

Written input to the
Committee on the Rights
of the Child

Committee on the Rights of the Child

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Romania

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ROMANIA



European
Network on
Statelessness

Written Input to the Committee on the Rights of the Child
at the 100th Pre-Sessional Working Group
on the State Report

Romania

Civil society submission on the right of every child to acquire and
preserve a nationality under Article 7 and 8 CRC in accordance with the
Guiding Principles to the Convention

Introduction

1. The Jesuit Refugee Service (Romania)¹ and the European Network on Statelessness (ENS)² welcome the opportunity to provide this written input to the Committee on the Rights of the Child, focusing on Romania's compliance with the right of every child to acquire a nationality under Article 7 and to preserve their nationality under Article 8 of the Convention on the Rights of the Child (CRC).³ The submission focuses on:
 - I. The right to birth registration
 - II. The right to acquire a nationality of children born stateless in Romania; and
 - III. Access to protection and naturalisation for stateless migrant and refugee children
2. The submitting organisations welcome that issues relating to challenges faced by children affected by statelessness in Romania are mentioned in the List of Issues Prior to Reporting.⁴ In light of the report submitted by Romania to the Committee on 18 June 2024,⁵ the submitting organisations hope the Committee will address recommendations to the Romanian Government to further prevent and reduce childhood statelessness and protect stateless children.
3. This submission is structured to highlight key challenges faced by children affected by statelessness in Romania.⁶ Each section includes suggested recommendations the Committee may draw on in formulating its Concluding Observations to Romania.
4. There are two Annexes to this submission:
 - I. Annex I highlights Romania's international obligations.
 - II. Annex II provides information about the co-submitting organisations.

¹ For more information, see <https://jrs.net/en/home/>.

² See: www.statelessness.eu.

³ This submission also draws on the Guiding Principles of the CRC, including freedom from discrimination (Article 2) and best interests of the child (Article 3), and may relate to other rights which often affect stateless children, including CRC Articles 10 (family reunification), 16 (privacy), 22 (special protection for migrants, IDPs, refugees and others in need of protection), 24 (health), 27 (standard of living), 28 (education), 30 (protection of minorities), 35-36 (protection from trafficking and other exploitation), 37 (protection from inhumane treatment and deprivation of liberty), and 39 (recovery from trauma).

⁴ In particular in paragraphs 13, 16, and 41 of the List of Issues Prior to Reporting.

⁵ Committee on the Rights of the Child, Combined sixth and seventh periodic reports submitted by Romania under article 44 of the Convention, due in 2024, CRC/C/ROU/6-7, 15 July 2024 [Date received: 18 June 2024], <https://documents.un.org/doc/undoc/gen/g24/120/16/pdf/g2412016.pdf>. See in particular paragraphs 117-126.

⁶ See e.g. ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15 (2015): <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>.

Statelessness in Romania

5. The number of stateless people in Romania is unknown due to the lack of reliable published data. Some data on the stateless population in Romania is available in the national data collection system, which has a specific ‘stateless’ category based on the census. The General Inspectorate for Immigration also records figures for the number of stateless people holding residence permits, as well as some potentially overlapping categories, including ‘unknown nationality’. However, statelessness has not been mapped in Romania, there is no official reliable and complete data on the population or children at risk of statelessness, including the number of Romani people who are undocumented. The lack of a statelessness determination procedure results in confusion about who is recorded as stateless and on what grounds, and there have been reports of people being wrongly attributed a nationality in official records, which may result in hidden statelessness. Children born in Romania to parents whose countries of nationality require a procedure to confer nationality to the child may be recorded as having a parent’s nationality, but if the parents do not initiate or complete the procedure, the children may be stateless.⁷ Statelessness may be identified during asylum procedures, returns, or border procedures, but this will offer little or no protection.
6. The number of stateless people officially registered in Romania remains constant with 288 individuals reported by the General Inspectorate for Immigration as of the end of May 2024, the authority responsible for the issuance of identity documents to foreigners. Of the 288 registered stateless people in Romania, 118 are beneficiaries of a form of international protection, whether refugee status or subsidiary protection.⁸ However, these numbers do not provide an accurate statistical overview of Romania's stateless population; estimates are likely an underrepresentation because stateless people living without residence status in Romania are mainly invisible in the data or with attributed/imputed nationality.⁹ The nationality laws of some of the countries recorded in the statistics discriminate against women, preventing children from acquiring nationality through their mothers.¹⁰ Where such children cannot acquire nationality through their fathers (due to the father being out of contact, unknown, or unwilling to acknowledge paternity), they are stateless, but they may not be acknowledged as such.
7. The legal and policy framework in Romania has some positive aspects and some significant gaps. Romania has acceded to most relevant human rights and has clear obligations to protect every child’s right to a nationality and the rights of stateless children within its jurisdiction (see Annex I). However, Romania does not have a dedicated statelessness determination procedure, a nationality determination procedure for children born in Romania, nor Government guidance for decision-makers on the identification and determination of statelessness (see Annex II on UN recommendations to Romania relating to childhood statelessness and nationality).

