



**STATELESSNESS IN KAZAKHSTAN:
ANALYSIS OF NATIONAL LEGISLATION**

2nd edition

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Dear Reader.

The Universal Declaration of Human Rights affirms that *Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality* nor denied the right to change his nationality. Yet the stark reality is that many millions of people around the world are denied basic human rights because they are not recognized as citizens of any State - they are stateless. Stateless people are amongst the most vulnerable segments of society and are at highest risk of being left behind in sustainable development.

Statelessness in the Republic of Kazakhstan and neighbouring States largely resulted from the dissolution of the Soviet Union. While many residents were able to confirm or acquire the nationality of Kazakhstan or another successor State, some remained in legal limbo. In the 2009 National Population Census, 57,000 respondents identified themselves as stateless.

As only States can grant or confirm nationality, their cooperation in preventing and reducing statelessness is crucial. Two universal treaties – both included at the end of this compilation – regulate good practices and international solidarity in this field: the 1954 *Convention relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness*. Marking the 60th anniversary of the 1961 Convention, an increasing number of United Nations Member States¹ have become party to both conventions, understanding that their universal implementation would put an end to all statelessness within a single generation.

This was the goal, which the then High Commissioner for Refugees, now Secretary-General of the United Nations, Antonio Guterres, proclaimed in 2014 when, together with States, he launched the global #IBelong Campaign to End Statelessness by 2024. The campaign's Global Action Plan contains ten actions for States to resolve existing statelessness situations and prevent new cases of statelessness from arising.

Since the launch of the #IBelong Campaign, Kazakhstan has made great progress in addressing and preventing statelessness. In November 2019, it amended national legislation and practices to ensure universal birth registration regardless of the legal or documentation status of the parents. In September 2020, Kazakhstan introduced a national statelessness determination mechanism.

¹ As of 17 July 2022, 96 States are party to the 1954 Convention relating to the Status of Stateless Persons, and 78 States to the 1961 Convention on the Reduction of Statelessness (including Armenia, Azerbaijan, Georgia, Latvia, Lithuania, the Republic of Moldova, Turkmenistan, and Ukraine).

From October 2020 to May 2022, the Ministry of Internal Affairs conducted a country-wide identification and documentation campaign to map and resolve statelessness. Based on a Memorandum of Understanding, the Migration Service Committee of the Ministry of Internal Affairs, the Ministry of Justice, and partners of the UN Refugee Agency² collaborated closely to implement the campaign. As a result, 8,822 persons of undetermined nationality have been registered; 4,868 have been confirmed to be citizens of Kazakhstan; and 2,683 have obtained the status as stateless persons, which provides them access to basic rights and services.

In his recent State of the Nation address, President Tokayev again highlighted Kazakhstan's commitment to respect and continue enhancing the basic rights of all persons - important for the peaceful, sustainable development of the country and its people.

Based on these advancements, and the country's progressive accessions to international human rights instruments, the UN Refugee Agency (UNHCR) believes that the Republic of Kazakhstan is now able and ready to join other States by also becoming party to the 1954 and 1961 Statelessness Conventions. If the current momentum is maintained, Kazakhstan will be able to achieve all #IBelong goals within the remaining three years of the campaign, leading to due recognition for ending and preventing statelessness on its territory.

In line with our mandate to identify, reduce and prevent statelessness around the world - bestowed upon us by the United Nations General Assembly - UNHCR commissioned an analysis of the compliance of the Republic of Kazakhstan's National Legislation with international citizenship and statelessness standards.

From the analysis, five main findings and recommendations have been identified:

1. The national legal framework for citizenship would be clearer, if the definition of a stateless person in the current legislation and administrative practice of Kazakhstan was fully aligned with the international legal definition of the 1954 Convention, which identifies a person as stateless if he or she "is not considered as a national by any state under the operation of its law". The applicable Kazakh Law on the Legal Status of Foreigners recognizes as stateless any persons who "are not citizens of the Republic Kazakhstan, and do not have proof of citizenship of another state".

² The Kazakhstan International Bureau for Human Rights and the Rule of Law and the Legal Centre for Women's Initiatives "Sana Sezim".

However, in practice this national legal definition is not applied to the letter: Rather than requesting that a person *does not have proof of citizenship* of another State, the authorities request that a person presents *proof of not having citizenship* of another State. Thereby the burden of proof is in practice entirely shifted to the stateless person, which contradicts the wording of the Kazakh Law on the Legal Status of Foreigners, the delicate balance envisaged regarding the burden of proof in the Kazakh Administrative Procedural and Process-related Code, and the spirit of the 1954 Convention. UNHCR strongly recommends sharing the burden of proof between the applicant and the State.

2. Ensuring universal access to birth registration is key to the prevention of statelessness. Through monitoring the recent birth registration amendments in Kazakhstan, UNHCR and its partners identified obstacles and different regional approaches in relation to the issuance of medical birth certificates. Children born to undocumented parents are not always issued medical birth certificates in full compliance with the provisions of Article 187 of the *Code on Marriage and Family*. Sometimes these certificates lack a reference that the mother's identity is recorded based on her statements. In addition, the Code does not regulate the birth registration of children born by undocumented parents outside a medical institution, putting them at risk of statelessness.
3. The Law of the Republic of Kazakhstan on Citizenship already contains effective legal safeguards against childhood statelessness in relation to foundlings, children born by officially recognized stateless persons, and children born abroad to permanent residents of Kazakhstan. However, Article 1 of the 1961 Convention requests States to grant nationality to all children born on their territory, who would otherwise be stateless. In addition, Article 4 of the 1961 Convention requests States to grant nationality to any child born to a national (mother or father), if otherwise the child ended up stateless. According to the 1961 Convention, this legal safeguard should not be combined with any additional conditions, such as a parent's residency. UNHCR therefore recommends strengthening the existing legal safeguards against childhood statelessness in the Kazakh Citizenship Law. Moreover, the prevention of statelessness in cases of renunciation, loss, or deprivation of the citizenship of the Republic of Kazakhstan could be strengthened by the stipulation that the renunciation, loss, and deprivation should not lead to statelessness. Such a provision would be even more desirable where children are affected by the change of a parent's citizenship status.

4. Under the 1954 Convention, States are required to establish statelessness determination procedures to identify individuals who meet the definition of a stateless person outlined in its Article 1 (1), and to extend appropriate rights and protection to them. The national statelessness determination mechanism in Kazakhstan enables stateless people to apply for and obtain *de jure* stateless status, giving them access to the right to stay, work, public services and healthcare, as well as naturalization under general conditions after five years of residence. To complement these excellent provisions, which are already in line with 1954 Convention standards, UNHCR stands ready to support Kazakhstan in the practical implementation of procedural safeguards, such as the right to an interview, access to legal aid, and the right to appeal first-instance negative decisions in conformity with the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan.
5. Stateless persons in Kazakhstan currently can apply for naturalization on the same grounds as foreign nationals. Under the 1954 Convention, States additionally commit to facilitate and expedite the naturalization of stateless persons. A shortened residency requirement or reduced fees would bring the domestic law in full compliance with international standards.

The conclusions and recommendations in this report are intended to support Kazakhstan to achieve the goals of the #IBelong Campaign, bring its national legislation and practices fully in line with international standards and thereby ultimately end statelessness in Kazakhstan by 2024. By pursuing this agenda, the Kazakh Government, Parliament, and national authorities will at the same time deliver on their commitments under the Agenda 2030, meet the Sustainable Development Goals and “Leave No One Behind”.

Allow me to thank all colleagues and experts, translators and proof-readers, who made it possible to publish this important compilation in Kazakh, Russian and English languages. I am confident that its findings and recommendations will support sustained progress in the reduction and prevention of statelessness, as well as in the protection of stateless persons in the Republic of Kazakhstan.

Hans Friedrich Schodder

Representative of the United Nations
High Commissioner for Refugees

September 2022, Astana

ANALYSIS OF THE COMPLIANCE OF THE NATIONAL LEGISLATION WITH INTERNATIONAL STANDARDS IN REGARD TO CITIZENSHIP AND STATELESSNESS

INTERNATIONAL STANDARD

1. A state shall grant its nationality to a person born in its territory who would otherwise be stateless

(1961 Convention on the Reduction of Statelessness, Article 1)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 11-1

“A child, both of whose parents were citizens of a foreign state at the time of his (her) birth, is not a citizen of the Republic of Kazakhstan regardless of his (her) birthplace.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 12

“With the different citizenship of parents, if one was a citizen of the Republic of Kazakhstan when the child was born, the child shall be a citizen of the Republic of Kazakhstan if he/she was born: 1) in the Republic of Kazakhstan; 2) outside the Republic of Kazakhstan, but his/her parents or one of them was a permanent resident of the Republic of Kazakhstan at that time.”

“A child is a citizen of the Republic of Kazakhstan regardless of the place of birth, if one of his/her parents was a citizen of the Republic of Kazakhstan at the time of the child’s birth, and the other was either a stateless person or had an unknown citizenship.”

ANALYSIS OF THE NATIONAL LEGISLATION

In accordance with the national legislation, a prerequisite for recognition of a child born in the territory of the Republic of Kazakhstan as a citizen of the state is the citizenship of one of the parents, unless both parents are stateless, or the parents of a child found on the territory of the country are unknown (see Standard 3). The law leaves the following situation outside the legal framework: when parents of a child born in the Republic of Kazakhstan are foreign citizens but, for legal reasons in the citizenship law of their home countries, cannot transfer their own citizenship to the child. An example would be British citizens who have been born outside the UK, and cannot pass on their own UK-citizenship to a second or subsequent generation equally born outside the UK. Thus, the Kazakh national legislation is not yet fully in line with the international standard, but would benefit from a minor amendment that addresses only rare cases, but is essential to eradicate statelessness globally.

UNHCR RECOMMENDATIONS

In order to bring National Legislation in line with the International Standard, it is recommended to improve the existing legislation and to provide for a provision according to which a person born in the country shall unconditionally be considered a citizen if otherwise he/she will become stateless.

INTERNATIONAL STANDARD

2. States grant nationality to stateless children born in their territory

(UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 2)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 14

“A child born in the territory of the Republic of Kazakhstan, whose parents are stateless persons with permanent residence in the territory of the Republic of Kazakhstan, shall be a citizen of the Republic of Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

According to the Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, a child born in the territory of the country whose parents are stateless and reside permanently in the Republic of Kazakhstan shall be recognized as a citizen. This is the only specific case regulated by law regarding the determination of the citizenship of children of stateless persons. Legislation

does not regulate matters related to the citizenship of a child born in the Republic of Kazakhstan whose parents are stateless persons temporarily staying in the country (or persons who do not have proof of their allegiance to any State). Thus, the National Legislation partially complies with the International Standard, as it grants citizenship only to children born to stateless persons permanently residing in the country, and fails to provide guarantees to all children born to stateless persons, including persons who do not have proof of their allegiance to any State.

RECOMMENDATIONS

In order to bring the National Legislation in line with the International Standard, it is recommended to improve the existing legislation, and to provide for a provision according to which the Republic of Kazakhstan shall automatically grant citizenship to children born on its territory who cannot acquire the citizenship of another country. It is advisable not to establish additional conditions for the implementation of this provision, such as the requirement of permanent residence of the parents.

INTERNATIONAL STANDARD

3. States shall grant nationality to children of unknown parents found in their territory (foundlings)

(1961 Convention on the Reduction of Statelessness, Article 2)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 13 “Child” is a person under the age of 18 years (under the age of legal majority)”. Law “On the Rights of the Child in the Republic of Kazakhstan”, Article 1, Subparagraph 2

A child, who is in the territory of the Republic of Kazakhstan and both of whose parents are unknown, shall be a citizen of the Republic of Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation complies with International Standards. In accordance with the existing legislation, the State unconditionally recognizes as citizens all children who are in the country and whose parents are unknown.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

4. States shall grant nationality to a child of their citizens who was born abroad and cannot acquire nationality of another state

(1961 Convention on the Reduction of Statelessness, Article 4)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 11

“A child, both of whose parents were citizens of the Republic of Kazakhstan at the time of his (her) birth, is a citizen of the Republic of Kazakhstan regardless of the birthplace.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 12

“With different citizenship of parents, if one was a citizen of the Republic of Kazakhstan when the child was born, the child shall be a citizen of the Republic of Kazakhstan if he (she) was born:

2) outside the Republic of Kazakhstan, but his (her) parents or one of them had permanent residence in the Republic of Kazakhstan at that time.

With different citizenship of parents, if one of them was a citizen of the Republic of Kazakhstan when the child was born and both of the parents had permanent residence outside the Republic of Kazakhstan at that time, the citizenship of the child born outside the Republic of Kazakhstan shall be determined by the consent of the parents expressed in writing.

A child, one of whose parents at the moment of the child’s birth was a citizen of the Republic of Kazakhstan, and the other one was a stateless person or a person of unknown citizenship, shall be a citizen of the Republic of Kazakhstan regardless of the birthplace.

In case of the establishment of paternity a child, whose mother is a stateless person and father is recognized as a citizen of the Republic of Kazakhstan, the child under the age of 14 years shall become a citizen of the Republic of

Kazakhstan regardless of the birthplace. If the child has permanent residence outside the Republic of Kazakhstan, his (her) citizenship shall be determined by the consent of the parents expressed in writing. If the parents were unable to reach consent on the citizenship of the child, the citizenship of the child shall be determined by a court.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation provides for several cases involving the citizenship of children born outside the country by citizens/residents of Kazakhstan.

Despite the fact that these legal provisions cover a number of cases associated with determining the citizenship of children born outside the country, it should be noted that in most cases the law establishes an additional condition in the form of permanent residence in a particular place for one or both of the parents, which in itself narrows the area for application of these provisions.

Children fail to acquire citizenship in the following constellations:

- The child is born abroad, one of the parents is a citizen, the other parent is a foreigner, at the time the child's birth no parent is permanently residing in the Republic of Kazakhstan.
- The child is over 14 years when paternity is established, the mother of the child is a stateless person, and the father is a citizen of the Republic of Kazakhstan.

There may be practical solutions for addressing these situations, but the absence of specific provisions in the legislation may lead to cases of a child's statelessness at birth.

Thus, the national legislation is not fully in line with the international standard.

RECOMMENDATIONS

In order to bring the national legislation in line with the international standard, it is recommended to improve the existing legislation and to provide for provisions according to which the State shall recognize as its citizen a child born to a Kazakh parent, if the child would otherwise be stateless. No further requirements of conditions should be stipulated.

INTERNATIONAL STANDARD

5. States have a nationality law that treats women and men equally with regard to conferral of nationality on their children and with regard to the acquisition, change and retention of nationality

(UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 3)

NATIONAL LEGISLATION

The National Legislation of the Republic of Kazakhstan treats women and men equally with regard to conferral of citizenship on their children and with regard to the acquisition, change and retention of citizenship.

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation complies with the International Standard – the National Legislation regulating citizenship issues does not contain discriminatory provisions based on gender.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

6. National Legislation does not allow deprivation of nationality on discriminatory grounds

(1961 Convention on the Reduction of Statelessness, Article 9)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 20-1

“Every individual in the Republic of Kazakhstan shall have the right to citizenship. Citizenship of the Republic of Kazakhstan shall be acquired and terminated in accordance with this Law.

A citizen of the Republic of Kazakhstan cannot be deprived of citizenship, the right to change citizenship, nor can he/she be expelled from Kazakhstan.

