



European
Network on
Statelessness

Mr. Fernand de Varennes,
Special Rapporteur on Minority Issues
Palais des Nations
CH-1211 Geneva 10, Switzerland
By email: minorityissues@ohchr.org

24, May 2018

SUBJECT: Submission to the Special Rapporteur on Minority Issues – Statelessness: A Minorities Issue

Dear Special Rapporteur Fernand de Varennes,

Following the above call for submissions, we, the European Roma Rights Centre (ERRC)¹, the European Network on Statelessness (ENS)² and the Institute on Statelessness and Inclusion (ISI)³, welcome this opportunity to submit our comments and recommendations to you.

Our submission focuses on the statelessness and discrimination facing Roma in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia) and Ukraine. It draws on the recently published report, '*Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*'⁴, and the forthcoming country reports on Ukraine and Albania (currently in draft), which have already been shared with you by ENS and ISI.

These reports explore the nexus between statelessness, discrimination and marginalisation of Romani people in European Union candidate and neighbourhood countries in the Western Balkans and Ukraine and form part of the 'Roma Belong' partnership project, which aims to:

- Understand the causes of Roma statelessness and the obstacles that stand in the way of solutions;
- Strengthen the understanding and capacity of Roma rights organisations and activists to mobilise to end Roma statelessness;
- Facilitate and bolster international, regional and national responses to Roma statelessness.

The regional report and two draft country reports are attached to this submission. The regional report is also available via the following link: <http://www.errc.org/cms/upload/file/roma-belong.pdf>

1 For more information about ERRC, please see the website <http://www.errc.org>

2 For more information about ENS, please see the website <http://www.statelessness.eu/>

3 For more information about ISI, please see the website <http://www.institutesi.org/>.

4 Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf

1) Summary of the main findings

Three key themes emerged from the research as the main obstacles to Roma obtaining nationality:

- State succession and forced displacement;
- systemic discrimination and marginalisation of Roma; and
- bureaucratic challenges as a result of complex administrative systems and procedures.

Findings point both to the prevalence of discrimination against the Roma minority in the region, and to administrative challenges that constrain access to rights in more general terms, but which have a disproportionate impact on the most marginalised. They are mutually reinforcing and are often difficult to distinguish or separate out.

An additional complicating factor across all research countries is the lack of data on both statelessness and Roma populations that exacerbates the problem, on the one hand rendering it more difficult to plan appropriate policy responses; and on the other hand, easier for authorities to deny the scale or seriousness of the issue.

Consequently, as will be further elaborated below, even though the countries researched have strong international treaty accession records and have reasonably strong legal frameworks (to varying degrees, and with some significant gaps), these national, regional and international norms and standards are not universally and equally applied to protect Roma from discrimination and statelessness.

One of the key issues that emerged from the research relating to the risk of statelessness amongst Roma was their lack of access to civil status and identity documentation.

Many interviewees representing state authorities or international agencies were of the view that a lack of information and awareness amongst Roma about the importance of documentation was one of the key challenges. Furthermore, their responses often demonstrated stereotypical views of Roma, including that Roma were '*indifferent*' to being documented, or '*avoided being in the system*', or that their '*traditional lifestyle*' made them responsible for their own lack of documentation. Therefore, it is not surprising that awareness-raising campaigns were among the first measures to be recommended by the authorities as a solution.

However, many Roma interviewees demonstrated a clear understanding of the importance of documentation, and clearly articulated their own experience of the impact being undocumented had on their or their children's daily lives. Despite this knowledge, in many instances they were unable to access documentation due to factors beyond their control, including bureaucracy, distance, cost and discrimination. This is particularly relevant with regard to barriers to accessing documentation, such as birth registration, identification and permanent residence.

Significantly, the inability of Roma to access documentation not only heightens the risk of individual statelessness, but also of intergenerational statelessness, as the children of undocumented parents are less likely to access documentation and citizenship.

