

## ADVOCACY PAPER

### UNHCR Observations and Recommendations on Statelessness in the Republic of Armenia

#### Introduction

UNHCR is mandated by the UN General Assembly to identify and protect stateless people and to prevent and reduce statelessness. UNHCR fulfills its mandate by working with governments, other UN agencies and civil society to address statelessness globally. It is within this spirit that UNHCR is offering the following observations and recommendations on statelessness in the Republic of Armenia.<sup>1</sup> The recommendations presented in this paper are based on the UNHCR Handbook on Protection of Stateless Persons and authoritative guidance on the matter.<sup>2</sup>

This document has been prepared to structure and facilitate advocacy efforts of UNHCR and its partners in addressing statelessness in Armenia in accordance with the Global Action Plan to End Statelessness: 2014-2024<sup>3</sup> and the Government of the Republic of Armenia pledges at the High-Level Segment on Statelessness held at UNHCR's Executive Committee 70<sup>th</sup> session in October 2019.<sup>4</sup>

The term “*stateless person*” is defined according to Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons (the 1954 Convention): “*stateless person*” means a person who is not considered as a national by any state under the operation of its law.<sup>5</sup>

#### Number and profile overview of stateless persons

According to the last National Population Census of 2011, there were 396 persons without citizenship: 229 were women and 167 were men.<sup>6</sup> The Census report contains disaggregated data by age groups (from 20 to 70 years old and above), but further data disaggregation on the location, ethnicity, language and (former) country of habitual residence of this population is not available.

According to the Police of the Republic of Armenia (the Police), the number of persons, who are registered as stateless persons in Armenia, has been steadily growing in recent years: in 2015, there were 311 stateless persons; and in 2019 – 961 stateless persons.<sup>7</sup> Approximately 80 percent of them are former citizens of Armenia who have renounced their Armenian

<sup>1</sup> UN General Assembly Resolution A/RES/50/152, 9 February 1996, available at <http://www.unhcr.org/refworld/docid/3b00f31d24.html>; reiterated in subsequent resolutions, *inter alia*, A/RES/61/137 of 25 January 2007, available at: <http://www.unhcr.org/refworld/docid/45fa902d2.html>, A/RES/62/124 of 24 January 2008, available at: <http://www.unhcr.org/refworld/docid/47b2fa642.html>, and A/RES/63/148 of 27 January 2009, available at: <http://www.unhcr.org/refworld/docid/4989619e2.html>; UN High Commissioner for Refugees (UNHCR), *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*, 6 October 2006, No. 106 (LVII) - 2006, available at: <http://www.refworld.org/docid/453497302.html>.

<sup>2</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <https://www.refworld.org/docid/53b676aa4.html>; UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, 21 December 2012, HCR/GS/12/04, available at: <https://www.refworld.org/docid/50d460c72.html>; UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, May 2020, HCR/GS/20/05, available at: <https://www.refworld.org/docid/5ec5640c4.html>; UN High Commissioner for Refugees (UNHCR), *Guidance document on measuring stateless populations*, May 2011, available at: <https://www.refworld.org/docid/4f6887672.html>.

<sup>3</sup> UN High Commissioner for Refugees (UNHCR), *Global Action Plan to End Statelessness*, 4 November 2014, available at: <https://www.refworld.org/docid/545b47d64.html>.

<sup>4</sup> UN High Commissioner for Refugees (UNHCR), *High-Level Segment on Statelessness: Results and Highlights*, May 2020, available at: <https://www.refworld.org/docid/5ec3e91b4.html>.

<sup>5</sup> UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <https://www.refworld.org/docid/3ae6b3840.html>.

<sup>6</sup> Statistical Committee of the Republic of Armenia, *the Results of 2011 Population Census of the Republic Of Armenia (Indicators of the Republic of Armenia)*, 2013, available at: <https://www.armstat.am/file/doc/99486303.pdf>.

<sup>7</sup> UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2019*, page 72, available at: <https://www.unhcr.org/5ee200e37.pdf>.

citizenship prior to or in the process of their application for another citizenship. This situation is a result of a legislative gap creating a potential risk of statelessness if the subsequent acquisition of another citizenship does not materialize.

In addition, there are 1,315 refugees from Azerbaijan, who are simultaneously stateless as of January 2020. They were forcibly displaced from Azerbaijan as a consequence of the Nagorno-Karabakh conflict between 1988 and 1994 and did not acquire Azerbaijani citizenship following the dissolution of the Soviet Union.

