled Kosovo in 1999. Six out of their eight children were born outside the health system. With the new amendments to the Law on Non-Contentious Proceedings, the births of all their children have finally been registered. © UNHCR/Miomir Laban

Civil society engagement

Successful responses in the past have frequently hinged on the full engagement of a range of civil society actors, in particular national NGOs, as they usually have best access to the individuals or populations concerned. Civil society networks that co-ordinate action to address statelessness at a regional level are emerging in all parts of the world, including in the OSCE area.

The *Global Campaign for Equal Nationality Rights* mobilizes international action to reform the laws in the 27 countries that prevent the nationality of mothers from being conferred on their children on an equal basis with fathers, and to reform the laws in the 50+ countries which deny women equal nationality rights with men, including conferral of nationality to non-national spouses. Campaign coalition members include local, regional and international NGOs, academics, civil society partners, UN agencies, and government allies across the globe.¹¹⁰

The *Equal Rights Trust*, working in over 40 countries, approaches statelessness from an equality and non-discrimination perspective.¹¹¹ The *Institute on Statelessness and Inclusion* is an independent non-profit organization committed to promoting the human rights of stateless persons and fostering inclusion. Among others, it brings issues relating to children's right to a nationality to the attention of the Committee on the Rights of the Child.¹¹²

In Europe, the *European Network on Statelessness* (ENS), comprised of non-governmental organizations, academic initiatives, and individual experts, conducts and supports legal and policy development, awareness-raising and capacity building activities.¹¹³ The *European Roma Rights Centre* works specifically on issues related to the access of Roma to citizenship and personal documents in Europe.¹¹⁴

The *Americas Network on Nationality and Statelessness* is a regional network of civil society organizations, academic initiatives, and individual experts committed to addressing statelessness in the Americas.¹¹⁵ The *Open Society Foundations* promote legislative reform, undertake litigation and advocacy on standard-setting, and publish reports on equality and citizenship.¹¹⁶

Central Asia is joining a growing number of regions with civil society networks dedicated to addressing statelessness, including those in Africa, the Americas, Asia, and Europe.¹¹⁷ In June 2016, participants from 10 NGOs

working in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan signed a Memorandum of Understanding to establish the *Central Asia Civil Society Network on Statelessness*.¹¹⁸

Good practice: Bringing the main stakeholders together to discuss the Situation of Roma and Related Groups in the South Caucasus and Central Asia

On 18 May 2016, the OSCE/ODIHR Contact Point for Roma and Sinti Issues organized an international consultation meeting on “The Situation of Roma and Related Groups in the South Caucasus and Central Asia Regions: Experiences and Way Forward” in Tbilisi, Georgia.

The event gathered 33 participants, including Roma and Mugat activists from Georgia, Kazakhstan and Kyrgyzstan, civil society activists supporting Roma and related communities, and scholars from Armenia, Azerbaijan, Uzbekistan, Tajikistan, as well as international experts. Representatives of UNHCR, ODIHR, HCNM, field operations from Armenia, Tajikistan and Uzbekistan, as well as the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings contributed to the work of the meeting.

The event provided a platform for exchange about the main issues faced by Roma and related groups in the South Caucasus and Central Asia, and ways to improve their situations. The consultation meeting looked into socio-economic integration and **civil registration issues**, as well as the situation of women within those communities. In both regions, lack of access to documents for community members and a worsening of the socio-economic situation since the breakup of the Soviet Union were highlighted as issues.

One of the main recommendations was to intensify targeted efforts to ensure **access to civil registration and identity documents to prevent**

VI. Advocacy and partnerships

and reduce statelessness, as well as access to healthcare, education, state protection, employment and adequate housing. Moreover, for the Roma civil society participants, it was their first opportunity to network with community representatives facing similar situations in their and other regions.

See OSCE/ODIHR Contact Point for Roma and Sinti Issues, “*Summary Report. Consultation Meeting ‘The Situation of Roma and Related Groups in the South Caucasus and Central Asia Regions: Experiences and Way Forward’*” (unpublished document).

Statelessness as a key priority for the UN system

Issues of statelessness are characterized by political and technical complexity, and relate to the mandates of several UN agencies in different ways. The *2011 Guidance Note of the Secretary-General: The United Nations and Statelessness* affirms that all UN entities must increase their efforts to address statelessness system-wide. The UN should tackle both the causes and consequences of statelessness as a key priority within its broader efforts to strengthen the rule of law.¹¹⁹

In June 2016, a number of UN agencies and sister agencies, including OHCHR, the United Nations Development Programme (UNDP), the UN Development Operations Coordination Office, the World Health Organization, the World Food Programme, UN Women, and the World Bank, participated in a *New Frontiers Dialogue on Statelessness* co-chaired by UNHCR and UNICEF in New York. Participants reaffirmed the role that different agencies have to play in working to eradicate statelessness in line with the Secretary-General’s 2011 Guidance Note. The Dialogue identified areas for enhanced capacity-building of UN Country Teams to support work on statelessness, and agreed on elements for an action plan.¹²⁰

Co-operation and co-ordination under the *Common Country Assessment (CCA)*, the *UN Development Assistance Framework (UNDAF)*¹²¹ and *Delivering as One* initiatives are relevant to these efforts as statelessness is also a development issue. These mechanisms should be utilized when addressing statelessness, particularly in the fields of non-discrimination and inclusion of stateless populations in development programmes, legal reform, and citizenship and documentation campaigns.

The *Sustainable Development Goals (SDGs)* generally provide important opportunities for partnerships with development actors to address the root causes of statelessness and to advocate for inclusion of stateless persons in development planning. The overarching aim of the 2030 Agenda “to reach the furthest behind first” and “leave no one behind” clearly applies to those who experience the many negative consequences of not being recognized as citizens of any country. There are also specific SDGs that will help prevent and reduce statelessness itself, provided they are implemented properly. These include SDG 5.1, which relates to the elimination of gender discrimination, and SDG 16.9, which calls upon States to provide legal identity for all, including birth registration. UNHCR is partnering with the World Bank’s *Identification for Development Initiative (ID4D)*,¹²² launched in 2014, to draw attention to the importance of SDG 16.9. With respect to the attainment of gender equality, UNHCR and UN Women maintain a partnership dedicated to the removal of gender discrimination from nationality laws.

At the field level in emergency and post-conflict situations, UN organizations, such as UNHCR, OHCHR, UNICEF, UNFPA, UNDP, and UN peace-keeping missions, have been working closely together on statelessness issues in a number of contexts. The mandates and expertise of these agencies and missions often intersect with UNHCR’s specific statelessness mandate. UNHCR and OHCHR have strengthened their partnership, including by engaging with national human rights institutions and ensuring more effective use of human rights mechanisms to address statelessness.

UNICEF and UNHCR have undertaken large-scale awareness-raising campaigns and civil birth registration actions for children born in situations of forced displacement.¹²³ Together, UNHCR and UNICEF also launched a new *Coalition to Ensure Every Child’s Right to a Nationality* in December 2016.¹²⁴ The Coalition includes a number of other international organizations and civil society groups and will focus on joint advocacy efforts and programmatic activities. In 2011, UNHCR and Plan International¹²⁵ signed a co-operation agreement to strengthen their partnership as an important step in realizing the right of children to be registered at birth, their right to an identity, and the prevention of child statelessness. Plan International is also a member of the Coalition co-led by UNICEF and UNHCR.

VI. Advocacy and partnerships

Wherever statelessness is linked to migration as a cause or a consequence, the International Organization for Migration (IOM) may be a potential partner. In 2014, delegates at the *International Conference on Migration and Statelessness*, co-organized by UNHCR, IOM and the Government of Turkmenistan in Ashgabat, emphasized the need to undertake targeted actions, including legal reforms and greater regional co-operation, to tackle pressing challenges in the areas of migration and statelessness in Central Asia.¹²⁶ Prevention of and assistance to victims of trafficking and smuggling as well as return of stateless migrants are other areas where statelessness may be addressed along with IOM.