Deprivation of citizenship is allowed only by a court decision for committing crimes of terrorism, as well as crimes provided for by relevant articles of the Special Part

of the Criminal Code of the Republic of Kazakhstan, as a result of which other grave harm is caused to the vital interests of the Republic of Kazakhstan.”

This provision is also enshrined in the Constitution of the country and relevant by-laws.

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation complies with the International Standard - the legislation of the Republic of Kazakhstan does not allow deprivation of citizenship on discriminatory grounds – on racial, ethnic, religious or political grounds. The legislation allows for deprivation of citizenship by a court decision for committing terrorist crimes, as well as for causing other grave harm to the vital interests of the country.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

7. National Legislation contains definition of a stateless person in accordance with the Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 2

“Persons who are not citizens of the Republic Kazakhstan and do not have proof of citizenship of another state shall be recognized as stateless.”

ANALYSIS OF THE NATIONAL LEGISLATION

According to the 1954 Convention relating to the Status of Stateless Persons, “a stateless person” means a person who is not considered as a citizen by any State under the operation of its law. Conversely, the applicable Kazakh Law on the Legal Status of Foreigners recognizes as stateless any persons who “are not citizens of the Republic Kazakhstan, and **do not have proof of citizenship** of another state”. However, it appears that in practice this national legal definition is not applied to the letter: Rather than requesting that a person *does not have*

proof of citizenship of another State, the authorities request that a person presents *proof of not having citizenship* of another State. Thereby the burden of proof is in practice entirely shifted to the stateless person, which contradicts the wording of the Kazakh Law on the Legal Status of Foreigners, the delicate balance envisaged regarding the burden of proof in the Kazakh Administrative Procedural and Process-related Code, and the spirit of the 1954 Convention. The slightly deviating practical application of the current definition of a stateless person may result in an increase of statelessness cases in the country.

RECOMMENDATIONS

It is recommended to bring the definition of a stateless person and its practical application fully in line with Article 1, paragraph 1, of the 1954 Convention relating to the Status of Stateless Persons.

INTERNATIONAL STANDARD

8. States identify stateless migrants through determination procedures which lead to a legal status that permits residence and guarantees the enjoyment of basic human rights, and facilitates naturalization

(UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 6)

NATIONAL LEGISLATION

A special procedure for determining the status of a stateless person is established through a by-law in the Republic of Kazakhstan - Order of the Minister of Internal Affairs of the Republic of Kazakhstan of 01 September 2020 No. 607 “On approval of the Rules for determining the legal status of persons residing in the territory of the Republic of Kazakhstan, who are not citizens of the Republic of Kazakhstan and who do not have proof of their belonging to the citizenship of another state”.

“2. Persons residing in the territory of the Republic of Kazakhstan, who are not citizens of the Republic of Kazakhstan and who do not have proof of their belonging to the citizenship of another state, shall be recognized as stateless persons.

3. The basis for granting the status of a stateless person is an application addressed to the first head of the Police Department of regions, cities of republican significance and the capital (hereinafter - DP) at the place of permanent residence.”

The 1954 Convention relating to the Status of Stateless Persons establishes the legal regime of stateless persons and requires States to develop procedures necessary to identify stateless persons present in their territory and, in turn, grant stateless persons the right to receive a residence permit and enjoy fundamental human rights. On this matter the legislation of the Republic of Kazakhstan is partially in line with the International Standard – the special procedure of statelessness status determination is in place.

The Statelessness Determination Procedures (SDPs) ensure access to the procedure to any person claiming to be stateless, regardless of the availability of identity documents and the lawfulness of the stay in the country. However, point 12 of the SDPs states that the procedure of issuance of a permanent residence permit in the Republic of Kazakhstan shall not apply to individuals present in the Republic of Kazakhstan who are not citizens of the Republic of Kazakhstan and do not have proof of citizenship of another state. According to this point, stateless persons recognized through SDPs receive a residence permit without proving their solvency if they are permanently residing in the territory of Kazakhstan five or more years. However, there is no clarification/precise explanation of how the applicant must confirm permanent residence for five years (no list of documents or specific procedures are provided), and the approved SDPs do not indicate / contain notes referring to “5 years”. As practice shows, applicants who cannot confirm their residence are denied the status of a stateless person.

The SDPs include certain procedural guarantees, such as a decision is to be made and communicated within a reasonable time frame of 45 days following the submission of documents; the right to receive a decision in writing; and the right to assume the Government’s and applicant’s shared responsibility in proving the statelessness claim.

The SDPs permit stateless persons to acquire a secure legal residence which in turn allows them to enjoy fundamental human rights and accumulate the number of years of residence necessary for naturalization.

However, important procedural safeguards, such as access to the procedures to all regardless of the residence status, access to an interview and the right to appeal a first-instance negative decision, are not explicitly provided in the SDP by-law, whereas such procedural guarantees are contained in the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan, which applies to all matters of public administration, including matters of citizenship and statelessness.

RECOMMENDATIONS

Judicial review is an important precondition for the rule of law. In order to bring the national legislation in line with the international standard, it is recommended to improve the statelessness status determination procedures and explicitly guarantee access to the procedure to all, regardless of the proof of permanent residence for five or more years, and to provide for the right to an interview and the right to appeal a negative decision. The right to appeal against a negative first instance decision is an essential safeguard to ensure a quality statelessness determination procedure and the correct assessment of evidence at first instance level.

For the purpose of legal clarity, it may be advisable to add to the SDP law a declaratory confirmation that already existing procedural guarantees remain applicable. Such guarantees are contained (mainly but not exclusively) in the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan, as well as in the Law of the Republic of Kazakhstan on advocate practice and legal assistance.

INTERNATIONAL STANDARD

9. National Legislation provides for the right of stateless persons to lawfully reside in the country

(UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 6)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Personal Identification Documents”, Article 6

“1. Personal identification documents shall be the following:

- 1) passport of a citizen of the Republic of Kazakhstan;
- 2) identity card of a national of the Republic of Kazakhstan;

- 3) residence permit of a foreign citizen in the Republic of Kazakhstan;
- 4) certificate of a stateless person;
- 5) diplomatic passport of the Republic of Kazakhstan;
- 6) official (service) passport of the Republic of Kazakhstan;
- 7) refugee certificate;
- 8) seafarer identity card of the Republic of Kazakhstan;
- 9) travel document;
- 10) certificate of return;
- 11) birth certificate.”

**Law of the Republic of Kazakhstan “On the Personal Identification Documents”,
Article 11**

“1. Certificate of a stateless person shall be issued to stateless persons above the age of 16 years who have permanent residence in the territory of the Republic of Kazakhstan.

2. Certificate of a stateless person shall be issued for a period of five years and serves as a personal identity document of its holder in the territory of the Republic of Kazakhstan and beyond its boundaries.

3. In the event of travel abroad without the parents, custodians or guardians, the certificate of a stateless person shall be issued to persons under the age of 16 years.”

Law of the Republic of Kazakhstan “On Migration of the Population”, Article 7

“Foreign citizens and stateless persons temporarily staying in the Republic of Kazakhstan on the basis of a visa for permanent residence, or those who arrived from states that have concluded agreements with the Republic of Kazakhstan on a visa-free regime for entry and stay, or who hold a refugee status in the Republic of Kazakhstan, as well as ethnic Kazakhs regardless of the category of the visa issued to them, shall have the right to apply to the law enforcement authorities for a permanent residence permit. Immigrants who applied for a permanent residence permit in accordance with the procedure established by law are issued with a temporary residence permit for the period necessary to consider their application, but not for more than ninety calendar days.”

Rules of Issuance of Temporary and Permanent Residence Permits to Foreign Citizens and Stateless Persons in the Republic of Kazakhstan, Paragraphs 3 and 4 (Approved by the Order of the Ministry of Internal Affairs of the Republic of Kazakhstan No. 992 of 4 December 2015)

“3. Foreigners or stateless persons temporarily staying in the Republic of Kazakhstan are issued a temporary residence permit (hereinafter - TRP) by the internal affairs bodies of the Republic of Kazakhstan for a period of up to one year, depending on the category of the permit received, with subsequent extension in accordance with the Rules of entry and stay of immigrants in the Republic of Kazakhstan, as well as their departure from the Republic of Kazakhstan, approved by the Resolution of the Government of the Republic of Kazakhstan No. 148 of 21 January 2012.

4. In accordance with article 6-1 of the Law, a TRP is issued to foreigners or stateless persons temporarily staying in the Republic of Kazakhstan:

- on the basis of applications of individuals specified in paragraph 1 of Article 27 of the Law, regarding immigrants who arrived for the purpose of family reunification;
- on the basis of applications from individuals and legal entities who have entered into an employment contract with an immigrant in accordance with the procedure established by law;
- educational organizations implementing educational programs of general secondary, technical and vocational, post-secondary, higher and postgraduate education, including through organized exchange programs for students and passing preparatory courses that enrolled immigrants for full-time education;
- health-care organizations in which immigrants are hospitalized;
- religious organizations in which immigrants carry out missionary activities in the manner prescribed by law;
- local executive bodies - immigrants who arrived for the purpose of carrying out entrepreneurial activities, in accordance with the legislation of the Republic of Kazakhstan (business immigrants).”

ANALYSIS OF THE NATIONAL LEGISLATION

In the Republic of Kazakhstan, stateless persons can acquire a residence permit on a general basis; the certificate of a stateless person is issued to stateless persons permanently residing in the Republic of Kazakhstan who have reached the age of 16.

Persons without proof of any citizenship are not legally present in the country. They may acquire legal status only in the course of the citizenship determination procedure, after having provided evidence that they are not citizens of the other countries. This practice does not meet the International Standard.

Persons unable to present information / not having proof of permanent residence registration, or permanent residence in the country, are left without a permit for lawful residence, and are staying illegally in the country. They can acquire legal status only during the procedure for determining citizenship after providing evidence of the absence of citizenship of other States. This practice does not meet the International Standard.

RECOMMENDATIONS

In order to bring the National Legislation in line with the International Standard, it is recommended to provide for the possibility of registering / providing a temporary legal status/residence in the country until a final decision is taken on their citizenship confirmation or statelessness determination.

INTERNATIONAL STANDARD

10. Children born to stateless persons, unregistered migrants and persons with undetermined nationality shall be registered at birth and shall be issued a birth certificate

NATIONAL LEGISLATION

**Code of the Republic of Kazakhstan “On Marriage (Matrimony) and Family”,
Article 187**

“1. The basis for registering the birth of a child shall be a medical birth certificate or a copy of a court decision establishing the fact of birth.

In case of childbearing not at a health-care organization, including at home, the medical birth certificate shall be registered in accordance with the personal identification documents of a mother by an employee of a health-care organization, to which she addressed her request after childbearing, or by an individual, who assisted the delivery of a baby and is engaged in private medical practice.

In the absence of personal identification documents of parents, at the moment of the state civil registration, for a valid reason, the information on parents shall be filled out according to a marriage (matrimony) certificate or a registered act on the conclusion of a marriage (matrimony). In the absence of documents proving the identity of the parents, at the time of the official registration of birth for valid reasons, the information about the parents is filled in on the basis of a marriage (matrimony) certificate or a registered act on the conclusion of a marriage (matrimony).

In cases of the birth of a child in a medical institution and in the absence of documents proving the identity of the mother, at the time of registration of the fact of birth, information about her is filled out at the request of the mother and according to the medical birth certificate, which contains a note that the information about the mother is written based on her statements. Registration in the civil registry of the name, patronymic (if it is indicated in the identification document), surname, citizenship of parents is made in accordance with Articles 50, 51 and 63 of this Code.

2. The medical certificate of birth of a child shall contain all necessary information about the mother of a child (last name, first name, patronymic (if one exists), as well as date of birth and sex of a child, and date of issuance of the document. The certificate shall be authenticated by a signature of a civil servant and by a seal of a health-care organization.”

Code of the Republic of Kazakhstan “On Marriage (Matrimony) and Family”, Article 196

“1. Birth of a found, neglected (abandoned) child shall be registered upon the application made by the internal affairs authorities, guardianship authorities, administration of an educational or health-care organization, where the child has been placed, not later than seven days from identification, denial or abandonment of the child.

The application shall be supported with a protocol or act made by the internal affairs authorities or guardianship authorities, and shall indicate the time, place and circumstances of the finding of a child; a document issued by a health-care organization confirms the age and sex of a found child, and other personal information about a child.

2. In case of abandonment of a child in a health-care organization, the administration of this organization shall obtain a written application from the mother in the format established by the legislation of the Republic of Kazakhstan.

3. In case of abandonment of a child by an unknown mother, the administration of a health-care organization shall draw up a protocol in the presence of two witnesses. During the state registration of birth, the protocols shall be annexed to the application on registration of a neglected (abandoned) child, that is to be made by an officer of a health-care organization.”

Order of the Ministry of Justice of the Republic of Kazakhstan No. 112 “On the Approval of the Rules for Organization of the State Civil Registration, Amendment, Restoration, Withdrawal of Civil Registration Records”

“6. State registration of acts of civil status is carried out by the registration authorities in accordance with identification documents corresponding to the legal status of the owner.

A stateless person permanently residing in the Republic of Kazakhstan presents a certificate of a stateless person with a mark of the internal affairs bodies of the Republic of Kazakhstan on registration at the place of residence.

A foreigner or stateless person temporarily staying in the Republic of Kazakhstan presents an identity document issued by the competent authorities of the country, a citizen of which is a foreigner or stateless person’s state of permanent residence and a notarized translation of their text in Kazakh or Russian.

24. In cases of the birth of a child in a medical organization and the absence of documents proving the identity of the mother, at the time of registration of the fact of birth, information about her is filled in at the request of the mother and according to the medical birth certificate, which contains a note that information about the mother was recorded based on her statements.”

ANALYSIS OF THE NATIONAL LEGISLATION

The Code of the Republic of Kazakhstan “On Marriage (Matrimony) and Family” defines the procedures of registration of children born in maternity homes, outside of medical organizations and at home. In addition, it provides for cases when parents for valid reasons do not have personal identity documents at the time of a child’s birth – in this case information about the parents shall be recorded based on the documents certifying marriage of the child’s parents. The Code regulates cases of registration of children born in a medical institution in the absence of documents proving the identity of the mother - at the time of registration of the fact of birth, information about her is filled in at the request of the mother and according to the medical birth certificate.

However, an obstacle was identified in the implementation of the provisions related to the issuance of a medical birth certificate. In some cases, medical birth certificates for children born to undocumented parents are not issued in full compliance with the provisions of Article 187 of the Code and/or lack a “remark” that the mother’s identity is recorded based on her own statements.

In addition, the Code does not regulate cases of birth registration of a child born outside a medical organization when the parents do not have identity documents. The legislation defines the list of documents necessary for the registration of birth. A stateless applicant must present personal identity documents reflecting his/her status – permanently residing or temporarily staying in the Republic of Kazakhstan.

RECOMMENDATIONS

In order to bring the National Legislation fully in line with the International Standard, it is recommended that the Code of the Republic of Kazakhstan “On Marriage (Matrimony) and the Family” regulates cases of birth registration of children born outside a medical organization whose parents are stateless, undocumented migrants or persons with undetermined nationality, with the aim of ensuring timely birth registration and the issuance of birth certificates to them, with the ultimate goal of preventing childhood statelessness.