⁷ See: Statelessness Index, Romania, update soon to published, <https://index.statelessness.eu/country/romania>.

⁸ See: Statelessness Index, Romania, update soon to published, <https://index.statelessness.eu/country/romania>.

⁹ In Romania, state authorities automatically attribute the parents’ nationality (or the nationality indicated by the parents) to the baby on birth certificates. Birth certificates often serve as the primary source of data for other official documents issued later, this practice may give the false impression that the nationality status of the child is properly determined and that statelessness was effectively avoided – European Council on Refugees and Exiles (ECRE), The Right to a Nationality of Refugee Children Born in the EU and the Relevance of the EU Charter of Fundamental Rights, February 2017, <https://www.ecre.org/wp-content/uploads/2016/12/refugee-children-nationality-LEAP-leaflet.pdf>.

¹⁰ Equality Now, The State We’re In (2022) <https://www.equalitynow.org/resource/state/>.

The right to birth registration

8. Lack of birth registration heightens the risk of leaving children without a nationality.¹¹ In order to ensure that all children have their births registered regardless of their or their parents' residence status, international norms and good practice urge States to prohibit data-sharing between health or registration officials and immigration enforcement authorities.¹²
9. Access to birth registration in Romania has improved in recent years, but there is no procedure to determine a child's nationality, and certain children continue to face discriminatory barriers to registration.¹³ Cases have been reported of children born to migrants or same-sex parents being refused birth certificates and registration being delayed in the case of marriages concluded abroad without transcription/registration in the Romanian civil register. A birth can only be registered after the marriage has been transcribed in the Romanian civil register.¹⁴
10. There has been improvement on this issue since 2019, when the relevant legal provisions were amended to allow parents seeking asylum or beneficiaries of international protection to register the birth of their children even if they do not hold a passport, identity card or travel document. A small number of cases continue to be reported where delays, refusals and/or difficulties in registration or issuance of birth certificates occur due to the interpretation of legal provisions or their lack of specific regulation of birth registration for some parents (generally migrants and/or same-sex parents).¹⁵
11. While there have been improvements in 2022 regarding the regulatory framework governing civil status, including for the registration of the birth of Romanian or foreign nationals by competent authorities,¹⁶ as mentioned in the State report communicated in 2024,¹⁷ this only

¹¹ For further information, see ENS (2024), *Thematic Briefing on Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers*: <https://www.statelessness.eu/updates/publications/birth-registration-and-prevention-statelessness-europe-identifying-good>.

¹² Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, available at: <https://www.refworld.org/docid/5a12942a2b.html>.

¹³ Statelessness Index, Romania, update soon to be published, <https://index.statelessness.eu/country/romania>.

¹⁴ Act No. 119/1996 on Civil Status Documents: <http://legislatie.just.ro/Public/DetaliuDocument/8624> (RO); Methodological norms for the application of legislation on civil status, Official Gazette No. 151 of 2 March 2011, Arts. 34-37: <http://legislatie.just.ro/Public/DetaliuDocumentAfis/220201> (RO); Act No. 272/2004 on the Protection and promotion of the rights of the child, Article 9: <http://legislatie.just.ro/Public/DetaliuDocument/52909> (RO); ENS, *Ending Childhood Statelessness: A Study on Romania*, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>.

¹⁵ Government Decision no. 64/2001 on the Methodology for the unitary application of dispositions concerning civil status., Official Gazette No. 151 of 2 March 2011, Art. 24 (21): <http://legislatie.just.ro/Public/DetaliuDocumentAfis/220201> (RO); Statelessness Index, Romania, Country Survey Data (2021) https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Romania-2021.pdf, 6e.

¹⁶ Law no. 105/2022 amending and supplementing Law No. 119/1996 on civil status acts, as well as repealing Government Ordinance No. 41/2003 on the administrative acquisition and change of names of natural persons. <https://legislatie.just.ro/Public/DetaliuDocument/254482>.