Engaging with UN agencies in the area of statelessness and nationality may also be enhanced through the Rule of Law Coordination and Resource Group, which brings together a number of UN actors at Headquarters level.¹²⁷ The Resource Group has already provided UN system-wide guidance on constitution-making¹²⁸, which can include advice on rules of acquisition and loss of nationality, and serves as a means of sharing information and good practices.

Good practice: On-going efforts in the former Yugoslav Republic of Macedonia – collaborating with civil society actors to reach out to affected populations

The Government of the former Yugoslav Republic of Macedonia acknowledged that a number of persons who remained in the country after the dissolution of the former Yugoslavia lacked citizenship. Between March 2004 and December 2012, after the Law on Citizenship was amended to include the transitional provision for **facilitated access to naturalization**, a total of 5,056 long-term habitual residents were naturalized.

Despite these efforts, many Roma are still trapped in a cycle in which one generation's lack of documentation creates obstacles for the registration of the next. In 2011, the Ministry of Labour and Social Policy and the Ministry of the Interior, in co-operation with the Directorate for Keeping the Personal Identification Registry within the Ministry of Justice, began using

mobile teams to identify and assist people not listed in personal registries. The mobile teams comprise a wide range of stakeholders, including regional offices of the Ministry of the Interior, the Ministry of Justice's Directorate, local centres for social work, Roma Information Centres and Roma NGOs.

In addition, the Ministry of Labour and Social Policy and the Macedonian Young Lawyers Association (MYLA, an NGO providing legal aid) signed a Memorandum of Understanding in February 2012 formalizing their co-operation through the Roma Information Centres. Because the Roma Information Centres have direct contact with people of concern, more new cases are identified, more people are able to access legal assistance, and overlaps between the various stakeholders providing assistance can be avoided.

In June 2014, the Government adopted **21 conclusions** relating to activities and proposed measures for resolving problems of unregistered births. In the conclusions, the Government provides instructions to each Ministry to undertake specific measures to address this issue. The proposed measures were submitted to the Government by the Ministry of Labour and Social Policy as chair of the working group on undocumented persons where UNHCR and its legal partner MYLA actively participate.

See HCNM-European Commission-UNHCR commissioned Report on *Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, 2013, Report based on research by Stephanie Woldenberg, available at: <http://www.refworld.org/docid/5280c5ab4.html>, and UNHCR, *Submission for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: The former Yugoslav Republic of Macedonia*, June 2013, available at: <http://www.refworld.org/pdfid/51c945134.pdf>

Bolstering partnerships: recent initiatives by other international and regional organizations

In November 2015, the Inter-Parliamentary Union (IPU), the Parliament of South Africa and UNHCR co-organized the conference *Ensuring Everyone's Right to Nationality: The Role of Parliaments in Preventing and Ending Statelessness* in Cape Town, South Africa¹²⁹. Almost 100 Members of Par-

VI. Advocacy and partnerships

liament from 39 countries, including OSCE participating States, participated and adopted an outcome document featuring a 7 point Plan of Action. The conference also draw attention to the UNHCR/IPU publication *Nationality and Statelessness: A Handbook for Parliamentarians*¹³⁰ which aims to raise awareness and build the capacity of parliamentarians to address statelessness.¹³¹ It provides practical information on contemporary statelessness issues, developments in international legal doctrine, good practice examples and possible solutions. It also suggests practical steps that can be taken by parliamentarians to address statelessness. Thus far, the Handbook is available in 23 languages, including all official UN languages, and it has served as a useful tool to broach the issue of statelessness at the national level in several countries.

At its 46th Regular Session in June 2016, the General Assembly of the Organization of American States adopted a resolution promoting civil registration, accession to the Statelessness Conventions, compliance with international standards, establishment of statelessness determination procedures, elimination of gender discrimination from nationality laws, and the resolution of existing cases of statelessness.

2015 to 2024 was declared to be the *Asian and Pacific Civil Registration and Vital Statistics (CRVS) Decade* at the *Ministerial Conference on CRVS in Asia and the Pacific*, held in November 2014 in Bangkok. At that meeting, governments, including those from several OSCE participating States, adopted the *Ministerial Declaration to “Get Every One in the Picture” in Asia and the Pacific*, and made a commitment to focus their efforts to improve CRVS systems.¹³²

Within the Council of Europe, both independent human rights bodies, such as its Commissioner for Human Rights, and political bodies, such as the Parliamentary Assembly and its Committee of Ministers, have all engaged in efforts to reduce statelessness. This takes place through country reports¹³³, resolutions and recommendations¹³⁴ and through engagement in related fields, such as the situation of Roma or other ethnic minorities¹³⁵. In March 2016, the Parliamentary Assembly of the Council of Europe adopted *Resolution 2099 (2016) on the need to eradicate statelessness of children*. The Resolution sets out a number of steps to be taken by Council of Europe Member States to eradicate childhood statelessness, including accession

to the UN Statelessness Conventions; the introduction or improvement of existing statelessness determination procedures; and support to the *Global Action Plan to End Statelessness*.¹³⁶

The EU institutions are working to reduce statelessness in and outside the EU in various ways and at various levels. In 2014, the European Parliament's Subcommittee on Human Rights (DROI) published a study on statelessness in the EU's external relations.¹³⁷ In 2015, the Committee on Civil Liberties, Justice and Home Affairs commissioned a study on *Practices and Approaches in EU Member States to Prevent and End Statelessness*.¹³⁸ The Council of the European Union adopted Conclusions on statelessness for the first time in December 2015.¹³⁹ In the Conclusions, the Council recognizes the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness, and invites the Commission to exchange good practices among Member States, using the European Migration Network as a platform. The development and implementation, upon the initiative of the European Commission, of *National Roma Integration Strategies in the EU Member States*, provides a further opportunity to include and address statelessness-related concerns, especially in countries with large undocumented Roma communities.¹⁴⁰

The European Union has also identified statelessness as an area of engagement in its external action on human rights¹⁴¹. This includes the intention to address statelessness with third countries as formulated in the *EU Action Plan for Human Rights and Democracy 2015-2019*¹⁴². This can be done, for example, through the accession process to the EU, which provides an opportunity to raise Roma rights and civil registration with South-Eastern European countries, as well as through the EU human rights dialogues with countries in Central Asia, where statelessness has been put on the agenda.

Joint OSCE-UNHCR efforts to tackle statelessness in the OSCE area

In addition to some of the good practice examples presented throughout this guide, the OSCE and UNHCR have jointly raised awareness and assisted governments to prevent and reduce statelessness, in particular in Central Asia, South Eastern Europe, and lately also in Ukraine and the South Caucasus. For example, in 2009, UNHCR initiated a regional process with Central Asian governments, which included a series of national roundtables and culminated in a *Regional Conference on Prevention and Reduction of Statelessness and Protection of Stateless Persons in Central Asia*¹⁴³ organized jointly with the OSCE and the Government of Turkmenistan (Ashgabat, 9-10 December 2009). Among the goals of the Conference was the sharing of good practices related to the identification of stateless persons and solutions to statelessness, including legislative reform to bring nationality laws in to line with international standards and thereby prevent new cases of statelessness. The Conference resulted in a set of recommendations on how to identify, prevent, and reduce statelessness and how to protect those affected by it.

A joint OSCE-UNHCR human rights co-ordination meeting on the topic of statelessness took place in Shaartuz, Tajikistan, in October 2016. This joint OSCE-UNHCR event brought together representatives of local passport offices, law enforcement agencies, *jamoat* as well as civil society organizations from the six regions of Tajikistan. The event marked the first of a series of activities planned to support efforts in the areas of refugee protection and statelessness, and to raise awareness on these topics among both governmental and non-governmental actors. This co-ordination meeting was a part of a wider range of meetings on human rights, organized by the OSCE Office in Tajikistan.