2) Scope of Statelessness of Roma in the Western Balkans and Ukraine (Relevant for questions n. 5, 7, 10)

The size of the Romani population living in the research countries is mostly uncertain and disputed. Based on official statistics derived from census data, the percentage of Roma living in these countries ranges from 0.1% to 2.7%. In all research countries, the official census data is considerably - and in some cases dramatically - lower than the estimates reported by other sources.

The lack of comprehensive, accurate data on Roma in the research countries poses a problem. From one side, the hidden nature of the population points to historic patterns of discrimination and prejudice, which undermine the confidence of Roma to self-identify. From the other, the low numbers presented in official government statistics could also point to a de-amplification of the scope of the population, which in turn has development and other resource allocation implications.

Collecting reliable data on the number of stateless people residing in a country poses significant difficulties. Although statelessness may be mapped to a greater extent in Europe than other regions of the world, there are still many issues with the accuracy of data, with lack of disaggregated data or other characteristics just one of many challenges. Therefore, albeit surveys have been carried out in several countries to seek to determine the scope of the risk of statelessness among Roma populations in the region, the findings from these should always be considered in context and with careful consideration of their methodology and comparability.

Data and statistics reported in the Roma Belong report are summarised below:

- In Serbia, a 2015 UNHCR data found at least 2,700 (3.9%) Roma who live in Roma settlements were at risk of statelessness.⁵
- A UNHCR survey of 13,770 Roma residing in Macedonia between 2008 and 2011, identified 6,514 individuals facing documentation problems, including 775 people who had never been registered in the birth registry books.⁶ More recently, the Macedonian Young Lawyers Association estimated there to be 664 persons at risk of statelessness in the country, with approximately 70% of these being Roma.⁷
- A 2008 report by UNHCR and UNICEF of a survey of 7,166 Roma conducted in Montenegro found that 2,767 of those surveyed lacked personal documentation.⁸ The children of refugees were disproportionately impacted by the lack of birth registration, with 70% being unregistered, compared to 30% of children whose parents were local to Montenegro. Data from 2013 confirms such a trend, showing that Romani people living in segregated settlements were 5% less likely to be registered at birth comparing to majority population.⁹
- The 2011 national census of Albania, found 7,443 persons self-identified as being stateless. However, data disaggregated by ethnicity do not exist, which hinders the process of identifying the scale of the phenomenon amongst Romani.¹⁰
- The Ukrainian context shows a large number of people without citizenship. State Migration Service data from 2015 suggests there are 5,733 stateless persons with residence permits. The estimates for the total Romani population in Ukraine also vary drastically, but the Ombudsman and NGOs have estimated that around 10% of Roma are undocumented.¹¹

In June 2017, UNHCR published its annual Global Trends report setting out the number of people recorded as falling under its statelessness mandate at the end of 2016.¹² According to these

5 UNCHR, *Persons at risk of Statelessness in Serbia: Progress Report 2010 – 2015*, 2016, Belgrade, p.6. Available at: <http://www.refworld.org/docid/57bd436b4.html>.

6 Commissioner for Human Rights of the Council of Europe, *Report following his visit to "the former Yugoslav Republic of Macedonia" from 26 to 29 November 2012*, April 2013, p.28. Available at: <https://rm.coe.int/16806db8a1>.

7 Macedonian Young Lawyers Association (2015), *Regional Research on Statelessness: Macedonia, Serbia, Kosovo, Montenegro, Bosnia and Herzegovina, Croatia*, p.8.

8 UNHCR and UNICEF, *Civil Registration and the Prevention of Statelessness: a Survey of Roma, Ashkaelia and Egyptians in Montenegro*, 2009, pg.14. Available at:

https://www.unicef.org/montenegro/Booklet_Civil_registration_of_RAE_2009_ENG.pdf

9 UNICEF & MONSTAT, *Montenegro and Montenegro Roma Settlements Multiple Indicator Cluster Survey: Monitoring the situation of women and children*, 2013. Available at: <https://app.box.com/s/zq4l86xhf53ck6gp2rftbr3cj3jazgdj>

10 See: <http://www.instat.gov.al/allcensus/census-2011/t%C3%AB-dh%C3%ABnat-e-census-2011.aspx>.

11 Office of the Ombudsman of Ukraine, *The Conditions of the Implementation of the Roma State Policy*, 2015, p.10. Available at: http://www.ombudsman.gov.ua/files/alena/ZVIT_ROMA.pdf (in Ukrainian).