¹⁷ Committee on the Rights of the Child, Combined sixth and seventh periodic reports submitted by Romania under article 44 of the Convention, due in 2024 CRC/C/ROU/6-7, 15 July 2024, [Date received: 18 June 2024], paragraph 21, <https://documents.un.org/doc/undoc/gen/g24/120/16/pdf/g2412016.pdf>.

concerns the declaration of the birth while the issuance of birth certificates continues to be non-automatic.

12. Births must be registered within 15 days, after which approval of the mayor is required. After one year, registration is only possible through a court procedure, which involves verification of the child's identity, age, and sex. Legal aid is not available for people who are unregistered, and a medico-legal assessment is required, which incurs a fee for adults. The age-assessment process is reportedly unpleasant and uncomfortable, which may deter people from accessing the procedure. The procedure is even more difficult (if not impossible) for people who were not born in medical facilities and do not have a medical certificate of birth.¹⁸
13. Roma children are one of the groups most at risk of being stateless, due to a complex range of issues, including extreme poverty, social exclusion, and antigypsyism. There are many Roma children and young adults who remain unregistered at birth and who would need to undergo the complex court procedure to register later in life. The risk is heightened for children born to parents who themselves are undocumented, thus perpetuating the lack of legal identity and risk of statelessness.¹⁹
14. Although the Romanian Government introduced rules in 2016 to facilitate birth registration by undocumented parents, there have been no recent proactive action or campaigns by the Romanian authorities to reduce statelessness or promote birth registration of children at risk of statelessness.

Considering the above, we hope the Committee will consider making the following recommendations to Romania:

- I. **Implement effective awareness-raising campaigns and training programmes to ensure that parents of stateless children are informed of their rights to birth registration and nationality; and birth registration officials register births in a non-discriminatory manner, in line with the CRC.**
- II. **Take measures to ensure universal access to birth registration for all children born in Romania, including those whose births were not registered within the 15-day timeframe, children of same-sex parents, and children with a migratory background.**

¹⁸ Act No. 272/2004 on the Protection and promotion of the rights of the child, Article 14: <http://legislatie.just.ro/Public/DetaliuDocument/52909> (RO); Act No. 119/1996 on Civil Status Documents, Arts. 18: <http://legislatie.just.ro/Public/DetaliuDocument/8624> (RO); ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>.

¹⁹ ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>; European Union Agency for Fundamental Rights, Second European Union Minorities and Discrimination Survey Roma – Selected findings, 2016: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf.

The right of children born stateless in Romania or to Romanian parents to acquire a nationality

15. International norms establish that children who would otherwise be stateless shall acquire the nationality of the State where they were born.²⁰ However, to establish if a child would 'otherwise be stateless' and meet their obligations under the CRC and the 1961 Convention on the Reduction of Statelessness, States must be able to determine whether the child has acquired the nationality of any State. This examination should be carried out by a competent authority with the necessary expertise, through an established procedure for determining the child's nationality, and be undertaken immediately or as soon as possible after birth registration.²¹ The nationality of the child should be undetermined for as short a period as possible and never longer than five years. All actions involved in determining whether a child would otherwise be stateless must be undertaken with the best interests of the child as a primary consideration, and the authority responsible for such a procedure should ensure that its decision-making staff are trained on nationality and statelessness law and practices. The procedure should be free of charge and regulated by transparent guidance.²² Where an application procedure is required, information on how to apply must be provided to individuals whose children may otherwise be stateless or of undetermined nationality.²³
16. There is no safeguard in Romanian nationality law²⁴ for otherwise stateless children born in Romania to acquire nationality. On 26 June 2024, the Parliament adopted a draft law amending the Citizenship Law through the emergency procedure, upon a proposal of the Ministry of Justice of 2 February 2024. The draft law included an amendment on the obligation to prioritise applications for granting or reacquiring Romanian nationality submitted by stateless people, both children and adults (Article 19(2)).²⁵ It also included amendments related to the declaration of nullity of the adoption or the annulment of the adoption (Article 7(2)) and the removal of parentage (Article 30(2)). On 27 June 2024, the High Court of Cassation and Justice filed a complaint of unconstitutionality, thereby suspending the adoption procedure until the ruling of the Constitutional Court, which is currently pending. Moreover, on 24 July 2024, the Government adopted an Emergency Ordinance 100/2024²⁶ amending the Citizenship Law, but

²⁰ CRC Article 7 (as interpreted and applied by the Committee) and the 1961 Convention on the Reduction of Statelessness, Article 1.

²¹ UNHCR (2012), *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*, HCR/GS/12/04:

<https://www.refworld.org/docid/50d460c72.html>.

²² *ibid*, para. 54. For further information see: ENS (2024), *Thematic Briefing on Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers*:

<https://www.statelessness.eu/updates/publications/birth-registration-and-prevention-statelessness-europe-identifying-good>.