In South-Eastern Europe, thousands of people – many of whom belong to the Roma, Ashkali and Egyptian minorities – are stateless or of undetermined nationality. UNHCR, the HCNM, the ODIHR Contact Point on Roma and Sinti Issues, OSCE field operations in the region and the European Commission continue to work closely in assisting governments to resolve civil registration and nationality determination issues. The targeted

initiatives include advocacy campaigns to raise awareness; the establishment of a technical working group comprising representatives of central and local authorities, civil society and international actors to devise and coordinate activities; changes to the legal framework; and proactive outreach to affected communities.

Joint collaboration of the HCNM, UNHCR, and the European Commission: The Zagreb Declaration on the Provision of Civil Status and Registration in South-Eastern Europe

In 2011, government representatives of Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia, and the former Yugoslav Republic of Macedonia adopted the Zagreb Declaration at the *Conference on the Provision of Civil Status Documentation and Registration in South-Eastern Europe*. The Declaration encourages States to tackle the long-term problem of undocumented persons and causes of statelessness in the region by improving the provision of civil documentation to Roma communities through both national and regional collaborative efforts.

Specifically, the Zagreb Declaration recommends legislative amendments to facilitate birth and subsequent registration, waiving fees for issuing documentation, establishing national co-ordination mechanisms, strengthening co-operation between stakeholders at all levels, actively involving Roma and other minority groups, and enhancing bilateral co-operation to facilitate the exchange of information.

Two years after the Zagreb Declaration was adopted, the participants, along with the Co-Chairs – UNHCR, the European Commission, and the HCNM – took stock of the progress made in addressing civil status documentation and registration at the *Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe* (Podgorica, 25 October 2013).¹⁴⁴ Positive initiatives in the region were highlighted in the Co-Chair Conclusions¹⁴⁵, these included the following legislative and administrative developments:

- laws had been amended to facilitate civil registration, including subsequent registration, as well as regularization of residence (for example for persons living in informal settlements);

VI. Advocacy and partnerships

- fees had been reduced;
- expiry dates on documents had been removed;
- residence had been registered even if not formal;
- co-operation between stakeholders had been established between government institutions, civil society organizations and UNHCR; and
- cases of successful civil registration had been reported thanks to legal aid provided by civil society organizations.

These steps contributed to undocumented and stateless persons acquiring or confirming nationality. Good practices were also identified as part of regional projects in South-Eastern Europe, including ODIHR's Project on *Best Practices for Roma Integration*. However, the lack of systemic solutions and a comprehensive approach to addressing the issue of civil registration, documentation, and statelessness as well as inconsistent implementation of existing laws were noted as persistent challenges.¹⁴⁶ The legal and administrative frameworks in the region remained excessively complex. Among others, the Co-Chairs remained concerned that undocumented people were often required to cross borders to retrieve documents from the country they had left, which further complicated their access to identity documents.

The Conclusions were communicated to all participants with a suggested time-frame for measures to be taken. Progress would be reviewed in the context of the country-specific *Social Inclusion Seminars on Roma Issues* held between the European Commission and EU candidate and potential candidate countries.

In April 2014, as follow-up to the stock-taking exercise, joint letters by the European Commission, the HCNM and UNHCR were addressed to the governments concerned with country-specific recommendations and requests to provide detailed information based on a concrete list of questions. These questions pertained to the legal framework for the provision of civil status documentation and/ or nationality; the establishment of a national co-ordination mechanism; administrative procedures; identification of the population; and planned measures and initiatives to enhance access to civil registration and documentation.

Finally, another recent example of good inter-institutional co-operation between the OSCE and UNHCR – co-facilitation of the regional inter-institutional process on *Durable Solutions for Displaced Persons from Kosovo* – is presented in the following good practice example.

Good practice: OSCE-UNHCR co-facilitate regional inter-institutional process on Durable Solutions for Displaced Persons from Kosovo

In November 2014, the OSCE Mission in Kosovo organized the **Skopje High-level Conference on Durable Solutions for Displaced Persons from Kosovo**. This resulted in a *Joint Communiqué* in which the institutions in Pristina as well as authorities in Montenegro, the former Yugoslav Republic of Macedonia and Serbia agreed to co-operate to address the needs of persons displaced from Kosovo, including by convening a technical working group and high-level fora.

Following the process's initiation, UNHCR offices in Belgrade, Pristina, Skopje and Podgorica developed a mapping tool and completed an assessment of available information on the displaced population from/in Kosovo, with the aim of advising institutions about the regional initiative. An analysis of the mapping assessment highlighted that **civil registration and personal documentation** was among the areas that should be prioritized for action by governments at the local and/or regional level.

In July and September 2015, the **Technical Working Group for Durable Solutions for Displaced Persons from Kosovo** (led and facilitated by UNHCR) discussed the joint concept for the process and identified priority topics. Among the set of practical measures endorsed by the High-Level Forum in September 2015 were the following proposals on personal documentation:

- Waive fees for late birth registration in Kosovo and for birth registration that occurred during displacement; and for processing

VI. Advocacy and partnerships

and issuing personal documentation for displaced persons, including any related civil status registration court fees.

- Introduce flexible measures to facilitate the resolution of complex situations for late birth registrations affecting children born displaced with the aim of preventing the risk of statelessness and enabling post return integration and/ or access to rights in displacement.
- Explore modalities for overcoming obstacles to the administrative acceptance of displaced persons' documentation for specific purposes, for example, travel for Go-and-See Visits, resolving problems of late birth registration and re-registration.
- Adopt proactive and collaborative joint approaches to the issuance of documentation.
- Designate focal points to support access to documents, including in relevant language.

In the context of the regional co-operation process, institutional stakeholders were encouraged to review and update the existing local strategies relevant to durable solutions for persons displaced from Kosovo, and to develop local action plans on durable solutions. Between January and September 2016, the OSCE Mission in Kosovo, UNHCR and other OSCE field operations in the region continued to promote the regional initiative by organizing five Technical Working Group meetings and another High-Level Forum that took place in Belgrade in June 2016. Following the agreement reached at the Forum by Pristina, Belgrade, Skopje and Podgorica on the adoption of action point documents, the initiative has reached the state of implementation.

See *Joint Communiqué from the High-Level Conference on Durable Solutions for Displaced Persons from Kosovo*, Skopje, 27-28 November 2014, available at: <http://www.osce.org/kosovo/129376>, <http://www.osce.org/kosovo/179441>, and unpublished documents.

Next page: **Serbia.** In the Veliki Rit neighbourhood in Novi Sad, many people lack the identity papers vital for obtaining civil status and rights. © Council of Europe/Sandro Weltin





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- 1 OSCE-UNHCR, *Protection Checklist Addressing Displacement and Protection of Displaced Populations and Affected Communities along the Conflict Cycle: A Collaborative Approach*, 2014, available at: <http://www.osce.org/cpc/111464>
- 2 Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons.
- 3 As of August 2016, the 57 OSCE participating States are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Mongolia, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, and Uzbekistan.
- 4 Over the years, the OSCE has developed special relations with six Mediterranean Partners for Co-operation: Algeria, Egypt, Israel, Jordan, Morocco and Tunisia, and five Asian Partners for Co-operation: Afghanistan, Australia, Japan, the Republic of Korea, and Thailand.
- 5 *UNHCR Global Trends; Forced Displacement in 2015*, June 2016, Annex Table 1, available at: <http://www.unhcr.org/576408cd7.pdf>
- 6 *UNHCR Global Trends; Forced Displacement in 2015*, June 2016, Annex Table 1, available at: <http://www.unhcr.org/576408cd7.pdf>. For persons under UNHCR's Statelessness Mandate see Table 7 of the Annex: <http://www.unhcr.org/global-trends/2015-GlobalTrends-annex-tables.zip>.
- 7 The International Law Commission has concluded that this definition is part of customary international law. See International Law Commission, *Draft Articles on Diplomatic Protection with commentaries*, 2006, pg. 49, available at: <http://www.refworld.org/docid/525e7929d.html>
- 8 See footnote 4, UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>
- 9 Paragraph 3 of the 1954 Convention's Final Act was drafted specifically to address the position of the *de facto* stateless. This recommendation requests that the benefits of the Convention be extended to individuals whom States consider to have had valid reasons for renouncing the protection of their State of nationality. As for the Final Act of the 1961 Convention, while it does not define *de facto* statelessness, it recommends that such persons benefit from the provisions of the 1961 Convention so as to obtain an "effective nationality".