12 UNHCR, *Global Trends: Forced Displacement in 2016, 2017*, pp.48. Available at: <http://www.unhcr.org/5943e8a34>.

figures, in Albania there are 4,921 stateless persons, in Bosnia-Herzegovina there are a reported 49 persons, 600 in Macedonia, 3,237 in Montenegro, 2,373 in Serbia and Kosovo, and 35,363 persons reported in Ukraine.

However, it should be noted that in some cases, local NGOs regard these figures as an underrepresentation of the problem. As recognised by UNHCR, the data reported is generally provided by governments, based on their own definitions and methods of data collection, and some countries may include persons with undetermined nationality in their reported statelessness figures.¹³ In Macedonia, data on the number of stateless persons in the country collected by the Macedonian Young Lawyers Association¹⁴ is similar to the figure reported by UNHCR. The figure reported by UNHCR for Bosnia-Herzegovina is based on the known number of persons at risk of statelessness identified through the joint project with Vaša Prava.¹⁵

Finally, findings of the #RomaBelong project prove how gendered factors contribute to the marginalisation and exclusion faced by Roma, such as barriers to accessing healthcare for women, gender gaps in education and labour market participation, and violence against women and girls. These gender factors can also be seen as a cause and consequence of Romani statelessness.

In many cases, access to health care is predicated upon having health insurance, and therefore only provided to those who are documented and have residence status. As a consequence undocumented persons are more likely to be denied adequate healthcare.. Without healthcare, many undocumented women cannot access maternity care and give birth in hospitals, and, as discussed above, the barriers to birth registration are greater for those born outside of hospitals. Hence, the lack of access to healthcare can be both a cause and consequence of the risk of statelessness.

However, in the absence of reliable data that takes into account the gender perspective of the issue, it is unfortunately difficult to fully comprehend or to be more conclusive about the scale or the consequences of this problem.

The above further emphasises how the lack of reliable data, further disaggregated by gender and ethnicity on the scope and extent of the problem, remains one of the key challenges to addressing Roma statelessness in the region.

3. Causes of Roma statelessness in the Western Balkans and Ukraine (Relevant for questions n. 1, 8)

Statelessness in the Western Balkans is most often linked to Roma. There are several factors that have been identified among the causes including:

- (a)** the historical context and specifically the impact and aftermath of conflict and displacement in Western Balkans in the 1990s, and the dissolution of the USSR in Ukraine;
- (b)** the discrimination, marginalisation and exclusion of Roma ; and
- (c)** barriers to civil registration and, more generally, bureaucratic hurdles.

(a) The disintegration of the Socialist Federal Republic of Yugoslavia, changing citizenship laws and large-scale displacement in the 1990s left many people in the Western Balkans at risk of statelessness. Romani communities have been, and still are, disproportionately affected, and often without access to procedures designed to help them. As minority citizens of the former Yugoslav republics, the conflicts had a huge impact on Romani communities, provoking the forced displacement of hundreds of thousands, as well as significant changes in the determination of

¹³ UNHCR, Global Trends: Forced Displacement in 2016, 2017, pp.48. Available at: <http://www.unhcr.org/5943e8a34>.

¹⁴ For more information about Macedonian Young Lawyer Association, please see the website <http://myla.org.mk/en/>

¹⁵ For more information about Vaša Prava, please see the website <https://vasaprava.org/>

citizenship in the newly formed republics, and the loss or destruction of civil registers during the Kosovan conflict in 1999. Many Roma were also victims of war crimes.¹⁶

For the displaced, and particularly the already marginalised Roma, the situation was further aggravated by the destruction or disappearance of registers in territories affected by the war. The creation of new citizenship laws and procedures in a post-conflict context of mass displacement, followed by later declarations of independence by Montenegro in 2006 and Kosovo in 2008, added additional barriers and layers of complexity to matters of citizenship and documentation.¹⁷