²³ Council of Europe (2009) Recommendation to Member States on the Nationality of Children, Principle 6.

²⁴ Law 21/1991 on Citizenship, available in English at: <https://www.refworld.org/docid/3ae6b50218.html>.

²⁵ Ministry of Justice, Draft Emergency Ordinance for the amendment and completion of the Romanian Citizenship Law no. 21/1991, as well as for the amendment and completion of other normative acts, 2 February 2024, <https://www.just.ro/proiect-de-lege-pentru-modificarea-si-completarea-legii-cetateniei-romane-nr-21-1991-precum-si-pentru-modificarea-si-completarea-altor-acte-normative/> (only in Romanian).

²⁶ Emergency Ordinance no. 100 of 25 July 2024 on the amendment and completion of the Romanian Citizenship Law no. 21/1991, as well as for the amendment and completion of other normative acts, published in Official Gazette no. 740 of 29 July 2024, <https://legislatie.just.ro/Public/DetaliuDocument/286306>.

which did not take over the amendments relevant to statelessness adopted by the Parliament. Therefore, currently, the risk of statelessness for children in case of the declaration of nullity of the adoption or the annulment of the adoption and removal of parentage are still applicable as per the current legislation, and applications for granting or reacquiring nationality are not prioritised for stateless adults and children.

17. In February 2024, in the context of the pending reform to the Citizenship Law and following the legislative transparency procedure, the Ministry of Justice organised a meeting with civil society organisations and individuals to discuss the situation of children born in Romania who would otherwise be stateless. According to the opinion of the Ministry of Justice,²⁷ Romanian law is in line with the provisions of the 1961 Convention on the Reduction of Statelessness, which provides that the duration of residence fixed by the Contracting State shall not exceed five years immediately prior to the submission of the application, or 10 years in total. However, there is no safeguard in Romanian nationality law²⁸ for otherwise stateless children born in Romania to acquire nationality, as the only option for a stateless child born on the territory is to apply for naturalisation alongside their parent/s if they can meet the general conditions set out in the law.²⁹ Moreover, children born to parents with a foreign nationality are usually registered as having the same nationality as their parents without any determination as to whether they actually have that nationality or can acquire it by registration.³⁰
18. Parents are not provided with information about their children's right to a nationality.
19. The State report mentions the acquisition of Romanian nationality by foundlings to prevent statelessness.³¹ However, while foundlings acquire Romanian nationality automatically by law, there are administrative barriers, and there is a risk of statelessness if parentage is later established.³² Granting or recognition of Romanian nationality is vague³³ since there is no procedure. The relevant law does not contain any age limit for the foundling child, and thus applies until age 18.³⁴ Romanian law provides that a foundling who has been granted Romanian

²⁷ Mr. Mihail Gabriel Cucu, Department of Drafting Normative Acts (DEAN) within the Ministry of Justice, Minute of the public debate on the draft Law for amending and supplementing the Romanian Citizenship Law no. 21/1991, as well as for amending and supplementing other normative acts, 23 February 2024,

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.just.ro%2Fwp-content%2Fuploads%2F2024%2F03%2FMinuta-intalnirii-dezbatere-publica.docx&wdOrigin=BROWSELINK>.

²⁸ Law 21/1991 on Citizenship, available in English at: <https://www.refworld.org/docid/3ae6b50218.html>.

²⁹ Conditions include: be under 18 (their consent is required if aged 14-17), reside in Romania, and either submit the application with their parents, or, if born after the parent/s' application, apply before a decision to grant them nationality is issued, or the parent/s may apply on the child's behalf after they have acquired nationality if they also submit proof of subsistence.

³⁰ See: Statelessness Index, Romania, update soon to published, <https://index.statelessness.eu/country/romania>.

³¹ Committee on the Rights of the Child, Combined sixth and seventh periodic reports submitted by Romania under article 44 of the Convention, due in 2024 CRC/C/ROU/6-7, 15 July 2024, [Date received: 18 June 2024], paragraph 121, <https://documents.un.org/doc/undoc/gen/g24/120/16/pdf/g2412016.pdf>.

³² Statelessness Index, Romania, update soon to published, <https://index.statelessness.eu/country/romania>.

³³ Article 5 (3) of the Law 21/1991 on Citizenship "The child found on the territory of the Romanian state is considered a Romanian citizen, until proven otherwise, if neither of the parents is known."

