



**STATELESSNESS IN THE KYRGYZ REPUBLIC:
ANALYSIS OF NATIONAL LEGISLATION**

2nd edition

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FOREWORD

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.

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. With 2021 marking the 60th anniversary of the 1961 Convention, an increasing number of United Nations Member States are becoming party to both conventions¹, understanding that their universal implementation would put an end to 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 10-year global #IBelong Campaign to End Statelessness.

In line with our mandate to identify stateless people and prevent and reduce statelessness – bestowed upon us by the United Nations General Assembly – the UN Refugee Agency, UNHCR, works with governments, parliaments, authorities, and civil society around the world to identify and protect people without a nationality, resolve existing situations of statelessness, and prevent new cases from emerging.

¹ As of May 2023, 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)

Since 2007, UNHCR and its civil society partners had the honour of supporting the Government of the Kyrgyz Republic in addressing statelessness. A progressive citizenship law adopted in 2007 created new avenues for reducing statelessness and established a simplified naturalization procedure for individuals able to prove a link with the Kyrgyz Republic. Subsequent amendments expanded the criteria, further facilitating reduction of statelessness.

Following UNHCR initiated surveys in 2007 and 2008, the Government of the Kyrgyz Republic established an inter-ministerial process to address statelessness, particularly through annual High-Level Steering Meetings and the adoption of a National Action Plan to Prevent and Reduce Statelessness.

Thanks to these efforts, between 2009 and 2012, over 45,000 people were able to replace their old USSR with new Kyrgyz Republic passports, and some 2,000 stateless persons obtained Kyrgyz citizenship. Embracing the 2014 #IBelong campaign, by 2019 the country – supported by UNHCR and its partners – identified and assisted an additional 13,700 stateless people, including over 2,000 children, to secure birth registration or confirm or acquire Kyrgyz nationality.

In 2019, the Kyrgyz Republic became the first country in the world to resolve all known cases of statelessness. Azizbek Ashurov, director of the NGO 'Ferghana Valley Lawyers Without Borders', was instrumental in supporting the Government to reach this milestone, and subsequently nominated winner of the 2019 Nansen Refugee Award.

Maintaining momentum, at the October 2019 High-Level Segment on Statelessness – which marked the mid-point of the #IBelong campaign – the Kyrgyz Republic made four pledges to address newly discovered cases and prevent a re-occurrence of statelessness:

- By the end of 2020, adopt regulation for determining the legal status of a stateless person
- By the end of 2020, provide birth registration certificates to children who do not have birth registration

- Align national birth registration legislation with international standards to ensure registration of birth of every child born in the Kyrgyz Republic
- Study the experience of other State parties to the 1954 and 1961 Conventions on Statelessness.

Consistent need to prevent a re-occurrence of statelessness, for example through implementation of these four pledges, is illustrated by the fact that the number of stateless persons in the Kyrgyz Republic again grew from 10 at the end of 2019, to 200 at the end of 2022.

In 2022, representatives of various authorities of the Kyrgyz Republic visited Georgia to study its experiences on statelessness issues after accession to the two Statelessness Conventions.

In the spring of 2023, the Kyrgyz Republic further aligned its national legislation with international standards by securing universal birth registration of every child, including those born to undocumented or stateless parents who were previously not able to obtain a birth certificate; aligning the definition of a stateless person with provisions of the 1954 Convention Relating to the Status of Stateless Persons; and by introducing safeguards against statelessness in citizenship renunciation.

With further amendments of national legislation, expected for 2023, the Kyrgyz Republic plans to introduce Statelessness Status Determination Procedures in line with 1954 Convention standards. Once these latest improvements in legislation are implemented, the Kyrgyz Republic will not only have fulfilled its four October 2019 pledges, but will also remain well on track to successfully achieve all #IBelong goals by the end of the campaign in 2024.

UNHCR is truly proud of having been allowed to support all these positive developments. As the present publication (the second, updated edition of a first comparative analysis, published in April 2022) shows, very few improvements to legislation and practices would still be required to bring them fully in line with all standards of the two Statelessness Conventions. UNHCR remains committed to continue supporting the Kyrgyz Republic in maintaining its regional leadership in the reduction and prevention of statelessness by joining a growing number of States in becoming party to the two Statelessness Conventions.

Allow me to thank all colleagues and experts, translators, and proof-readers, who made it possible to publish this important compilation in Kyrgyz, 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 Kyrgyz Republic. UNHCR stands ready to continue supporting the Kyrgyz Republic in accelerating its achievement of the global #IBelong Campaign and Sustainable Development Goals under Agenda 2030: Leaving No One Behind.

Hans Friedrich Schodder

Representative of United Nations
High Commissioner for Refugees

May 2023, Astana

COMPARATIVE ANALYSIS OF LEGISLATION OF THE KYRGYZ REPUBLIC ON STATELESSNESS

ENSURE THAT NOT ONE CHILD IS BORN STATELESS

INTERNATIONAL STANDARD

1. States grant their citizenship to a person born in their territory who would otherwise be stateless

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

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 12, points 2-3

“2. The child, one of whose parents has been the citizen of the Kyrgyz Republic, and another parent has been the foreign national, shall be the citizen of the Kyrgyz Republic, except for the case when the child’s parents file a joint application to renounce the citizenship of the Kyrgyz Republic regarding the child, who acquires foreign citizenship at birth.”

“3. The child, one of whose parents has been the citizen of the Kyrgyz Republic, and other parent has been the stateless person or unknown at the time of the child’s birth, shall be the citizen of the Kyrgyz Republic regardless of the place of birth.”

ANALYSIS OF THE NATIONAL LEGISLATION

National legislation meets the international standard. A child, with one or both parents of whom are citizens of the Kyrgyz Republic, becomes a citizen of the Kyrgyz Republic, regardless of the place of birth.

Also, if one of the parents is a citizen of the Kyrgyz Republic, and the other is a foreign citizen, a child becomes a citizen of the Kyrgyz Republic. The only exception would be a child who acquired foreign citizenship by birth and the child's parents submit a joint application on refusal of Kyrgyz citizenship. However, there is also no risk of statelessness in this case.

UNHCR RECOMMENDATIONS

No Recommendations.