The legacy of this historical context continues to impact Roma in the region. Displacement has played a role in the family histories of many Roma in the Western Balkans. The present-day documentation issues faced by many Roma in the region stem not only from generations of social exclusion and discrimination, but also, in many cases, from patterns and the consequences of forced displacement and migration in the 1990s.¹⁸

Moreover, following the breakup of the former Yugoslavia, permanent residence was critical to the determination of nationality. Procedures for naturalisation in the newly-formed states often required proof of permanent residence or domicile and identity documents, which posed challenges for Roma communities who often lived in informal settlements and were therefore unable to provide a legal address to secure permanent residence. In Macedonia, for instance, all those originating from other republics of the former Yugoslavia who were legally domiciled in the newly-established Macedonia and possessed a Macedonian identity document, could naturalise.¹⁹ However, applicants had to prove they had a registered permanent residence at the time of independence.²⁰ In Montenegro, following the dissolution of the State Union with Serbia, a similar mechanism applied.²¹ In Bosnia-Herzegovina, a large number of citizens of the former Yugoslavia, who could in theory qualify for facilitated naturalisation, were unable to do so, because they did not have the required registered permanent residence.

In Ukraine, State succession in the aftermath of the dissolution of the USSR in 1991, when people living in the former Soviet Republics faced a sudden change in nationality, continues to be a major cause of statelessness among both Roma and non-Roma populations.

While over 25 years have passed since the dissolution of the USSR, many people in Ukraine still hold a former USSR passport or birth certificate as their only form of identification. Due to their marginalisation, lack of outreach campaigns or simplified procedures, lack of awareness, and living in rural areas, Roma face serious obstacles in meeting the conditions set out by the law to successfully acquire Ukrainian nationality (for example official proof of their permanent residence in the territory of Ukraine at the time of independence).²² For the children of those with outdated

16 Zeidler K, Prosecuting War Crimes against Roma in the Yugoslav Wars: The Case of Skocic (Zvornik V) at the Serbian War Crimes Tribunal, Roma Rights 1/2017: Roma and Conflict: Understanding the Impact of War and Political Violence, 2017. Available at: <http://www.errc.org/roma-rights-journal/roma-rights-1-2017-roma-andconflict-understanding-the-impact-of-war-and-political-violence/4577/5>.

17 Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine p. 21 available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf

18 Ibid. p.21

19 Article 26, Law on Citizenship of the Republic of Macedonia, Official Gazette of the Republic of Macedonia n.67/1992; UNHCR Bureau for Europe (2011), *Report on Statelessness in South Eastern Europe*, UNHCR, pg. 18.

20 Initially 15 years of uninterrupted residence were required, but this was amended in 2004 to a two-year transitional provision, following criticism of indirect discrimination against ethnic minority communities (UNICEF & MONSTAT (2013), Montenegro And Montenegro Roma Settlements Multiple Indicator Cluster Survey, pp.18-19).

21 The 2008 Law on Montenegrin Citizenship and Decision on the Criteria on Establishing Conditions for Acquiring Montenegrin Citizenship by Admittance (Official Gazette of Montenegro, No. 1/07) confirmed the principle of continuity of citizenship and provided the possibility of acquisition of Montenegrin citizenship for those who had registered permanent residence in Montenegro before 3 June 2006.

22 The Law of Ukraine "On Citizenship of Ukraine" of 2001, Art. 2 establishes the affiliation to the Ukrainian citizenship for all former USSR citizens, who at the moment of declaration of independence of Ukraine (August 24, 1991) or the entry into force by the Citizenship Law of Ukraine (November 13, 1991), resided permanently in the territory of Ukraine.

documents, the situation is even worse, as they are denied birth certificates due to their parents' lack of documentation.

The refusal to recognise documents issued by the authorities in the neighbouring separatist region of Transnistria is also relevant.