³⁴ Law No. 21/1991 on Citizenship, Article 5(3): <http://legislatie.just.ro/Public/DetaliiDocument/121439> (Romanian) (ENG translation available at: <https://www.refworld.org/docid/3ae6b50218.html>); Methodological norms for the application of legislation on civil status, Official Gazette No. 151 of 2 March 2011, Arts. 34-37: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/220201> (Romanian).

nationality loses this nationality if parentage is established to one or both parents before the child is 18 and both parents are foreign nationals (if one parent is a Romanian national, the child keeps their Romanian nationality).³⁵ If the parent(s) is/are later identified, the birth certificate is annulled through a court decision and a new one is issued. There is no explicit safeguard to prevent statelessness in such cases and no jurisprudence on this matter. The authorities state that they consider potential situations of statelessness but, in the absence of a legal safeguard, there is a risk of statelessness.³⁶ Moreover, according to the statistical information provided by the Ministry of Justice, data on foundlings considered Romanian nationals is not duly reported, since it is not collected.³⁷ Furthermore, the National Authority for Citizenship does not have specific regulations published regarding acquisition of nationality of foundlings.³⁸

20. A non-Romanian child adopted by Romanian national parents acquires Romanian nationality if both parents are Romanian. If only one parent is Romanian, both must agree on the child's nationality. If they cannot agree, the court will decide, taking into consideration the child's best interests and their opinion if they are over age 14. A risk of statelessness may occur for adopted children residing abroad (or who leave the country for permanent residence abroad); if their adoption is annulled or cancelled while they are under 18, they would be considered never to have been a Romanian national.³⁹
21. Children born to Romanian nationals abroad are entitled to Romanian nationality, but their civil status documents must be transcribed into the Romanian registries. In most cases, this can be done through a request submitted to the consular authorities where the child was born or through a request for the transcription of foreign civil status certificates in Romania. However, there have been reports of discriminatory practices hindering such registration in some cases. Children of same-sex parents will not be registered in the Romanian registries, or only one parent will be listed, increasing the risk of statelessness in some cases.⁴⁰

³⁵ Article 30 (1) of the Law 21/1991 on Citizenship.

³⁶ Law 21/1991 on Citizenship, Article 30: <http://legislatie.just.ro/Public/DetaliiDocument/121439> (RO) (English translation available at: <https://www.refworld.org/docid/3ae6b50218.html>); ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>.

³⁷ See for example the response provided by the Ministry of Justice before the Chamber of Deputies on 19.08.2020, <https://cdep.ro/interpel/2020/r11034A.pdf>.

³⁸ National Authority for Citizenship, Documents necessary for granting Romanian nationality to minors, according to Article 9 paragraph 5 of Law no. 21/1991 (Article 8): <https://cetatenie.just.ro/art-8-acordare-cetatenie-romana-minori/>.

³⁹ Law 21/1991 on Citizenship, Article 29: <http://legislatie.just.ro/Public/DetaliiDocument/121439>. (Romanian) (English translation available at: <https://www.refworld.org/docid/3ae6b50218.html>); ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>.

⁴⁰ See: Statelessness Index, Romania, update soon to published, <https://index.statelessness.eu/country/romania>. And see Law 21/1991 on Citizenship, Article 5: <http://legislatie.just.ro/Public/DetaliiDocument/121439> (RO) (ENG translation available at: <https://www.refworld.org/docid/3ae6b50218.html>); Act No. 119/1996 on Civil Status Documents, Art. 40: <http://legislatie.just.ro/Public/DetaliiDocument/8624> (Romanian); ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper 01/15, 2015: <https://www.statelessness.eu/updates/publication/ending-childhood-statelessness-study-romania>; EIPaís.com, 19 July 2019: Rumanía desbloquea la situación de los 200 niños sin papeles que tutela España: <http://cort.as/-RZh2> (Spanish).

22. The State report mentions the loss of Romanian nationality acquired by the spouse or children of a person whose nationality has been withdrawn due to fraud.⁴¹ While in most cases, deprivation and renunciation do not affect the spouse or children of the individual, if both parents renounce their nationality and the child moves abroad, the child will lose their Romanian nationality, which may lead to statelessness. Prevention of statelessness in this situation is included in the proposed amendments to the Citizenship Law, whose adoption is currently suspended.