INTERNATIONAL STANDARD

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

(1961 Convention on the Reduction of Statelessness, Article 1; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 2)

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 12, points 4-5

“4. The child born in the territory of the Kyrgyz Republic, whose parents or single parent are stateless persons, shall be the citizen of the Kyrgyz Republic.

5. The child born in the territory of the Kyrgyz Republic, whose both parents or single parent are foreign nationals, shall be the citizen of the Kyrgyz Republic, if the state of citizenship of both parents or single parent fails to grant citizenship to the child.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets international standards. Under the Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, children whose parents are stateless persons are guaranteed citizenship. The Law also guarantees citizenship to children born in the Kyrgyz Republic whose parents are foreigners and whose States do not grant citizenship to them.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

3. States grant their citizenship to a foundling found in their territory
(1961 Convention on the Reduction of Statelessness, Article 2)

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 12

“6. The child staying in the territory of the Kyrgyz Republic, whose both parents are unknown, shall be the citizen of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets the international standard: under the existing legislation, the State unconditionally recognizes the citizenship of all children living in the territory of the country whose parents are unknown. Moreover, the legislation does not establish an age criterion: the norm applies to all persons (children) who have not attained the age of majority.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

4. A State shall grant citizenship to a child of its 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 Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 12, points 1-2.

“1. A child whose parents or single parent are citizens of the Kyrgyz Republic at the time of his birth is a citizen of the Kyrgyz Republic, regardless of the place of birth.

2. The child, one of whose parents has been the citizen of the Kyrgyz Republic, and another parent has been the foreign national, shall be the citizen of the Kyrgyz

Republic, except for the case when the child’s parents file a joint application to renounce the citizenship of the Kyrgyz Republic regarding the child, who acquires foreign citizenship at birth.”

ANALYSIS OF THE NATIONAL LEGISLATION

Citizenship of the Kyrgyz Republic of one of the parents is a prerequisite for the recognition of a child born outside the country as a citizen of the Kyrgyz Republic.

If the parents have different citizenship, the child obtains citizenship of the Kyrgyz Republic. The only exception would be for a child who acquired foreign citizenship by birth and the child’s parents submit a joint application on refusal of Kyrgyz citizenship. However, there is also no risk of statelessness in this case.

UNHCR RECOMMENDATIONS

No recommendations.

EXCLUSION OF GENDER-DISCRIMINATORY NORMS FROM CITIZENSHIP LEGISLATION

INTERNATIONAL STANDARD

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

(1979 Convention on the Elimination of All Forms of Discrimination Against Women, Article 9; 1989 Convention on the Rights of the Child, Article 2; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 3)

NATIONAL LEGISLATION

The national legislation of the Kyrgyz Republic treats women and men equally with regard to the conferral of citizenship to their children and with regard to acquiring, changing, and preserving citizenship.

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets the international standard: national legislation governing citizenship issues does not contain any discriminatory norms based on gender in matters related to citizenship.

UNHCR RECOMMENDATIONS

No recommendations.

PREVENT DEPRIVATION OF CITIZENSHIP ON DISCRIMINATORY GROUNDS

INTERNATIONAL STANDARD

6. National legislation does not allow deprivation of citizenship on discriminatory grounds.

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

NATIONAL LEGISLATION

Constitution of the Kyrgyz Republic, Article 51, Part 2

“No citizen of the Kyrgyz Republic may be deprived of his or her citizenship.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets the international standard: national legislation governing citizenship issues does not contain any discriminatory norms based on gender in matters related to citizenship.

UNHCR RECOMMENDATIONS

No recommendations.

GRANTING PROTECTION STATUS TO STATELESS PERSONS AND FACILITATING THEIR NATURALIZATION

INTERNATIONAL STANDARD

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

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated May 21, 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36)

“A stateless person is a person who is not a citizen of the Kyrgyz Republic and does not have citizenship of any foreign state under the respective legislation.”

ANALYSIS OF THE NATIONAL LEGISLATION

Traditionally, the legislation of the Kyrgyz Republic included a definition of a stateless person based on the presence of evidence of citizenship in another country. Such definition differs from the international standard since the absence of proof of citizenship in a specific State does not imply that a person is definitely stateless.

In 2023, the amendments of the Law “On Citizenship of the Kyrgyz Republic” removed the reference to lack of proof of citizenship of another State. Thus, the definition of a stateless person in the Law on Citizenship of the Kyrgyz Republic aligns with the international standard.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

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

(1954 Convention Relating to the Status of Stateless Persons; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 6)

NATIONAL LEGISLATION

Regulations on the procedure for considering issues of citizenship of the Kyrgyz Republic (approved by Decree of the President of the Kyrgyz Republic dated 10 August 2013 No. 174), points 51, 55, 57, 75

The Regulation, in accordance with the Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, outlines the regulations on processing and submission of applications with respect to the citizenship of the Kyrgyz Republic, the acquisition and termination of citizenship of the Kyrgyz Republic, the adoption, execution, and appeal of decisions on these issues, as well as it approves the forms of the required documents.

“51. The Citizenship Determination Commission is entitled to consider applications from individuals permanently residing within the Kyrgyz Republic, on determining their affiliation or non-affiliation to the citizenship of the Kyrgyz Republic or to recognize them as stateless persons and render judgments on them with respect to:

- 1) persons who were citizens of the USSR, have passports of the 1974 specimen, and are permanently (or temporarily) registered on the territory of the Kyrgyz Republic and who did not make a declaration on belonging to the citizenship of any other state;
- 2) persons who, for various reasons, have lost USSR passports of the 1974 specimen, registered permanently (or temporarily) on the territory of the Kyrgyz Republic. For this category, the Commission creates a file on the loss of a passport, and once the individual's identity and citizenship are established, a conclusion is reached;
- 3) persons who, due to unavoidable circumstances were unable to obtain passports in a timely manner (or who were not falling under the purview of the Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 18 December 1993 No. 1333-XII, or who had no parents and were raised by relatives or acquaintances), yet who factually resided permanently within the Kyrgyz Republic's territory;
- 4) persons who permanently reside within the Kyrgyz Republic's territory and possess a USSR passport of 1974 specimen with a mark of belonging to the citizenship of the member states of the Commonwealth of Independent States (hereinafter, CIS member states), who remain undocumented by the national passport of this country. This category of individuals submits an explanatory note clarifying the reasons for the absence of a valid identity document if there is no diplomatic mission or consular office on the territory of the Kyrgyz Republic, and in certain instances they may be required to present a certificate of loss or lack of citizenship of a foreign state;
- 5) persons permanently residing for five or more years within the Kyrgyz Republic's territory who possess expired passports proving the identity

of a citizen of the CIS member states, and due to circumstances beyond their control they cannot extend or replace it with a valid one. Persons under this category submit a statement indicating the reasons that exclude the possibility of obtaining the relevant document.”

