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Council of Europe Commissioner for Human Rights

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Ladies and Gentlemen,

I am very glad to take part in this conference. I have long been involved in statelessness-related issues, first in my home country –Latvia-, and then as part of my work as Chairman of the European Commission against Racism and Intolerance (ECRI). Since I took up my position as Commissioner for Human Rights in early 2012, I have decided to place this issue high on my agenda and addressed it on several occasions, during country visits, in conferences and media work.

Today's event, which gathers a wide international audience, epitomises the efforts that have been made by UNHCR and others in recent years to raise awareness of the fact that so many persons are still stateless today, including in Europe. The multiplication of events regarding statelessness, the publication of studies and reports, the setting-up of an international network devoted to this issue (the European Network on Statelessness) testify to the important efforts to raise awareness on this issue and move towards solutions.

At the level of the Council of Europe, I am glad that the Parliamentary Assembly has recently shown renewed interest about access to nationality and that, in a recently adopted recommendation, it invited the Committee of Ministers to restart intergovernmental work on nationality-related issues and stimulate the establishment of statelessness determination procedures at the national level.¹

Other Council of Europe monitoring bodies have played an important role in raising awareness about various aspects of the situation of stateless persons in Europe. They include the European Commission against Racism and Intolerance (ECRI), the Advisory Committee on the Framework Convention for the Protection of National Minorities and the Group of Experts on Action against Trafficking in Human Beings (GRETA).

¹¹ [Recommendation](#) 2042(2014).

While the right to a nationality is not as such enshrined in the European Convention on Human Rights, some judgments of the European Court of Human Rights over the last few years have paved the way for further developments. They include the 2011 judgment in [*Genovese v. Malta*](#)² in which the Court considered that arbitrary denial of citizenship could fall within the scope of the Convention (Article 8 - Right to respect for private and family life) because of its impact on a person's social identity. More recently, the Court highlighted the particularly vulnerable position of stateless persons *vis-à-vis* the risk of arbitrary detention.³

Bearing in mind this context of increased awareness about the need to tackle the problem of statelessness, I would like to start by emphasising the progress that has taken place in a number of Council of Europe member states. Addressing statelessness is frequently described as a complex process. It is true that it often requires significant changes in legislation and practices. However, I have often underlined that where there is political will, practical solutions can be found and implemented to eliminate statelessness and prevent the recurrence of the problem. I would like to illustrate this point with a few examples from Council of Europe member states.

In the region of the Western Balkans, where at least 20 000 persons -- many of them Roma, Egyptians and Ashkali -- lack identity documents and/or a nationality, efforts have in the last couple of years been made to find legal and practical ways of easing their access to personal documentation. Measures have notably been taken in various countries of the region to overcome the residence registration requirement, which constitutes an unsurmountable obstacle for the many Roma living in informal settlements. Serbia has also taken significant steps to ease the process of determination of the date and place of birth for those seeking to apply for Serbian nationality and who had so far been prevented from doing so due to the lack of a birth certificate. In particular, it modified in 2012 its legislation so as to provide for a non-contentious court procedure for subsequent birth registration, which has opened new opportunities for persons at risk of statelessness.

During country visits in the region in 2013 and 2014, I was also pleased to learn about the developing cooperation between countries in the Balkans to solve problems of civil registration, the absence of which has long been a major obstacle for persons seeking to establish proof of their identity. The Montenegrin authorities have for example organized trips to Kosovo for displaced persons living in Montenegro in order to help them obtain birth certificates and other documents in their municipalities of origin. I am also informed that the Serbian authorities have transmitted civil registers to the authorities of Kosovo in order to help fill in gaps in civil registration. I can only hope that this co-operation will continue and intensify and that, about 15 years after the end of the armed conflicts in the region, practical and accessible solutions will be found to problems resulting from lack of documents and risk of statelessness.

Other examples of practical measures which have yielded promising results include measures taken by the Romanian authorities. I was informed during a visit in March this year that following the setting-up of mobile teams to reach out persons without identity documents, about 5 000 Roma children had their birth registered in 2013 and more than 30 000 adults were provided with identity documents.

² *Genovese v. Malta*, App. No. 53124/09, Judgment of 11 October 2011.

³ *Amie and Others v. Bulgaria*, App. No. 58149/08, Judgment of 12 February 2013, and *Kim v. Russia*, App. No. 442360/13, Judgment of 17 July 2014.

In Latvia, which has over the last 20 years hosted a large share of Europe's stateless persons, significant steps have also recently been taken to overcome, in particular, the transmission of statelessness to children born in Latvia. Amendments of October 2013 to the law on citizenship have eased the conditions for application for citizenship at birth, and for late applications in the case of children. This has reportedly led to a substantial increase of applications for citizenship at birth since the measure came into force.

While many additional measures should be taken to completely eradicate and prevent statelessness, these steps forward once again demonstrate that statelessness problems can be solved if there is political will to do so.

Statelessness also affects migrants, for different reasons which will be further examined during this conference. It is therefore critically important that a number of European countries, among which the UK, Moldova, Georgia and Turkey, have recently set up statelessness determination procedures. Such procedures should greatly contribute to enhancing the protection of stateless persons and ensuring that their human rights are upheld.