Notes

10 On *de facto* statelessness see, for example, Section II.A. of UNHCR, *Expert Meeting – The Concept of Stateless Persons under International Law* (“Prato Conclusions”), May 2010, available at <http://www.refworld.org/docid/4ca1ae002.html>: (1) *De facto* statelessness has traditionally been linked to the notion of effective nationality and some participants were of the view that a person’s nationality could be ineffective inside as well as outside his or her country of nationality. Accordingly, a person could be *de facto* stateless even inside his or her country of nationality. However, there was broad support from other participants for an approach that defines a *de facto* stateless person on the basis of one the principal functions of nationality in international law: the provision of protection by a State to its nationals abroad.

11 See UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2016*, 8 March 2016, available at: <http://www.refworld.org/docid/56de83ca4.html>

12 All unaccompanied and separated children are to have access to a procedure to determine their best interests. The outcome of a statelessness determination procedure, as with the result of a refugee status determination, forms part of best interest determination. With regard to refugee status determination procedures and best interest determinations, please see UNHCR, *Guidelines on Determining the Best Interests of the Child*, May 2008, available at: <http://www.refworld.org/docid/48480c342.html>. Further information can also be found in: UNHCR/UNICEF, *Safe & Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, available at: <http://www.refworld.org/docid/5423da264.html>

13 See UNHCR *Age, Gender and Diversity Policy: Working with people and communities for equality and protection*, 1 June 2011, available at: <http://www.unhcr.org/protection/women/4e7757449/unhcr-age-gender-diversity-policy-working-people-communities-equality-protection.html>

14 The 2006 UN Convention on the Rights of Persons with Disabilities recognizes that “*disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*”, Preamble, paragraph (e).

15 See UNGA resolutions 3274 (XXIX) of 9 December 1974 and A/RES/31/36 of 20 November 1976 on the *Question of the establishment, in accordance with the convention on the reduction of statelessness, of a body to which persons claiming the benefit of the Convention may apply*.

16 See UNGA resolutions A/RES/49/169 of 23 December 1994 and A/RES/50/152 of 21 December 1995. The latter endorses UNHCR Executive Committee Conclusion No. 78 (XLVI) – 1995.

17 See UNGA resolution A/RES/61/137 of 19 December 2006.

- 18 See UNHCR, *How UNHCR Helps Stateless People*, available at: <http://www.unhcr.org/how-unhcr-helps-stateless-people.html>
- 19 UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>
- 20 For regular updates and further information see the Campaign's website <http://www.unhcr.org/ibelong/>
- 21 Conference for Security and Co-operation in Europe, 1992 Summit Helsinki, *CSCE Helsinki Document*, available at: <http://www.osce.org/mc/39530>
- 22 *Charter For European Security*, Istanbul, 1999, available at: <http://www.osce.org/mc/17502>
- 23 OSCE/ODIHR, *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, 2003, available at: <http://www.osce.org/odihr/17554>
- 24 OSCE Ministerial Council Decision No. 10/07 on *Tolerance And Non-Discrimination: Promoting Mutual Respect And Understanding*, Madrid, 2007, available at: <http://www.osce.org/mc/29452>
- 25 OSCE/HCNM, *Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations*, 2008, available at: <http://www.osce.org/hcnm/33633>
- 26 OSCE/HCNM, *Ljubljana Guidelines on Integration of Diverse Societies*, 2012, available at: <http://www.osce.org/hcnm/96883>
- 27 OSCE/ODIHR, *Guidelines on Population Registration*, 2009, available at: <http://www.osce.org/odihr/39496>
- 28 See OSCE *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, available at: <http://www.osce.org/odihr/17554>
- 29 Ibid, pg. 20.
- 30 Ibid, pg. 24.
- 31 The ODIHR Contact Point held meetings in 2008 (Vienna), in 2009 (in Pristina) and in 2010 (in Belgrade) to find sustainable solutions for displaced Roma, Ashkali and Egyptians, and policies to improve the reintegration of repatriated Roma. For further information see ODIHR, Report of the OSCE-ODIHR Roundtable organized in co-operation with the Serbian Ministry of Human and Minority Rights, Belgrade, 16 April 2010, available at: <http://www.osce.org/odihr/75578>
- 32 See Council of Europe, *Framework Convention for the Protection of National Minorities*, Strasbourg, 1995, available at: https://www.coe.int/t/dghl/monitoring/minorities/1_atglance/PDF_H%2895%2910_FCNM_ExplanReport_en.pdf

Notes

- 33 Statement by Knut Vollebaek, OSCE High Commissioner on National Minorities, to the 888th Plenary Meeting of the OSCE Permanent Council, Vienna, Austria. 17 November 2011, available at: <http://www.osce.org/hcnm/85212>
- 34 See *Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations*, 2008, available at: <http://www.osce.org/hcnm/33633>
- 35 See *Ljubljana Guidelines on Integration of Diverse Societies*, 2012, available at: <http://www.osce.org/hcnm/96883>
- 36 See 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*, 2012, available at: <http://www.unhcr.org/5465c9ff9.pdf>
- 37 Article 10 of the 1961 Convention is complemented by the International Law Commission's *Draft Articles on the Nationality of Natural Persons in Relation to the Succession of States*, 1999, available at: <http://www.refworld.org/pdfid/4512b6dd4.pdf>
- 38 As of 23 October 2016, there were 89 State Parties to the 1954 Convention and 68 State Parties to the 1961 Convention. In contrast, the Convention on the Rights of the Child, which recognizes the right of every child to acquire a nationality, had 193 State Parties. However, virtually all States are party to more than one human rights treaty that is of relevance to the right to a nationality.
- 39 UN Human Rights Council, *Human rights and arbitrary deprivation of nationality: report of the Secretary-General*, 14 December 2009, A/HRC/13/34, available at: <http://www.unhcr.org/refworld/docid/4b83a9cb2.html>
- 40 UN Human Rights Council, *The right to a nationality: women's equal nationality rights in law and in practice*, 28 June 2016, A/HRC/32/L.12, available at: <https://documents.un.org/prod/ods.nsf/home.xsp>
- 41 UN Human Rights Council, *Human rights and arbitrary deprivation of nationality: resolution / adopted by the Human Rights Council*, 15 July 2016, A/HRC/RES/32/5, available at: <http://www.refworld.org/docid/57e3dc204.html>
- 42 *1997 European Convention on Nationality*, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f2c8>
- 43 *2006 Convention on the Avoidance of Statelessness in Relation to State Succession*, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680083747>
- 44 *1969 American Convention on Human Rights*, available at: <http://www.refworld.org/docid/3ae6b36510.html>
- 45 *1995 Commonwealth of Independent States Convention on Human Rights and*

Fundamental Freedoms, available at: <http://www.refworld.org/docid/49997ae32c.html>