### **Progress in addressing statelessness**

Armenia acceded to *the 1954 and 1961 Conventions* in 1994. In 2011, during the High-level Meeting in Geneva, the Government of the Republic of Armenia (the Government) committed to revise the national legislation to bring it in accordance with its international obligations. In 2012, UNHCR commissioned a legal research, which identified the main gaps and shortcomings in legislation and practice on nationality and statelessness in Armenia.<sup>8</sup>

In May 2015, with UNHCR's technical support, amendments to the Law on Citizenship of the Republic of Armenia (the Law on Citizenship)<sup>9</sup> were adopted to bring the national legislation in line with the 1961 Convention and related legal norms governing acquisition and loss of citizenship, in particular: a) guarantee that children born on the territory of Armenia who will otherwise be stateless (including children whose parents' citizenship is unknown) acquire Armenian citizenship; b) ensure that children lose Armenian citizenship as a result of loss of citizenship by parents, guardians or as a result of adoption only if they possess or acquire another citizenship; c) ensure that citizenship is lost as per voluntary renunciation only when there is an assurance by another State that the person concerned has applied and is eligible to acquire the citizenship of that country;<sup>10</sup> d) ensure that persons whose citizenship was withdrawn as a result of voluntary renunciation may have it automatically reinstated upon their request; e) provide for the possibility for legally incapacitated persons to file naturalization applications via their legal guardian; f) provide for facilitated naturalization of refugees and stateless persons waiving the requirements of three-year legal residence and demonstration of Armenian language skills; and g) provide for a five-year time limitation following which a person may not be deprived of citizenship based on the fact that it was acquired based on false data/documents.

In addition, on 6 December 2017, in the context of mixed marriages (one parent is a citizen of Armenia and the other a foreigner), further amendments to the Law on Citizenship were adopted to provide that consent of only one parent is needed for a child to obtain Armenian citizenship if he/she resides in Armenia. Previously, both parents had to provide their consent for the child to become an Armenian citizen and it created difficulties in practice and in some cases was contrary to the best interest of the child.

In October 2019, the Government delivered concrete pledges at the High-Level Segment on Statelessness, notably to close existing gaps in national legislation on citizenship that may cause statelessness and to establish legal grounds for decreasing the number of stateless persons in the country.<sup>11</sup>

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<sup>8</sup> UN High Commissioner for Refugees (UNHCR), *Questions of Nationality and Statelessness in Armenia*, March 2013, available at: <https://www.refworld.org/docid/54817cb44.html>.

<sup>9</sup> *Armenia: Law of 1995 on Citizenship of the Republic of Armenia* [Armenia], November 1995, available at: <https://www.refworld.org/docid/51b770884.html>.

<sup>10</sup> Although it was expected that this legislative amendment would ensure voluntary renunciation in accordance with safeguards defined by the 1961 Convention, in practice, it proved to be insufficient to address cases when another citizenship has not been granted (see renunciation issue below).

<sup>11</sup> UN High Commissioner for Refugees (UNHCR), *High-Level Segment on Statelessness: Results and Highlights*, May 2020, page 48, available at: <https://www.refworld.org/docid/5ec3e91b4.html>:

- *By 2020, to conduct a comprehensive study on the status of stateless persons in order to reveal the gaps in the sphere, to map issues and make suggestions on addressing the main challenges of the field.*
- *By 2020, to further amend the provisions of the national legislation on Citizenship that may cause statelessness (i.e. pursuing the legislative initiative to amend the citizenship law for putting safeguards during renunciation process).*
- *By 2024, to review the national legislation on citizenship to establish legal grounds for decreasing the number of stateless persons and ensure proper mechanisms for guaranteeing the exercise of their rights.*

## Remaining gaps and shortcomings in the national legislation and practice

The Government's pledge reiterates the need for review of **the national legislation and practice on statelessness** and bring them into compliance with the 1954 and 1961 Conventions. A draft Law on Statelessness was developed in 2013, but in 2016 the Government returned the draft to the Police, which is currently in charge of statelessness issues, with a recommendation to incorporate it into a general Law on Foreigners and Stateless Persons. A new draft Law on Foreigners and Stateless Persons was circulated in 2017, and since then it has been pending adoption.

