

European Network on Statelessness submission to inform the European Commission 2022 Enlargement Package

Progress towards addressing statelessness in Enlargement countries

April 2022

The [European Network on Statelessness \(ENS\)](#) is a civil society alliance with over 170 members in 41 countries, committed to addressing statelessness in Europe. Everyone has the right to a nationality. We believe this must be respected and that the human rights of people who lack a nationality – stateless people – must be protected. We are dedicated to working with stateless people in Europe to advocate for their rights. We aim to reach our goals through law and policy development, awareness-raising, and capacity-building.

We welcome the opportunity to inform the European Commission’s 2022 Enlargement Package. This submission covers Albania, Bosnia-Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia, and is based on information provided by our members working in those countries¹, our [Statelessness Index](#), and [our work in the region](#).

1. General Comments

In the Enlargement region, as in other parts of Europe, statelessness affects both migrants and refugees² as well as people who have lived in the same place for generations. Many people affected by (the risk of) statelessness in the Western Balkans are members of Roma, Ashkali, and Egyptian communities.³ Causes of statelessness in the region include State succession, displacement, gaps and conflicts in nationality and civil registration laws, discrimination and antigypsyism. A stateless person is someone who has no nationality. This can mean not having basic rights most people take for granted: to go to school or work, to get married or register the birth of your child, to ‘legally exist’. As a result, many of those affected face marginalisation and heightened risk of discrimination and rights violations. All Enlargement countries have specific obligations under international law to protect stateless people and prevent statelessness, but in many cases, these have not been translated into effective law, policy, and practice at national level. As a result, people are still falling through the gaps and being left with no nationality.

Due to the disproportionate impact of (the risk of) statelessness on Romani communities in the region, it is vital that measures to address statelessness go together with concerted action to address antigypsyism and facilitate Roma participation in decision-making. In this regard, there have been some positive developments since April 2021. As follow-up from the 2019 Poznan Declaration on Roma integration in the EU Enlargement Process, Western Balkan countries committed to ensuring universal civil registration and ending Roma statelessness. In the ‘Conclusions of the Second Ministerial Meeting on Roma Integration’ in June 2021, Ministers confirmed that the roadmaps for ending Roma statelessness were finalised and will be incorporated in the new strategies for Roma integration.⁴ The Western Balkans countries also pledged to develop their national Roma integration strategies in alignment with the 2020-2030 EU Roma Strategic Framework

¹ With thanks to Tirana Legal Aid Society; Roma Active Albania; Association “Vaša prava BiH”; Civil Rights Program Kosovo; Roma Versitas Kosovo; Roma Youth Organisation ‘Walk with us-Phiren Amenca’ Montenegro; Macedonian Young Lawyers Association; and, Praxis Serbia.

² For more on how statelessness affects migrants and refugees in Europe, see: www.statelessjourneys.org

³ For more on how statelessness affects Roma in the Western Balkans, see: <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>

⁴ RCC, Western Balkans Summit, Bosnia and Herzegovina Ministry of Human Rights and Refugees, Conclusions of the Second Ministerial Meeting on Roma Integration, 28 June 2021, available at: <https://www.rcc.int/romaintegration2020/files/admin/docs/d4e8f57b0e812017fee6a94e8af1fefe.pdf>

for Equality, Inclusion, and Participation. However, as detailed below, these strategies have not yet been adopted everywhere.

Finally, the impact of the COVID-19 pandemic on communities affected by statelessness in the region must be addressed. When a person lacks a nationality, they lack the rights and duties attached to belonging to a State, which leads to violations of other human rights, including the right to health. Research commissioned by ENS and published in April 2021, showed how COVID-19 has exacerbated pre-existing discrimination, social exclusion, and deprivation experienced by many stateless people in Europe. Social, structural, and environmental determinants of health have worsened, including racism, antigypsyism, and xenophobia; poor and congested living conditions; lack of sanitation and hygiene; chronic (mental and physical) ill health; overrepresentation in the informal labour market; and lack of access to healthcare and social security. During the pandemic, many stateless people have lost their sources of income, had to work whilst sick and without adequate protection, been unable to access State aid and healthcare, and children's education has been disrupted. Our research makes a series of policy recommendations seeking to ensure that States take action to guarantee the right to health of all on their territory, including stateless people, during and after the COVID-19 pandemic.⁵

2. Albania⁶

As noted in our 2021 submission, the last few years have seen notable progress and commitment on the part of the Government of Albania to addressing statelessness, including through pledges made in 2019 at UNHCR's High-Level Segment on Statelessness.⁷ Further welcome commitment was made to addressing and reducing statelessness in Albania's National Action Plan for Equality, Inclusion, and Participation of Roma and Egyptians 2021-2025, which includes specific actions and targets in this regard. Nevertheless, it remains the case that to fully implement welcome reforms, the Government and other actors will need to invest in training and capacity building for its institutions and public services and continue to work closely with key stakeholders including affected communities.