46 1993 *Commonwealth of Independent States Convention on Legal Aid and Legal Relations in Civil Family and Criminal Cases*, available at: <http://www.unhcr.org/protection/migration/4de4edc69/convention-legal-aid-legal-relations-civil-family-criminal-cases-adopted.html>

47 However, the Covenant has yet to be ratified by the requisite number of OIC Member States to bring it into effect.

48 Conference for Security and Co-operation in Europe, 1992 Summit Helsinki, *CSCOE Helsinki Document*, available at: <http://www.osce.org/mc/39530>

49 See *Charter For European Security*, Istanbul, 1999, available at: <http://www.osce.org/mc/17502>

50 OSCE/ODIHR, *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, 2003, available at: <http://www.osce.org/odihr/17554>

51 See OSCE Ministerial Council Decision No. 10/07 on *Tolerance And Non-Discrimination: Promoting Mutual Respect And Understanding*, Madrid, 2007, available at: <http://www.osce.org/mc/29452>

52 See *Bolzano/ Bozen Recommendations on National Minorities in Inter-State Relations*, 2008, available at: <http://www.osce.org/hcnm/33633>

53 See *Ljubljana Guidelines on Integration of Diverse Societies*, 2012, available at: <http://www.osce.org/hcnm/96883>

54 See UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paragraph 57, available at: <http://www.refworld.org/docid/53b676aa4.html>

55 UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paragraph 144, available at: <http://www.refworld.org/docid/53b676aa4.html>

56 The UNHCR publication *Statelessness: An Analytical Framework for Prevention, Reduction and Protection* (2008) provides helpful guidance on the aspects that need to be addressed in identification activities. Available at: <http://www.unhcr.org/refworld/docid/49a28afb2.html>

57 The document reflects on four different scenarios: 1) a large, visible stateless population, 2) a large, hidden stateless population, 3) a small, visible population, and 4) a small, hidden stateless population. See UNHCR, *Guidance document on measuring stateless populations*, Geneva, May 2011, available at: <http://www.refworld.org/pdfid/4f6887672.pdf>

58 Participation in decisions that affect stateless persons is a right of all persons

Notes

of concern and a fundamental element of planning. Mainstreaming age, gender, ethnicity, and diversity considerations requires the meaningful participation of girls, boys, women and men of all ages and backgrounds in the design, implementation, monitoring and evaluation of all policies and operations so that these impact equitably on stateless persons and address all causes of statelessness.

59 A specific tool was used for participatory assessments that informed the 2015 UNHCR report *I am Here, I Belong: The Urgent Need to End Childhood Statelessness*, 3 November 2015, available at: <http://www.refworld.org/docid/563368b34.html>. These assessments were undertaken in seven countries by consulting more than 250 children, young people, their parents and guardians, civil society and governments (see Chapter V). For other examples of participatory assessments and solutions proposed by concerned persons see: UNHCR, *Listening to the voices of refugees and stateless persons in Ukraine: a report on the participatory assessments in the Autonomous Republic of Crimea, Kharkiv and Kyiv: 2010 report*, 2010, available at: <http://www.refworld.org/docid/4edc7d1f2.html>

60 UNHCR Executive Committee, *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) – 2006*, para. (b), available at: <http://www.unhcr.org/excom/exconcl/453497302/conclusion-identification-prevention-reduction-statelessness-protection.html>

61 See paragraphs 635 and 658 in UNECE, *Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing*, New York and Geneva, 2015, available at: http://www.unece.org/fileadmin/DAM/stats/publications/2015/ECE_CES_41_WEB.pdf

62 The United Nations Population Fund (UNFPA) can be a relevant partner for work on population census at the country level. UN Regional Economic Commissions are also important partners as they establish general guidance for States on population censuses. UNHCR has provided guidance to States through the UN Economic Commission for Europe which may be drawn on in other regions as well. See UNHCR, *Measuring Statelessness through Population Census. Note by the Secretary of the United Nations High Commissioner for Refugees*, 13 May 2008, ECE/CES/AC.6/2008/SP/5, available at: <http://www.unhcr.org/refworld/docid/4a705e4b2.html>

63 See UNHCR, *UNHCR Action to Address Statelessness: A Strategy Note*, 2010, page 16, available at: <http://www.refworld.org/docid/4b9e0c3d2.html>

64 UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paragraph 10, available at: <http://www.refworld.org/docid/53b676aa4.html>

65 UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paragraph 109 available at: <http://www.refworld.org/docid/53b676aa4.html>

66 Part Two of the UNHCR *Handbook on Protection of Stateless Persons* outlines a comprehensive list of procedural guarantees to be respected.

- 67 For example Moldova's law explicitly grants the applicant a right to stay during the procedure.
- 68 Only about a dozen States worldwide have established statelessness determination procedures. France has the oldest mechanism, one that has recognized and protected stateless persons since the 1950s. Italy, Hungary, Latvia and Spain followed suit some decades later. Some States have established statelessness determination procedures through legislative or sub-legislative acts, while others do not provide a specific legal basis for the procedure. For an overview of national procedures for determining statelessness see Annex in UNHCR, *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, 11 July 2016, available at: <http://www.refworld.org/docid/57836cff4.html>
- 69 UNHCR, *Pledges 2011: Ministerial Intergovernmental Event on Refugees and Stateless Persons* (Geneva, Palais des Nations, 7-8 December 2011), available at: <http://www.unhcr.org/commemorations/Pledges2011-preview-compilation-analysis.pdf>
- 70 In 2012, Georgia and the Philippines fulfilled their pledges to establish statelessness determination procedures; they were followed by Costa Rica in 2016. Three countries that did not pledge to introduce statelessness determination procedures but did so nonetheless are the United Kingdom in 2013, and Turkey in 2016. Kosovo established a procedure in 2015. Furthermore, in Greece, new asylum legislation was adopted in April 2016, which grants the Asylum Authority the competence to apply the 1954 Convention. It also establishes that a Presidential Decree will regulate the procedures for determining the status of a stateless person.
- 71 The UNHCR document *Statelessness: An Analytical Framework* can be used to identify the full range of causes of statelessness, available at: <http://www.unhcr.org/refworld/docid/49a28afb2.html>
- 72 UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, paras. (i) and (j).
- 73 See UNHCR, *Background Note on Gender Equality, Nationality Laws and Statelessness 2016*, 8 March 2016, available at: <http://www.refworld.org/docid/56de83ca4.html>
- 74 See UNHCR press release “*Unequal treatment of women risks creating statelessness in at least 25 countries*”, Geneva, March 2012, <http://www.unhcr.org/news/press/2012/3/4f58aee79/unequal-treatment-women-risks-creating-statelessness-25-countries.html>
- 75 UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, para. (h).
- 76 See UN Human Rights Council, *Human rights and arbitrary deprivation of nationality. Report of the Secretary-General 19 December 2013*, A/HRC/25/28, pg. 15, available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-28_en.doc

Notes

77 In Central Asia, the problem arises when the parent/parents are undocumented stateless persons and their legal identity is not established. The registry offices cannot fill in very basic information, i.e. name and last name of the parents. Therefore the child is only registered at the hospital but the certificate from the registry office cannot be obtained until the parents are legally identified and documented by the State.

78 This is now a practice in several countries in South-Eastern Europe. In 2013, in Serbia an estimated 8,500 Roma needed assistance in accessing civil registration and acquiring identity documentation. In 2011 and 2012, Serbia adopted legislative amendments to facilitate civil registration. Notably, this included amendments to the Laws “on Non-Contentious Procedure”, “on Permanent and Temporary Residence” and “on Administrative Taxes”. See UNHCR, *Access to Civil Documentation and Registration in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, 11 November 2013, pg. 5, available at: <http://www.refworld.org/docid/5280c5ab4.html>. Another example is Montenegro, which adopted the Amendments to the Law on Non-Contentious Proceedings in 2015, thereby introducing a judicial procedure for late birth registration.