Finally, the ongoing Russian occupation of Crimea and the armed conflict in the Eastern regions of Ukraine, in particular the Luhansk and Donetsk regions, with a rise of the self-proclaimed Luhansk People's Republic and Donetsk People's Republic, and resulting displacement can also cause (risk of) statelessness. In response to the displacement crisis, the Ukrainian Parliament took legal steps to provide for the registration of internally displaced persons (IDPs). However, registration is possible only for those who have official documentation. Undocumented IDPs, including Roma, are thus at risk of statelessness.

(b) Roma are one of Europe's most marginalised communities experiencing discrimination and rights deprivations in various forms, including police brutality, school segregation and denial of the right to work.²³ In recent years, the ERRC's monitoring of the situation of Roma in the region has found a number of grave human rights violations, which vary in nature from country to country, but often remain underreported, hindering an accurate evaluation of the situation on the ground.²⁴ The situation of most Roma communities in the region "*remains a matter of serious concern*".²⁵

In the context of Romani statelessness in the research countries, where the main causes of statelessness can be identified as state succession and forced displacement as a result of the conflicts, the lack of civil documentation (due for instance to the non-registration of births and the destruction of civil registries in conflict times) and the inheritance of statelessness, closer scrutiny of these issues revealed that Roma are disproportionately impacted by these causes revealing that marginalisation and discrimination also play a significant role.

The oft-repeated claims by government officials in interviews that Roma are treated as equal before the law, the denials concerning any form of discrimination, and assertions that '*ethnicity is not a relevant factor*' reinforce a view that Roma themselves are responsible for their own inability to penetrate complicated state bureaucracies and access their rights. Our research confirms that the most profound challenges facing Roma across the region – including lack of documentation and risk of statelessness – are rooted in marginalisation and social exclusion; and it is clearly evident that this marginalised position in society, is both a cause and a consequence of statelessness amongst Roma.

Although the degree and impact of their exclusion may vary in different contexts, and different actors may attribute different reasons behind it, all interviewees identified marginalisation and exclusion as factors exacerbating the challenges faced by Roma. In interviews with Roma, exclusion manifested as lack of financial means, lack of access to education, to civil status documentation, to governance and democratic structures, to formal employment, to healthcare, and to basic dignity and a sense of self-worth and belonging.

Moreover, Roma interviewees expressed fear of the authorities in some instances and frustration at the bureaucratic hurdles they faced in attempting to navigate unclear procedures.

(c) Complex and difficult access to bureaucratic processes that undermine the efficacy and reach of registration procedures, thus increasing the risk of statelessness, is another factor underlining a common pattern in the countries in our study. Findings from the #RomaBelong project show

23 European Roma Rights Centre, Written Comments for Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016, July 2016. Available at: <http://www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf>.

24 Ibid.

25 See: <http://www.rcc.int/romaintegration2020/pages/1/overview>

how bureaucracy and institutional barriers also serve to exclude Roma from registering births and accessing documentation leaving them at risk of statelessness.

Through the maintenance of overly strict, complicated, lengthy and inflexible civil registration procedures, bureaucracy plays a role in creating statelessness problems or putting Roma at risk of statelessness. And while strict administrative procedures may affect the whole population, Roma are disproportionately affected, and thus indirectly discriminated against, due to their marginalisation, transforming the exercise of basic rights into complex, burdensome and long drawn out interactions with the state.

For example, the requirement in certain cases to provide registry officials with proof of paternity in the form of a DNA test is prohibitive for Roma who are unable to pay the fees or costs associated with travel to undertake the test or attend judicial processes due to their extreme marginalisation.²⁶

Another example is the requirement to register permanent residence to obtain ID documents and register births as in Serbia²⁷ where legally registered permanent residence is a condition for obtaining the documentation needed for birth registration. While there exists a provision²⁸ to obtain identity documents based on temporary residence for those without permanent residence, in practice this is not implemented.²⁹ Roma face particular challenges with regard to registering their residence, because they are often unable to produce a certificate or contract of property ownership or a verified lease agreement. Amendments to the law in 2011 which enabled people to register at local social welfare centres have benefitted many. However, there are gaps in implementation, with differing interpretation and implementation of the procedures still posing challenges.³⁰

Finally, challenges relating to accessing birth registration - heightening the risk of statelessness - were identified in all research countries. Evidentiary requirements and complex administrative procedures were cited as the main barriers encountered when seeking to register births.