Albania has also made some progress towards improving the protection of stateless people on its territory. The new Law on Foreigners came into force in November 2021. It is very welcome that this law introduces the legal basis for a statelessness determination procedure (SDP). However, the procedure is not yet operational as bylaws for its implementation have not been introduced. It is vital that legislators engage with and adhere to the advice of statelessness experts and mandate-holders, including UNHCR, to ensure that the new SDP is in line with international norms and good practice. For example, the definition of a stateless person included in the Law on Foreigners is not in line with the 1954 Convention definition (which is also considered international customary law).⁸ Additionally, asylum-seekers, refugees, and beneficiaries of complementary forms of protection are excluded from the possibility to apply for statelessness status under the SDP (Article 54), despite

⁵ENS, Briefing, Situation assessment of statelessness, health and COVID-19 in Europe, April 2021, available at: https://www.statelessness.eu/sites/default/files/2021-04/ENS_Health_Situation_Assessment_Europe-Briefing.pdf

⁶ For more detailed information on all aspects of law, policy, and practice relating to statelessness in Albania, see: <https://index.statelessness.eu/country/albania> (last updated March 2021).

⁷ Albania pledged to introduce a statelessness determination procedure by 2020; to fully implement the legislative amendments improving access to birth registration for children of Roma and Egyptian communities and children born to Albanian nationals abroad, by 2021; and to effectively reduce the risk of statelessness and align its Law on Citizenship with the 1961 and 1954 statelessness conventions by 2019. See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>

⁸ Article 3/30, Law 79/2021 on Foreigners, as amended: <https://qbz.gov.al/eli/fz/2021/162/8f6d9e67-0996-44fa-aadb-4a32b30e7fad;q=ligj%20per%20te%20huajt>

UNHCR's recommendation to the contrary.⁹ This is problematic as a stateless person may also be an asylum seeker, refugee, or entitled to a complementary form of protection, so it is important that each claim is assessed and both types of status can eventually be explicitly recognised.

Albania is scheduled to carry out its (delayed) census in 2022. It is vital that INSTAT (National Institute on Statistics) and the General Directorate of Civil Status work with statelessness experts and use this opportunity to better identify and gather reliable statistics on Roma and Egyptians (and other affected populations) residing in Albania to gather more accurate data on the population at risk of statelessness and help resolve outstanding issues with legal identity and civil registration.

3. Bosnia-Herzegovina

As noted in 2021, the Government of Bosnia-Herzegovina (BiH) has also made welcome commitments to addressing statelessness in recent years, including through pledges¹⁰ at UNHCR's High-Level Segment on Statelessness in 2019, and through the Poznan Declaration process. Little further progress towards implementing these commitments has been made in the last year. The commitment to publish an action plan to end statelessness has not yet been implemented. Drafting of the Action Plan for Roma Equality, Inclusion, and Participation 2021-2025 is underway, with the inclusion of Association "Vaša prava BiH" on its expert thematic working group, but the plan has not yet been adopted.

Also noted in 2021 were shortcomings in the February 2021 Law on Amendments to the Law on Extrajudicial Proceedings, which prescribes the procedure for determining the time and place of birth for persons who are not registered in the birth register and cannot prove the time and place of their birth in the manner prescribed by the regulations governing the keeping of registers. At the time of drafting the law, the Association "Vaša prava BiH" raised concerns about mandatory medical expertise and costs of the proceedings to be borne by the applicant. It remains of concern that unregistered persons seeking to access the procedure are not exempt from paying court fees and other costs, presenting a significant financial burden, and discouraging people from initiating proceedings.