Considering the above, we hope the Committee will consider making the following recommendations to Romania:

- I. **Enact legislation to ensure that all children born in Romania who would otherwise be stateless can acquire a nationality as soon as possible after birth, regardless of the status or identity of their parents.**
- II. **Introduce a mechanism to determine the nationality of children born in Romania to non-Romanian parents, to guarantee the child's right to a nationality.**
- III. **Introduce measures to identify (risk of) statelessness of children born in Romania, children born to Romanian parents abroad, or children who arrive in Romania, to enable them to fulfil their right to acquire a nationality.**

Access to protection and naturalisation for stateless migrant and refugee children

23. To provide the protection and rights enshrined in the CRC as well as the 1954 Convention relating to the Status of Stateless Persons (1954 Convention), including a residence permit, the right to study and facilitated naturalisation, States must identify stateless people on their territory. UNHCR recommends that this is best fulfilled through a dedicated statelessness determination procedure (SDP).⁴² Stateless children or children at risk of statelessness should be referred to an SDP, with due consideration for confidentiality and the primacy of resolving any outstanding asylum claim before initiating contact with State authorities to determine statelessness. This would ensure that their statelessness is formally identified and recognised, and they receive full protection and enjoyment of their rights, including their right to acquire a nationality. International guidance states the need for additional procedural, substantive and evidentiary safeguards for children, including timelines, non-discrimination with regards to residency status, child-sensitive procedures and shared burden of proof.⁴³ The best interests of the child should

⁴¹ Committee on the Rights of the Child, Combined sixth and seventh periodic reports submitted by Romania under article 44 of the Convention, due in 2024 CRC/C/ROU/6-7, 15 July 2024, [Date received: 18 June 2024], paragraph 126, <https://documents.un.org/doc/undoc/gen/g24/120/16/pdf/g2412016.pdf>.

⁴² UNHCR (2014), *Handbook on Protection of Stateless Persons*, para. 57-58, <http://www.unhcr.org/uk/protection/statelessness/53b698ab9/handbook-protection-stateless-persons.html>.

⁴³ UNHCR (2012), *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*, HCR/GS/12/04, para. 11 <https://www.refworld.org/docid/50d460c72.html>.

be a primary consideration in any decision-making relating to the children's nationality status and protection as stateless people.⁴⁴

24. Romania has no statelessness determination procedure through which children or adults may be recognised as stateless and granted a residence permit.⁴⁵ In general, any rights stateless persons can access depend on their respective status as asylum-seekers or refugees, persons with a tolerated stay permit, or persons granted another form of protection or residence. Access to legal aid is limited to people who have a residence permit or the right to stay.⁴⁶
25. Under the 1954 Convention,⁴⁷ Romania is bound to "as far as possible facilitate the assimilation and naturalisation of stateless persons", and "make every effort to expedite naturalisation proceedings and to reduce [...] the charges and costs of such proceedings". However, Romania does not facilitate naturalisation for stateless children (or other stateless persons). The only way most stateless children in Romania may acquire nationality is by applying for naturalisation alongside their parent/s if the parent become eligible to naturalise (under Article 8 of the Romanian Citizenship Act).⁴⁸

Considering the above, we hope the Committee will consider making the following recommendations to Romania:

- I. Introduce a statelessness determination procedure which complies with the requirements of the 1954 Convention and the CRC (in particular with respect to procedures appropriate for children), and a route to facilitated naturalisation for stateless people.**

⁴⁴ UNHCR (2014), *Handbook on Protection of Stateless Persons*, para. 119:

<http://www.unhcr.org/uk/protection/statelessness/53b698ab9/handbook-protection-stateless-persons.html>.

⁴⁵ Statelessness Index, Romania, Country Survey Data (2021)

https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Romania-2021.pdf, SDS3a.

⁴⁶ ENS, Statelessness Index, Romania: <https://index.statelessness.eu/country/romania>

⁴⁷ 1954 Convention, Article 32.

⁴⁸ Statelessness Index, Romania, Country Survey Data (2021)

https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Romania-2021.pdf, PRS2a.

Annex I - Romania's International Obligations

1. Romania has a positive record of accession to human rights instruments and has international obligations to protect the right to a nationality and protect the rights of stateless persons, including children. Romania is party to the CRC, without reservations. Romania is also party to the 1954 Convention relating to the Status of Stateless Persons (which has direct effect in Romanian law, but Romania retains a number of significant reservations, including that Romania reserves the right to provide public relief only to stateless *refugees* (Article 23), to grant identity papers only to stateless people with a residence permit (Article 27), and to expel a stateless person staying lawfully on the territory if they commit a criminal offence (Article 31)). Romania is also party to the 1961 Convention on the Reduction of Statelessness, with no reservations.
2. Romania also has international obligations to protect the right to a nationality and the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include, among others:⁴⁹
 - a. International Covenant on Civil and Political Rights (ICCPR) (see article 24.3)
 - b. International Covenant on Economic, Social and Cultural Rights (ICESCR) (see articles 2.2 and article 3)
 - c. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (see article 9)
 - d. International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (see article 5(d)(iii))
 - e. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
 - f. Convention on the Rights of Persons with Disabilities (see article 18)
 - g. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol)
3. At regional level, Romania is a State Party to the European Convention on Human Rights (ECHR) and a State Party to the European Convention on Nationality, but retains some reservations relating to the latter.⁵⁰ Romania is bound by the EU Returns Directive and is party to all other relevant regional and international human rights treaties (with no relevant reservations), except the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession and the International Convention on the Rights of All Migrant Workers and Members of their Families.
4. In light of the CRC and other international instruments that Romania is a state party to, it has the following obligations with regard to protecting every child's right to acquire a nationality and the prevention of childhood statelessness:

49 UN Treaty Body Database, View the ratification status by country or by treaty:

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=143&Lang=EN

⁵⁰ Law no. 396 of 14 June 2002 on the ratification of the European Convention on Nationality, adopted in Strasbourg on 6 November 1997: <http://legislatie.just.ro/Public/DetaliiDocument/37144>

- I. The right of every child to acquire a nationality, with particular attention to those children who would otherwise be stateless;⁵¹
- II. The automatic acquisition of nationality by foundlings found on its territory who would otherwise be stateless;⁵²
- III. The acquisition of nationality by children born on its territory who do not acquire another nationality, either at birth or subsequently if they remain stateless, enabling children who remain stateless to acquire nationality upon application (with the possibility to require maximum five years of habitual residence before submitting the application, no other conditions);⁵³
- IV. Non-discrimination against any child or their parents or guardians and ensuring that the best interests of the child are a primary consideration for authorities in dealing with all the matters above.⁵⁴

⁵¹ 1989 Convention on the Rights of the Child, Article 7.

⁵² 1997 European Convention on Nationality, Article 6 (1) (b); 1961 Convention on the Reduction of Statelessness, Article 2.

⁵³ 1997 European Convention on Nationality, Article 6(2); 1961 Convention on the Reduction of Statelessness, Article 1(2)(b).

⁵⁴ 1989 Convention on the Rights of the Child, Articles 2 and 3.

Annex II - Previous CRC and other UN recommendations to Romania relating to childhood statelessness and nationality

1. In 2017, the Committee on the Rights of the Child recommended that Romania *'strengthen community-based services to ensure that all children, including those in rural communities, have access to birth registration without delay'* and reiterated its previous recommendation to ensure that children in street situations receive national identification documents.⁵⁵
2. Romania has received and accepted several recommendations via the Universal Periodic Review. For example, in 2023, Romania received recommendations from Uruguay to *'[i]ncrease efforts to strengthen national campaigns aimed at reducing statelessness, especially aimed at promoting birth registration by undocumented parents and among groups at risk of statelessness'*;⁵⁶ from Ukraine to *'[e]stablish a clear and predictable statelessness determination procedure that guarantees basic procedural rights and safeguards'*,⁵⁷ and from Kyrgyzstan to *'[i]mprove asylum procedures and mechanisms for identifying stateless persons and granting them temporary protection status.'*⁵⁸ Moreover, Romania accepted a recommendation from Norway in 2018 to *'provide funding and human resources in rural areas to reduce and eliminate disparities, with particular focus on [...] access to birth registration'*.⁵⁹ In 2013, Romania accepted recommendations from Mexico to *'amend the Citizenship Law to ensure that all persons born in Romania obtain a nationality; otherwise they would be stateless, regardless of the status of the parents'*⁶⁰; from Uruguay to *'implement comprehensive awareness raising strategies [...] to register births and facilitate the issuance of birth certificates, without any delay'*⁶¹; and from Slovakia to *'consider amending the Citizenship Law to include safeguards against statelessness, providing that children born in the Romanian territory, who would otherwise be stateless, acquire Romanian nationality'*.⁶²
3. In 2017, the Committee on the Elimination of Discrimination against Women recommended that Romania *'[d]evelop measures to identify unregistered children and ensure that all children born in the territory of the State party, in particular Roma children, are registered at birth to ensure their access to education, social services, health care and citizenship, and allocate adequate funding [...].'*⁶³
4. In 2024, the Committee on Economic, Social and Cultural Rights recommended that Romania *'[a]mend Law No. 21/1991, on citizenship, to enable children born on its territory to acquire*

⁵⁵ CRC/C/ROU/CO/5 (13 July 2017), 21 and 42, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/190/55/PDF/G1719055.pdf?OpenElement>.

⁵⁶ A/HRC/54/7 (23 June 2023), 109.195, <https://documents.un.org/doc/undoc/gen/g23/114/12/pdf/g2311412.pdf>.