For example, in Montenegro, Roma, especially those displaced from Kosovo, are disproportionately affected by problems with birth registration. In Albania, children born abroad, especially in Greece and to Romani parents who moved there for economic reasons, face particular difficulties with registering their births and acquiring or confirming Albanian (or Greek) nationality. In Macedonia, when a birth certificate is issued at the point of registration, the child's citizenship is registered on the certificate. However, undocumented parents cannot complete their children's registration due to the evidentiary requirements, particularly when birth registration is late. In Ukraine, birth registration is also a challenge for undocumented Roma. In practice, undocumented parents cannot register the birth of a child until their citizenship is established, or until they are issued identity documents, or they have documented proof of the legality of their stay in Ukraine.³¹

4. International and regional obligations and frameworks (Relevant for questions n. 2, 4)

26 Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine p. 21 available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf

27 In the Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine report p. 38-40, available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf more example are provided

28 Article 5 paragraph 3 of the Identity Card Law, Official Gazette of Republic of Serbia, no. 62/2006 and 36/2011

29 Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine p. 39 available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf

30 Praxis, Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence, 2016, p.21. Available at: https://www.praxis.org.rs/images/praxis_downloads/Report_UNHCR_2016_-_28.11.pdf

31 Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine p. 33 - 38 available at: http://www.errc.org/uploads/upload_en/file/roma-belong.pdf

All of the research countries have a strong record of accession and ratification of the core international treaties relevant to statelessness and human rights.³² However, as emerged from the research conducted, despite strong international treaty accession records, and reasonably strong domestic legal frameworks, norms and standards are not universally and equally applied to protect Roma from discrimination and statelessness in the research countries.

One of the causes related to implementation shortcomings is the lack of reliable data on both statelessness and situation of Roma in all the countries covered by the #RomaBelong project making it more difficult to provide an adequate response, and easier to ignore the seriousness of the problem.

The nexus between lack of documentation and poor statistical representation is an important one to make, and a further pointer to the structural discrimination faced by these populations. Indeed, lack of data on both statelessness and Roma populations seems to be symptomatic of the invisibility that accompanies structural discrimination, further exacerbating the problem of Roma statelessness and making it more difficult to plan appropriate policy responses.

Additionally, although national legislation in most of the research countries does enshrine a definition of statelessness³³, in some cases these definitions fall short of international standards.³⁴ While statelessness in the region mainly results from registration related problems – and therefore relates to the exercise of the right to nationality (and proof of nationality) – it is also important to note that only Kosovo has a Statelessness Determination Procedure established in law.³⁵ This means that, while the main challenge is recognition of nationality, there are few legal provisions for the formal recognition of statelessness under the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention) in the region, and consequently little incentive to accurately record and monitor statelessness in official statistics.

Therefore, while no particular gap has been identified with regard to the existing international and regional instruments, a closer monitoring of consistent and full implementation of guarantees and mechanisms provided for in those instruments can be recommended.

5. Progress towards addressing documentation challenges (Relevant to questions n. 3, 4)

Notwithstanding all the challenges summarised above, progress towards reducing the risk of statelessness among Roma populations is also identified in examples of how legislative reform, simplification of procedures, community outreach and engagement, and cooperation between NGOs, international agencies and governments, have contributed to addressing the issue in specific areas.

In Serbia, for instance, stakeholders, albeit suggesting that social exclusion and discrimination were still presenting barriers to their implementation, noted that measures to prevent

32 This includes the Convention Relating to the Status of Stateless Persons, Convention on the Reduction of Statelessness, International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, and the Convention on the Elimination of all Forms of Discrimination Against Women. With the exception of Macedonia, which has not yet acceded to the Convention on the Reduction of Statelessness, all the research countries are party to all of these treaties.