UNHCR recommends prioritizing the adoption of the draft Law on Foreigners and Stateless Persons to bring it in accordance with the 1954 Convention.

**The statelessness determination procedure** is not properly defined and regulated in the national legislation and conducted by the Police on an *ad-hoc* basis, mainly in case of an otherwise stateless child born in Armenia. The absence of clearly defined procedural standards and safeguards<sup>12</sup> may result in shortcomings in the implementation of the statelessness determination procedure and may lead to a situation when stateless persons are not systematically and individually identified, a decision-making process is not fair and efficient, and access to rights and services and protection of stateless persons are not guaranteed. Consequently, these people remain legally invisible and are not granted the rights they are entitled to.

UNHCR recommends and is ready to support the Government with the establishment of a fair and efficient Statelessness Determination Procedure in accordance with international standards and authoritative guidance provided in the Handbook on Protection of Stateless Persons.<sup>13</sup>

There is limited information available about **the number, geographic locations and profile of stateless persons**, persons at risk of statelessness and undocumented persons in the Republic of Armenia. The 2011 Population Census did not fully cover statelessness issues and did not provide comprehensive data on undocumented and stateless persons. As a result, it did not shed light on the number and profile of the stateless population and their geographical location. At present, UNHCR is in contact with relevant state agencies (the Statistical Committee, the Police, the Migration Service, etc.) to promote and advocate for an effective use of the upcoming census exercise and inclusion of statelessness-related questions to be able to collect data on statelessness. In addition, information on the registered stateless persons has not been regularly verified and does not provide up-to-date data on this population. In the absence of a comprehensive mapping assessment of this population, there is limited information on the nature and scope of the problem, and reasons of statelessness. In this regard, there is the need for development of effective mechanisms for identification and/or verification of the stateless population and establishment of a more formal, systematic methodology for information gathering, updating and sharing.

UNHCR recommends strengthening of systematic and disaggregated data collection/verification on the number, geographic locations and profile of undocumented, at risk of statelessness and stateless persons, promote inclusion and coverage of the stateless population during the upcoming population census, and stands ready to support the Government with a comprehensive mapping assessment on stateless persons.

In 2019, the Government has circulated the draft amendments to the Law on Citizenship, introducing additional procedural safeguards in case of **renunciation of Armenian citizenship**. UNHCR expects that as per the standard on renunciation specified in Guidelines on Statelessness No 5, after the adoption of the bill, the risk of becoming stateless, if the

<sup>12</sup> Ibid 3.

<sup>13</sup> Ibid 3.

subsequent acquisition of another citizenship does not materialize, will be addressed through automatic restoration of Armenian citizenship.<sup>14</sup>

UNHCR recommends adopting amendments to the Law on Citizenship to effectively resolve the issue of a growing number of persons at risk of statelessness due to renunciation of Armenian citizenship prior to obtaining another one and to introduce automatic reacquisition of Armenian citizenship in case of failure to obtain another one.

Refugees from Azerbaijan, who are stateless persons, used to be able to acquire Armenian citizenship through a **simplified procedure** under Article 10(2) of the Citizenship Law of the Republic of Armenia.<sup>15</sup> However, since January 2020 the deadline for application of this article has not been extended. Thus, at present, these refugees are no longer able to acquire Armenian citizenship through the simplified procedure. In addition, some refugees in this group are still reluctant to acquire Armenian citizenship primarily due to personal considerations (for example: military service or loss of benefits related to their refugee status).

UNHCR recommends the Government to extend the simplified procedure until the issue with documentation of former USSR citizens is successfully resolved and further facilitate the procedure for non-ethnic Armenians, who have strong ties in Armenia and reside on its territory since the dissolution of the Soviet Union. Furthermore, UNHCR recommends to analyze the existing obstacles/reasons of refugees from Azerbaijan for non-acquisition of Armenian citizenship, to further facilitate naturalization procedures and to adjust social protection programmes to address the obstacles to naturalization.

While stateless persons are documented with a **Non-citizenship Certificate**, the document does not meet international standards (no indication that the holder is a stateless person under the terms of the 1954 Convention; state fee is higher than in case of the national passport) and the International Civil Aviation Organization's (ICAO) requirements (no biometric data). The Government remains committed to provide stateless persons with an internationally compliant document, but the delay with implementation is caused by pending legislative amendments and technical and financial difficulties.