In order to better align the medical birth certificate form with the provisions of the Code, it is recommended to amend the relevant by-laws (the Order of the acting Minister of Health of the Republic of Kazakhstan No.KR DSM-175/2020 of 30 October 2020) to ensure issuance of a medical birth certificate with a “remark” that the mother’s identity is recorded based on her own statements.

INTERNATIONAL STANDARD

11. States are parties to the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

The Republic of Kazakhstan is not a party to the 1954 Convention relating to the Status of Stateless Persons.

ANALYSIS OF THE NATIONAL LEGISLATION

Accession to the 1954 Convention is an important step in the context of bringing the national legislation in line with international standards. The 1954 Convention, and even more its domestic implementation, will strengthen the access of stateless persons to basic rights and services. Since Kazakhstan is already a State Party to most international human rights instruments, the practical effect of an accession will be more declaratory than a fundamental change in substance. However, an accession and its domestic implementation will reduce statelessness by providing a pathway towards expedited and facilitated naturalization.

RECOMMENDATIONS

It is recommended for the country to accede to the 1954 Convention relating to the Status of Stateless Persons.

INTERNATIONAL STANDARD

12. States are parties to the 1961 Convention on the Reduction of Statelessness

NATIONAL LEGISLATION

The Republic of Kazakhstan is not a party to the 1961 Convention on the Reduction of Statelessness.

ANALYSIS OF THE NATIONAL LEGISLATION

Accession to the 1961 Convention on the Reduction of Statelessness is an important step in the context of bringing the national legislation in line with international standards. The 1961 Convention and its domestic implementation will reduce and prevent statelessness. The Convention is an important tool that will contribute to the correct and proper amendment of the national legislation in the sphere of citizenship and statelessness, as well as the development of this sphere in accordance with international standards.

RECOMMENDATIONS

It is recommended for the country to accede to the 1961 Convention on the Reduction of Statelessness.

INTERNATIONAL STANDARD

13. Quantitative and qualitative data on stateless populations is publicly available

(UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 10)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Access to Information”

Information on the number of registered foreign citizens and stateless persons temporarily staying in the Republic of Kazakhstan is available on the web portal: <https://data.egov.kz/> The Law of the Republic of Kazakhstan “On Government Statistics” defines the policy in the sphere of statistics. If an international treaty, ratified by the Republic of Kazakhstan, establishes rules other than those provided for in this Law, the rules of the international treaty shall prevail. Article 5 of the Law defines the principles of the government statistics which include “ensuring equal access of users to official statistical information”. Government statistics are published on the website of the Committee on Statistics of the Ministry of National Economics of the Republic of Kazakhstan: <http://stat.gov.kz>

ANALYSIS OF THE NATIONAL LEGISLATION

According to the Law of the Republic of Kazakhstan “On Access to Information”, data is generally considered open information. With regard to the actual disclosure and availability of data, official web portals contain information on the number of registered foreigners and stateless persons temporarily staying in the Republic of Kazakhstan, but data on the number of stateless persons are not separately identified.

In accordance with the Law of the Republic of Kazakhstan “On State Statistics”, the consistency and comparability of State statistics with generally accepted International Standards is stipulated, however in practice there remain gaps in the methodology for information collecting.

RECOMMENDATIONS

To bring the practice of data collection in line with the International Standard, it is recommended to improve the collection and processing of data on stateless persons so that the form and volume allows for the assessment / analysis of the existing situation in the area of statelessness. It is equally important that statistics of stateless persons are open and accessible to interested persons, which means that data should be complete, understandable and easily accessible. In this regard, the use of the web portals as a tool for disclosing information is encouraged.

INTERNATIONAL STANDARD

14. Renunciation of nationality does not cause loss of nationality except in cases where the person concerned possesses or acquires another citizenship
(1961 Convention on the Reduction of Statelessness, Article 7 (1))

NATIONAL LEGISLATION

Legislation does not provide for safeguards for prevention of statelessness in case of renunciation of citizenship of the Republic of Kazakhstan.

ANALYSIS OF THE NATIONAL LEGISLATION

The Law “On Citizenship of the Republic of Kazakhstan” provides for three cases of termination of citizenship: 1) renunciation of citizenship; 2) loss of citizenship; and 3) deprivation of citizenship. Each of these has its own preconditions / grounds, although the Law does not provide for safeguards against statelessness in any of the scenarios. Therefore, the National Legislation is not in line with International Standards.

RECOMMENDATIONS

In order to bring the National Legislation in line with the International Standard, it is recommended to improve the existing legislation and to provide for guarantees to prevent statelessness when renouncing the citizenship of the Republic of Kazakhstan, according to which a person can renounce his/her citizenship only if he/she has acquired, or is in the process of acquiring, citizenship of another country.

INTERNATIONAL STANDARD

15. States do not terminate the nationality of persons due to an extensive period of residence abroad

(1961 Convention on the Reduction of Statelessness, Article 7 (4))

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 7.

“Residence of a citizen of the Republic of Kazakhstan outside the country shall not entail the termination of the citizenship of the Republic of Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

The Law “On Citizenship of the Republic of Kazakhstan” does not provide for termination of citizenship in case of a citizen residing outside the Republic of Kazakhstan. Thus, the National Legislation complies with the International Standard.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

16. States shall prevent deprivation of nationality, only providing for exceptions enshrined in Article 8 of the 1961 Convention on the Reduction of Statelessness

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 20-1.

“Deprivation of the citizenship of the Republic of Kazakhstan is allowed only by a court decision for committing terrorist crimes, as well as crimes provided for by relevant articles of the Special Part of the Criminal Code of the Republic of Kazakhstan, as a result of which other grave harm is caused to the vital interests of the Republic of Kazakhstan.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 21

“The citizenship of the Republic of Kazakhstan shall be lost:

- 1) as a result of a person’s admission to military service to the security service, police, judicial bodies and other public authorities of another state, except as otherwise provided for by interstate agreements of the Republic of Kazakhstan;
- 2) if the citizenship of the Republic of Kazakhstan was acquired as a result of submitting knowingly false information or forged documents;
- 3) on the grounds provided for by interstate agreements of the Republic of Kazakhstan;
- 5) if a person acquired the citizenship of another state;
- 6) if the marriage to a citizen of the Republic of Kazakhstan, which was the basis for the acquisition of the citizenship of the Republic of Kazakhstan by a person, was declared invalid by a court;
- 7) by the voluntary will of a child, who is a citizen of the Republic of Kazakhstan, and who has been given up for adoption to foreigners, upon reaching the age of majority;
- 8) as a result of a person’s participation in foreign armed conflicts, extremist and (or) terrorist activities in a foreign state.”

ANALYSIS OF THE NATIONAL LEGISLATION

The right to a citizenship and, relatedly, the prohibition of arbitrary deprivation of citizenship are fundamental principles of international law.

The legislation of the Republic of Kazakhstan allows deprivation of citizenship of the Republic of Kazakhstan for the commission of terrorist crimes, as well as crimes that resulted in other grave harm to the vital interests of the country. The general rule in the 1961 Convention is that deprivation of citizenship is prohibited

where it would render a person stateless. There are limited exceptions to this rule under Articles 8(2) and 8(3) of the 1961 Convention.

In order to deprive a person of citizenship and render them stateless, based on the exceptional grounds listed in Articles 8(2) and 8(3) of the 1961 Convention, a Contracting State must have made a relevant declaration at the time of accession, signature or ratification.

For deprivation of citizenship not to be arbitrary, it must always take place in accordance with the law and be a proportionate measure in pursuit of a legitimate aim, i.e. the least intrusive means necessary to achieve a State's legitimate aim. In addition, deprivation of citizenship is arbitrary if there is no due process.

If a State deprives a person of citizenship while that person is abroad (i.e. deprivation in absentia), it is unlikely that that person will have access to a fair trial as required by the 1961 Convention and the prohibition of arbitrary deprivation of citizenship. Such deprivation should therefore be avoided.

In addition, the United Nations Security Council has confirmed that all States have obligations to cooperate in the context of counterterrorism, including to investigate and prosecute persons suspected of having committed terrorist offences. States should therefore consider the impact of deprivation of citizenship in relation to other States and to peace and security generally.

RECOMMENDATIONS

It is proposed to develop detailed procedures governing the loss and deprivation of citizenship, and also to elaborate further steps in relation to a person deprived of citizenship, in accordance with the principles of non-discrimination, proportionality, fair trial and the right to an effective legal remedy in the event of unlawful measures related to loss or deprivation of citizenship.

When amending and adopting the National Legislation on deprivation and loss of citizenship, it is recommended to apply international human rights standards regarding the loss and deprivation of citizenship in the context of the fight against terrorism.

INTERNATIONAL STANDARD

17. Women and men have equal rights with respect to the conferral of nationality to children, the acquisition, change or retention of citizenship in cases of marriage and termination of marriage

(1961 Convention on the Reduction of Statelessness, Article 5; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 3)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 5

“Citizenship of the Republic of Kazakhstan shall be one and equal, regardless of the reasons of its acquisition.

Citizens of the Republic of Kazakhstan shall be equal before the Law, irrespective of their origin, social or property status, racial and ethnic background, gender, education, language, religion, political or other beliefs, type or nature of occupation, place of residence or any other circumstances.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 7

“Marriage of a citizen of the Republic of Kazakhstan to an individual, who is not a citizen of the Republic of Kazakhstan, as well as divorce, shall not result in change of citizenship.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 16

“The citizenship of the Republic of Kazakhstan may be granted to:

1) persons permanently residing in the territory of the Republic of Kazakhstan on lawful grounds for at least five years, or persons who are married to citizens of the Republic of Kazakhstan for at least three years.”

ANALYSIS OF THE NATIONAL LEGISLATION

The legislation of the Republic of Kazakhstan complies with the International Standard, since it does not contain discriminatory provisions regarding the conferral of citizenship to children, the acquisition, change or retention of citizenship in marriage or upon termination of marriage.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

18. Spouse or children of a person, who has lost or has been deprived of nationality, do not lose or do not get deprived of nationality if they have not acquired the nationality of another State

(1961 Convention on the Reduction of Statelessness, Article 6)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 22

“If the parents of a child under 14 years of age acquired, resumed or renounced the citizenship of the Republic of Kazakhstan, the citizenship of the child shall be changed accordingly.

If only one of the parents of the child is known, and s/he acquires, resumes or renounces the citizenship of the Republic of Kazakhstan, the citizenship of a child under 14 years of age shall be changed accordingly.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 23

“If one of the parents is becoming a citizen of the Republic of Kazakhstan, and the other is a citizen of another state or a stateless person, a child under 14 years of age, residing in the territory of the Republic of Kazakhstan, may acquire the citizenship of the Republic of Kazakhstan at the written request of his (her) parents.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 24

“If one of the parents renounces the citizenship of the Republic of Kazakhstan, and the other is a citizen of the Republic of Kazakhstan, a child under the age of 14 years shall retain the citizenship of the Republic of Kazakhstan. Upon the written request of the parents, such a child may be allowed to renounce the citizenship of the Republic of Kazakhstan.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 27

“A child, who being a citizen of the Republic of Kazakhstan was adopted by foreign citizens, shall retain the citizenship of the Republic of Kazakhstan until reaching the age of majority. The loss or renunciation of the citizenship of the Republic of Kazakhstan of the aforementioned child is permitted only upon reaching the age of majority and on the basis of his/her own volition.

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 28

“The change of the citizenship of a child between 14 and 18 years of age, whose parents acquired, resumed or renounced the citizenship of the Republic of Kazakhstan, as well as in the case of his/her adoption or custody, shall be only permitted with the consent of the child in the manner specified by Article 33 of this Law.”

ANALYSIS OF THE NATIONAL LEGISLATION

Legislation provides for resolution of the matters related to the citizenship of a child in case of acquisition, restoration or renunciation of citizenship of the Republic of Kazakhstan by both or one of the parents of the child – a child under 14 years of age shall change citizenship together with a parent, based on their written consent; a child from 14 to 18 years of age – only upon his/her consent; and after reaching the age of majority - voluntarily.

The legislation does not contain guarantees to prevent the statelessness of a child whose parents renounced, lost or were deprived of citizenship of the Republic of

Kazakhstan, lost or were deprived of citizenship of the Republic of Kazakhstan, but did not acquire the citizenship of another State, which entails the risk that the child may remain stateless. According to the International Standard, the legislation should contain guarantees that children do not lose or are not deprived of their citizenship, due to the loss or deprivation of their parents' citizenship, if they have not acquired the citizenship of another State.

RECOMMENDATIONS

In order to bring the national law in line with the international standard, it is recommended to include a provision to the effect that a child shall not be affected by the loss, renunciation, or deprivation of the citizenship of a Kazakh parent, if the change in the parent's citizenship status would render the child stateless.

INTERNATIONAL STANDARD

19. A State reduces statelessness through facilitation of the simplified naturalization of stateless persons (including reduction of fees, waiving the requirement to present supporting documents when applicants cannot reasonably obtain such documents, absence of requirements to present proof of psychological / physical health conditions, absence of language test requirements, non-discrimination on grounds of race, ethnicity, religious beliefs, political opinion or gender)

(1954 Convention relating to the Status of Stateless Persons, Article 32)

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 16

“Citizenship of the Republic of Kazakhstan may be granted to:

1) persons permanently residing in the territory of the Republic of Kazakhstan on lawful grounds for at least five years, or who are married to citizens of the Republic of Kazakhstan for at least three years. The meeting of criteria specified in the first paragraph of this Sub-Item shall not be required for admission to citizenship of the Republic of Kazakhstan of minors, disabled and persons who have rendered special services to the Republic of Kazakhstan or have a profession and meet the requirements according to the list established by the President of the Republic of Kazakhstan, and of members of their families;”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 16-1

“Citizenship of the Republic of Kazakhstan may be granted in a simplified (registration) procedure to those permanently residing in the territory of the Republic of Kazakhstan, irrespective of the period of residence, to:

- 1) kandas, permanently residing in the Republic of Kazakhstan on legal grounds, regardless of the period of residence;
- 2) rehabilitated victims of mass political repressions, who have been deprived of or involuntarily lost their citizenship, and their descendants;
- 3) ethnic Kazakhs studying at higher educational institutions of the Republic of Kazakhstan.”

Law of the Republic of Kazakhstan “On Citizenship of the Republic of Kazakhstan”, Article 18-1

“Kazakh citizenship of persons, who previously were citizens of the Republic of Kazakhstan, may be restored in a simplified (registration) manner, provided that they permanently reside in the territory of the Republic of Kazakhstan, regardless of the period of residence, and are not citizens of a foreign state, with the exception of persons with regard to whom the loss of their citizenship has been previously registered.”

Manual for Processing the Matters relating to Citizenship of the Republic of Kazakhstan by the Internal Affairs Authorities of the Republic of Kazakhstan

“The application for restoration of citizenship of the Republic of Kazakhstan shall be supported with the following documentation:

- 1) standard application form as prescribed (Annex 1);
- 2) four photographs 3.5 x 4.5 cm;

- 3) written commitment to abide by the terms set under the Article 1 of the Law of the Republic of Kazakhstan, “On Citizenship of the Republic of Kazakhstan”, which shall follow the prescribed form (Annex 3);
- 4) criminal record certificate;
- 5) copy of the personal identification document, birth certificate of the child;
- 6) certificate of absence or termination of citizenship of another state issued by the competent authority of the state concerned;
- 7) document confirming payment of the state fee or waiver of the fee;
- 8) copy of the document proving the former allegiance to the citizenship of the Republic of Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

According to the Law on citizenship, to acquire citizenship of the Republic of Kazakhstan one shall meet the requirement of a period of permanent residence in the territory of the Republic of Kazakhstan for at least 5 years, or a period of marriage to a citizen of the country – at least 3 years. This requirement does not apply to minors, legally incapacitated persons, as well as those individuals and members of their families who have rendered special services to the Republic of Kazakhstan, or have a profession, and meet the requirements according to the list established by the President of the Republic of Kazakhstan.