“55. Following the audit, the territorial body of the authorized state body of the Kyrgyz Republic in the field of population registration issues a conclusion, on belonging or not belonging to the citizenship of the Kyrgyz Republic (Annex 6), or on recognition as a stateless person (Annex 7), which should include basic information about the applicant and the legal basis according to which the person is recognized or not recognized as a citizen of the Kyrgyz Republic, or a stateless person. If the applicant has children, their citizenship or statelessness must also be determined in the conclusion.”

“57. The territorial body of the authorized state body of the Kyrgyz Republic in the field of population registration informs the applicant about the verification results regarding their citizenship status in the Kyrgyz Republic with the issuance of a certificate in the prescribed format (Annex 8) or recognition of the applicant as a stateless person (as in Annex 9), who is explained on the procedure for obtaining documentation for permanent residence permit of the stateless person.”

“75. Persons residing in the Kyrgyz Republic and who are not citizens of the Kyrgyz Republic are granted residence permits for a foreign citizen or a stateless person by the authorized state body of the Kyrgyz Republic in the field of population registration.”

ANALYSIS OF THE NATIONAL LEGISLATION

The 1954 Convention relating to the Status of Stateless Persons establishes the legal regime for stateless persons and requires States to develop the necessary procedures to identify stateless persons on their territory.

On this issue, the legislation of the Kyrgyz Republic does not fully comply with the international standard: a special procedure for determining the status of a stateless person has not been established by legislation. The current rules relating to recognition as a stateless person, as outlined in the regulations on the procedure for considering issues of citizenship of the Kyrgyz Republic, are limited in scope as they apply to specific categories of persons (mainly former citizens

of the USSR or CIS countries permanently residing in the territory of the Kyrgyz Republic).

UNHCR RECOMENDATIONS

Enhance the legislation of the Kyrgyz Republic by establishing provisions enabling any stateless persons to submit applications to the respective State authority of the Kyrgyz Republic to determine their status, which should result in the issuance of an appropriate document that verifies the identity and stateless status of the individual, and allow legal residence within the Kyrgyz Republic.

INTERNATIONAL STANDARD

9. National legislation provides for the provision of lawful residence to stateless persons

(1954 Convention Relating to the Status of Stateless Persons, UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 6)

NATIONAL LEGISLATION

Law of the Kyrgyz Republic dated 14 December 1993 No. 1296-XII “On the legal status of foreign citizens in the Kyrgyz Republic”, Article 5

“Foreign citizens can permanently reside in the Kyrgyz Republic if they have a corresponding permission in a form of a residence permit issued by the authorized state body in the field of registration of population, or the status of a compatriot with foreign citizenship.

Foreign citizens who stay in the Kyrgyz Republic with a different legal ground are classified as temporary residents. They are required to register their foreign passports or other equivalent documents and leave the Kyrgyz Republic upon the expiry of the designated period of stay.”

Law of the Kyrgyz Republic “On External Migration”, Article 15

“Foreign citizens or stateless persons arriving in the Kyrgyz Republic for the period exceeding six months can obtain a temporary residence permit in accordance with the present Law.

Foreign citizens or stateless persons residing in the Kyrgyz Republic for more than five-year period and granted in accordance with the present Law the status of immigrant obtain a permanent residence permit in accordance with the present Law.”

Regulation “On the procedure for registration and issuance of temporary and permanent residence permits to foreign citizens and stateless persons on the territory of the Kyrgyz Republic”, Points 6, 7 and 12

“6. Permanent residence permit is granted to:

- persons who have received, in the manner prescribed by this Regulation, an authorization for permanent residence in the territory of the Kyrgyz Republic, including persons who have returned to the Kyrgyz Republic, whose citizenship of the Kyrgyz Republic has been terminated in accordance with the law;
- persons who are permanently residing in the territory of the Kyrgyz Republic but who have not acquired citizenship of the Kyrgyz Republic, or whose citizenship of the Kyrgyz Republic has been terminated in accordance with the law;
- foreign citizens or stateless persons permanently residing in the territory of the Kyrgyz Republic – on reaching 18 years of age.

7. An application for a residence permit is submitted personally by a foreign citizen or stateless person who has reached the age of 18 (by their authorized representatives) who has been legally in the territory of the Kyrgyz Republic for more than 5 years.

At the same time as submission of the application, the following documents are submitted in 2 copies:

- copy of passport or replacement document proving the identity of the applicant;
- copy of birth certificate or equivalent document;

- certificate from place of residence on composition of the family;
- copy of marriage certificate (if married);
- certificate confirming permanent legal source of income that provides the applicant and the applicant's family members with a living wage (copy of work book, work permit, assets, bank accounts or trusteeship of a citizen of the Kyrgyz Republic, certificate from place of work indicating salary, etc.);
- medical certificate on health status (AIDS Centre certificate, narcological and psychoneurological dispensaries);
- document certifying termination of the applicant's citizenship (conclusion of the territorial subdivision of the passport and visa control of the Internal Affairs Directorate recognizing that person as a stateless person – for stateless persons from the member states of the Commonwealth of Independent States);
- certificate of lack of criminal convictions of foreign citizens on the territory of the state of which that person is a citizen; and for stateless persons certificate of lack of criminal convictions on the territory of the state where that person lived before entering the territory of the Kyrgyz Republic.

12. A temporary residency permit is given to a foreign citizen or stateless person:

- to work in the territory of the Kyrgyz Republic;
- to study in an educational institution at the request of the educational institution and the Ministry of Education and Science of the Kyrgyz Republic;
- to invest in the territory of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

Stateless persons who have been officially recognized as such through the process of determining their belonging or non-belonging to the citizenship of the Kyrgyz Republic or through recognition as stateless persons are entitled to obtain a permanent residence permit for a stateless person.