Other concerns remain unaddressed, including the lack of State-funded legal aid, an excessively formalistic approach, and prejudicial attitudes among civil registry officials, which present barriers to civil registration for Romani people and other marginalised communities. People who have expressed their intention to seek asylum and people with irregular immigration status also continue to face difficulties registering new-borns, since the authorities require parents to provide the same documentation as people with regulated residence status in the country. This results in delays, birth registration not being conducted within the regular deadline, and registrations not containing information on the child's father. Depending on the country of origin, this creates a risk of statelessness, as the nationality laws of 25 countries around the world (including several countries of origin of refugees arriving in Europe such as Syria, Iran, and Iraq), do not permit women equal rights as men to confer their nationality on their children.¹¹

⁹ UNHCR Comments for the Parliament of the Republic of Albania on the Draft Law on Aliens, March 2021:

<https://www.refworld.org/docid/605339874.html>

¹⁰ Bosnia-Herzegovina pledged to develop, by the end of 2020, a State action plan for ending statelessness by 2024 in cooperation with all relevant stakeholders; to develop a dedicated statelessness determination procedure and provide stateless people rights in accordance with international conventions by 2022; to issue nationality documents to people who cannot acquire documentary proof of their nationality and create a mechanism for regulating the status of long-term residents (formerly displaced SFRY citizens) by 2022; and improve birth registration for all children regardless of their or their parents' status (in particular children born to BiH parents abroad and the children of undocumented parents born in BiH) and improve birth registration law and practice, by 2023. See:

<https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>

¹¹ See www.statelessjourneys.org for more information.

Permanent residence remains one of the most important factors for the enjoyment and exercise of many rights in BiH, including to civil registration, identity documents, healthcare, social welfare, and travel documents. Romani people living in informal settlements are usually unable to register their permanent residence at the address where they live. The authorities have discretion when assessing the evidence of those in vulnerable circumstances, but rarely use it in such cases, exacerbating documentation challenges and the risk of statelessness.

4. Kosovo

The legal framework for the prevention and reduction of statelessness and the protection of stateless people in Kosovo is relatively strong. For example, Kosovo has established a dedicated statelessness determination procedure (SDP) and has introduced flexibility in the law to facilitate late birth registration. However, as noted in 2021, challenges remain in how laws are implemented across the country.

Roma, Ashkali, and Egyptian communities in Kosovo continue to be disproportionately impacted by the risk of statelessness, contributing to their marginalisation, and preventing access to public services as well as political, social, and economic rights. These issues have been exacerbated by the COVID-19 pandemic, as unregistered persons were not considered under any relief measures offered by authorities.

Following actions in previous years to highlight issues relating to legal identity, the Ombudsperson has continued efforts to address statelessness in 2021, co-organising a conference with UNHCR on the importance of legal identity and access to rights, attended by our members and other experts to discuss civil registration and encourage relevant institutions to identify solutions for persons at risk of statelessness.

Despite some progress in 2021 through the efforts of civil society organisations, there remains a lack of accurate data and information on the population affected by statelessness in Kosovo, which hampers the ability to tackle the issue. Kosovo has not yet published its Strategy and Action Plan on Roma Equality, Inclusion, and Participation.

In 2021, with the support of ENS and OSF Roma Initiatives Office, Roma Versitas Kosovo carried out a survey in municipalities with a high representation of Roma, Ashkali and Egyptian communities to better understand the risks of statelessness and populations affected. Over 110 families were surveyed, finding that 36% of respondents reported that they had family members without any civil documents, and 6% reported that no-one in the family had any documents.

As noted in 2021, our members continue to report that confirmation and acquisition of citizenship for adult Romani persons who were born in Western European countries or in displacement in the Western Balkan region is problematic. Some face a serious risk of remaining stateless due to inability to secure the required evidence, despite parental links to Kosovo. The only option in such cases may be to request determination of statelessness under the SDP. However, as noted in 2021, only a handful of applications have been made for determination of statelessness under the SDP to date. The Government should invest in capacity-building for decision-makers to strengthen the institutional framework for the implementation of the SDP. Various administrative and bureaucratic obstacles continue to create barriers for access to rights.

Bureaucratic obstacles and misinterpretation of norms for late birth registration continue to pose issues. Despite the legal possibility to provide witness statements in the absence of documentary evidence, municipal officials tend not to implement this provision and refuse such applications, leading to lengthy appeals and prolonged delays in registration.

State-funded legal aid remains inaccessible to stateless persons and those at risk of statelessness as proof of citizenship is required to access legal aid. The Kosovar Government should ensure that the right to legal aid extends to all those on the territory who require it to access their rights to legal identity, protection, and a nationality.

It is also vital that Kosovo undertakes concrete action and introduces systemic solution to address the risk of statelessness faced by Romani people in the country. In this regard, the Government should establish a working group within the Office for Good Governance mandated to include a special pillar in the Strategy for Inclusion that would deal directly with the issue of statelessness. Furthermore, courts should be advised to treat persons without legal identity as a priority.