79 See for example OSCE/ODIHR, *Roma Housing and Settlements in South-Eastern Europe. Profile and Achievements in Serbia in a Comparative Framework. Summary and Recommendations*, 2006, available at: <http://www.osce.org/odihr/23336>. In some South-Eastern European countries, these rules were changed and people were allowed to register their residence address as the nearest social welfare office. With an official address, they could acquire IDs. In their *Co-Chair Conclusions of the Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration* (Podgorica, 25 October 2013, available at: <http://www.refworld.org/docid/5285ee494.html>), HCNM, UNHCR and the European Commission noted some positive legislative and administrative developments, as well as practical initiatives in the region since the adoption of the Zagreb Declaration. Among them was also progress in “residence registration, including through the possibility of subsequent registration of habitual residence for a period in the past, or the registration of residence in social welfare offices for persons residing in informal settlements”.

80 Civil registration is primarily carried out for the provision of legal documents and statistical purposes, and is limited to the collection and registration of live births and foetal deaths, marriages, divorces, marriage annulments, judicial separations, adoptions, legal changes of name and recognition of children. Population registration includes some (or all) of the events covered by civil registration, but also includes a wider range of events, such as the establishment of a place of residence and change of address. See OSCE/ODIHR, *Guidelines on Population Registration*, 2009, pg. 7, available at: <http://www.osce.org/odihr/39496>

81 See UN Human Rights Council, *Human rights and arbitrary deprivation of nationality. Report of the Secretary-General 19 December 2013*, A/HRC/25/28, available at: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-28_en.doc

- 82 See UNHCR, *Global Action Plan to End Statelessness: 2014-2024*, November 2014, page 21, available at: <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>
- 83 UNHCR Executive Committee, *Conclusion on civil registration* No. 111 (LXIV) – 2013, 17 October 2013, available at: <http://www.unhcr.org/525fdfef9.pdf>
- 84 OSCE/HCNM, *Zagreb Declaration*, 2011, available at: <http://www.osce.org/hcnm/85249>
- 85 *Co-Chair Conclusions of the Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, Podgorica, 25 October 2013, available at: <http://www.refworld.org/docid/5285ee494.html>
- 86 See UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>
- 87 *Co-Chair Conclusions of the Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, Podgorica, 25 October 2013, available at: <http://www.refworld.org/docid/5285ee494.html>
- 88 *Ibid.*
- 89 See UNHCR, *Global Action Plan to End Statelessness: 2014-2024*, November 2014, page 15, available at: <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>
- 90 UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, para. (k).
- 91 International Law Commission, *Articles on Nationality of Natural Persons in Relation to the Succession of States (With Commentaries)*, 3 April 1999, Supplement No. 10 (A/54/10), available at: <http://www.refworld.org/docid/4512b6dd4.html>
- 92 UN General Assembly Resolution A/Res/50/152 of 21 December 1995.
- 93 See UNHCR, *Global Action Plan to End Statelessness: 2014-2024*, November 2014, page 23, available at: <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>
- 94 UNGA Resolution A/RES/64/127 of 18 December 2009, para. 4.
- 95 UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, para. (n).
- 96 Status as of 24 October 2016, see United Nations Treaty Collection, available at: <https://treaties.un.org>

Notes

97 See UNHCR News, *Tajik Authorities Deliberate Over Accession to the Statelessness Conventions*, Dushanbe, Tajikistan, 15 August 2016, available at: <http://unhcr.kz/eng/news-of-the-region/news/2586/>

98 UNHCR Executive Committee Conclusions No. 99 (LV) – 2004, para. (bb); No. 102 (LVI) – 2005, para. (y); No. 106 (LVII) – 2006, para. (o).

99 Article 6(4) of the Convention stipulates:

“(4) Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons:

[...]

(g) stateless persons and recognised refugees lawfully and habitually resident on its territory.”

100 UNHCR Executive Committee Conclusion No. 107 (LVIII) – 2007, para. (h).

101 See UNHCR, Executive Committee of the High Commissioner’s Programme, *Update on Statelessness*, 3 June 2015, EC/66/SC/CRP.11, available at: <http://www.refworld.org/docid/560506b1b.html>

102 UNHCR, *I Am Here, I Belong: The Urgent Need to End Childhood Statelessness*, 3 November 2015, available at: <http://www.refworld.org/docid/563368b34.html>

103 The responsibility placed on States to respect, protect and fulfil rights under the 1954 Convention is balanced by the obligation in Article 2 of the same treaty that stateless persons abide by the laws of the country in which they find themselves. See paragraph 131 in UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>

104 It also provides an alternate regulatory framework in countries that have not acceded to the 1954 Convention.

105 See paragraphs 3 and 9 in UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>

106 The Convention follows the logic of rights on a gradual, conditional scale: Some provisions are applicable to any individual who satisfies the definition of “stateless person” under the 1954 Convention and are either subject to the jurisdiction of a State party or present in its territory. Other rights, however, are conferred on stateless persons, conditional upon whether an individual is “lawfully in”, “lawfully staying in” or “habitually resident” in the territory of a State party. States may thus grant individuals determined to be stateless more comprehensive rights than those guaranteed to individuals awaiting a determination. Nevertheless, the latter are entitled to many of the 1954 Convention rights. For more information see paragraphs 132-139 in UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>

107 To give some examples: recognized stateless persons in France receive a

renewable residence permit for one year. In Turkey, stateless persons receive a renewable Stateless Person Identification Card entitling them to lawful residence, valid for two years. In the United Kingdom, a stateless person can be granted leave to remain for up to 30 months. A subsequent grant of leave to remain, including for an indefinite period, may also be given as long as certain conditions are met. For more information on this and other aspects of the rights granted to stateless persons see UNHCR, *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, 2016, available at: <http://www.refworld.org/docid/57836cff4.html>

108 UNHCR, *Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons*, 2016, pg. 8, available at: <http://www.refworld.org/docid/57836cff4.html>

109 See UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, para. (p).

110 See <http://equalnationalityrights.org/>

111 See <http://www.equalrightstrust.org/>

112 See <http://www.institutesi.org/>

113 See <http://www.statelessness.eu/>

114 See <http://www.errc.org/index>

115 See <http://www.americasns.org/>

116 See <https://www.opensocietyfoundations.org/>

117 See UNHCR, *Campaign Update July 2016*, available at: <http://www.refworld.org/docid/579a1b554.html>

118 At the time of writing, network members were in the process of developing a webpage.

119 UN, *Guidance Note of the Secretary-General: The United Nations and Statelessness*, June 2011, available at: <https://www.un.org/ruleoflaw/files/FINAL%20Guidance%20Note%20of%20the%20Secretary-General%20on%20the%20United%20Nations%20and%20Statelessness.pdf>

120 UNHCR, *Campaign Update July 2016*, available at: <http://www.refworld.org/docid/579a1b554.html>

121 As part of his 1997 reform agenda to make the UN an effective institution for world peace and development in the 21st century, the UN SG stressed the inter-linkages between peace and security, poverty reduction and sustainable human development and the promotion and respect for human rights. In response to his call for the

Notes

UN to articulate a coherent vision and strategy for a unified approach towards common development goals at the country level, the CCA and the UNDAF were adopted as strategic planning tools for the UN system. See *UN Common Country Assessment and United Nations Development Assistance Framework. Guidelines for UN Country Teams*, October 2003, available at: <http://www.who.int/hdp/publications/5e.pdf>