However, stateless persons can face challenges during the procedure of collection and submission of various documents due to their unique circumstances (for example, the absence of a birth certificate). Furthermore, the legislation links issuance of the residence permit with confirmation of the absence of criminal records from the country of former residence, as well as the absence of certain medical conditions (such as HIV, mental illness, and drug addiction), and evidence of a stable legal income.

With regard to this issue, legislation is not considered in line with international standards.

UNHCR RECOMMENDATIONS

Considering the fact that stateless persons are usually unable to move to another country (as opposed to foreign citizens who can return to their country of citizenship), it is appropriate to simplify the list of requirements for obtaining a residence permit for stateless persons.

ENSURING BIRTH REGISTRATION TO PREVENT STATELESSNESS

INTERNATIONAL STANDARD

10. Children born to stateless persons, undocumented migrants, and persons with undetermined citizenship are registered at birth and receive birth certificates.

(1989 Convention on the Rights of the Child, Article 7; 1966 International Covenant on Civil and Political Rights, Article 24; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 6)

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On acts of civil status” dated August 1, 2020 No. 110 (as amended by the Law of the Kyrgyz Republic November 29, 2021 No. 142), Article 13, points 4-6.

“4. The application for birth registration shall be submitted by the parents or one of them, and in case of illness, death of the parents or inability for other reasons to make a statement – upon the application of close relatives.

If the child's mother, who is not married to the child's father, has died, or has refused to take the child from a health care organization after the birth, or has left the child in a health care organization after the birth and her place of residence is unknown, the registration of the child's birth is made upon application of the administration of the health care organization where the birth took place or where the child stays (was left), the territorial division of the authorized state body on child protection or the person who hosts the child. If the child's parents refuse to take the child from the health care organization after the birth, the child's birth shall be registered upon an application of the administration of the health care organization where the birth has taken place.

5. If the parents (parent) do not have documents certifying their identity, the state registration of the fact of the child's birth is made based on the application on child's birth and medical birth certificate, and the birth certificate is issued. An appropriate note is made in the electronic civil registry.

6. The state registration of the birth of a child who has reached the age of one year or more is made upon written application of the parents (one of the parents) or a close relative, or a territorial subdivision of the authorized state body for child protection, as well as upon application of the child upon reaching the age of sixteen with attachment of necessary documents determined by the Government of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

National legislation meets the international standard. The Law of the Kyrgyz Republic “On Acts of Civil Status” establishes the grounds for birth registration and includes the list of documents required for the registration, both for registering the birth of children born in a maternity hospital and outside it. The legislation also establishes that in the absence of parents, an application for birth registration can be submitted by close relatives, employees of the territorial division of the authorized body for the protection of children, and the maternity hospital.

Specific provisions are stipulated to address situations where the parents of a child are unable to provide the necessary documents. In such cases, the State registration of the child's birth is conducted based on an application for the birth of the child and a medical birth certificate, resulting in the issuance of a birth certificate.

UNHCR RECOMMENDATIONS

No recommendations.

ACCESSION TO THE UNITED NATIONS CONVENTIONS ON STATELESSNESS

INTERNATIONAL STANDARD

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

NATIONAL LEGISLATION

The Kyrgyz Republic 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 relating to the Status of Stateless Persons 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 Kyrgyzstan 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.

UNHCR RECOMMENDATIONS

It is recommended that the country 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 Kyrgyz Republic has not acceded 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.

UNHCR RECOMMENDATIONS

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

IMPROVING QUANTITATIVE AND QUALITATIVE DATA ON STATELESS PERSONS

INTERNATIONAL STANDARD

13. National legislation ensures that quantitative statistics about persons without citizenship are publicly accessible

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

NATIONAL LEGISLATION

This issue is not addressed in the legislation of the Kyrgyz Republic.

ANALYSIS OF THE NATIONAL LEGISLATION

The international best practices recommend providing in the national legislation the disclosure of the aggregate information related to stateless persons.

UNHCR RECOMMENDATIONS

In order to bring national legislation in line with international best practices, it is recommended to improve the current legislation, including provisions for the collection and processing of data on stateless persons in a form and volume that enables assessment/ analysis of the existing statelessness situation. With it being important that the statistics of stateless persons are open and accessible to stakeholders, and the information is complete, understandable and easily seen by stakeholders, development of a web-portal is also recommended as a tool for disclosure of information.

LEGAL GUARANTEES IN PLACE

INTERNATIONAL STANDARD

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

(1961 Convention on the Reduction of Statelessness, Article 7(1))

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 24

“1. Renunciation of the citizenship of the Kyrgyz Republic by a person residing on the territory of the Kyrgyz Republic is carried out on the basis of the voluntary expression of will of such a person in the general procedure if the person has another citizenship or a guarantee of the person acquiring the citizenship of another state, except for the cases provided for in Article 26 of this Law.

2. Renunciation of the citizenship of the Kyrgyz Republic by a person residing in the territory of a foreign state is carried out on the basis of the voluntary expression of will of such a person in a simplified procedure if the person has another citizenship or a guarantee that the person will acquire the citizenship of another state, except for the cases provided for in Article 25 of this Law.

3. Renunciation of the citizenship of the Kyrgyz Republic of a child, one of whose parents has the citizenship of the Kyrgyz Republic, and the other parent is a foreign citizen or whose only parent is a foreign citizen, is carried out in a simplified procedure at the request of both parents or at the request of the only parent.”

ANALYSIS OF THE NATIONAL LEGISLATION

National legislation is in line with the international standard.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

15. States prevent statelessness as a result of loss of citizenship because of residence abroad for a long period

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

NATIONAL LEGISLATION

The grounds for loss of citizenship of the Kyrgyz Republic do not include loss of citizenship because of residence of a citizen of the Kyrgyz Republic abroad.

ANALYSIS OF THE NATIONAL LEGISLATION

The Law “On Citizenship of the Kyrgyz Republic” does not provide for the possibility of loss of citizenship if a citizen resides outside the Kyrgyz Republic and does not establish such a possibility even for naturalized persons who have lived for seven consecutive years outside the country (as allowed by the 1961 Convention). The national legislation is in accordance with international standards.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

16. States prevent the deprivation of statelessness by allowing only those exceptions set out in Article 8 of the 1961 Convention on the Reduction of Statelessness

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 26

“1. Citizenship of the Kyrgyz Republic is lost if the citizenship of the Kyrgyz Republic is acquired as a result of submission of deliberately false information or forged documents.