The law also establishes for persons permanently residing in the country the possibility of obtaining citizenship of the Republic of Kazakhstan in a simplified manner. The law does not establish the requirement for permanent residence in the country for ethnic Kazakhs who arrived to the territory of the Republic of Kazakhstan with the aim of permanent residence in their historical homeland, as well as for rehabilitated victims of mass political repressions, who have been deprived of or involuntary lost their citizenship, and their descendants. These terms shall apply to all those willing to acquire citizenship of the Republic of Kazakhstan, including stateless persons.

The law provides for the simplified procedure of restoration of citizenship – the Kazakh citizenship of persons, who previously were citizens of the Republic of Kazakhstan, may be reinstated in a simplified (registration) manner, provided that

they permanently reside in the territory of the Republic of Kazakhstan, regardless of the period of residence, and are not citizens of a foreign state, with the exception of persons with regard to whom the loss of their citizenship has been previously registered. According to this provision, persons (former citizens) who renounced their Kazakh citizenship and could not acquire citizenship of another State, and as a result became stateless, who at present have permanent residence in the country, shall be restored in citizenship under the simplified procedure. The legislation of the Republic of Kazakhstan does not establish the requirements of knowledge of language, history or law for those willing to naturalize; the legislation provides for the possibility of exemption from the State fee.

In accordance with the legislation, to acquire citizenship stateless persons have to provide certificates of the absence or termination of citizenship of another State, certificates of no criminal record issued by the competent authority of the relevant State. In practice, there are cases when States do not issue such certificates or issue certificates with a wording that is not accepted by the State bodies of the Republic of Kazakhstan, which leads to situations where a person cannot resolve his/her situation in any way and is forced to remain a stateless person or a person with an undetermined nationality.

RECOMMENDATIONS

In order to bring the national legislation in line with international standards, it is recommended to simplify the conditions for the naturalization of stateless persons and to establish a simpler procedure. The procedure could be expedited and facilitated through reduced requirements for documentary evidence, reduced fees, and reduced requirements regarding the duration of residency prior to naturalization.

INTERNATIONAL STANDARD

20. States issue identity documents to stateless persons in accordance with Article 27 of the 1954 Convention relating to the Status of Stateless Persons and the International Covenant on Civil and Political Rights

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Personal Identification Documents”, Article 1, Subparagraph 1

“Identity document of a stateless person – a document of identification of an individual who does not have proof of citizenship of another state.”

Law of the Republic of Kazakhstan “On the Personal Identification Documents”, Article 11

“1. A certificate of a stateless person shall be issued to stateless persons above the age of 16 years who have permanent residence in the territory of the Republic of Kazakhstan.

2. The certificate of a stateless person shall be issued for a period of five years and serves as a personal identity document of its holder in the territory of the Republic of Kazakhstan and beyond its boundaries.

3. In the event of travel abroad without the parents, custodians or guardians, a certificate of a stateless person shall be issued to persons under the age of 16 years.”

“Rules for Registration, Issuance, Replacement, Surrender, Withdrawal and Destruction of Passport of a Citizen of the Republic of Kazakhstan, Identification Document of a Citizen of the Republic of Kazakhstan, Residence Permit of a Foreign Citizen in the Republic of Kazakhstan, Certificate of a Stateless Person and a Refugee Certificate”, Paragraph 21

To register a certificate of a stateless person, the person shall submit one of the following documents to the competent governmental authority: travel document with expired period of validity; certificate of a stateless person; passport of 1974 model (former USSR passport); military ID; certificate of release from the places of confinement; certificate of renunciation of citizenship of the Republic of Kazakhstan and change of citizenship, in accordance with the Decree of the President of Kazakhstan, and change of citizenship in accordance with international treaties ratified by the Republic of Kazakhstan; birth certificate (for persons under 16 years of age); certificate for return issued by foreign representations of the Republic of Kazakhstan (in case of loss of a certificate of a stateless person by those who were temporarily staying abroad).

ANALYSIS OF THE NATIONAL LEGISLATION

Only stateless persons permanently residing in the country are issued an identity document. The legislation does not provide for the issuance of identity papers to any stateless person in their territory who does not possess a valid travel document, which does not comply with the International Standard.

RECOMMENDATIONS

For the purpose of documentation and registration of the population, the legislation needs to provide for the right to obtain identity documents for persons who do not reside in the country on a permanent basis, or do not have proof of permanent residence in the country. To ensure such a right, the existing statelessness determination procedures (Order of the Minister of Internal Affairs of the Republic of Kazakhstan of 01 September 2020 No. 607) should be improved to reflect the right to temporary legal stay through the duration of the procedure, ensuring freedom of movement and protection against detention of those seeking recognition of their statelessness or other legal status. In this regard, the legislation should grant the applicant the right to temporary stay and a temporary residence card during the procedure.

INTERNATIONAL STANDARD

21. States ensure the right of stateless persons to access courts in accordance with Article 16 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 18

“Foreign citizens in the Republic of Kazakhstan shall have the right to apply to the courts and other governmental agencies for the protection of their property and personal non-property rights.

Foreign citizens shall enjoy equal procedural rights in a court on a par with citizens of the Republic of Kazakhstan, except for the cases provided for by the international treaties of the Republic of Kazakhstan.”

Civil Procedure Code of the Republic of Kazakhstan, Article 472

“1. Foreign citizens and stateless persons, foreign and international organizations (hereinafter, foreigners) shall have the right to apply to courts of the Republic of Kazakhstan for the protection of their violated or contested rights, freedoms and legally protected interests.

2. Aliens shall enjoy procedural rights and bear procedural duties on a par with citizens and legal entities of the Republic of Kazakhstan, unless otherwise established by international treaty ratified by the Republic of Kazakhstan.”

Civil Procedure Code of the Republic of Kazakhstan, Article 473

“1. The civil procedural legal capacity of foreign citizens and stateless persons shall be determined by their personal law.

2. The personal law of a foreign citizen is the law of the State of his/her citizenship.

3. In case a foreign citizen has multiple citizenship, his/her personal law shall be the law of the State with which he/she has the strongest ties, including where the person resides.

4. The personal law of a stateless person is the law of the State where he/she has permanent residence, and in case of the absence of such permanent residence - the law of the State of his/her habitual residence.

5. A person, who is not legally capable to sue and be sued according to his/her personal law, may be recognized as legally capable in the territory of the Republic of Kazakhstan, if according to the law of the Republic of Kazakhstan he/she is legally capable to sue and be sued.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation fully complies with the International Standard – stateless persons in the Republic of Kazakhstan have the right to appeal to the courts and other State bodies to protect their rights and enjoy procedural rights in court on an equal basis with citizens of the Republic of Kazakhstan; the procedural capacity of stateless persons is determined by the law of the State where the person has a permanent residence, and if the person does not have a permanent residence, according to the law of the State of his/her usual residence.

RECOMMENDATIONS

There are no recommendations.

INTERNATIONAL STANDARD

22. States ensure the right of stateless persons to work in accordance with Articles 17-19 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 6

“Foreign citizens may perform labour activities in the Republic of Kazakhstan on the grounds and in the manner established by the law and international treaties of the Republic of Kazakhstan. In order to ensure enforcement of the constitutional right of citizens of the Republic of Kazakhstan to freedom of labour, restrictions on the exercise of labour activities by foreign citizens in the Republic of Kazakhstan may be established through regulatory legal acts.

Foreign citizens may not be appointed to certain positions or be engaged in certain labour activities, if under the legislation of the Republic of Kazakhstan appointment to such positions or engagement in such activities is attributed to allegiance to the citizenship of the Republic of Kazakhstan.

Foreigners permanently residing in the Republic of Kazakhstan shall have equal rights and bear equal duties in labour relations as citizens of the Republic of Kazakhstan.

Foreigners temporarily staying in the Republic of Kazakhstan can be subjects of private entrepreneurship. Engaging in entrepreneurial activity without forming a legal entity is not allowed.

Foreign citizens present in the Republic of Kazakhstan shall be entitled to time off on the same basis as citizens of the Republic of Kazakhstan.”

Labour Code of the Republic of Kazakhstan, Article 26

“Conclusion of an employment contract shall not be permitted:

4) with foreigners and stateless persons temporarily staying on the territory of the Republic of Kazakhstan until the local executive body issues a permission to employ foreign labour, or a certificate of qualification for independent employment is issued, in accordance with the procedure determined by the authorized body for migration issues to foreign workers, or before obtaining permission for a labour immigrant issued by the internal affairs authorities, in accordance with the procedure established by the Ministry of Internal Affairs of the Republic of Kazakhstan, or without observance of limitations or exemptions established by the laws of the Republic of Kazakhstan;

6) with foreigners and stateless persons temporarily staying on the territory of the Republic of Kazakhstan, who have not submitted a permission to enter and stay with the aim of family reunification and a document confirming the state of marriage with a citizen of the Republic of Kazakhstan recognized by the legislation of the Republic of Kazakhstan.”

Labour Code of the Republic of Kazakhstan, Article 32

“1. For the conclusion of an employment contract the following documents are required:

1) an identity card or passport (birth certificate for persons under 16 years). Oralman's present an oralman's certificate issued by local executive bodies;

2) residence permit or a certificate of a stateless person (for foreigners and stateless persons permanently residing in the territory of the Republic of Kazakhstan) or a refugee certificate.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation complies with the International Standard – stateless persons permanently residing in the Republic of Kazakhstan may perform labour activities in the Republic of Kazakhstan and shall have rights and bear duties in the sphere of labour relations on an equal basis with citizens of the country. The

legislation contains certain restrictions in respect of foreign citizens and stateless persons temporarily staying in the Republic of Kazakhstan – they need to obtain a work permit and they cannot be appointed to certain positions or engage in a certain type of employment if, in accordance with the legislation, appointment to these positions or occupation of this type of activity is related to the citizenship of the Republic of Kazakhstan (occupying positions in public service).

Persons who do not have proof of allegiance to the citizenship of any State and undocumented persons do not have the right to work.

RECOMMENDATIONS

It is recommended to revise the legislation on citizenship in order to document all persons with undetermined nationality and thus ensure their access to fundamental human rights.

INTERNATIONAL STANDARD

23. States ensure the right of stateless persons to education in accordance with Article 22 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 10

“Foreigners and stateless persons, permanently residing in the Republic of Kazakhstan, shall have the right to receive preschool, primary, basic secondary and general secondary education on a par with citizens of the Republic of Kazakhstan, in accordance with the legislation of the Republic of Kazakhstan in the field of education.

Stateless persons permanently residing in the Republic of Kazakhstan shall be entitled to receive free technical and vocational, secondary, higher and postgraduate education on a competitive basis, in accordance with the state educational order, provided that they obtain the education of each of these levels for the first time.

The right of foreigners to get free technical and vocational, secondary, higher and postgraduate education on a competitive basis, in accordance with the state educational order, shall be defined by the international treaties of the Republic of Kazakhstan.

Foreigners, admitted to educational institutions have the rights and obligations of students and pupils, in accordance with the legislation of the Republic of Kazakhstan.”

Law of the Republic of Kazakhstan “On Education”, Article 8

“Foreigners and stateless persons, permanently residing in the Republic of Kazakhstan, as well as those entered the Republic of Kazakhstan for the purpose of family reunification, shall have the right to receive preschool, primary, basic secondary and general secondary education on a par with citizens of the Republic of Kazakhstan, in accordance with the procedures established by the competent authority on the field of education.

Stateless persons permanently residing in the Republic of Kazakhstan shall be entitled to receive a free technical and vocational, post-secondary, higher and postgraduate education on a competitive basis, in accordance with the state educational order, provided that they obtain the education of each of these levels for the first time, except for specialized military educational institutions.

The right of foreigners to receive a free technical and vocational, secondary, higher and postgraduate education on a competitive basis, in accordance with the state educational order, shall be defined by the international treaties of the Republic of Kazakhstan.”

According to the **Order of the Minister of Education and Science of the Republic of Kazakhstan, “On the Approval of the Rules for Receiving Preschool, Primary, Basic Secondary and General Secondary Education by Foreigners and Stateless Persons Permanently Residing in the Republic of Kazakhstan,”** children of foreigners and stateless persons permanently residing in the Republic of Kazakhstan, and persons temporarily residing in the Republic of Kazakhstan (refugees, asylum seekers, officers of consulates, employees of diplomatic missions, labour migrants who work in the Republic of Kazakhstan in accordance

with migration law) shall be admitted to educational organizations to receive preschool, primary, basic secondary and general secondary education and shall enjoy equal rights with citizens of Kazakhstan.

ANALYSIS OF THE NATIONAL LEGISLATION

According to the legislation of the Republic of Kazakhstan, foreign citizens and stateless persons permanently residing in the Republic of Kazakhstan shall have the right to receive preschool, primary, basic secondary and general secondary education on an equal basis with citizens of the Republic of Kazakhstan, in accordance with the legislation of the Republic of Kazakhstan in the field of education. Regarding the right of the stateless persons to the higher education, the law provides for the right to receive free technical and vocational, secondary, higher and postgraduate education for the stateless persons permanently residing in the Republic of Kazakhstan. These provisions comply with the International Standard.

RECOMMENDATIONS

In order to ensure the right of every child to an education, it is recommended to regulate the issue of higher education for stateless persons temporarily residing (or having a temporary legal status document/ temporary residence card) in the country through introducing a provision that would clearly establish that stateless persons holding temporary residence permit shall enjoy the same rights as citizens of the Republic of Kazakhstan.

INTERNATIONAL STANDARD

24. States ensure the right of stateless persons to health care in accordance with Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 23 of 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 7

“Foreigners and stateless persons, residing on the territory of the Republic of Kazakhstan, shall be provided with medical assistance if there is available a voluntary medical insurance policy, unless otherwise stipulated by the laws of the Republic of Kazakhstan and international treaties, ratified by the Republic of Kazakhstan.”

Code of the Republic of Kazakhstan, “On public health and health care system”, Article 83

“1. Kandas, refugees, as well as foreigners and stateless persons permanently residing on the territory of the Republic of Kazakhstan, shall be entitled to receive a guaranteed volume of free medical care on an equal basis with the citizens of the Republic of Kazakhstan.

2. Foreigners and stateless persons temporarily residing on the Republic of Kazakhstan, asylum-seekers have the right to receive a guaranteed volume of free medical care for acute diseases that are dangerous to the others, in accordance with the list, determined by the authorized body, unless otherwise stipulated by laws and international treaties ratified by the Republic Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation complies with the International Standard regarding the provision of the right to health care to stateless persons permanently residing or temporarily staying on the territory of the Republic of Kazakhstan.

In accordance with the legislation, persons who do not have proof of allegiance to the citizenship of any State and who do not have identity documents can only receive emergency medical care.

RECOMMENDATIONS

In order to bring the legislation in line with International Standards, it is necessary to extend the possibilities of providing health care to persons with an undetermined nationality who do not have identity documents and are not documented as permanent residents.

