

Draft Act Amending the Act no. 40/1993 Coll. on Citizenship of the Slovak Republic and the Act no. 145/ 1995 Coll. on administrative fees

UNHCR Comments

1. Ad Article I, point 10 of the draft amendment (principal comment)

UNHCR has been entrusted by the United Nations General Assembly (UNGA) with the mandate to provide international protection to refugees and, together with governments, to seek permanent solutions to the challenges of refugees. For the majority of refugees in Europe integration is the most relevant durable solution. UNHCR's interest and involvement in integration thus stems from its mandate to seek solutions, enshrined in the 1951 Convention relating to the Status of Refugees (1951 Convention) as well as various soft law and policy documents related to integration, such as UNHCR's ExCom Conclusion No. 104 on Local Integration (2005), the note on 'Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach' (2009), and 'Better Protecting Refugees in the EU and Globally' (2016). UNHCR has also been entrusted by the UNGA with responsibility for stateless persons generally, including the identification, prevention and reduction of statelessness, and the protection of stateless persons (UN General Assembly Resolution A/RES/50/152, 9 February 1996, ExCom, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, No. 106 (LVII), 6 October 2006).

Article 34 of the 1951 Convention and Article 32 of the 1954 Convention relating to the Status of Stateless Persons set out in identical terms that States shall, as far as possible, facilitate the integration and naturalization of refugees and stateless persons.

There is no single, universally accepted definition of integration. That said, it is generally accepted to comprise distinct socio-economic, cultural and legal aspects. UNHCR relies on ExCom Conclusion No. 104 on Local Integration (2005), which defines integration as 'a dynamic and multi-faceted two-way process leading to full and equal membership in society. This includes preparedness by refugee communities to adapt to host societies without giving up cultural identity, and the receiving communities and institutions equally ready to welcome refugees and meet the needs of a diverse population. The process is complex and gradual, comprising legal, economic, social and cultural dimensions.' As UNHCR posits, *States need to ensure the enjoyment of rights, foster a welcoming environment, and address xenophobia. At the same time, refugees need to participate in integration programmes, and comply with the laws of their host State, including respecting core standards of human rights.* UNHCR in this regard proposes that States introduce a system of integration that builds upon the following key elements: *increased funding for integration programmes; predictable, harmonized integration services; and fostering welcoming communities* (UNHCR, *Better Protecting Refugees in the EU and Globally: UNHCR's proposals to rebuild trust through better management, partnership and solidarity*, December 2016, pp. 19-20, available at: <https://www.refworld.org/docid/58385d4e4.html>).

Against this background, UNHCR notes that the *State's Integration Programme for Beneficiaries of International Protection* has not been adopted yet as originally envisaged in the Government's decision no. 568/2015 of 21 October 2015. Though certain integration services for beneficiaries of international protection are in place, these measures are funded by the EU Asylum Migration and Integration Fund (AMIF) that is time-bound and may not cover the funding of services beyond the end of programme period. Further, UNHCR is not aware of any analysis of the national refugee integration framework having been undertaken, and in addition, there is a lack of comparable data concerning integration of refugees.

UNHCR emphasizes that the process of integration is even more difficult for stateless persons, as they do not receive initial integration support from the State. As a result, stateless persons rely on the support of NGOs, international organizations and private individuals.

UNHCR would like to take this opportunity to encourage the Ministry of Interior to adopt the State Integration Programme for Beneficiaries of International Protection without further delay, and recommend the additional inclusion of stateless persons in the Programme. UNHCR also encourages the Ministry of the Interior to assess the outcome of the current Slovak integration services. UNHCR stands ready to offer technical support to the Ministry for such an endeavour.

The draft amendments introduce a new Article 7 § 9 which, among others, stipulates that an application for Slovak citizenship may be rejected on grounds of insufficient integration of the applicant into society, insufficient contribution of the applicant to the Slovak Republic, and/or if the applicant is a burden on the social system of the Slovak Republic.

Further, the terms ‘insufficient integration,’ ‘insufficient contribution [to the Slovak Republic],’ and ‘burden on the social system’ are unclear and the explanatory notes do not address how the Ministry of Interior would assess or interpret these terms in respect of refugees and stateless persons. Consequently, UNHCR is concerned that proposed Article 7 § 9 is contrary to the general principle of legal certainty, which requires that the law must be certain, that is, clear and precise, and its legal implications foreseeable.

Based on UNHCR’s observations, the most vulnerable refugees and stateless persons often rely on the social system in Slovakia and in some cases have limited opportunities to economically contribute to the society. In addition, stateless persons might be prevented from contributing to the State, depending on the legality of their stay in the country and whether or not they are recognized as stateless. The explanatory notes do not explain how the State would take into consideration such vulnerability of individuals, who may be considered to fall within the meaning of the term ‘burden on the social system’ as set out in the draft amendments, potentially resulting in the denial of Slovak citizenship.

UNHCR does not object to the use of clear integration criteria for accessing citizenship as long as it allows for exceptions and gives due regard to the vulnerability of refugees and stateless persons. Therefore, UNHCR advises that Slovakia carefully considers UNHCR’s concerns over the lack of legal certainty and lack of exceptions for vulnerable cases, in particular refugees and stateless persons, when proposing the adoption of integration criteria, ie. ‘insufficient integration of the applicant into society,’ ‘insufficient contribution to the society,’ and ‘[being] a burden on the social system.’

2. Ad Act no. 145/1995 Coll. of the draft amendment in part concerning administrative fees (principal comment)

The draft amendments introduce changes to Act no. 145/1995 Coll. on Administrative Fees (hereinafter the “Administrative Fee Regulation”). UNHCR would like to use this opportunity to encourage the Ministry of Interior to exempt stateless persons from the administrative fee related to their application for Slovak citizenship, as it is done in respect of refugees, considering their vulnerable situation due to their stateless status and the fact that they often do not have at their disposal sufficient financial means, nor do they receive integration support by the State.

In this regard, UNHCR recalls that Article 32 of the 1954 Convention Relating to the Status of Stateless Persons, to which Slovakia is a State Party, stipulates that *“the Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings”*.

UNHCR therefore encourages the Ministry of Interior to amend Part II, International administration, Line 20 of the Administrative Fee Regulation, by adding stateless persons among the individuals exempted from the administrative fees in respect of their application for Slovak citizenship.

3. Ad Article 8a § 7 of the Citizenship Act, as effective (ordinary comment)

Pursuant to Article 8a § 7 of the Citizenship Act, as effective, the Ministry of Interior should decide on an application for Slovak citizenship within 24 months from the submission of the application. UNHCR considers that this period, which may be further extended, is excessively long in case of applications submitted by stateless persons and recommends significantly shortening it. [By comparison, UNHCR recommends that statelessness determination is conducted as expeditiously as possible. In general, it is undesirable for a first instance decision to be issued more than six months from the submission of an application, however, in exceptional circumstances proceedings may last up to 12 months. See UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paras. 74-75, available at: <https://www.refworld.org/docid/53b676aa4.html>]

UNHCR recalls that Article 32 of the 1954 Convention Relating to the Status of Stateless Persons, of which Slovakia is a State Party, stipulates that “*the Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings*”.

UNHCR RRCE
12 August 2020