2. Citizenship of the Kyrgyz Republic is lost for the following reasons:

- 1) if the citizenship of the states bordering the Kyrgyz Republic (Kazakhstan, Uzbekistan, Tajikistan and the People's Republic of China) has been acquired;
- 2) in the presence of another citizenship and a notarized application for renunciation of citizenship of the Kyrgyz Republic;
- 3) on other grounds provided for in accordance with international treaties to which the Kyrgyz Republic is a party.

3. The decision on the loss of citizenship of the Kyrgyz Republic is made by the President of the Kyrgyz Republic.

4. The procedure for the loss of citizenship of the Kyrgyz Republic and the work of the Citizenship Commission is determined by the President of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

Among the legal bases for the loss of citizenship of the Kyrgyz Republic are the grounds provided for in accordance with international treaties of the Kyrgyz Republic. Currently, international treaties to which the Kyrgyz Republic is a party do not contain additional grounds not provided for in Article 8 of the 1961 Convention on the Reduction of Statelessness.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

17. States shall prevent discrimination between men and women in connection with the acquisition, modification or maintenance citizenship by marriage or divorce

(1961 Convention on the Reduction of Statelessness, Article 5; 1979 Convention on the Elimination of All Forms of Discrimination against Women, Article 9; UNHCR Global Action Plan to End Statelessness: 2014-2024, Action 3

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Article 8

“1. The marriage of a citizen of the Kyrgyz Republic with a foreign citizen or stateless person, as well as the dissolution of such a marriage, does not change their citizenship.

2. The change of citizenship by one of the spouses does not entail a change in the citizenship of the other spouse.

3. Divorce does not entail a change in the citizenship of children born in this marriage or adopted (adopted) by spouses.”

ANALYSIS OF THE NATIONAL LEGISLATION

The law does not base any legal effects on the sex of the citizens. There is no gender discrimination.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

18. The State shall prevent the statelessness of the spouse and children of a person who loses or is deprived of citizenship

(1954 Convention relating to the Status of Stateless Persons. Article 6)

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Articles 8 and 21

Article 8

“1. The marriage of a citizen of the Kyrgyz Republic with a foreign citizen or stateless person, as well as the dissolution of such a marriage, does not change their citizenship.

2. The change of citizenship by one of the spouses does not entail a change in the citizenship of the other spouse.

3. Divorce does not entail a change in the citizenship of children born in this marriage or adopted by spouses.”

Article 21

“Changing the citizenship of children aged 14 to 18 in the event of a change in the citizenship of their parents, as well as in case of adoption is allowed only with the notarized consent of the children.”

ANALYSIS OF THE NATIONAL LEGISLATION

The legislation does not provide for the automatic change of citizenship of a spouse or child in the event of loss or change of citizenship by another spouse or parent.

UNHCR RECOMMENDATIONS

No recommendations.

INTERNATIONAL STANDARD

19. The State reduces statelessness by providing simplified naturalization for stateless persons

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

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” dated 21 May 2007 No. 70 (as amended by the Law of the Kyrgyz Republic dated 22 February 2023 No. 36), Articles 13 and 14

Article 13

“1. Foreign citizens and stateless persons who have reached the age of 18 have the right to apply for admission to the citizenship of the Kyrgyz Republic in the general manner, if they:

- 1) have permanently, continuously resided on the territory of the Kyrgyz Republic for the last five years at the time of filing the application. The period of residence is considered continuous if the person travelled

outside the Kyrgyz Republic for no more than three months within one year;

- 2) know the state or official language to the extent sufficient for communication; the procedure for determining the level of knowledge of the state or official language is established by the regulation on the procedure for considering citizenship issues;
- 3) undertake to comply with the Constitution and legislation of the Kyrgyz Republic;
- 4) have a source of livelihood.
- 5) do not have a criminal record in the Kyrgyz Republic and in a foreign state of which they are citizens.

2. The period of residence of foreign citizens and stateless persons in the territory of the Kyrgyz Republic, established by paragraph 1 of part 1 of this article, is reduced to three years if at least one of the following grounds exists:

- 1) *(removed)*
- 2) the presence of high achievements in the field of science, technology, culture, sports, as well as the presence of a profession or qualification that is in demand in the Kyrgyz Republic;
- 3) investment in priority sectors of the economy of the Kyrgyz Republic. The procedure for investing and the amount of investments are approved by the Cabinet of Ministers of the Kyrgyz Republic;
- 4) when they are recognized as refugees or stateless persons in accordance with the legislation of the Kyrgyz Republic;
- 5) foreign citizens and stateless persons who have married a citizen of the Kyrgyz Republic.”

Article 14

“1. Foreign citizens and stateless persons who have reached the age of 18 have the right to apply for citizenship of the Kyrgyz Republic under the simplified procedure. Their term of residence on the territory of the Kyrgyz Republic established under paragraph 1, part 1 of Article 13 shall be reduced to one year, unless otherwise provided by international treaties to which the Kyrgyz Republic is a party, which have entered into force in accordance with the procedure established by law, if they

- 1) Have at least one parent who is a citizen of the Kyrgyz Republic and resides in the territory of the Kyrgyz Republic;
- 2) were born in the Kyrgyz SSR and/or had citizenship of the former USSR
- 3) are restored to citizenship of the Kyrgyz Republic.

2. Persons who are ethnic Kyrgyz with citizenship of a foreign state or without citizenship shall be granted citizenship of the Kyrgyz Republic without the condition of residency in the territory of the Kyrgyz Republic and without meeting the conditions stipulated by Article 13 and Part 1 of this Article, within the time limits established by law. Their admission to the citizenship of the Kyrgyz Republic shall be carried out without prior renunciation of the citizenship of another state on the basis of their written application for admission to the citizenship of the Kyrgyz Republic indicating renunciation of the citizenship of another state.