INTERNATIONAL STANDARD

25. States ensure the right of stateless persons to social security in accordance with Article 24 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 8

“Foreigners permanently residing in the Republic of Kazakhstan shall have equal rights and bear equal duties in the sphere of social security and pensions as citizens of the Republic of Kazakhstan.

In cases when granting of a retirement pension and pension payments requires a certain period of employment, foreigners may count their work experience abroad on the grounds and in the manner established by the law and international treaties of the Republic of Kazakhstan.”

Law of the Republic of Kazakhstan “On Social Protection of Persons with Disabilities in the Republic of Kazakhstan”, Article 3

“...This Law shall govern public relations in the field of social protection of disabled persons in the Republic of Kazakhstan and determine legal, economic and organizational conditions of ensuring social protection of disabled persons, creating equal opportunities for their life activities and integration into society.”

“The application of this Law shall extend to citizens of the Republic of Kazakhstan, foreign citizens and stateless persons permanently residing in the Republic of Kazakhstan.”

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation partially complies with the International Standard – the 1954 Convention relating to the Status of Stateless Persons obliges the State to establish the same regime for stateless persons in the field of social security, as is established for citizens of the country. The legislation on social protection of Kazakhstan establishes the full right to use social protection only for stateless persons permanently residing in the Republic of Kazakhstan.

RECOMMENDATIONS

In order to bring the National Legislation in line with International Standards, it is recommended to improve the National Legislation to provide access to social security for all stateless persons residing in the country, including those whose status is yet to be established, in accordance with the provisions of the 1954 Convention.

INTERNATIONAL STANDARD

26. States ensure protection of stateless persons against expulsion in accordance with Article 31 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Republic of Kazakhstan “On the Legal Status of Foreign Citizens”, Article 28

“A foreign citizen may be expelled from the Republic of Kazakhstan:

- a) if his/her activities contravene the interests of ensuring state security or protection of the public order;
- b) if it is necessary for the protection of the health and morals of the population, protection of the rights and legitimate interests of citizens of the Republic of Kazakhstan and other persons;
- c) if he/she has violated the law of the Republic of Kazakhstan;
- d) in case if his/her marriage to a citizen of Republic of Kazakhstan was recognized as invalid, provided that such marriage served as the grounds for granting him/her permanent residence permit in the Republic of Kazakhstan.

The decision on expulsion shall be made by the court. A foreign citizen must leave the Republic of Kazakhstan within the period specified in the decision. In this case, execution of the court decision on expulsion from the Republic of Kazakhstan shall take place in the form of a controlled self-facilitated departure of the person, or a forced removal from the Republic of Kazakhstan. If the person, in respect of whom a decision on expulsion is made, does not leave the territory of the Republic of Kazakhstan within the period specified in the decision, he/she shall be subject to apprehension and forced removal, subject to a prosecutor’s approval. Apprehension shall be permitted for a period necessary for removal. The person must be detained in special facilities of the internal affairs authorities, in accordance with the procedures defined by the Government of the Republic of Kazakhstan.

In the checkpoints on the State Border of the Republic of Kazakhstan the internal affairs authorities, executing a court decision on the forced removal, shall hand over the expelled foreign citizen or stateless person to the Border Guard Service of the National Security Committee of the Republic of Kazakhstan for the purpose of an official handover of the foreign citizen or stateless person to the representative of authorities of the foreign State to the territory of which the person concerned is expelled to.”

Code of the Administrative Offences of the Republic of Kazakhstan “of 5 July 2014, Article 517

“4. Violation by a foreigner or stateless person of the legislation of the Republic of Kazakhstan in the field of population migration, expressed in evasion from leaving for a period exceeding 10 days after the expiration of the period established by the legislation, entails a fine in the amount of 25 monthly calculation indices or administrative expulsion from the Republic of Kazakhstan. “

Code of the Administrative Offences of the Republic of Kazakhstan, Article 829-14

“2. The decision provided for in this article must be lawful and justified.

- If, when deciding on the imposition of a penalty for an administrative offense, the judge simultaneously resolves the issue of compensation for property damage to the offender, then the resolution indicates the amount of damage to be recovered, the period and procedure for its compensation.

A court decision on the expulsion of a foreigner or stateless person from the Republic of Kazakhstan comes into legal force from the date of its issuance, and serves as the basis for the expulsion of a foreigner or stateless person from the Republic of Kazakhstan. It also indicates the period during which a foreigner or stateless person must leave the territory of the Republic of Kazakhstan. “

ANALYSIS OF THE NATIONAL LEGISLATION

The National Legislation partially complies with the International Standard – the Convention provides for the possibility of expulsion of a stateless person only for the reasons of state security and public order.

The Law “On the Legal Status of Foreign Citizens” establishes an extensive list of the grounds for expulsion of stateless persons, which goes beyond the grounds specified in the Article 31 of the 1954 Convention on the Status of Stateless Persons. Given the nature of the status of a stateless person, in most cases these people do not have a country where they could be returned, and the possibility of expulsion for such violations as, for example, nullity of a marriage or administrative offenses put these individuals in a more vulnerable situation.

RECOMMENDATIONS

In order to bring the National Legislation in line with the International Standard, it is recommended to limit the grounds for expulsion of stateless persons from the country and apply the law only in exceptional cases, when residence of the stateless person in the country contradicts the interests of national security or public order, in accordance with Article 31 of the Convention on the Status of Stateless Persons.

EXAMPLES OF GOOD LEGISLATIVE PRACTICES

INTERNATIONAL STANDARD

1. A state shall grant its nationality to a person born in its territory who would otherwise be stateless

In order to bring National Legislation in line with the International Standard, it is recommended to improve the existing legislation and to provide for a provision according to which a person born in the country shall unconditionally be considered a citizen if otherwise he/she will become stateless.

GOOD LEGISLATIVE PRACTICES

Belarus

Article 13 of the Law of the Republic of Belarus, dated 1 August 2002, “On Citizenship of the Republic of Belarus”

Acquisition of citizenship of the Republic of Belarus by birth

“A child shall acquire the citizenship of the Republic of Belarus by birth if, on the child’s birthday:

- the parents (single parent) of the child, permanently residing in the Republic of Belarus, are foreign citizens, provided that the child was born on the territory of the Republic of Belarus, and the state of which his/her parents are citizens (nationals) do not grant their citizenship”.

Russian Federation

Article 12 of the Federal Law of the Russian Federation, dated 31 May 2002, “On Citizenship of the Russian Federation”

Acquisition of citizenship of the Russian Federation by birth

“1. A child shall acquire the citizenship of the Russian Federation by birth if on the child’s birthday:

- c) one of his/her parents has the citizenship of the Russian Federation, and the other parent is a foreign citizen, provided that the child was born on the territory of the Russian Federation or if otherwise he/she shall become a stateless person;
- d) both of his/her parents, or the only parent living in the territory of the Russian Federation, are foreign citizens or stateless persons, provided that the child was born in the territory of the Russian Federation, and the state of which his/her

parents or the only parent are citizens does not provide the child its citizenship”.
([link](#))

Armenia

Article 12 of the Law of the Republic of Armenia, dated 16 November 1995, “On Citizenship of the Republic of Armenia”

The citizenship of the child of stateless persons, as well as the citizenship of the child whose parents’ citizenship is unknown, or whose parents cannot transfer their citizenship to the child, in accordance with the legislation of the country (countries) of their citizenship

“1. A child born in the Republic of Armenia shall acquire the citizenship of the Republic of Armenia if:”

3) the parents are citizens of another country (countries). However, in accordance with the legislation of the country (countries) of their citizenship, they cannot transfer their citizenship to the child;

4) one of the parents is a stateless person, and the other is a citizen of another country who, according to the legislation of the country of his/her citizenship, cannot transfer his/her citizenship to a child;

6) the citizenship of one of the parents is unknown, and the other is a citizen of another country, who, according to the legislation of the country of his/her citizenship, cannot transfer his/her citizenship to a child.

2. In cases provided by part 1 of this article, the child shall acquire the citizenship of the Republic of Armenia in the manner prescribed by the legislation of the Republic of Armenia on the basis of an application submitted for obtaining a passport of a citizen of the Republic of Armenia.”

Montenegro

Article 7 of Part 2 (Acquisition of Montenegrin citizenship by birth in the territory of Montenegro) of the Law of Montenegro, dated 26 February 2008, “On Citizenship of Montenegro”

“A child born or found on the territory of Montenegro shall acquire Montenegrin citizenship if both parents are unknown, if their citizenship is unknown, if they are stateless, or in cases where the child remains stateless.”

Bulgaria

The Bulgarian Citizenship Law, as amended in February 2013, stipulates that “a citizen of Bulgaria by the place of birth shall be every person born on the territory of the Republic of Bulgaria who has not acquired the citizenship of another state by origin.”

Article 10 of the Law of the Republic of Bulgaria, dated 5 November 1998, “On Bulgarian Citizenship”

“A citizen of Bulgaria by birth shall be every person born on the territory of the Republic of Bulgaria, unless he/she acquires another citizenship by origin.”

Finland

Section 9 of the Citizenship Act of Finland 2003:

“A child shall acquire Finnish citizenship by birth if:

4) the child was born in Finland and does not acquire the citizenship of any foreign state at birth and does not even have a secondary right to obtain citizenship of any other foreign state.

A child born in Finland shall acquire Finnish citizenship at the place of birth if his or her parents have refugee status in Finland or if they have otherwise been granted protection from the authorities of their state of citizenship. An additional requirement is that the child shall not acquire the citizenship of either parent unless the birth of a child is registered with the permission of the parent’s state of citizenship or via another procedure requiring assistance from the authorities of that state. If the aforementioned protection was granted only to one of the parents, it shall also be required that the child shall not acquire the citizenship of the other parent by birth and shall not even have a secondary right to acquire it at birth.”

INTERNATIONAL STANDARD

2. States grant nationality to stateless children born in their territory

In order to bring the national legislation in line with the international standard, it is recommended to improve the existing legislation, and to provide for a provision according to which the Republic of Kazakhstan shall automatically grant citizenship to children born on its territory who cannot acquire the citizenship of another country. It is advisable not to establish additional conditions for the implementation of this provision, such as the requirement of permanent residence of the parents.

GOOD LEGISLATIVE PRACTICES

Bulgaria

Article 10 of the Law of the Republic of Bulgaria, dated 5 November 1998, “On Bulgarian Citizenship”

“A citizen of Bulgaria by birth shall be every person born on the territory of the Republic of Bulgaria, unless he/she acquires another citizenship by birth.”

Finland

Section 9 of the Citizenship Act of Finland 2003:

“A child shall acquire Finnish citizenship by birth if:

4) the child was born in Finland and does not acquire the citizenship of any foreign state at birth, and does not even have a secondary right to obtain citizenship of any other foreign state.

INTERNATIONAL STANDARD

4. States shall grant nationality to a child of their citizens who was born abroad and cannot acquire nationality of another state

In order to bring the national legislation in line with the international standard, it is recommended to improve the existing legislation and to provide for provisions according to which the State shall recognize as its citizen a child born outside the country to its citizens (including in cases when one of the parents, or both of them, are citizens), regardless of whether they have a permanent residence in Kazakhstan. It is advisable not to establish additional conditions for the implementation of this provision.

Lithuania

Article 14 of the Law of the Lithuanian Republic, dated 2 December 2010, “On Citizenship”

Acquisition of citizenship of the Lithuanian Republic by birth, when both or one, of the child’s parents are citizens of the Republic of Lithuania

“1. A child, whose parents or one of whom are citizens of the Republic of Lithuania, shall acquire citizenship of the Lithuanian Republic by birth, regardless of whether he/she was born in the territory of the Lithuanian Republic or abroad.

2. A child, at least one of whose parents was a citizen of the Lithuanian Republic, but died before the birth of the child, shall acquire the citizenship of the Lithuanian Republic by birth, regardless of whether he/she was born in its territory or abroad.”

Russian Federation

Article 12 of the Federal Law of the Russian Federation, dated 31 May 2002, “On Citizenship of the Russian Federation”

Acquisition of citizenship of the Russian Federation by birth

“1. A child shall acquire the citizenship of the Russian Federation by birth if on the child’s birthday:

- a) both parents or the single parent have the citizenship of the Russian Federation (regardless of the place of birth of the child.” [\(link\)](#)

Serbia

Article 9 of the Law of the Republic of Serbia No. 135/04 “On Citizenship of the Republic of Serbia”

“Citizenship of the Republic of Serbia by descent shall be acquired by a child born abroad, one of whose parents at the time of the child’s birth is a citizen of the Republic of Serbia, and the other is a foreign citizen, if the parent who is a citizen of the Republic of Serbia registers him/her before the age of 18 as a citizen of the Republic of Serbia at the competent diplomatic consulate of Serbia and Montenegro and if he/she applies to the competent state authority in the Republic of Serbia to register the child in the Citizenship Register. If the child has a guardian, the registration and application shall be submitted by the guardian.

A child born abroad, one of whose parents at the time of the child’s birth is a citizen of the Republic of Serbia, acquires by descent, the citizenship of the Republic of Serbia in case of remaining without citizenship even if the conditions specified in para 1 are not observed.”

7. National legislation prevents statelessness in the event of future situations of State succession

In order to bring the national legislation in line with the international standard, it is recommended to declare in the special law on citizenship that the State will take necessary measures to prevent statelessness in the event of future situations of State succession.

GOOD LEGISLATIVE PRACTICES

The good international practices of Bosnia and Herzegovina and the Russian Federation show the efforts of countries to reduce statelessness as a result of State succession. In turn, an example of good practice in preventing statelessness due to future succession situations is a regional international treaty – the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.

Bosnia and Herzegovina

The Bosnia and Herzegovina Citizenship Act 1999 ([link](#)) provides guarantees to prevent statelessness as a result of the collapse of the former Yugoslavia. Article 37 provides that all persons who were citizens of the Republic of Bosnia and Herzegovina prior to the adoption of the Constitution in December 1995 and those who were citizens before 6 April 1992 (which is the date commonly regarded as marking the outbreak of the war) are Bosnian citizens. Moreover, all persons who started living in Bosnia and Herzegovina between 6 April 1992 and the entry into force of the Citizenship Act (1 January 1998) and who have continuously resided in Bosnia and Herzegovina for at least two years after January 1998, had the opportunity to apply for naturalization.

Russian Federation

In November 2003, in order to facilitate the acquisition of citizenship of the Russian Federation by citizens of the former USSR residing in the Russian Federation, additional amendments were adopted to the Federal Law No. 62-FZ “On Citizenship of the Russian Federation”, which entered into force on 1 July 2002 (Law on Citizenship 2002).

The key provision that led to the reduction of statelessness relates to article 14.4, which was amended in 2003. It was a temporary measure to facilitate the acquisition of Russian citizenship by naturalizing former Soviet citizens based on

a temporary or permanent residence permit at the time the 2002 Citizenship Law came into effect. This simplified naturalization procedure was extended three times by the Law and was in effect from 2003 to the end of June 2009. It is important that it abolished the requirements that were most difficult to fulfil for citizens of the former USSR living in the Russian Federation with undetermined citizenship, namely, confirmation of continuous residence for five years, confirmation of solvency and knowledge of the Russian language.

The applicants were also exempted from paying the naturalization fee.

States party to the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.