33 In Serbia, the Law on Aliens (No. 97/08) mentions stateless persons, but there is no definition in national law

34 Law on Foreigners, Official Gazette of the Republic of Macedonia, No. 35/06; Law on Movement and Stay of Aliens, Official Gazette of Bosnia and Herzegovina, No.36/08; Law on Foreigners, Official Gazette of Montenegro, No. 82/08; Law on Civil Status, Republic of Kosovo, Law No.04/L –003; Law on Foreigners, Official Gazette of Albania, No.108/2013; Law of Ukraine On the Legal Status of Foreigners and Stateless Persons, No. 3773-VI of 22 September 2011.

35 Republic of Kosovo, Administrative Instruction (MIA) No.05/2015 for the procedure and criteria of determining the status of the stateless person, the manner of acquisition of the citizenship by the stateless person and the person with refugee status. Available at: www.mpb-ks.org/repository/docs/UDHEZIM_ADMINISTRATIV_%28MPB%29_NR_05-2015_PER_PROCEDUREN_DHE_KRITERET_E_PERCAKTIMIT_TE_STATUSIT_TE_PERSONIT_PA_SHTETESI,MENYRA_E_FITIMIT_TE_SHTETSISE_PER_PERSONIN_PA_SHTETESI_DHE_PERSONIN_ME_STATUS_TE_REFUGJATI.pdf.

statelessness and increase documentation have been taken and adopted in legislation. This is reflected in the Concluding observations of the Committee on the Rights of the Child which, in its most recent review of Serbia, noted positive amendments to the Law on Non-Contentious Procedure that have corrected loopholes for “legally invisible people” by establishing a court procedure for determining the date and place of birth of unregistered persons. The Committee also welcomed the development of Guidelines for Implementing Administrative Procedures related to the birth of the child in cooperation with the Ombudsman and UNHCR.³⁶ This had a significant impact extending across the region, including to Montenegro, where a similar procedure was established in April 2015.³⁷

In Bosnia-Herzegovina, UNHCR and civil society have delivered outreach programmes in Romani communities to encourage birth registration, and national legislation has also been amended to ensure unlimited validity of documents such as birth certificates and establish a more proactive role for social welfare centres, as well as a central civil registry across the different entities.³⁸

In Albania, several different initiatives can be mentioned as the UNHCR and the Albanian Civil Status Office developed new software, allowing registrars to record cases of ‘unregistered’ persons, including the causes, missing documentation, and basic biodata to allow for follow-up of the case; the recently conducted in-depth mapping of the population at risk of statelessness in the country conducted by UNCHR together with TLAS³⁹ and the relevant government ministries⁴⁰; or the provision of financial incentives to encourage early birth registration; the Ministry of Interior’s instruction to local registries to issue documents to all citizens regardless of whether they have paid income tax; and the Memorandum of Understanding entered into with TLAS to support the registration of births to Albanian citizens abroad. These are all positive examples of efforts to address civil registration challenges.

Therefore, there is evidence of attempts to address various aspects of the issue, which have in some cases been successful. However, our research suggests that if such initiatives remain piecemeal or disproportionately focused on awareness raising rather than structural discrimination and entrenched prejudicial attitudes, and are not part of a concerted effort by governments to eradicate the risk of statelessness, further progress towards the elimination of Romani statelessness cannot be achieved.

6. Recommendations

The #RomaBelong project committed not only to explore and better understand the nexus between discrimination, marginalisation and Romani statelessness in the Western Balkans and Ukraine, but also to use this knowledge to contribute to advocacy and awareness raising at national and regional levels to address the issues emerging from the research.

To this end, the report makes a series of recommendations based on the research findings and emerging common themes across all the research countries that are divided between recommendations to governments and national actors, and recommendations to European institutions and regional stakeholders.

For the purposes of this submission, and in light of what is summarised above, we would like to recall the following recommendations:

36 Committee on the Rights of the Child, *Concluding observation on the combined second and third periodic reports of Serbia*, 3 February 2017, CRC/C/SRB/CO/2-3, available at:

http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/SRB/CRC_C_SRB_CO_2-3_26579_E.pdf, para. 30.