5. Montenegro

The Government of Montenegro made four political commitments to addressing statelessness at the UNHCR High-Level Segment in October 2019.¹² Although public commitments are welcome and implementation of these pledges could have a significant impact on reducing statelessness, Montenegro has not yet taken sufficient steps to implement these pledges since 2019. There remain important gaps in Montenegro's approach to addressing statelessness and implementing international standards.

The last census to take place in Montenegro, in 2011, recorded 4,312 individuals with 'no nationality' of which 3,471 stated they were born in Montenegro.¹³ In November 2017, the Government and UNHCR jointly carried out an exercise to map refugees from the Former Yugoslavia in Montenegro, which covered 2,318 people. The mapping confirmed that lack of documentation remains widespread, especially among Roma and Egyptian communities, and identified at least 450 people at risk of statelessness.¹⁴ The majority of stateless persons in Montenegro belong to the Roma community, many of whom came to Montenegro after the 1999 Kosovo war. Many of these people were not able to apply for legal status as they missed the deadline to apply under a public call in 2015, and so are residing in Montenegro with insecure legal status. They face the risk of deportation to Kosovo at any time. Most applications by these individuals to resolve their legal status in Montenegro are rejected.

In 2021, Montenegro adopted a Strategy for Social Inclusion of Roma and Egyptians 2021-2025, which includes an operational objective to "improve the position of Roma and Egyptian communities by resolving the issue of civil status and personal ownership documents". It also adopted a Strategy on Migration and Reintegration of Returnees in Montenegro 2021-2025¹⁵ which includes two relevant objectives to "resolve the legal status of internally displaced persons (IDPs) as well as other persons who are not registered in the basic registers and registers of citizens in Montenegro and in the surrounding countries", and "resolve the legal status of persons at risk of statelessness and creating conditions for effective access to rights for persons with recognised status of stateless persons". The accompanying Action Plan to these strategies includes an action point to tackle

¹² Montenegro pledged to strengthen implementation of the statelessness determination procedure and access to rights; to improve communication between relevant ministries to facilitate the immediate birth registration 'of children abandoned by their mothers or whose mothers are missing identification documents'; to implement simplified procedures for obtaining identification documents in cooperation with neighbouring countries and grant remaining pending cases of refugees from the former Yugoslavia the status of 'foreigners with permanent residence' by 2023; and to sharing its experiences of work to prevent statelessness with other countries. See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>

¹³ ENS, Statelessness Index - Montenegro [forthcoming in May 2022] at: <https://index.statelessness.eu/>

¹⁴ ENS, Statelessness Index - Montenegro [forthcoming in May 2022] at: <https://index.statelessness.eu/>

¹⁵ Government of Montenegro, Ministry of the Interior, Strategy on Migration and Reintegration of Returnees in Montenegro for the Period 2021-2025, with an Action Plan for 2021 and 2022, available at: <https://www.refworld.org/docid/6231d49e4.html>

antigypsyism, a first step towards tackling discrimination of Roma and Egyptian communities in the country, and actions to address civil registration and statelessness issues.¹⁶

Montenegro introduced a statelessness determination procedure (SDP) in 2018, a positive step towards addressing statelessness in the context of migration. Nevertheless, the procedure has many shortcomings both in law and practice. The SDP is difficult to access for applicants due to procedural and practical issues, a fact reflected in the fact that only 9 people have been recognised as stateless since 2018. Furthermore, the SDP does result in automatic permission to stay in Montenegro or a renewable residence permit, nor does it ensure access to all other rights as stipulated in the 1954 Convention.¹⁷ In 2022, UNHCR issued recommendations on how to improve the SDP and rights accorded to recognised stateless persons.¹⁸ It is imperative the Government implement these recommendations promptly.

6. North Macedonia¹⁹

Although there has been some progress towards addressing statelessness in North Macedonia in recent years, significant gaps and challenges remain. North Macedonia acceded to the 1961 Convention on the Reduction of Statelessness in January 2020, and new regularisation routes were introduced in 2019 and 2020 to facilitate access to socio-economic rights for people at risk of statelessness due to a lack of civil status, and stateless people from the former Yugoslavia (and their children) residing on the territory. However, there is no statelessness determination procedure nor protection status for stateless people on the territory, and the new regularisation route for those at risk of statelessness is limited to a specific group of identified people and does not resolve their nationality status, nor prevent new cases of statelessness arising. There remain significant barriers to universal birth registration and gaps in the legal framework for civil registration and the prevention of childhood statelessness, which disproportionately impact on Roma, Ashkali and Egyptian communities.