As of May 2021, nine countries are signatories to this treaty and seven countries have ratified the Convention ([link](#)), including Austria, Hungary, Luxembourg, Moldova, Montenegro, Netherlands and Norway.

Articles 2 and 3 of the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession ([link](#))

“Article 2 – Right to citizenship

- Everyone who, at the time of the succession of the state, had the citizenship of the predecessor state and who became or will become stateless as a result of the succession of the state, shall have the right to the citizenship of the respective state, in accordance with the following articles.
- Article 3 – Prevention of statelessness
- The State concerned shall take all necessary measures to prevent persons who, at the time of the succession of the State, had the citizenship of the predecessor State, do not become stateless persons as a result of the succession.”

INTERNATIONAL STANDARD

8. National legislation contains definition of a stateless person in accordance with the Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons

It is recommended that the definition of a stateless person in the national legislation of the Republic of Kazakhstan be brought in line with article 1, paragraph 1, of the 1954 Convention relating to the Status of Stateless Persons.

Republic of Azerbaijan

Article 3 of the Migration Code of the Republic of Azerbaijan, approved by the Law of the Republic of Azerbaijan, dated 2 July 2013.

Basic concepts

“3.0.2. stateless person – a person who is not considered a citizen of any state according to its law;” ([link](#))

Moldova

Article 1 of the Law of the Republic of Moldova, dated 2 June 2000, “On Citizenship of the Republic of Moldova”

Article 1. Concepts

“For the purposes of this law, the following concepts are used in the meaning: stateless person – a person who is not considered a citizen by any state under the operation of its law.” ([link](#))

Georgia

Article 2 of the Law of Georgia dated 25 May 2012 “On the Legal Status of Foreigners and Stateless Persons”

Explanation of terms

a1) stateless persons – a person who is not considered a citizen by any state under its legislation ([link](#))

9. States identify stateless migrants through determination procedures which lead to a legal status that permits residence and guarantees the enjoyment of basic human rights, and facilitates naturalization

Judicial review is an important precondition for the rule of law. In order to bring the national legislation in line with the international standard, it is recommended to improve the statelessness status determination procedures and explicitly guarantee access to the procedure to all, regardless of the proof of permanent residence for five or more years, and to provide for the right to an interview and the right to appeal a negative decision.

The right to appeal against a negative first instance decision is an essential safeguard to ensure a quality statelessness determination procedure and the correct assessment of evidence at first instance level.

Georgia

Article 12 of the Decree of the Government of Georgia No. 523, dated 1 September 2014, “On Approval of the Procedure for Determining the Status of a Stateless Person in Georgia”.

Procedure for appealing decisions on determining status

“The decision of the Agency to refuse to determine the Status or to terminate the Status may be appealed to a court, in the manner established by law, within one month after communication of the decision.”

Moldova

Article 874 of the Law, dated 16 July 2010, “On the regime of foreigners in the Republic of Moldova”

87 4 Interview

(1) Within 15 working days following the submission of an application, the competent authority for foreigners shall conduct an interview with the applicant.

(2) The interview shall be recorded in writing in an interview note which shall contain the following information:

- a) identity information (current name and surname, previous names and surnames, previous citizenship, sex, place and date of birth, parents’ names);
- b) the fact of having submitted any other information necessary for the decision on his/her application;
- c) data regarding the submitted documents (document type, number, validity term, date and place of issuance, name of the issuing authority);
- d) civil status, place of marriage registration;
- e) employment and education;
- f) place of residence in the Republic of Moldova;

(3) During the interview the applicant shall state the reasons for having submitted the application and shall present any other available proofs, which have not been presented earlier, in order to substantiate his/her claim. The applicant shall be informed about this obligation at the beginning of the interview.

(4) Unaccompanied minors shall be assisted during the interview by a representative of the institution in which he/she had been placed, appointed by the administration of that institution, while in the case of accompanied minors, by one of his/her parents or by a representative authorized by law or legal document.

(5) Persons with mental disorders (mental illnesses or mental deficiencies), declared incapacitated or with limited capacity, shall be accompanied during the interview by a guardian in accordance with the legislation in force.

(6) The interview note shall be signed by the applicant, official who conducted the interview, translator, if he/she took part in the interview; in the case of an unaccompanied minor the interview note shall be also signed by the appointed representative, whereas in the case of a person with mental disorders declared incapacitated or with limited capacity – by his/her guardian. ([link](#))

Hungary

Act II 2007, On the admission and right of residence of third-country nationals and government decree 114/2007 (V. 24.) on the implementation of Act II 2007 on the admission and right of residence of third-country nationals

“Preliminary hearing/interview

Government Decree, Section 161.

(1) Following the submission of a petition, or upon drawing the report if the petition is submitted verbally, the competent regional directorate shall conduct a preliminary hearing.

(2) During the preliminary hearing the competent regional directorate shall draw up a report to record:

- a) that the information required under Subsection (3) of Section 76 of the RRTN was in fact provided and acknowledged;
- b) the following if they were not supplied in the petition:
 - ba) the petitioner’s personal identification data (surname and forename, any previous name, surname and forename at birth, previous nationality, sex, place and date of birth, mother’s birth name);
 - bb) personal data available and particulars from any travel documents (mark of the document and serial number, validity period, place and date of issue, name of issuing authority);
- c) marital status, date of marriage;
- d) occupation and education;
- e) permanent or temporary residence in the country of customary residence;
- f) permanent or temporary residence or place of accommodation in Hungary.

(3) The report shall be signed by the petitioner and also by the interpreter, if applicable, and by the caretaker officer appointed for an unaccompanied minor.

Hearing/Interview

Government Decree, Section 162.

(1) Following the preliminary hearing the competent regional directorate shall conduct a full hearing.

(2) In this hearing the petitioner shall present his/her reasons for lodging the petition, and shall present any evidence to support his/her case that has not yet been presented. The petitioner shall be apprised of this obligation at the time of opening the proceedings.

(3) If the caretaker officer appointed to represent an unaccompanied minor fails to appear in the hearing in spite of being duly summoned, the hearing shall be rescheduled, of which the competent social services that has appointed the caretaker officer shall also be notified. ([link](#))

INTERNATIONAL STANDARD

10. National legislation provides for the right of stateless persons to lawfully reside in the country

In order to bring the national legislation in line with the international standard, it is recommended to provide for the possibility of registering / providing a temporary legal status/residence in the country until a final decision is taken on their citizenship confirmation or statelessness determination.

GOOD LEGISLATIVE PRACTICES

Moldova

Applicants for obtaining the status of a stateless person shall be granted the right to stay in the Republic of Moldova while their applications are being considered. The person can be removed from the territory only for reasons of national security and public order.

Article 87 3 of the Law, dated 16 July 2010, “On the regime of foreigners in the Republic of Moldova”

“(1) An applicant for statelessness shall enjoy the following rights:

- a) stay in the Republic of Moldova throughout the entire period of consideration of the application;
- b) not be removed from the territory of the Republic of Moldova, except in cases where there are considerations of national security or public order;”

Georgia

Article 7 of the Decree of the Government of Georgia No. 523, dated 1 September 2014, “On Approval of the Procedure for Determining the Status of a Stateless Person in Georgia”

Article 7. Legal guarantees, rights and obligations of status seekers

“2. The period of stay in Georgia during the Status determination administrative proceedings shall be regarded as a lawful stay for the Status seeker who is staying unlawfully in Georgia.

3. A Status seeker unlawfully staying in Georgia may not be removed from Georgia during Status determination administrative proceedings.

4. The Agency shall issue a temporary identification card to a Status seeker valid for one year. After the decision is made on determining or on refusing to determine the Status, the temporary identification card shall be cancelled.”

INTERNATIONAL STANDARD

11. Children born to stateless persons, unregistered migrants and persons with undetermined nationality shall be registered at birth and shall be issued a birth certificate

In order to bring the national legislation fully in line with the international standard, it is recommended that the Code of the Republic of Kazakhstan “On Marriage (Matrimony) and the Family” regulates cases of birth registration of children born outside a medical organization whose parents are stateless, undocumented migrants or persons with undetermined nationality, with the aim of ensuring a timely birth registration and the issuance of birth certificates to them, with the ultimate goal of preventing childhood statelessness.

GOOD LEGISLATIVE PRACTICES

Russian Federation

In accordance with clause 1 of Article 14 of Federal Law No. 143-FZ “On Acts of Civil Status”, the basis for state registration of a birth shall be:

- a birth document in the established format, issued by a medical institution, regardless of the organizational and legal form in which the birth took place;
- a birth document in the established format, issued by a medical institution whose doctor provided medical care during childbirth, or to which the mother applied after childbirth, or by an individual entrepreneur carrying out medical activities – during childbirth outside a medical institution;

- a statement by a person present at the birth of a child outside a medical institution and without the provision of medical assistance.

Information about the child's mother shall be entered into the record of the child's birth on the basis of the documents specified in Article 14 of the Federal Law, information about the child's father – on the basis of the parents' marriage certificate. However, if the mother does not have a document proving her identity, the medical birth certificate shall be filled out according to the mother's statement, about which a note "according to the mother's words" shall be made in the upper right corner, certified by the signature of the head and the seal of the medical organization.

This practice protects the child's right to be registered immediately after birth, even if the parent(s) does not have an identity document without additional requirements, regardless of whether the birth occurs within or outside a medical organization.

Clause 20 of the Order of the Ministry of Health and Social Development of the Russian Federation, dated 27 December 2011, No. 1687n "On medical criteria for birth, the form of a birth document and the procedure for its issuance"

"20. If the mother does not have a document proving her identity (for a minor – a birth certificate), to ensure state registration of a birth, paragraphs 2-4 and 6 of the medical birth certificate and the 2-4 stub of the medical birth certificate shall be filled in according to the mother's statement, with a note stating "according to the mother's words" made in the upper right corner, certified by the signature of the head and the seal of the medical organization."

Uzbekistan

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan,

"On the Approval of the Rules for the Registration of Acts of Civil Status", the birth of children in the territory of the Republic of Uzbekistan shall be subject to mandatory registration with the registry office within one month at the place of their birth, or at the place of residence of one of the parents. Missing the established monthly deadline shall not be an obstacle to registering a birth.

Birth registration shall be carried out based on a medical certificate of birth, documents confirming the marital status and identity of the parents and their application. An application for the birth of a child can be submitted by his/her parents or one of the parents, and in special cases by relatives, neighbours or other persons, authorized by the parents or one of the parents, as well as officials of medical institutions, internal affairs bodies or tutorship and guardianship authorities.

In special cases, in the absence of a document proving the identity of one of the parents, the registry office cannot refuse to register the birth. In this case, information about the father or mother, who does not have documents, shall be indicated based on the marriage certificate or the birth certificates of previous children.

In the absence of documents proving the identity of both parents, the birth of a child shall be registered on the basis of a written request from a medical institution, tutorship or guardianship authorities.

Registration of the birth of a child born outside the maternity hospital and without medical assistance shall be carried out on the basis of a medical certificate issued by a district doctor (paramedic or obstetrician). The basis for issuing a medical certificate in such cases shall be a record drawn up with the participation of witnesses to the birth of the child from this mother and approved by a district doctor (paramedic or obstetrician).

INTERNATIONAL STANDARD

12. States are parties to the 1954 Convention relating to the Status of Stateless Persons

It is recommended for the country to accede to the 1954 Convention relating to the Status of Stateless Persons

GOOD LEGISLATIVE PRACTICES

As of 5 May 2021, 23 countries are signatories and 95 countries are parties to the Convention. Detailed information on the ratification, accession to the Convention and on succession is available [here](#).

INTERNATIONAL STANDARD

13. States are parties to the 1961 Convention on the Reduction of Statelessness

It is recommended for the country to accede to the 1961 Convention on the Reduction of Statelessness.

GOOD LEGISLATIVE PRACTICES

As of 5 May 2021, 5 countries are signatories and 76 countries are parties to the Convention. Detailed information on the ratification, on accession to the Convention and on succession is available [here](#).

INTERNATIONAL STANDARD

15. Renunciation of nationality does not cause loss of nationality except in cases where the person concerned possesses or acquires another citizenship

In order to bring the national legislation in line with the international standard, it is recommended to improve the existing legislation and to provide for guarantees to prevent statelessness when renouncing the citizenship of the Republic of Kazakhstan, according to which a person can renounce his/her citizenship only if he/she has acquired, or is in the process of acquiring, citizenship of another country.

GOOD LEGISLATIVE PRACTICES

Finland

The Finnish Citizenship Act is consistent with the 1961 Convention in that it requires that renunciation of citizenship does not lead to statelessness.

Section 35 Chapter 5 of the Citizenship Act of Finland 2003 ([link](#)):

Section 35 Withdrawal from Finnish Citizenship

“A Finnish citizen who also holds the citizenship of a foreign state, or wishes to become a citizen of a foreign state, can be released from Finnish citizenship upon application. If, at the time of the decision on the application, the applicant is not yet a citizen of a foreign state, he or she can only be released from Finnish citizenship by a decision, which requires that the applicant submit a certificate of acquisition of foreign citizenship within the period specified in the decision for it to come into effect. After submission of a certificate of acquisition of citizenship of a foreign state, a certificate of compliance with this requirement is issued.”

Moldova

Article 37 of the Law of the Republic of Moldova, dated 2 June 2000, “On Citizenship of the Republic of Moldova” ([link](#))

Article 37 Documents required for renunciation of citizenship:

“(1) The following documents shall be submitted for permission to renounce the citizenship of the Republic of Moldova:

- f) evidence confirming the fact of possession, or acquisition of citizenship of another state, or guarantees of acquiring such citizenship

(3) Parents who renounce the citizenship of the Republic of Moldova may apply for the retention of the citizenship of the Republic of Moldova for their children.”

Estonia

Estonian legislation is also aimed at preventing new cases of statelessness, so according to the Citizenship Law, renunciation of citizenship may be refused if it renders the applicant stateless. It shall be necessary to provide a certificate of citizenship of another state, or proof that a person renouncing their Estonian citizenship will receive citizenship of another state.

Article 26 of the Estonian Law RT I 1995, 12, 122 “On Citizenship”

Restrictions upon Release from Estonian Citizenship

“Renunciation of Estonian citizenship may be refused if:

- 1) Renunciation of citizenship will make the applicant a stateless person.”

Lithuania

Article 25 of the Law of the Lithuanian Republic, dated 2 December 2010, “On Citizenship” ([link](#)), Article 25 The Right of a Citizen of the Lithuanian Republic to Renounce Citizenship

“3. Application of a Citizen of the Lithuanian Republic to Renounce Citizenship of the Lithuanian Republic cannot be considered if he/she will remain stateless.”

Article 43 of the Law of the Lithuanian Republic, dated 2 December 2010, “On Citizenship”; Article 43 Application for Renunciation of Citizenship of the Republic of Lithuania

“2. The following document shall be attached to the application for renunciation of the citizenship of the Republic of Lithuania:

- a. A document issued by the competent authority of a foreign state certifying that the person is a citizen of the respective state, or is acquiring the citizenship of the respective state after the loss of citizenship of the Republic of Lithuania.”

Turkey

Article 25 (1) of the Turkish Citizenship Law, dated 29 May 2009 ([link](#))

Article 25 Withdrawal from Turkish Citizenship

“Persons who request permission to renounce Turkish citizenship shall be issued an exit permit or a refusal document by the Ministry, provided that they fulfil the following conditions:

b. They are citizens of another state or have convincing evidence that the person can acquire the citizenship of another state.”