122 See <http://www.worldbank.org/en/programs/id4d>

123 The risk of unregistered children being left stateless increases when conflict forces them to flee their homes or when they are born in exile. Over 50,000 children have been born to Syrian refugee parents in Jordan, Iraq, Lebanon, Turkey and Egypt since onset of the conflict. Most are entitled to the nationality of Syria but those who remain without civil birth registration may face serious problems proving this later in life. Owing to the conflict, many refugees have lost the identity documents required to register the births of refugee children in the country of asylum. Challenges also arise in registering children born out of wedlock or to parents whose religious marriages have not been formally registered. In Lebanon, UNHCR found that 78% of new births among the Syrian refugees surveyed after their arrival were not registered with the national authorities. Further research is underway to assess the scale of the issue in the other main countries of asylum. UNHCR continues to work with national authorities to simplify the requirements for registration, and to make civil registration of marriages and births more accessible to refugees. It has also undertaken a mass awareness-raising campaign in co-ordination with UNICEF and other partners to explain procedures to refugees, including through brochures and instructional videos shown at help desks, camps and registration points. See UNHCR, *Special Report: Ending Statelessness Within 10 Years*, 2014, available at: <http://www.unhcr.org/546217229.html>

124 See <http://www.unhcr.org/ibelong/unicef-unhcr-coalition-child-right-nationality/>

125 See <https://plan-international.org/>

126 See UNHCR press release, *Ashgabat meeting proposes way forward on migration and statelessness*, 24 June 2014, available at: <http://www.unhcr.org/news/press/2014/6/53a96dbd6/ashgabat-meeting-proposes-way-forward-migration-statelessness.html> and IOM press release, *Statement of Co-Chairs of the International Conference on Migration and Statelessness: identifying challenges and way forward*, available at: <http://www.iom.kz/new/116-conference-on-migration-ashgabat>

127 See the UN Rule of Law website at: <https://www.un.org/ruleoflaw/>

128 *Guidance Note of the Secretary-General: United Nations Assistance to Constitution-making Processes*, available at: <http://www.refworld.org/pdfid/52ca74314.pdf>

129 See <http://www.unhcr.org/ibelong/ipu-conference/>

130 UNHCR and Inter-Parliamentary Union, *Nationality and Statelessness*,

Handbook for Parliamentarians No.22, 2014, available at: <http://www.unhcr.org/53d8ddab6.html>

131 UNHCR Executive Committee Conclusion No. 106 (LVII) – 2006, para. (g).

132 See <http://www.getinthepicture.org/asia-pacific-crvs-decade-2015-2024>

133 See for example the Commissioner's country reports on Hungary, Estonia and the former Yugoslav Republic of Macedonia, all available at: <http://www.coe.int/en/web/commissioner/country-monitoring>

134 See for example, Parliamentary Assembly of the Council of Europe (PACE), *Access to nationality and the effective implementation of the European Convention on Nationality*, 9 April 2014, Resolution 1989 (2014), available at: <http://www.refworld.org/docid/5346951a4.html> or Committee of Ministers, *Recommendation and explanatory memorandum of the Committee of Ministers to member states on the nationality of children*, 9 May 2009, CM/Rec(2009)13, available at: <http://www.refworld.org/docid/4dc7bf1c2.html>

135 See for example the work of the Ad-Hoc Committee of Experts on Roma Issues (CAHROM) of the Council of Europe.

136 See UNHCR, *Campaign Update April 2016*, available at: <http://www.unhcr.org/ibelong/wp-content/uploads/Campaign-Update-April-2016.pdf>

137 European Parliament's Subcommittee on Human Rights (DROI), *Addressing the Human Rights Impact of Statelessness in the EU's External Action*, November 2014, available at: <http://www.refworld.org/docid/5513e2934.html>

138 Policy Department for Citizen's Rights and Constitutional Affairs at the request of the LIBE Committee, *Practices and approaches in the EU Member States to prevent and end statelessness*, November 2015, available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536476/IPOL_STU\(2015\)536476_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536476/IPOL_STU(2015)536476_EN.pdf)

139 *Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness*, 04 December 2015, available at: <http://www.consilium.europa.eu/en/press/press-releases/2015/12/04-council-adopts-conclusions-on-statelessness/>

140 See *EU Framework for National Roma Integration Strategies*, available at: http://ec.europa.eu/justice/discrimination/roma/eu-framework/index_en.htm

141 Study by the European Parliament's Subcommittee on Human Rights, Directorate-General for External Policies of the Union, *Addressing the Human Rights Impact of Statelessness in the EU's External Action*, EXPO/B/2014/2014/07, November 2014, available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2014/534983/IPOL_STU%282014%29534983_EN.pdf

Notes

142 See *Council Conclusions on the Action Plan on Human Rights and Democracy 2015–2019* as adopted by the Council of the European Union on 20 July 2015, available at: <http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf>

143 See joint *UNHCR-OSCE summary report*, available at: <http://www.unhcr.org/4dfb58639.html>

144 See the review document that was prepared to help participants to identify further action: Stephanie Woldenberg, *Access to Civil Documentation and Registration in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, 11 November 2013, available at: <http://www.refworld.org/pdfid/5280c5ab4.pdf>

145 *Co-Chair Conclusions of the Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, Podgorica, 25 October 2013, available at: <http://www.refworld.org/docid/5285ee494.html>

146 According to UNHCR statistics, at the end of 2015, the total number of stateless persons or persons with undetermined nationality in the region still amounted to 17,000 (including Albania, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia, and the former Yugoslav Republic of Macedonia).

Annexes

Annex I: States Parties to the 1954 and 1961 Statelessness Conventions in the OSCE Area

Status as of 31 December 2016

OSCE Participating States	1954 Convention		1961 Convention	
	Signature	Accession (a), Succession (d), Ratification	Signature	Accession (a), Succession (d), Ratification
Albania	-	23 Jun 2003 a	-	9 Jul 2003 a
Andorra	-	-	-	-
Armenia	-	18 May 1994 a	-	18 May 1994 a
Austria	-	8 Feb 2008 a	-	22 Sep 1972 a
Azerbaijan	-	16 Aug 1996 a	-	16 Aug 1996 a
Belarus	-	-	-	-
Belgium	28 Sep 1954	27 May 1960	-	1 Jul 2014 a
Bosnia and Herzegovina	-	1 Sep 1993 d	-	13 Dec 1996 a
Bulgaria	-	22 Mar 2012 a	-	22 Mar 2012 a
Canada	-	-	-	17 Jul 1978 a
Croatia	-	12 Oct 1992 d	-	22 Sep 2011 a
Cyprus	-	-	-	-
Czech Republic	-	19 Jul 2004 a	-	19 Dec 2001 a
Denmark	28 Sep 1954	17 Jan 1956	-	11 Jul 1977 a
Estonia	-	-	-	-
Finland	-	10 Oct 1968 a	-	7 Aug 2008 a

Annexes

France	12 Jan 1955	8 Mar 1960	31 May 1962	-
Georgia	-	23 Dec 2011 a	-	1 Jul 2014 a
Germany	28 Sep 1954	26 Oct 1976	-	31 Aug 1977 a
Greece	-	4 Nov 1975 a	-	-
Holy See	28 Sep 1954	-	-	-
Hungary	-	21 Nov 2001 a	-	12 May 2009 a
Iceland	-	-	-	-
Ireland	-	17 Dec 1962 a	-	18 Jan 1973 a
Italy	20 Oct 1954	3 Dec 1962	-	1 Dec 2015 a
Kazakhstan	-	-	-	-
Kyrgyzstan	-	-	-	-
Latvia	-	5 Nov 1999 a	-	14 Apr 1992 a
Liechtenstein	28 Sep 1954	25 Sep 2009	-	25 Sep 2009 a
Lithuania	-	7 Feb 2000 a	-	22 Jul 2013 a
Luxembourg	28 Oct 1955	27 Jun 1960	-	-
The former Yugoslav Republic of Macedonia	-	18 Jan 1994 d	-	-
Malta	-	-	-	-
Monaco	-	-	-	-
Mongolia	-	-	-	-
Montenegro	-	23 Oct 2006 d	-	5 Dec 2013 a
Netherlands	28 Sep 1954	12 Apr 1962	30 Aug 1961	13 May 1985
Norway	28 Sep 1954	19 Nov 1956	-	11 Aug 1971 a
Poland	-	-	-	-
Portugal	-	1 Oct 2012 a	-	1 Oct 2012 a
Republic of Moldova	-	19 Apr 2012 a	-	19 Apr 2012 a
Romania	-	27 Jan 2006 a	-	27 Jan 2006 a
The Russian Federation	-	-	-	-