37 European Commission, Commission Staff Working Document for Montenegro, 2015. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf

38 Law on Registers of Federation of Bosnia and Herzegovina (FBiH Official Gazette, no. 37/12 and 80/14); Law on Registers of Republika Srpska (RS Official Gazette, no. 111/09 and 43/13); Law on Registers of Brčko District (Official Gazette of Brčko District, 58/11).

39 For more information about TLAS, please see the website: <http://www.tlas.org.al/>

40 This mapping is expected to be published this year.

Rec. 1. Governments should ensure that all international and regional obligations related to the right to nationality, prevention of statelessness, protection of stateless persons, non-discrimination, and birth registration are fully incorporated into national law and implemented in practice.

Rec. 2. Governments should consider nominating a dedicated lead with responsibility for protecting the rights of Roma whose mandate includes, as part of the eradication of discrimination, the reduction and prevention of statelessness among minorities; National Human Rights Institutions and Ombudspersons should have a mandate to monitor and report on these issues.

Rec. 4. Governments should take concrete steps to simplify complex civil registration procedures impacting disproportionately on Roma communities, including where these prevent Roma from registering the births of their children. This should incorporate law and policy reform where necessary, training and capacity building of frontline officials, cooperation and information sharing between countries, and community engagement.

Rec. 5. In developing and implementing National Action Plans for Development in accordance with the Sustainable Development Goals, governments should ensure that “no one is left behind” in the pursuit of Target 16.9 to “by 2030, provide legal identity for all, including birth registration”; this must include guaranteeing universal, free and immediate birth registration for every child irrespective of the parents’ status, documentation, or whether the child was born in a medical institution.

Rec. 6. Governments and other appropriate agencies should improve the collection and monitoring of data disaggregated by ethnicity including on birth registration, documentation status, and access to fundamental rights such as education and healthcare, with appropriate steps to ensure the data is fully anonymised.

Rec. 7. Governments should make available effective remedies for all those seeking to resolve their documentation status, including state-funded legal aid, the removal of barriers to accessing justice such as court fees or fees for DNA testing, judicial oversight, and robust complaints and compensation mechanisms.

Rec. 8. In addition to ensuring that all Roma can exercise their right to a nationality, governments should implement dedicated statelessness determination procedures to ensure that all stateless persons (who do not have a right to the nationality of the country in which they reside) are identified, protected and offered pathways to facilitated naturalisation.

Rec. 12. European Union Institutions should ensure that Roma discrimination and statelessness in the Western Balkans and Ukraine is comprehensively addressed as a matter of priority through the EU enlargement process. Progress should be monitored through European Commission annual reports as part of its ‘Enlargement Package’, and scrutinised by the European Parliament.

Rec. 15. The Council of Europe Ad hoc Committee on Roma and Traveller Issues should establish a dedicated thematic group to address the nexus between discrimination and statelessness, and the Council of Europe Commissioner for Human Rights should continue to monitor this issue closely.

Rec. 16. The Organisation for Security and Cooperation in Europe (OSCE), its Office for Democratic Institutions and Human Rights and High Commissioner for National Minorities should seek to build on progress made through the Action Plan on Roma and Sinti and Best Practices for Roma Integration project with an increased focus on the nexus between discrimination and statelessness, enhancing efforts to implement any outstanding actions, and consolidating other relevant initiatives such as the Zagreb Declaration.

Rec. 18. UN Human Rights Bodies (including the Committees on the Rights of the Child, Elimination of Racial Discrimination, and Elimination of all Forms of Discrimination Against Women) should through the adoption of their 'list of issues' and subsequent dialogues with states, request information on relevant quantitative and qualitative data on access to birth registration, the right to nationality, and statelessness among Roma.

For the complete list of recommendations, please visit: <http://www.errc.org/cms/upload/file/roma-belong.pdf>

For the specific recommendations made to the Albanian and Ukrainian government, please read the country reports on Ukraine and Albania currently in draft and attached to the present submission.

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