Ukraine

Article 18 of the Law of Ukraine, dated 18 January 2001, “On Citizenship of Ukraine” ([link](#))

Article 18 Withdrawal from citizenship of Ukraine

“Withdrawal from Ukrainian citizenship shall be allowed if a person has acquired the citizenship of another state or has received a document issued by the authorized bodies of another state, stating that a citizen of Ukraine will acquire his/her citizenship from that state if he/she withdraws from the citizenship of Ukraine.”

Belarus

Article 20 of the Law of the Republic of Belarus, dated 1 August 2002, “On Citizenship of the Republic of Belarus” ([link](#))

Grounds for refusal to terminate citizenship of the Republic of Belarus --

“the person in question has no other citizenship or guarantees of its acquisition.”

Armenia

Article 24 of the Law of the Republic of Armenia, dated 16 November 1995, “On Citizenship of the Republic of Armenia”

Article 24 Change of Citizenship of the Republic of Armenia

“Every citizen of the Republic of Armenia, who has reached the age of 18, shall have the right to change citizenship – to withdraw from the citizenship of the Republic of Armenia and to acquire the citizenship of another state, or to withdraw from the citizenship of the Republic of Armenia, if he/she has the citizenship of another state.

A citizen’s application for renunciation of the citizenship of the Republic of Armenia shall be rejected if:

5) He/she does not have the citizenship of another state and, prior to the signing by the President of the Republic of Armenia of the decree on the termination of the citizenship of the Republic of Armenia, does not submit a written confirmation (certificate) issued by the competent authority of a foreign state on the legal possibility of acquiring the citizenship of this state.”

Montenegro

Article 20 of the Law of Montenegro, dated 26 February 2008, “On Citizenship of Montenegro” ([link](#))

“Withdrawal from the citizenship of Montenegro shall be granted to a person if he/she submits an application for renunciation and meets the following conditions:
2) that he or she has the citizenship of another country, or proof that he or she will be granted the citizenship of another country.”

Article 21 of the Law of Montenegro “On Citizenship of Montenegro”

“The procedure for renunciation of citizenship shall be suspended if, within two years after receiving a written guarantee of renunciation of citizenship, he or she cannot provide evidence that he or she acquired the citizenship of another state.”

Article 23 of the Law of Montenegro “On Citizenship of Montenegro”

“If a Montenegrin citizen, who has been granted exemption from Montenegrin citizenship, does not acquire the citizenship of another state within one year after receiving the decision to withdraw, the national administration body responsible for resolving issues of citizenship (hereinafter referred to as the competent authority) shall cancel the decision to withdraw, taken at the request of that person.

A request to revoke a decision on release from Montenegrin citizenship may be submitted within three months after the expiration of the period specified in paragraph 1 of this article.

17. States shall prevent deprivation of nationality, only providing for exceptions enshrined in Article 8 of the 1961 Convention on the Reduction of Statelessness

It is proposed that detailed procedures governing loss and deprivation of citizenship and that further steps be developed for the person with revoked citizenship, in accordance with the principles of non-discrimination, proportionality, fair trial and the right to an effective remedy in the event of misconduct, unlawful measures related to loss or deprivation of nationality. Appropriate procedural safeguards shall be respected throughout the entire revocation procedure.

In amending and enacting national legislation relating to deprivation and loss of nationality, it is recommended to apply international human rights standards related to loss and deprivation of nationality in the context of the fight against terrorism.

GOOD LEGISLATIVE PRACTICES

Netherlands ([link](#))

The legislation provides guarantees to prevent statelessness in most cases where deprivation of Dutch citizenship is permitted, except in cases where the citizenship was acquired fraudulently. In this case, deprivation is permitted even if it leads to statelessness. There are provisions for deprivation of citizenship for reasons of national security, but not applicable if it results in statelessness.

Moldova

The grounds for deprivation of Moldovan citizenship shall be established by law and include cases when a person acquired citizenship by fraudulent means, entered the service of a foreign army, or committed especially serious acts damaging the state. The guarantee against statelessness shall be provided in all cases of deprivation of citizenship, except for cases of fraudulent acquisition of citizenship.

There is also a guarantee to prevent statelessness in case of renunciation of Moldovan citizenship. The competent authority for deprivation of citizenship is the President, and it is possible to appeal and receive legal assistance to challenge the presidential decree.

Article 23 of the Law of the Republic of Moldova, dated 2 June 2000, “On Citizenship of the Republic of Moldova” ([link](#))

Article 23. Deprivation of citizenship

“(1) By a decree of the President of the Republic of Moldova, a person may be deprived of the citizenship of the Republic of Moldova on the following grounds:

- a) Acquisition of citizenship by fraudulent means, by providing false information, concealing a material fact, or in the absence of grounds provided by this law or by the previous legislation on citizenship;
- b) Voluntarily recruited into the armed forces of another state;
- c) Committed an especially grave act that caused significant damage to the state.

(2) Deprivation of citizenship on the grounds provided in paragraph (1) shall not be allowed if, as a result of this, the person becomes a stateless person, with the exception of the grounds provided in paragraph a).

(3) The deprivation of a person of the citizenship of the Republic of Moldova does not entail a change in the citizenship of the spouse and children of the person deprived of citizenship.”

Czech Republic

Czech legislation (Act on Czech Citizenship, dated 11 July 2013) has no provisions on deprivation of citizenship ([link](#)).

In the event of a voluntary renunciation of citizenship, the person concerned shall prove that he or she has acquired, or will acquire, another citizenship, and measures shall be taken to prevent statelessness in this procedure.

It should also be noted that the legislation of most countries does not make provisions for deprivation of citizenship on the basis of participation in terrorist activities: Armenia, Bulgaria, Estonia, Finland, Lithuania, Norway, Serbia, among other states

INTERNATIONAL STANDARD

19. Spouse or children of a person, who has lost or has been deprived of nationality, do not lose or do not get deprived of nationality if they have not acquired the nationality of another State

In order to bring the national law in line with the international standard, it is recommended to discard the mechanism of automatic renunciation/loss of citizenship of the child in case of renunciation of the citizenship by his/her parents.

GOOD LEGISLATIVE PRACTICES

Russian Federation

Article 9 of the Federal Law of the Russian Federation, dated 31 May 2002, “On Citizenship of the Russian Federation” ([link](#))

Citizenship of children

“3. The citizenship of the Russian Federation of a child cannot be terminated if, as a result of the termination of the citizenship of the Russian Federation, he/she becomes a stateless person.”

Article 24 of the Federal Law of the Russian Federation, dated 31 May 2002, “On Citizenship of the Russian Federation” Changing the citizenship of a child upon acquisition or termination of citizenship of the Russian Federation by his/her parents

“2. The citizenship of the Russian Federation of the child shall be terminated upon termination of the citizenship of the Russian Federation of both his/her parents or of the only parent, provided that the child does not become a stateless person.”

Article 25 of the Federal Law of the Russian Federation, dated 31 May 2002, “On Citizenship of the Russian Federation” Citizenship of a child upon acquisition, or termination, of citizenship of the Russian Federation by one of his/her parents

“5. If the citizenship of the Russian Federation of one of the parents is terminated, and the other parent remains a citizen of the Russian Federation, their child shall retain the citizenship of the Russian Federation. The citizenship of the Russian Federation of a child may be terminated simultaneously with the termination of the citizenship of the Russian Federation of one of the parents in the presence of the written consent of the other parent who is a citizen of the Russian Federation, and provided that the child does not become a stateless person.”

Lithuania

Article 28 of the Law of the Lithuanian Republic, dated 2 December 2010, “On Citizenship” ([link](#))

Citizenship of a child when both or one of his/her parents loses their citizenship of the Republic of Lithuania

“2. In the event of the loss of citizenship of the Lithuanian Republic by both parents of a child who acquired citizenship of the Lithuanian Republic as a result of naturalization, a child under the age of 18 who acquired citizenship of the Lithuanian Republic as a result, other than by birth, loses the citizenship of the Lithuanian Republic, unless the loss of citizenship of the Lithuanian Republic shall deprive a child of citizenship. A child between the ages of 14 and 18 may be deprived of citizenship of the Lithuanian Republic only with his consent, unless the loss of citizenship of the Lithuanian Republic deprives the child of citizenship.

4. If the citizenship of the Lithuanian Republic is lost by one of the parents of a child who acquired citizenship of the Lithuanian Republic by naturalization, and the other parent is not a citizen of the Lithuanian Republic or is unknown, a child under 18, who did not acquire citizenship of the Lithuanian at birth, shall be deprived of citizenship of the Republic of Lithuania, except for cases when a child who has lost the citizenship of the Lithuanian Republic would remain stateless. A child between the ages of 14 and 18 may lose his/her citizenship of the Lithuanian Republic only with his/her consent, except for cases when a child who has lost the citizenship of the Lithuanian Republic would remain stateless.”

Republic of Moldova

Article 23 of the Law of the Republic of Moldova, dated 2 June 2000, “On Citizenship of the Republic of Moldova” ([link](#))

Deprivation of citizenship

(3) The deprivation of a person of citizenship of the Republic of Moldova shall not entail a change in the citizenship of the spouse and children of the person deprived of citizenship.”

Turkmenistan

Article 18 of the Law of Turkmenistan, dated 22 June 2013, “On Citizenship of Turkmenistan” Changing the citizenship of children when changing the citizenship of the parents

“2. If the parents (single parent) of the child renounce the citizenship of Turkmenistan or lose the citizenship of Turkmenistan, the child shall also renounce the citizenship of Turkmenistan, if he/she does not become a stateless person [in the process].”

Armenia

Article 17 of the Law of the Republic of Armenia, dated 16 November 1995, “On Citizenship of the Republic of Armenia” Citizenship of the child in case of loss of citizenship of the Republic of Armenia by the parents:

“A child of parents who have lost the citizenship of the Republic of Armenia shall lose the citizenship of the Republic of Armenia if he/she acquires the citizenship of another state.”

Latvia

Article 24 of the Law of Latvia, dated 16 March 1995, “On Citizenship” Deprivation of Latvian citizenship

“(2) Deprivation of Latvian citizenship shall not affect the citizenship of the spouse, children or other family members of this person.”

INTERNATIONAL STANDARD

20. A State reduces statelessness through facilitation of the simplified naturalization of stateless persons (including reduction of fees, waiving the requirement to present supporting documents when applicants cannot reasonably obtain such documents, absence of requirements to present proof of psychological / physical health conditions, absence of language test requirements, non-discrimination on grounds of race, ethnicity, religious beliefs, political opinion or gender)

In order to bring the national legislation in line with the international standard, it is recommended to simplify the conditions for the naturalization of stateless persons, to establish for them a different, simpler procedure, which is expressed in a small number of documents to be submitted, cancellation of the fee / State duty, reducing the general requirements established by law for naturalization, extending a different legal regime to stateless persons in order to promote

their naturalization and reducing the number of stateless persons. For stateless persons it is advisable to reduce the five-year period of residence established by law for the acquisition of citizenship of the Republic of Kazakhstan.

GOOD LEGISLATIVE PRACTICES

Norway

Section 10. Chapter 3 of the Act on Norwegian Nationality 2005 ([link](#))

Section 10. Requirement for release from any other citizenship

“If the applicant does not automatically lose another citizenship as a result of acquiring Norwegian citizenship, the applicant shall be released from any other citizenship before the application can be granted. If the applicant cannot be released from any other citizenship before the application is granted, the applicant shall document, within one year after obtaining Norwegian citizenship, that he or she has been released from any other citizenship. If the applicant cannot be released from any other citizenship before reaching a certain age, the applicant must document, within one year after reaching that age, that he or she has been released from any other citizenship. An exemption from the requirement to confirm renunciation of the citizenship of another state may be granted if the release from citizenship is considered legally or practically impossible, or for other reasons that appear to be unreasonable.”

Bulgaria

Article 14 Section 3 of the Bulgarian Citizenship Law ([link](#))

“Art. 14. (Amended, SG No. 41 as of 2001; supplemented SG No. 21 as of 2012) A stateless person can acquire Bulgarian citizenship if he/she meets the requirements of Art. 12, paragraphs 1, 3, 4 and 5 and if, no later than three years later on the date of submission of the application for naturalization, a permit was issued for permanent or long-term stay in the Republic of Bulgaria.”

Greece

Greece has joined a growing number of states to reduce the length of residence required for stateless persons to be eligible for naturalization. Article 5 of the amended Citizenship Code (Code 3838/2010) provides that “a foreign citizen wishing to become a Greek citizen through naturalization shall ... have been legally residing in Greece for seven years before applying for naturalization”. But Article 1 (d) also provides that recognized refugees and stateless persons must only legally reside in Greece for three consecutive years.

Brazil

In Brazil, the nationality law has changed in the same way – in the case of stateless persons the usual residence requirement has been reduced from four to two years.

Brazilian nationality law does not require legal residence, which would make it difficult for stateless persons, many of whom do not have legal status or documents.

INTERNATIONAL STANDARD

27. States ensure protection of stateless persons against expulsion in accordance with Article 31 of the 1954 Convention relating to the Status of Stateless Persons

In order to bring the national legislation in line with the international standard, it is recommended to limit the grounds for expulsion of stateless persons from the country and apply the law only in exceptional cases, when residence of the stateless person in the country contradicts the interests of national security or public order, in accordance with Article 31 of the 1954 Convention on the Status of Stateless Persons.

GOOD LEGISLATIVE PRACTICES

The regulatory practice of many countries reflects the right to freedom of movement, avoiding the detention of those who are undergoing procedures for obtaining recognition of their legal status as a stateless person. The laws of Moldova and Montenegro expressly grant the applicant the right to remain in the country during the procedure without the risk of detention and expulsion. The relevant Paraguayan law states that any administrative sanctions for illegal entry or stay (such as detention or deportation) are suspended. A number of States in the Americas also adhere to the principle of no sanctions for illegal entry or stay (Brazil, Costa Rica, Ecuador and Panama). All states in the Americas that have procedures for determining the status of stateless persons provide the applicant with a preliminary document giving the right to legal stay in the country.

CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS

Adopted on 28 September 1954 by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 526 A (XVII) of 26 April 1954

Entry into force: 6 June 1960, in accordance with article 39

Preamble

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly of the United Nations have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for stateless persons and endeavoured to assure stateless persons the widest possible exercise of these fundamental rights and freedoms,

Considering that only those stateless persons who are also refugees are covered by the Convention relating to the Status of Refugees of 28 July 1951, and that there are many stateless persons who are not covered by that Convention,

Considering that it is desirable to regulate and improve the status of stateless persons by an international agreement,

Have agreed as follows:

Chapter I

GENERAL PROVISIONS

Article 1. - Definition of the term “stateless person”

1. For the purpose of this Convention, the term “stateless person” means a person who is not considered as a national by any State under the operation of its law.
2. This Convention shall not apply:
 - i) To persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance so long as they are receiving such protection or assistance;
 - ii) To persons who are recognized by the competent authorities of the country in which they have taken residence as having the rights and obligations which are attached to the possession of the nationality of that country;
 - iii) To persons with respect to whom there are serious reasons for considering that:
 - a) They have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;
 - b) They have committed a serious non-political crime outside the country of their residence prior to their admission to that country;
 - c) They have been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2. - General obligations

Every stateless person has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3. - Non-discrimination

The Contracting States shall apply the provisions of this Convention to stateless persons without discrimination as to race, religion or country of origin.