3. Citizenship of the Kyrgyz Republic shall be granted according to the simplified procedure without having to comply with conditions provided in part 1 article 13 hereof to:

- 1) a child, one of whose parents has the citizenship of the Kyrgyz Republic - upon the application of this parent and with the written consent of the other parent for the child to acquire the citizenship of the Kyrgyz Republic. Such consent is not required if the child resides in the territory of the Kyrgyz Republic;
- 2) a child whose only parent is a citizen of the Kyrgyz Republic - at the request of this parent;
- 3) A child or an incapacitated person subject to guardianship or custody - at the request of a guardian or custodian who is a citizen of the Kyrgyz Republic.

4. The persons referred to in paragraph 1 of this Article are subject to the requirements stipulated by paragraphs 3 and 4 of paragraph 1 of Article 13.

5. Former citizens of the Kyrgyz Republic shall have the right to apply for citizenship of the Kyrgyz Republic under the simplified procedure when reacquiring citizenship of the Kyrgyz Republic. Their term of residence on the territory of the Kyrgyz Republic, established by paragraph 1 of paragraph 1 of Article 13 of this Law, shall be reduced to one year, unless otherwise provided for by international treaties, to which the Kyrgyz Republic is a party, which have entered into force in accordance with the procedure established by law.

Former citizens of the Kyrgyz Republic shall be granted citizenship of the Kyrgyz Republic upon restoration of citizenship of the Kyrgyz Republic without the condition of residence on the territory of the Kyrgyz Republic and without meeting the conditions stipulated by Article 13 and paragraph 1 of this Article within the time limits established by law.

6. The list of foreign citizens and stateless persons who are admitted to citizenship of the Kyrgyz Republic in a simplified procedure on the grounds and circumstances related to the applicant's personality, activities, contribution to sports, economic, cultural contribution to the development of the Kyrgyz Republic shall be determined by the President of the Kyrgyz Republic. Their admission to the citizenship of the Kyrgyz Republic shall be carried out without presenting conditions on the term of residence on the territory of the Kyrgyz Republic and without observing the conditions provided for by Article 13 and Part 1 of this Article within the time limits established by law, based on their written application for admission to the citizenship of the Kyrgyz Republic indicating their renunciation of the citizenship of another state.”

ANALYSIS OF THE NATIONAL LEGISLATION

The Law “On Citizenship of the Kyrgyz Republic” provides for a reduced period of residence in the territory of the Kyrgyz Republic for stateless persons (three years) compared to the general period (five years). Some categories of stateless persons have the right to apply for citizenship in a more simplified procedure (the period of residence is reduced to one year or not applied, and also without observing other conditions provided for in the process of citizenship).

National legislation is in line with the international standard.

The naturalization for stateless persons may be further simplified by reducing the relevant fees, exempting the requirement to submit documents which cannot be received by stateless people in a reasonable manner, removing the requirement for proof of mental/physical health.

UNHCR RECOMMENDATIONS

Despite meeting the minimum standard, further simplification of the naturalization procedures for stateless persons may be considered (examples: reduction of fees, exception in requirement to submit documents that the applicants cannot receive in a reasonable manner, no requirement for proof of mental/physical health).

RIGHTS ATTRIBUTED TO STATELESS PERSONS

INTERNATIONAL STANDARD

20. States issue identity documents, in accordance with Article 27 of the 1954 Convention relating to the Status of Stateless Persons and Article 16 of the International Covenant on Civil and Political rights

NATIONAL LEGISLATION

Regulation “On the procedure for registration and issuance of temporary and permanent residence permits for foreign citizens and stateless persons on the territory of the Kyrgyz Republic” (Approved by the Decree of the Government of the Kyrgyz Republic dated 13 November 2008 No. 626), points 1, 6, 7, 12, 24

“1. (...) A residence permit in the Kyrgyz Republic is a document that entitles foreign citizens or stateless persons to temporary or permanent residence in the Kyrgyz Republic.

A residence permit is an identity document of a foreign citizen or stateless person during his stay in the territory of the Kyrgyz Republic.

6. A permanent residence permit is issued to:

- persons who have received, in the manner prescribed by this Regulation, a permission for permanent residence in the territory of the Kyrgyz Republic, including persons who have returned to the Kyrgyz Republic, whose citizenship of the Kyrgyz Republic has been terminated in accordance with law;

- persons permanently residing in the territory of the Kyrgyz Republic, but who have not acquired the citizenship of the Kyrgyz Republic, or whose citizenship of the Kyrgyz Republic has been terminated in accordance with the law;
- foreign citizens or stateless persons permanently residing in the territory of the Kyrgyz Republic - upon reaching the age of 18.

7. An application for a residence permit is submitted personally by a foreign citizen or a stateless person who has reached the age of 18 (their authorized representatives) who has been legally present on the territory of the Kyrgyz Republic for more than 5 years.

Simultaneously with the submission of the application, the following documents are submitted in 2 copies:

- a copy of the passport or a substitute document proving the identity of the applicant;
- a copy of the birth certificate or equivalent document;
- certificate from the place of residence on the composition of the family;
- copy of marriage certificate (if married);
- one of the following documents confirming the existence of a permanent legal source of income that provides the applicant and his family members with a living wage: a copy of the work book, assets, bank accounts or guardianship of a citizen of the Kyrgyz Republic, a certificate from the place of work indicating the amount of wages, etc.;
- medical certificates on the state of health (certificates from the AIDS Center, narcological and neuropsychiatric dispensaries);
- a document certifying the termination of the citizenship of the applicant (conclusion of the territorial body of the Department on recognizing him as a stateless person – for stateless persons of the member states of the Commonwealth of Independent States);

- a certificate of the absence of a criminal record of a foreign citizen in the territory of the state of which he is a citizen, and for stateless persons - a certificate of the absence of a criminal record in the territory of the state in which he lived before entering the territory of the Kyrgyz Republic;
- a detailed curriculum vitae of the applicant.

12. A temporary residence permit is issued to a foreign citizen or stateless person:

- to carry out labour activities on the territory of the Kyrgyz Republic;
- to study at an educational institution at the request of the educational institution and the authorized state body in the field of education and science;
- for the implementation of investment activities on the territory of the Kyrgyz Republic.

“24. If the stateless person who possesses a permanent residence permit in the Kyrgyz Republic has to leave the Kyrgyz Republic, the territorial body of the Department issues a certificate of a stateless person. A stateless person certificate is a document proving the identity of its holder abroad and is issued to a stateless person permanently residing in the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

The legislation provides for the following identity documents issued to stateless persons: permanent residency permit, temporary residence permit, and stateless person certificate (which is a travel document issued to stateless persons permanently residing in the Kyrgyz Republic).