Macedonian Young Lawyers Association (MYLA), with the support of ENS and OSF Roma Initiatives Office, has been working in 2021 to address these issues through advocacy activities. The Ombudsperson and various senior level officials have met with statelessness experts to discuss solutions, but concrete progress remains slow. Positively, the 2021 census included a specific 'stateless' category. Results from the census are yet to be published.

Issues reported in 2021 regarding the 'Law on Persons without Regulated Civil Status' remain. The Law provides a temporary solution to facilitate access to some socio-economic rights for persons without civil status, but it does not provide for any route to determine or confirm their citizenship, to enable them to enjoy their right to a nationality. Moreover, only a fraction of the 750 people identified by the Government as being in this group have initiated the procedure and obtained personal documentation and/or birth certificates to date, and many of these still face barriers to accessing their rights and services in practice. MYLA reports that people with these special documents are unable to open bank accounts, access healthcare and social rights, for example.

¹⁶ UNHCR, #IBelong Campaign Update, July – September 2021, 20 October 2021, available at: <https://www.refworld.org/docid/616ff7a34.html>

¹⁷ Civic Alliance, Human Rights Action, Phiren Amenca, ENS, Joint Submission to the Committee Against Torture, April- May 2022, available at: [CAT Montenegro submission 2022 FINAL.pdf \(statelessness.eu\)](https://www.refworld.org/docid/6229fa0a4.html)

¹⁸ UNHCR, UNHCR Observations on the Amendments to the Law on Foreigners of Montenegro: Statelessness Determination Procedure, 10 February 2022, available at: <https://www.refworld.org/docid/6229fa0a4.html>

¹⁹ For more detailed information on all aspects of law, policy, and practice relating to statelessness in North Macedonia, see: <https://index.statelessness.eu/country/north-macedonia> (last updated March 2021).

There is an urgent need for a more proactive approach by government institutions to complete this process in timely manner.

Moreover, there is still no sustainable solution to prevent the risk of statelessness arising in future cases. It is still not possible for the births of children born to undocumented mothers to be registered immediately and parents must routinely produce many and varied documents at the discretion of registry officials for late birth registration. The requirements for late birth registration are extremely difficult to meet and the risk of births remaining unregistered impacts disproportionately on marginalised communities, including Roma, Ashkali and Egyptians, due to a range of factors, including inability to meet documentary evidence requirements, discriminatory attitudes of registry officials, and poverty and marginalisation.

There is only a partial safeguard in nationality law to prevent children being born stateless in North Macedonia (Article 6(1)), which is not in line with the 1961 Convention. A child born on the territory to stateless or unknown parents acquires North Macedonian citizenship, but the provision focuses on the status of the parents rather than the statelessness of the child, so does not cover children born to parents who may have a nationality but cannot confer this to their child. As there is no procedure for determining statelessness in North Macedonia, proving the statelessness of the parents can be very challenging in practice; nor is there any framework for identifying where a child would otherwise be stateless at or after birth registration. The law stipulates that only children can benefit from the provision, so this is interpreted as under 18 years-old, leaving a protection gap for young adults.

Free legal aid is only available to stateless persons who have a residence permit or otherwise have a right to stay, including people who have been registered under the Law on Persons without Regulated Civil Status. Stateless people can apply for naturalisation after six years of legal and permanent residence in North Macedonia, which is accelerated in comparison to others. However, other conditions for naturalisation must be met, including submission of a certificate confirming no criminal convictions or prosecutions and birth registration documentation. There are no exemptions from these requirements for stateless people.

7. Serbia²⁰

There has been limited progress to address statelessness in Serbia since our last submission in April 2021. Some commitments to prevent and reduce statelessness were made by the Serbian Government under the Poznan Declaration and follow-up process in 2019, 2020, and 2021 but significant gaps remain in law and practice. Civil registration and statelessness were not included in work to draft the new strategy on Roma Equality, Inclusion and Participation, and the Government has signalled that no legislative changes on these matters are planned.

Although Serbia is Party to both the 1954 and 1961 Conventions and has a 'statelessness status' in law providing for a right to work, education, social security, and a travel document, it still does not have a dedicated mechanism in place to determine statelessness and grant stateless people on its territory the protection they are due under international law.