UNHCR recommends and is ready to support the Government with introduction of an ICAO compatible Convention Travel Document for stateless persons.

Challenges with **identification of undocumented persons** and those at risk of statelessness were discovered through a small-scale project implemented by UNHCR's partner the Mission Armenia.<sup>16</sup> The absence of systematic and effective public awareness activities hinders identification, prevention and reduction of statelessness. It is important to consider that relevant state agencies (police, local municipalities, civil registry office) would lead regular public campaigns focused on identification of the population at risk of statelessness, importance of timely documentation of the population, raising awareness about stateless persons and their rights and freedoms, and fostering their effective documentation and integration.

UNHCR recommends and stands ready to support the Government with establishment of systematic and effective public awareness activities, which assist with identification of undocumented, at risk of statelessness and stateless persons, promote understanding of the situation of stateless persons, inform stateless persons of their rights and freedoms, and foster their documentation and integration.

The project implemented by Mission Armenia revealed gaps and shortcomings with effective and efficient **documentation of the population**, such as: (i) the lack of systematic identification, referral and documentation of undocumented persons; (ii) the absence of

<sup>14</sup> UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, May 2020, HCR/GS/20/05, para 22, available at: <https://www.refworld.org/docid/5ec5640c4.html>.

<sup>15</sup> Ibid 10.

<sup>16</sup> Small-scale Project implemented by Mission Armenia, local NGO in November 2018-December 2019 and funded by UNHCR Armenia.

awareness/understanding of importance of documentation among these people; (iii) unaffordable state fees and/or other financial constraints preventing vulnerable people from travelling from remote locations to district centers/Yerevan to resolve their documentation issues; (iv) the lack of free legal aid and representation on documentation issues in case undocumented persons cannot afford it (in particular, in case of remote areas); and (v) the absence of simplified procedures for persons with specific needs (mental and physical disabilities) to prioritize and facilitate their access to documentation. Although there used to be a simplified naturalization procedure for ethnic Armenians, who are former USSR citizens (not available, see above - *simplified procedure*), including those who came from Azerbaijan, there is a more complicated and lengthy procedure for those who are not ethnic Armenians.

UNHCR recommends the Government to reform the relevant registration systems to ensure that all civil registration and documentation procedures, including birth registration, are universally accessible by simplifying complex procedures and eliminating barriers related to cost, time, distance and bureaucracy.

There are also challenges with **birth registration of children born in Armenia** in case of (i) a home birth and missed 6-month deadline for birth registration (mainly in case of minority groups); (ii) the lack of a medical certificate confirming the child birth due to the absence or deficiencies with documentation of the mother or both parents; and (iii) abandonment of the hospital without an authorization and a medical certificate of birth. Such cases can be resolved only through a lengthy, costly and complex judicial review procedure, which requires legal assistance and representation. **Late registration** requires legal and administrative assistance that most of the concerned people do not know where to obtain and/or cannot afford, which may ultimately leave them at risk of statelessness.

UNHCR recommends and is ready to support the Government with enhancement of the legislation and practice to guarantee universal, free and immediate birth registration for every child irrespective of the parents' status, documentation, or whether the child was born in a medical institution; and consider enhancement of the legislation to facilitate late birth registration, including by providing free legal aid and representation if the concerned persons cannot afford it otherwise.

In addition, UNHCR also promotes and advocates for accession of Armenia to the European Convention on Nationality to demonstrate adherence to European human rights standards and introduce stronger principles and rules applying to all aspects of nationality covering issues of multiple nationality, military obligations and co-operation between States Parties.

## **Conclusion**

Based on a brief analysis of the scope, profile, causes and magnitude of statelessness issues in Armenia, it is obvious that statelessness issues are not of a complicated nature. Provided that there is a political will, leadership and allocated resources by the Government, the gaps and shortcomings identified may be addressed through further development and harmonization of relevant legislation and enhancement of its implementation in accordance with international standards.

Within the framework of the **#IBelong** Global Campaign to End Statelessness and in accordance with pledges of the Government, UNHCR Armenia has developed a Strategy (Annex 1) and Action Plan for the Campaign to End Statelessness for 2020–2022 (Annex 2).

UNHCR Armenia stands ready to support the Government with its efforts focused on improving the national legislation and practice on matters related to the prevention and reduction of statelessness, as well as the identification and protection of stateless persons.