⁵⁷ A/HRC/54/7 (23 June 2023), 109.250, <https://documents.un.org/doc/undoc/gen/g23/114/12/pdf/g2311412.pdf>.

⁵⁸ A/HRC/54/7 (23 June 2023), 109.251, <https://documents.un.org/doc/undoc/gen/g23/114/12/pdf/g2311412.pdf>.

⁵⁹ A/HRC/38/6 (5 April 2018), 114.79, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/084/74/PDF/G1808474.pdf?OpenElement>.

⁶⁰ A/HRC/23/5 (21 Mar 2013), 109.105, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/124/42/PDF/G1312442.pdf?OpenElement>.

⁶¹ A/HRC/23/5 (21 Mar 2013), 109.113, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/124/42/PDF/G1312442.pdf?OpenElement>.

⁶² A/HRC/23/5 (21 Mar 2013), 109.149, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/124/42/PDF/G1312442.pdf?OpenElement>.

⁶³ CEDAW/C/ROU/CO/7-8 (24 July 2017), 37, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/227/97/PDF/N1722797.pdf?OpenElement>.

*nationality to avoid statelessness among children born to stateless parents or to parents who are unable to pass on their citizenship.*⁶⁴

5. In 2023, the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recommended that Romania *'[t]ake legislative measures to ensure that all persons born in the State party, who would otherwise be stateless, acquire Romanian nationality and establish a dedicated statelessness determination procedure, which is an essential means of ensuring the proper identification and protection of stateless persons, including minors, in accordance with the State party's obligations under the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.*⁶⁵
6. In October 2022, UNHCR recommended that Romania *'[i]n accordance with its obligations under the 1961 Convention, amend the Citizenship Law to ensure that all persons born in Romania, who would otherwise be stateless, acquire Romanian nationality; and, [...e]stablish a dedicated statelessness determination procedure, which is an essential mean of ensuring proper identification and protection of stateless persons in line with Romania's obligations under the 1954 Convention relating to the Status of Stateless Persons.*⁶⁶
7. In 2016, the Parliamentary Assembly of the Council of Europe noted that *'the relevant legislation in [...] Romania [...] contains insufficient or no safeguards against childhood statelessness, in breach of regional and international obligations.*⁶⁷

⁶⁴ CESCR/E/C.12/ROU/CO/6 (20 March 2024), 21(b),

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FROU%2FCO%2F6&Lang=en.

⁶⁵ CAT/C/ROU/CO/3 (23 August 2023) 24(d), <https://digitallibrary.un.org/record/4019281?v=pdf>.

⁶⁶ UN High Commissioner for Refugees (UNHCR), UNHCR Submission for the Universal Periodic Review – Romania – UPR 43rd Session (2023), 2023, <https://www.refworld.org/policy/upr/unhcr/2023/en/149042>; Human Rights Council Working Group on the Universal Periodic Review, Romania, Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/43/ROU/2 (15 February 2023) p. 4, <https://documents.un.org/doc/undoc/gen/g23/009/62/pdf/g2300962.pdf>.

⁶⁷ Parliamentary Assembly of the Council of Europe, Resolution 2099 (2016), The need to eradicate statelessness of children, paragraph 8, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22556&lang=en>.

Annex III - The Co-Submitting Organisations

1. The [Jesuit Refugee Service \(JRS\) Romania](#)⁶⁸ was founded in February 2000 being officially registered as a foundation in Romania, as part of the JRS network. JRS currently works more than 50 countries, including Romania, and aims to help refugees and other displaced persons regain their dignity. JRS Romania accompanies refugees and stateless persons in building their lives in Romania, including through activities such as taking them to appointments, offering counselling, and referring them to needed services.
2. The [European Network on Statelessness \(ENS\)](#)⁶⁹ is a civil society alliance of NGOs, lawyers, academics, and other independent experts committed to addressing statelessness in Europe, with over 180 members in 41 European countries. ENS organises its work around three pillars – law and policy development, awareness-raising, and capacity-building. Promoting every child’s right to a nationality in Europe is a thematic priority for ENS, including ensuring access to birth registration and promoting nationality law reform to end childhood statelessness. This submission partially draws on information and analysis from the Statelessness Index on Romania,⁷⁰ maintained and developed by ENS and its members. The Index is an online comparative tool that assesses European countries’ law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice.

⁶⁸ For more information, see <https://jrs.net/en/home>.

⁶⁹ For more information about the European Network on Statelessness, see: www.statelessness.eu.

⁷⁰ See <https://index.statelessness.eu/country/romania>.