San Marino	-	-	-	-
Serbia	-	12 Mar 2001 d	-	7 Dec 2011 a
Slovakia	-	3 Apr 2000 a	-	3 Apr 2000 a
Slovenia	-	6 Jul 1992 d	-	-
Spain	-	12 May 1997 a	-	-
Sweden	28 Sep 1954	2 Apr 1965	-	19 Feb 1969 a
Switzerland	28 Sep 1954	3 Jul 1972	-	-
Tajikistan	-	-	-	-
Turkey	-	26 Mar 2015 a	-	-
Turkmenistan	-	7 Dec 2011 a	-	29 Aug 2012 a
Ukraine	-	25 Mar 2013 a	-	25 Mar 2013 a
United States of America	-	-	-	-
United Kingdom of Great Britain and Northern Ireland	28 Sep 1954	16 Apr 1959	30 Aug 1961	29 Mar 1966
Uzbekistan	-	-	-	-

Annexes

OSCE Partners for Cooperation	1954 Convention		1961 Convention	
	Signature	Accession (a), Succession (d), Ratification	Signature	Accession (a), Succession (d), Ratification
Afghanistan	-	-	-	-
Algeria	-	15 Jul 1964 a	-	-
Australia	-	13 Dec 1973 a	-	13 Dec 1973 a
Egypt	-	-	-	-
Israel	1 Oct 1954	23 Dec 1958	30 Aug 1961	-
Japan	-	-	-	-
Jordan	-	-	-	-
Republic of Korea	-	22 Aug 1962 a	-	-
Morocco	-	-	-	-
Thailand	-	-	-	-
Tunisia	-	29 Jul 1969 a	-	12 May 2000 a

Annex II: Model instrument of accession to the 1954 Convention relating to the Status of Stateless Persons

WHEREAS a Convention Relating to the Status of Stateless Persons was adopted by the Conference of the Plenipotentiaries on the twenty-eighth day of September, one thousand nine hundred and fifty-four, and is open for accession pursuant to Article 35 thereof;

AND WHEREAS, it is provided in section 4 of the said Article 35 that accession thereto shall be affected by deposit of an instrument with the Secretary-General of the United Nations;

NOW THEREFORE, the undersigned [Title of Head of State, Head of Government or Foreign Minister] hereby notifies the accession of the [State concerned];

GIVEN under my hand in _____ this _____

Day of _____ two thousand and _____.

*[Public seal and signature of
custodian if appropriate]*

*[Signature of Head of State, Head
of Government or Foreign Minister]*

Annex III: Model instrument of accession to the 1961 Convention on the Reduction of Statelessness

WHEREAS a Convention on the Reduction of Statelessness was adopted by the Conference of the Plenipotentiaries on the thirtieth day of August, one thousand nine hundred and sixty-one, and is open for accession pursuant to Article 16 thereof;

AND WHEREAS, it is provided in section 4 of the said Article 16 that accession thereto shall be affected by deposit of an instrument with the Secretary-General of the United Nations;

NOW THEREFORE, the undersigned [Title of Head of State, Head of Government or Foreign Minister] hereby notifies the accession of the [State concerned];

GIVEN under my hand in _____ this _____

Day of _____ two thousand and _____.

*[Public seal and signature of
custodian if appropriate]*

*[Signature of Head of State, Head
of Government or Foreign Minister]*

Annex IV: UNHCR Campaign and Global Action Plan to End Statelessness: 2014–2024

In 2014, UNHCR launched the #IBelong Campaign to end statelessness in ten years.** A key component of this Campaign is the Global Action Plan to End Statelessness: 2014–2024***, developed in consultation with States, civil society and international organizations. The Global Action Plan sets out a guiding framework made up of 10 Actions that need to be taken by States, with the support of UNHCR and other stakeholders to:

- resolve existing major situations of statelessness;
- prevent new cases of statelessness from emerging; and
- better identify and protect stateless populations.

Provided that there is adequate leadership and effective implementation of the Global Action Plan, statelessness can be ended within a decade.

The 10 Actions to end statelessness

States are encouraged to take one or more of the following 10 Actions to achieve the related Goals by 2024. UNHCR, other UN and international agencies, regional organizations, civil society and stateless people all have roles to play in supporting governments to accomplish relevant Actions. Because the causes, profile and magnitude of statelessness vary, not all Actions are required in all countries.

Action 1: Resolve existing major situations of statelessness

Action 2: Ensure that no child is born stateless

Action 3: Remove gender discrimination from nationality laws

** See <http://www.unhcr.org/ibelong/>

*** UNHCR, *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>

Annexes

- Action 4:** Prevent denial, loss or deprivation of nationality on discriminatory grounds
- Action 5:** Prevent statelessness in cases of State succession
- Action 6:** Grant protection status to stateless migrants and facilitate their naturalization
- Action 7:** Ensure birth registration for the prevention of statelessness
- Action 8:** Issue nationality documentation to those with entitlement to it
- Action 9:** Accede to the UN Statelessness Conventions
- Action 10:** Improve quantitative and qualitative data on stateless populations

Annex V provides a sample template for a National Action Plan (NAP) to End Statelessness, to help States lay down purpose and methodology of the NAP, the specific Action selected and the reason for selection, and any monitoring and evaluation mechanisms.

Annex V: Sample Template

National Action Plan to End Statelessness

Overview:

[The overview sets out:

- a summary of the purpose of the National Action Plan;
- the methodology used to develop the National Action Plan (including any consultations with stakeholders);
- the specific Actions selected and reasons for selection; and
- any monitoring and evaluation mechanisms.]

Actions:

Action: [Select one of the Actions from the Global Action Plan.]

National Context: [A brief description of the historical and current context of the problem which the Action will address as well as any existing circumstances which can facilitate the implementation of the Action and any obstacles to its accomplishment.]

Action		
Starting Point	Goal	Milestones
[Describe the current situation that the Action will address.]	[Describe the final result and date by which it will be achieved.]	[Describe the intermediary result (Milestone(s)) which will support the achievement of the Goal and the expected date by which each Milestone will be achieved. Each Action may have several Milestones.]
	Performance Indicator: [Define a performance indicator for the final result.]	

Annexes

Activities	Responsible Authority	Support from UNHCR/ other Stakeholders
[Describe the Activities that will be undertaken to achieve the Milestones (one per box).]	[Describe the authorities responsible for implementing the Activities.]	[Describe the type of support UNHCR and other stakeholders will provide per Activity.]

Please use the above table for each additional Action.

At least 10 million people are estimated to be stateless worldwide and roughly one-third of them are children. Statelessness often arises from weaknesses in the rule of law, civil registration issues, and lack of access to documents. Denied basic human rights, stateless persons are often excluded from society throughout their lives.

No region in the world is free from statelessness but there is an increasing willingness among States to tackle the problem. Experience has shown that solutions are not necessarily complex or costly, and that excluding one segment of society may come at the expense of social cohesion, stability and peace over the long term.

OSCE participating States have made a number of commitments regarding the protection of stateless persons, the right to nationality, access to citizenship, civil registration, and the provision of documents. With the help of good practice examples, this Handbook outlines the actions that OSCE participating States should take to identify and protect stateless persons, and to effectively prevent and reduce statelessness in the OSCE area.