The legislation establishes that the possibility of issuing a residence permit is associated with residence for more than five years in the country (for a permanent residence permit), or with compliance with the conditions established for issuing a temporary residence permit. These conditions are common both for a stateless person and for citizens of other countries. The status of a stateless person alone is not enough to obtain a residence permit. A person must meet the conditions for issuing a temporary residence permit (which is generally unlikely), or satisfy the requirements for issuing a permanent residence permit (including residence

during five years), which is also difficult. As a result, a large number of stateless persons cannot meet these requirements and obtain a residence permit. Legislation is not in line with international standards.

UNHCR RECOMMENDATIONS

Legislation should establish the right to receive an identity card for stateless persons, regardless of whether a residence permit is issued.

INTERNATIONAL STANDARD

21. States shall ensure the right of stateless persons to apply to court under article 16 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Kyrgyz Republic dated 14 December 1993 No. 1296-XII “On the legal status of foreign citizens in the Kyrgyz Republic”, Articles 20 and 24

Article 20

“Foreign citizens in the Kyrgyz Republic have the right to apply to the court and other state bodies to protect their personal, property, family and other rights.

They enjoy procedural rights in court on an equal footing with citizens of the Kyrgyz Republic.”

Article 24

“The provisions of this Law shall apply along with foreign citizens to stateless persons, unless otherwise provided by the legislation of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation fully complies with the international standard – the legislation provides stateless persons with the right to apply to the court to protect their rights, as well as their equality in procedural rights with citizens of the Kyrgyz Republic.

UNHCR RECOMMENDATIONS

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 Kyrgyz Republic dated 14 December 1993 No. 1296-XII “On the legal status of foreign citizens in the Kyrgyz Republic”, Articles 7 and 24

Article 7

“Foreign citizens permanently residing in the Kyrgyz Republic may work as workers and employees in enterprises, institutions and organizations or engage in other labour activities on the grounds and in the manner established for citizens of the Kyrgyz Republic.

Temporarily staying foreign citizens may engage in labour activity if it is compatible with the purposes and terms of their stay in the Kyrgyz Republic, or if the relevant permission of the authorized state body in the field of migration has been obtained in the manner determined by the Government of the Kyrgyz Republic.

Foreign citizens cannot be appointed to certain positions or engage in certain labour activities if, in accordance with the law, appointment to these positions or engagement in such activities is associated with belonging to the citizenship of the Kyrgyz Republic.

Foreign citizens enjoy the rights and bear obligations in labour relations on an equal basis with citizens of the republic.”

Article 24

“The provisions of this Law shall apply along with foreign citizens to stateless persons, unless otherwise provided by the legislation of the Kyrgyz Republic.”

Law of the Kyrgyz Republic “On external migration” dated 17 July 2000 No. 61, Article 6

“(Part 8). To carry out labour activities in the Kyrgyz Republic, foreign citizens or stateless persons must have a work permit in accordance with the legislation of the Kyrgyz Republic, except for foreign citizens who have received the status of a compatriot with foreign citizenship, as well as cases established by legislation in the field of external labour migrations.”

ANALYSIS OF THE NATIONAL LEGISLATION

Article 17 of the 1954 Convention relating to the Status of Stateless Persons established that 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. It also provides that 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.

Stateless persons enjoy the same legal regime as foreign citizens on the territory of the Kyrgyz Republic. Stateless persons permanently residing in the Kyrgyz Republic have the same labour rights as Kyrgyz citizens. Temporarily residing stateless persons, same as foreign citizens, must have a work permit in order to carry out labour activities. Some categories of foreign citizens have the opportunity to work in the Kyrgyz Republic without the need to obtain a work permit.

In this regard, the legislation of Kyrgyzstan complies with minimum international standards.

UNHCR RECOMMENDATIONS

Despite meeting the minimum international standard established by Article 17 of the 1954 Convention relating to the Status of Statelessness Persons, the protection of stateless people can be further enhanced by granting stateless persons legally staying on the territory of the country the right to work without the need to obtain a work permit.

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, and Article 28 of the 1989 Convention on the Rights of the Child

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On Education” dated 30 April 2003 No. 92, Article 3 “Citizens of other states and stateless persons in the territory of the Kyrgyz Republic receive education in accordance with legislation of the Kyrgyz Republic.”

Law of the Kyrgyz Republic “On Preschool Education” dated 29 June 2009 No. 198, Article 5

“3. Children of foreign citizens or stateless persons receive preschool education in the manner prescribed for citizens of the Kyrgyz Republic, unless otherwise established by the legislation of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation fully complies with the international standard – the 1954 Convention relating to the Status of Stateless Persons in matters of primary education equates the rights of stateless persons to citizens of the country. The Convention recommends according to stateless persons treatment as favourable as possible.

According to the law, stateless persons have the same rights to primary education as foreigners, which is fully in line with the provisions of the 1954 Convention relating to the Status of Stateless Persons; in matters of secondary and higher education, the law establishes the same legal regime for stateless persons and foreign citizens. Based on this, it can be concluded that the legislation on education complies with minimum international standards.

UNHCR RECOMMENDATIONS

Despite meeting the minimum international standard established by Article 22 of the 1954 Convention relating to the Status of Stateless Persons, the protection of stateless people can be further improved by granting stateless persons legally present on the territory of the country the right to education under the same conditions as for its citizens.

INTERNATIONAL STANDARD

24. States shall ensure the right of stateless persons to health in accordance with article 12 of the International Covenant on economic, social and cultural rights and article 23 of the Convention 1954 on status stateless

NATIONAL LEGISLATION

Law of the Kyrgyz Republic dated 14 December 1993 No. 1296-XII “ On the legal status of foreign citizens in the Kyrgyz Republic”, Articles 9 and 24

Article 9

“Foreign citizens permanently residing in the Kyrgyz Republic enjoy medical care on an equal basis with citizens of the Kyrgyz Republic.

Temporarily staying foreign citizens are provided with medical assistance in accordance with the procedure established by the Ministry of Health of the Kyrgyz Republic.”