Article 4. - Religion

The Contracting States shall accord to stateless persons within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5. - Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to stateless persons apart from this Convention.

Article 6. - The term “in the same circumstances”

For the purpose of this Convention, the term “in the same circumstances” implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a stateless person, must be fulfilled by him, with the exception of requirements which by their nature a stateless person is incapable of fulfilling.

Article 7. - Exemption from reciprocity

Except where this Convention contains more favourable provisions, a Contracting State shall accord to stateless persons the same treatment as is accorded to aliens generally.

After a period of three years' residence, all stateless persons shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

Each Contracting State shall continue to accord to stateless persons the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

The Contracting States shall consider favourably the possibility of according to stateless persons, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to stateless persons who do not fulfil the conditions provided for in paragraphs 2 and 3.

The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8. - Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals or former nationals of a foreign State, the Contracting States shall not apply such measures to a stateless person solely on account of his having previously possessed the nationality of the foreign

State in question. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article shall, in appropriate cases, grant exemptions in favour of such stateless persons.

Article 9. - Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a stateless person and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10. - Continuity of residence

Where a stateless person has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory. Where a stateless person has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11. - Stateless seamen

In the case of stateless persons regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

Chapter II

JURIDICAL STATUS

Article 12. - Personal status

The personal status of a stateless person shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

Rights previously acquired by a stateless person and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become stateless.

Article 13. - Movable and immovable property

The Contracting States shall accord to a stateless person treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14. - Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a stateless person shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15. - Right of association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible, and in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 16. - Access to courts

A stateless person shall have free access to the courts of law on the territory of all Contracting States. A stateless person shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi* .

A stateless person shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Chapter III

GAINFUL EMPLOYMENT

Article 17. - Wage-earning employment

The Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage in wage-earning employment.

The Contracting States shall give sympathetic consideration to assimilating the rights of all stateless persons with regard to wage-earning employment to those of nationals, and in particular of those stateless persons who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18. - Self-employment

The Contracting States shall accord to a stateless person lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19. - Liberal professions

Each Contracting State shall accord to stateless persons lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Chapter IV

WELFARE

Article 20. - Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, stateless persons shall be accorded the same treatment as nationals.

Article 21. - Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22. - Public education

The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.

The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23. - Public relief

The Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24. - Labour legislation and social security

The Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

- a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities; remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;
- b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

The right to compensation for the death of a stateless person resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

The Contracting States shall extend to stateless persons the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

The Contracting States will give sympathetic consideration to extending to stateless persons so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

Chapter V

ADMINISTRATIVE MEASURES

Article 25. - Administrative assistance

When the exercise of a right by a stateless person would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting State in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities.

The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to stateless persons such documents or certifications as would normally be delivered to aliens by or through their national authorities.

Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities and shall be given credence in the absence of proof to the contrary. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26. - Freedom of movement

Each Contracting State shall accord to stateless persons lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27. - Identity papers

The Contracting States shall issue identity papers to any stateless person in their territory who does not possess a valid travel document.

Article 28. - Travel documents

The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other stateless person in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to stateless persons in their territory who are unable to obtain a travel document from the country of their lawful residence.

Article 29. - Fiscal charges

The Contracting States shall not impose upon stateless persons duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

Nothing in the above paragraph shall prevent the application to stateless persons of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30. - Transfer of assets

A Contracting State shall, in conformity with its laws and regulations, permit stateless persons to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

A Contracting State shall give sympathetic consideration to the application of stateless persons for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31. - Expulsion

The Contracting States shall not expel a stateless person lawfully in their territory save on grounds of national security or public order.

The expulsion of such a stateless person shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the stateless person shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

The Contracting States shall allow such a stateless person a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 32. - Naturalization

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.

Chapter VI

FINAL CLAUSES

Article 33. - Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 34. - Settlement of disputes

Any dispute between Parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 35. - Signature, ratification and accession

This Convention shall be open for signature at the Headquarters of the United Nations until 31 December 1955.

It shall be open for signature on behalf of:

- a) Any State Member of the United Nations;
- b) Any other State invited to attend the United Nations Conference on the Status of Stateless Persons; and
- c) Any State to which an invitation to sign or to accede may be addressed by the General Assembly of the United Nations.

It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

It shall be open for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 36. - Territorial application clause

Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the

ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 37. - Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply

- a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;
- b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 38. - Reservations

At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16 (1) and 33 to 42 inclusive.

Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 39. - Entry into force

This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 40. - Denunciation

Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

Any State which has made a declaration or notification under article 36 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 41. - Revision

Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 42. - Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non- member States referred to in article 35:

- a) Of signatures, ratifications and accessions in accordance with article 35;
- b) Of declarations and notifications in accordance with article 36;
- c) Of reservations and withdrawals in accordance with article 38;
- d) Of the date on which this Convention will come into force in accordance with article 39;
- e) Of denunciations and notifications in accordance with article 40;
- f) Of request for revision in accordance with article 41.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

Done at New York, this twenty-eighth day of September, one thousand nine hundred and fifty-four, in a single copy, of which the English, French and Spanish texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 35.

CONVENTION ON THE REDUCTION OF STATELESSNESS

Adopted on 30 August 1961 by a Conference of Plenipotentiaries which met in 1959 and reconvened in 1961 in pursuance of General Assembly resolution 896 (IX) of 4 December 1954

Entry into force: 13 December 1975, in accordance with article 18

The Contracting States,

Acting in pursuance of resolution 896 (IX), adopted by the General Assembly of the United Nations on 4 December 1954,

Considering it desirable to reduce statelessness by international agreement,
Have agreed as follows:

Article 1

1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:

a) At birth, by operation of law, or

b) Upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

A Contracting State which provides for the grant of its nationality in accordance with subparagraph (b) of this paragraph may also provide for the grant of its nationality by operation of law at such age and subject to such conditions as may be prescribed by the national law.

2. A Contracting State may make the grant of its nationality in accordance with subparagraph (b) of paragraph 1 of this article subject to one or more of the following conditions:
 - a) That the application is lodged during a period, fixed by the Contracting State, beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years, so, however, that the person concerned shall be allowed at least one year during which he may himself make the application without having to obtain legal authorization to do so;
 - b) That the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all;
 - c) That the person concerned has neither been convicted of an offence against national security nor has been sentenced to imprisonment for a term of five years or more on a criminal charge;
 - d) That the person concerned has always been stateless.
3. Notwithstanding the provisions of paragraphs 1 (b) and 2 of this article, a child born in wedlock in the territory of a Contracting State, whose mother has the nationality of that State, shall acquire at birth that nationality if it otherwise would be stateless.
4. A Contracting State shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he was born because he has passed the age for lodging his application or has not fulfilled the required residence conditions, if the nationality of one of his parents at the time of the person's birth was that of the Contracting State first above-mentioned. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. If application for such nationality is required, the application shall be made to the appropriate authority by or on behalf of the applicant in the manner prescribed by the national law. Subject to the provisions of paragraph 5 of this article, such application shall not be refused.

5. The Contracting State may make the grant of its nationality in accordance with the provisions of paragraph 4 of this article subject to one or more of the following conditions:
 - a) That the application is lodged before the applicant reaches an age, being not less than twenty- three years, fixed by the Contracting State;
 - b) That the person concerned has habitually resided in the territory of the Contracting State for such period immediately preceding the lodging of the application, not exceeding three years, as may be fixed by that State;
 - c) That the person concerned has always been stateless.

Article 2

A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.

Article 3

For the purpose of determining the obligations of Contracting States under this Convention, birth on a ship or in an aircraft shall be deemed to have taken place in the territory of the State whose flag the ship flies or in the territory of the State in which the aircraft is registered, as the case may be.

Article 4

1. A Contracting State shall grant its nationality to a person, not born in the territory of a Contracting State, who would otherwise be stateless, if the nationality of one of his parents at the time of the person's birth was that of that State. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. Nationality granted in accordance with the provisions of this paragraph shall be granted:
 - a) At birth, by operation of law, or
 - b) Upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

2. A Contracting State may make the grant of its nationality in accordance with the provisions of paragraph 1 of this article subject to one or more of the following conditions:
 - a) That the application is lodged before the applicant reaches an age, being not less than twenty- three years, fixed by the Contracting State;
 - b) That the person concerned has habitually resided in the territory of the Contracting State for such period immediately preceding the lodging of the application, not exceeding three years, as may be fixed by that State;
 - c) That the person concerned has not been convicted of an offence against national security; (d) That the person concerned has always been stateless.

Article 5

1. If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality.
2. If, under the law of a Contracting State, a child born out of wedlock loses the nationality of that State in consequence of a recognition of affiliation, he shall be given an opportunity to recover that nationality by written application to the appropriate authority, and the conditions governing such application shall not be more rigorous than those laid down in paragraph 2 of article 1 of this Convention.

Article 6

If the law of a Contracting State provides for loss of its nationality by a person's spouse or children as a consequence of that person losing or being deprived of that nationality, such loss shall be conditional upon their possession or acquisition of another nationality.

Article 7

1. a) If the law of a Contracting State entails loss or renunciation of nationality, such renunciation shall not result in loss of nationality unless the person concerned possesses or acquires another nationality;

b) (The provisions of subparagraph (a) of this paragraph shall not apply where their application would be inconsistent with the principles stated in articles 13 and 14 of the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly of the United Nations.

2. A national of a Contracting State who seeks naturalization in a foreign country shall not lose his nationality unless he acquires or has been accorded assurance of acquiring the nationality of that foreign country.
3. Subject to the provisions of paragraphs 4 and 5 of this article, a national of a Contracting State shall not lose his nationality, so as to become stateless, on the ground of departure, residence abroad, failure to register or on any similar ground.
4. A naturalized person may lose his nationality on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality.
5. In the case of a national of a Contracting State, born outside its territory, the law of that State may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.
6. Except in the circumstances mentioned in this article, a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention.

Article 8

1. A Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.
2. Notwithstanding the provisions of paragraph 1 of this article, a person may be deprived of the nationality of a Contracting State:
 - a) In the circumstances in which, under paragraphs 4 and 5 of article 7, it is permissible that a person should lose his nationality;
 - b) Where the nationality has been obtained by misrepresentation or fraud.

3. Notwithstanding the provisions of paragraph 1 of this article, a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:
 - a) That, inconsistently with his duty of loyalty to the Contracting State, the person:
 - ii) Has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or
 - iii) Has conducted himself in a manner seriously prejudicial to the vital interests of the State;
 - b) That the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.
4. A Contracting State shall not exercise a power of deprivation permitted by paragraphs 2 or 3 of this article except in accordance with law, which shall provide for the person concerned the right to a fair hearing by a court or other independent body.

Article 9

A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

Article 10

1. Every treaty between Contracting States providing for the transfer of territory shall include provisions designed to secure that no person shall become stateless as a result of the transfer. A Contracting State shall use its best endeavours to secure that any such treaty made by it with a State which is not a Party to this Convention includes such provisions.
2. In the absence of such provisions a Contracting State to which territory is transferred or which otherwise acquires territory shall confer its nationality on such persons as would otherwise become stateless as a result of the transfer or acquisition.

Article 11

The Contracting States shall promote the establishment within the framework of the United Nations, as soon as may be after the deposit of the sixth instrument of ratification or accession, of a body to which a person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority.

Article 12

In relation to a Contracting State which does not, in accordance with the provisions of paragraph 1 of article 1 or of article 4 of this Convention, grant its nationality at birth by operation of law, the provisions of paragraph 1 of article 1 or of article 4, as the case may be, shall apply to persons born before as well as to persons born after the entry into force of this Convention.

The provisions of paragraph 4 of article 1 of this Convention shall apply to persons born before as well as to persons born after its entry into force.

The provisions of article 2 of this Convention shall apply only to foundlings found in the territory of a Contracting State after the entry into force of the Convention for that State.

Article 13

This Convention shall not be construed as affecting any provisions more conducive to the reduction of statelessness which may be contained in the law of any Contracting State now or hereafter in force, or may be contained in any other convention, treaty or agreement now or hereafter in force between two or more Contracting States.

Article 14

Any dispute between Contracting States concerning the interpretation or application of this Convention which cannot be settled by other means shall be submitted to the International Court of Justice at the request of any one of the parties to the dispute.

Article 15

1. This Convention shall apply to all non-self-governing, trust, colonial and other non-metropolitan territories for the international relations of which any Contracting State is responsible; the Contracting State concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.
2. In any case in which, for the purpose of nationality, a non-metropolitan territory is not treated as one with the metropolitan territory, or in any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Contracting State or of the non-metropolitan territory for the application of the Convention to that territory, that Contracting State shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by that Contracting State, and when such consent has been obtained the Contracting State shall notify the Secretary-General of the United Nations. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.
3. After the expiry of the twelve-month period mentioned in paragraph 2 of this article, the Contracting States concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are responsible and whose consent to the application of this Convention may have been withheld.

Article 16

1. This Convention shall be open for signature at the Headquarters of the United Nations from 30 August 1961 to 31 May 1962.
2. This Convention shall be open for signature on behalf of:
 - a) Any State Member of the United Nations;
 - b) Any other State invited to attend the United Nations Conference on the Elimination or Reduction of Future Statelessness;

- c) Any State to which an invitation to sign or to accede may be addressed by the General Assembly of the United Nations.
3. This Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. This Convention shall be open for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 17

1. At the time of signature, ratification or accession any State may make a reservation in respect of articles 11, 14 or 15.
2. No other reservations to this Convention shall be admissible.

Article 18

1. This Convention shall enter into force two years after the date of the deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to this Convention after the deposit of the sixth instrument of ratification or accession, it shall enter into force on the ninetieth day after the deposit by such State of its instrument of ratification or accession or on the date on which this Convention enters into force in accordance with the provisions of paragraph 1 of this article, whichever is the later.

Article 19

1. Any Contracting State may denounce this Convention at any time by a written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect for the Contracting State concerned one year after the date of its receipt by the Secretary-General.
2. In cases where, in accordance with the provisions of article 15, this Convention has become applicable to a non-metropolitan territory of a Contracting State, that State may at any time thereafter, with the consent of the territory concerned, give notice to the Secretary-General of the United Nations denouncing this Convention separately in respect to that territory.

The denunciation shall take effect one year after the date of the receipt of such notice by the Secretary-General, who shall notify all other Contracting States of such notice and the date of receipt thereof.

Article 20

1. The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States referred to in article 16 of the following particulars:
 - a) Signatures, ratifications and accessions under article 16;
 - b) Reservations under article 17;
 - c) The date upon which this Convention enters into force in pursuance of article 18;
 - d) Denunciations under article 19.
2. The Secretary-General of the United Nations shall, after the deposit of the sixth instrument of ratification or accession at the latest, bring to the attention of the General Assembly the question of the establishment, in accordance with article 11, of such a body as therein mentioned.

Article 21

This Convention shall be registered by the Secretary-General of the United Nations on the date of its entry into force.

In witness whereof the undersigned Plenipotentiaries have signed this Convention.

Done at New York, this thirtieth day of August, one thousand nine hundred and sixty-one, in a single copy, of which the Chinese, English, French, Russian and Spanish texts are equally authentic and which shall be deposited in the archives of the United Nations, and certified copies of which shall be delivered by the Secretary-General of the United Nations to all members of the United Nations and to the non-member States referred to in article 16 of this Convention.



UNHCR
The UN Refugee Agency