The problem of access to immediate birth registration for undocumented parents in Serbia remains, despite persistent advocacy by Praxis, including submissions to European institutions, human rights advocacy before the UPR and treaty bodies, news articles, and detailed case studies provided to the Government as evidence of the key issues.²¹ According to the existing bylaws, to register the birth

²⁰ For further information on Serbia, see: <https://index.statelessness.eu/country/serbia> (last updated in March 2021).

²¹ All publicly available on Praxis's website at: <https://praxis.org.rs>

and the name of their child immediately upon birth, parents must possess birth certificates and ID cards. Children cannot be registered immediately after birth if parents are undocumented. Despite numerous appeals to the relevant ministries, government working groups, and international bodies, including the UN Human Rights Committee and CESCR, which has made recommendations in this regard, no significant progress has been achieved to date. In October 2019, the Ministry for Public Administration and Local Self-Government, the Ombudsperson and UNHCR signed a Memorandum of Understanding, which refers to further cooperation to resolve the problems faced in particular by Roma communities in Serbia to exercise their right to civil registration and legal identity, with special emphasis on new-born children.

At the end of 2020, competent Ministries adopted the 'Instruction for dealing with cases of birth of a child whose parents are undocumented in order to enable birth registration', a non-legally binding Act. The instruction does not address the question of how to register a child of an undocumented mother immediately after birth but only instructs the authorities on how to act to subsequently register the mother in the birth books and/or obtain personal documents for her, leaving the child unregistered until the mother obtains an ID card. Moreover, Praxis reports that in the cases of their undocumented beneficiaries who gave birth in 2021 and 2022, this instruction has not been applied in practice leaving undocumented mothers without a facilitated route to obtain documents. In February 2022, the same Ministries signed a new Memorandum of Understanding, which envisages the continuation of cooperation in the field of eradicating statelessness in Serbia. The European Commission's 2021 annual progress report on Serbia helpfully addressed these issues through a recommendation stating that all children be registered immediately after their birth and regardless of their parents' status.

Challenges described in previous years with access to late birth registration under the non-contentious procedure also remain. Prescribed deadlines are often not met, fees are sometimes requested of applicants who should be exempt by law, court decisions are often not forwarded to the registrars and data is not entered in the birth registry books for a long time after decisions are concluded. Decisions sometimes contain errors or do not contain all the necessary data, inhibiting a person's ability to confirm their nationality. Registrars sometimes do not enter the nationality into the birth registry books, even when the legal requirements for nationality are fulfilled. These practical challenges must be urgently addressed to ensure the legal procedure to facilitate late birth registration is being implemented as intended.

As reported in 2021, the Supreme Court of Cassation brought a Conclusion in 2020 in which it took the position that non-contentious procedures for determining the date and place of birth could be conducted only if the administrative procedure of subsequent registration in birth registry books had been previously unsuccessfully conducted. It also took the position that persons who are registered in the birth registry books of Kosovo could not ask the non-contentious court to establish the fact of their date and place of birth (even though Serbia has not recognised Kosovo and people cannot exercise any rights in Serbia on the basis of Kosovar documents). The implementation of the Conclusion by first instance courts would significantly prolong and complicate registration in the birth registry books, while many people who were born and registered in the birth registry books in Kosovo will be left without the possibility of registering in Serbia, regardless of the fact that they have not lived in Kosovo for years, have lived in cohabitation and had children in Serbia, and meet the requirements for Serbian citizenship. Courts have followed this Conclusion in cases in 2021 and 2022, making late birth registration increasingly difficult, if not impossible.

Legal safeguards are in place in Serbian citizenship law to prevent statelessness in the case of children born on the territory (Article 13) or to Serbian citizens abroad, foundlings and adopted children. However, there are implementation gaps. The authorities interpret the safeguard for

stateless children born in Serbia as applying only to minors, and in practice, a request must be submitted to the competent authority for a decision to be made on the acquisition of nationality, and documentary evidence of the child and/or parents' statelessness must be provided.

Serbia does not have a dedicated statelessness determination procedure nor any other mechanism to identify and determine statelessness. Since 2018, the Law on Foreigners provides for a definition of a stateless person in national law, but it is narrower than the 1954 Convention definition. Rights granted to stateless people include a travel document, right to work, social security, education, legal aid, and protection against discrimination. The law also prescribes that the 1954 Convention should be applied to stateless individuals if this is more favourable for them, but without an SDP, the risk is that these rights cannot be obtained in practice. There is no simplified or accelerated route to naturalisation for stateless people in Serbia.

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