Article 24

“The provisions of this Law shall apply along with foreign citizens to stateless persons, unless otherwise provided by the legislation of the Kyrgyz Republic.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation does not fully comply with the international standard – the 1954 Convention on the Status of Stateless Persons obliges the State to establish the same regime for stateless persons lawfully staying in the territory in the field of health protection as established for citizens. The Law of the Kyrgyz Republic “On the Legal Status of Foreign Citizens in the Kyrgyz Republic” grants the right to health care on an equal basis with citizens only to stateless persons permanently residing in the Kyrgyz Republic.

UNHCR RECOMMENDATIONS

Provide in national legislation that all stateless persons lawfully staying in the Kyrgyz Republic have the right to health care on an equal basis with citizens.

INTERNATIONAL STANDARD

25. States shall 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 Kyrgyz Republic dated 14 December 1993 No. 1296-XII “On the legal status of foreign citizens in the Kyrgyz Republic”, Articles 10 and 24

Article 10

“Foreign citizens permanently residing in the Kyrgyz Republic are entitled to receive allowances, pensions and other forms of social security on a common basis with citizens of the Kyrgyz Republic. Temporarily staying foreign citizens have the right to receive allowances, pensions and other forms of social security on the basis and in the manner established by the legislation of the Kyrgyz Republic.

In cases where a certain length of service is required for the assignment of pensions, foreign citizens, on the basis and in the manner established by law, may be counted as work abroad in this length of service.”

Article 24

“The provisions of this Law shall apply along with foreign citizens to stateless persons, unless otherwise provided by the legislation of the Kyrgyz Republic.”

Law of the Kyrgyz Republic dated 28 July 2017 No. 163 “On state benefits in the Kyrgyz Republic”, Article 3

“1. This Law applies to:

- 1) citizens of the Kyrgyz Republic residing on the territory of the Kyrgyz Republic;
- 2) ethnic Kyrgyz who returned to their historical homeland and received the status of “kayrylman”;
- 3) foreign citizens residing on the territory of the Kyrgyz Republic, if they are citizens of countries with which an international agreement in the field of granting benefits has been concluded and entered into force.”

Law of the Kyrgyz Republic dated 21 July 1997 No. 57 “On state pension social insurance”, Article 1

“The right to pension according to state social insurance pension scheme (hereinafter referred to as pensions) in accordance with this Law are insured citizens of the Kyrgyz Republic, foreign citizens and stateless persons residing in the republic, who make contributions to state pension social insurance on the basis and conditions provided for by the Law of the Kyrgyz Republic. Republic “On State Social Insurance”.

In cases where international treaties that have entered into force in the manner prescribed by law, to which the Kyrgyz Republic is a party, provide for rules other than those contained in this Law, the rules established by these international treaties shall apply.”

ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation is in line with minimum international standards. The law “On the legal status of foreign citizens in the Kyrgyz Republic” in the field of social

security establishes the rights of stateless persons on an equal basis with citizens of the country, subject to permanent residence in the country.

With regard to pensions, the Kyrgyz Republic has a system of State pension social insurance which, in accordance with the Law of the Kyrgyz Republic “On State Pension Social Insurance”, applies to insured citizens of the Kyrgyz Republic, foreign citizens and stateless persons residing in the republic, making contributions to the State pension social insurance. Thus, the pension system applies to stateless persons residing in the country, on an equal footing with citizens.

In the right to exercise the right to social security, stateless persons temporarily residing in the country are equated to temporarily residing foreign citizens who are entitled to receive State benefits only in cases stipulated by international treaties.

It does not contradict the 1954 Convention relating to the Status of Stateless Persons, since according to article 24 – Labour Law and Social Security – social protection can be subject to certain limitations on the allowances paid to persons who do not fulfil all the contributions conditions prescribed for the award of a normal pension.

UNHCR RECOMMENDATIONS

Despite meeting the minimum international standard established by article 24 of the 1954 Convention relating to the Status of Stateless Persons, the protection space for stateless people can be further improved by granting those lawfully staying in the territory of Kyrgyzstan the right to social security on an equal basis with citizens.

INTERNATIONAL STANDARD

26. States shall ensure the protection of stateless persons from refoulement in accordance with article 31 of the 1954 Convention relating to the Status of Stateless Persons

NATIONAL LEGISLATION

Law of the Kyrgyz Republic “On External Migration” Law of the Kyrgyz Republic “On External Migration” dated 17 July 2000 No. 61, Article 19, part 5

“Foreign citizens may be subject to expulsion if:

- 1) if their actions are contrary to the interests of ensuring national security or protecting public order;
- 2) if it is necessary to protect the health and morals of the population, protect the rights and legitimate interests of citizens of the Kyrgyz Republic and other persons.”

ANALYSIS OF THE NATIONAL LEGISLATION

In accordance with Article 31 – Expulsion – of the 1954 Convention relating to the Status of Stateless Persons: “The Contracting States shall not expel stateless persons legally residing in their territory save on grounds of national security or public order.” The concept of “grounds of national security or public order” does not imply the possibility of applying expulsion for every violation of national legislation. The concept of “grounds of national security or public order” has an international meaning, which is not necessarily the same as in national law.

This provision should be interpreted restrictively in the sense that a stateless person may be expelled only as a last resort and as the only practical means of protecting the legitimate interests of the State. In addition, it must be taken into account that stateless persons, as a rule, do not have the opportunity to move to another country or return to their country of citizenship, as can happen in the case of a foreign citizen.

In view of the very serious consequences of expulsion for a stateless person, it should only be resorted to in exceptional circumstances. Thus, a minor violation of the law should not entail the application of the expulsion of a stateless person. Regarding this issue, national legislation does not fully comply with international standards.

UNHCR RECOMMENDATIONS

Given the special situation of stateless persons, international legal standards recommend resorting to the expulsion of stateless persons only in exceptional circumstances. Expulsion should not be applied if the foreign State to whose territory the stateless person is being expelled has not agreed to accept the said person.

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:
 - i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
 - ii) 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:

- e) That the application is lodged before the applicant reaches an age, being not less than twenty- three years, fixed by the Contracting State;
- f) 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;
- g) 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:

i) 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

ii) 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

1. 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.

2. 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.

3. 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 nonmetropolitan 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