All these national developments, taken together with growing awareness about statelessness and its severe consequences for the persons affected, give reasons for hope that UNHCR's set objective of eradication of statelessness by 2020 is not unrealistic as far as Europe is concerned. Solutions can indeed be found, provided the issue is addressed by states with determination, and in close cooperation with all those concerned.

Yet positive developments should not hide the fact that substantial obstacles still stand on the way towards eradication of statelessness.

Firstly, the root causes of states' resistance to addressing the problem should be addressed. If statelessness can be addressed with political will, the question arises of why we still have approximately 680 000 persons without a nationality in Europe. Racism and discrimination against entire population groups and fears inherited from the past, including assumptions about minority groups constituting a threat to the security or linguistic identity of a country, continue to form the bedrock for the perpetuation of statelessness. Therefore, it remains critical to target awareness raising measures to the majority population, to challenge deeply-rooted prejudice and to emphasise the value of integrated societies versus exclusion. After all, if it is the stateless persons themselves that suffer the most from statelessness, society in general is also impacted negatively by it; statelessness prevents participation in socio-economic and public affairs and results in the alienation of entire groups from the societies where they live – and will continue to live -- transmitted from generation to generation.

I am also concerned that cases of statelessness could multiply among Syrian refugees who fled their war-ravaged country. New and large groups of stateless persons could appear as a result of the current situation. During a visit to refugee camps in Turkey in December 2013, I learnt that around 7 000 children had already been born in these camps. While their births have reportedly been registered by the Turkish authorities, it remains unclear whether these children will be eligible for Syrian or other nationalities, based on these birth certificates. Additionally, Syrian refugees who find themselves in countries where they are unable or unwilling to apply for asylum, might well fail to register newborns. I am therefore afraid that a

number of these and other refugee children might end up without a nationality because they were born on the way to a safe country of refuge.

Another issue of concern relates to the effectiveness of measures taken to solve problems of lack of identity documents. Such measures have often not been comprehensive enough and, consequently, a number of stateless persons, or persons seeking a confirmation of their nationality, are still stuck in lengthy and cumbersome administrative and legal procedures. Legal and administrative remedies which have been set up will remain a dead letter if they are not sufficiently effective and speedy. Protracted legal and administrative situations have particularly negative consequences for children, whose future can irremediably be harmed by long-lasting lack of a nationality. Here, we must emphasise the need for policies designed and implemented in close cooperation with all the actors concerned, including local authorities and NGOs.

More should also be done to raise awareness of the parents of children at risk of statelessness. Only too often, states limit themselves to putting the blame for the statelessness of children on their parents. Instead, they should implement effective campaigns to ensure that parents are fully aware of the consequences of statelessness for their children and, in general, of the right of children to hold a nationality, as protected under the UN Convention on the Rights of the Child. Good measures have sometimes failed to reach families living in isolated areas, those in a situation of social exclusion and those belonging to ethnic minorities who do not have full proficiency in the official language.

National human rights institutions can play an important role in tackling statelessness, as demonstrated in some countries recently. They can promote both changes in the laws and practices and they can contribute to awareness-raising. They also often constitute a more accessible remedy for stateless persons than courts or administrative authorities. However, discussions around statelessness are often politically-sensitive or highly politicised, which sometimes makes it difficult for human rights institutions or ombudsmen to get involved. Therefore, I welcome the commitment of the European Network of Human Rights Institutions to actively get involved in statelessness-related issues, as just explained by the President of the Netherlands Institute for Human Rights. Support among National Human Rights Institutions can strengthen the work already undertaken by some of these institutions at national level and encourage others to do more. Exchanges of good practices are also of crucial importance in this area and networks of NHRI can contribute to disseminating information about what works. Crucially, they can also assist the national authorities in mapping and monitoring statelessness through improved collection of the necessary data.

Lastly, I wish once again to strongly encourage those member states which have not yet signed or ratified to 1954 Convention on the Protection of Stateless Persons and the 1961 UN Convention on the Reduction of Statelessness to do so. They should also accede to the two Council of Europe conventions, namely the 1997 Convention on Nationality and the 2006 Convention on Avoidance of Statelessness in Relation to State Succession, the latter instrument having so far been ratified only by six member states.

One of the most important principles contained in the European Convention on Nationality is, in my view, the duty for states to protect children born on their territory and who do not acquire any other nationality at birth. In this regard, I would also like to recall the obligations of states under the UN Convention on the Rights of the Child. It is in the child's best interest

to have a nationality. Therefore, the automatic granting of citizenship at birth to children who would otherwise be stateless, is probably the best tool to eradicate statelessness at birth and prevent its transmission from generation to generation.

I will continue to highlight human rights violations resulting from statelessness in my future work, whether at national level or in multilateral contexts, and to support the authorities in identifying and implementing effective solutions. I also look forward to further cooperation with key stakeholders in this area, and first and foremost with UNHCR, but also with National Human Rights Institutions and civil society organisations.