



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



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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<sup>1</sup> have become party to both conventions, 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 all around the world to identify and protect people without a nationality, resolve existing situations of statelessness, and prevent new cases from emerging.

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<sup>1</sup> As of December 2021, 96 States are party to the 1954 Convention relating to the Status of Stateless Persons, and 77 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, the Government of the Kyrgyz Republic has worked hand-in-hand with UNHCR and its civil society partners to address statelessness in the country. The progressive citizenship law adopted in 2007 created several 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 old USSR passports and some 2,000 stateless individuals obtained citizenship of the Kyrgyz Republic by presidential decree.

Embracing the 2014 #IBelong campaign, the Kyrgyz Republic has identified and assisted more than 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 de-jure stateless persons in the Kyrgyz Republic has again grown from 10 at end 2019 to close to 600 at end 2021.

With just over two years left to successfully achieve all #IBelong goals by the end of the campaign in 2024, UNHCR remains committed to support the Kyrgyz Republic in implementing all these four pledges and to join a growing number of states in becoming party to the two Statelessness Conventions.

To allow Kyrgyzstan to receive due recognition for its commitment to the global fight against statelessness, UNHCR commissioned this analysis of the compliance of its current national legislation with international citizenship and statelessness standards. The recommendations of this publication aim to assist the Kyrgyz Republic in aligning its legislation and practices to well-proven international standards, before or after the country's accession 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 Government, Parliament, and authorities of the Kyrgyz Republic in their implementation, accelerating achievement of the global #IBelong Campaign and Sustainable Development Goals under Agenda 2030: Leaving No One Behind.

**Hans Friedrich Schodder**

Representative of the United Nations  
High Commissioner for Refugees

April 2022





# 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”, Article 12, paragraphs 2-3**

“If the parents have different citizenship, if one of the parents is a citizen of the Kyrgyz Republic, the citizenship of the child, regardless of place of birth, is determined with the written consent of the parents.”

“A child, of whom one parent was a citizen of the Kyrgyz Republic and the other was a stateless person or had unknown citizenship, is a citizen of the Kyrgyz Republic, regardless of the child’s place of birth.”

### ANALYSIS OF THE NATIONAL LEGISLATION

The Law states that the citizenship of one of the parents is a prerequisite for the recognition of a child born on the territory of the Kyrgyz Republic as a citizen. Meanwhile, if the parents have different citizenships, the child’s citizenship must be resolved with the written consent of the parents. Implementation of these regulations is rather complicated and carries risks that the child will become a stateless person – on the one hand, if there is a disagreement between the parents, the child remains stateless until the issue is clarified (if the disagreement develops into legal proceedings, the period of the child’s status without citizenship will be prolonged accordingly), and on the other hand, if the parents come to an

agreement that the child's citizenship should be determined by the citizenship of the foreign parent but the legislation of the foreign parent's country of citizenship does not recognize the child as a citizen, the child / person remains a stateless person. Therefore, the national legislation is not in line with the international standards.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to improve the extant legislation and consider introducing a regulation under which a person born in the territory of the country will be considered a citizen if otherwise that person would become/remain a stateless person.

#### INTERNATIONAL STANDARD

**2. States ensure that no children are born stateless in their territory**  
(UNHCR Global Action Plan to End Statelessness 2014-24 Action 2)

#### NATIONAL LEGISLATION

**Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, Article 12, Paragraph 4**

“4. A child born in the territory of the Kyrgyz Republic, the parents of whom are stateless persons permanently resident in the Kyrgyz Republic, is a citizen of the Kyrgyz Republic”

#### ANALYSIS OF THE NATIONAL LEGISLATION

Under the Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, citizenship is recognized for children born in the territory of the country whose parents are stateless persons permanently resident in the territory of the Kyrgyz Republic. This is the only specific case regulated by law that determines the citizenship of children of stateless persons. Thus, the citizenship of a child born in the territory of the Kyrgyz Republic, whose parents are stateless persons temporarily staying in the territory of the country, is not regulated by the law.

It is possible that the questions that were not covered in the regulation were resolved in practice (a way out was found) in analogy with the law or in another way, but it is clear that the primary / specific law regulating this area does not

regulate these issues. Thus, with regard to these issues, national legislation cannot be regarded to be fully in compliance with the international standards.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to improve the extant legislation and consider introducing a norm under which the State automatically grants citizenship to children born on its territory who cannot acquire the citizenship of another country. It is advisable not to establish additional conditions for the implementation of this principle, for example, such as the requirement for permanent residence or temporary stay.

#### INTERNATIONAL STANDARD

### **3. States grant their citizenship to a foundling found in its territory**

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

#### NATIONAL LEGISLATION

### **Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, Article 12, paragraph 5**

“A child in the territory of the Kyrgyz Republic, both of whose parents are unknown, is a citizen of the Kyrgyz Republic.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets the international standard: under the extant legislation the State unconditionally recognizes the citizenship of all children living in the territory of the country whose parents are unknown.

In addition, 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. States grant their citizenship to a child not born in its territory who would otherwise be stateless if the citizenship of one of his or her parents was that of the state**

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

#### NATIONAL LEGISLATION

### **Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, Article 12, Paragraph 1**

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

2. In cases in which the parents have different citizenship, if one of the parents is a citizen of the Kyrgyz Republic, the citizenship of the child, regardless of the place of birth, is determined with the written consent of the parents.

3. A child, at the moment of whose birth one of the parents was a citizen of the Kyrgyz Republic, and the other was a stateless person or was unknown, is a citizen of the Kyrgyz Republic irrespective of the child’s place of 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. Meanwhile, if the parents have different citizenship, the child’s citizenship must be resolved with the written consent of the parents. Implementation of these regulations is rather complicated and carries the risk that the child will become a stateless person – on the one hand, if there is a disagreement between the parents, the child remains stateless until the issue is clarified (if the disagreement develops into legal proceedings, the period of the child’s status without citizenship will be delayed). On the other hand, if the parents come to an agreement that the child’s citizenship is determined by the citizenship of the foreign parent but the legislation of the foreign parent’s country of citizenship does not recognize the child as a citizen, the child / person remains a stateless person. Therefore, the national legislation is not in line with the international standards.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to improve the extant legislation and consider introducing a regulation under which a person born to citizens of the Kyrgyz Republic outside the country (whether both parents are citizens or one is a citizen) who cannot acquire the citizenship of another country is granted citizenship. It is advised not to establish additional conditions for the implementation of this principle.

# EXCLUSION OF GENDER-DISCRIMINATORY NORMS FROM CITIZENSHIP LEGISLATION

## INTERNATIONAL STANDARD

**5. States treat women and men equally with regard to conferral of citizenship to their children and with regard to acquiring, changing and preserving citizenship.**

(UNHCR Global Action Plan to End Statelessness 2014-24 Action 3)

## NATIONAL LEGISLATION

The national legislation of the Kyrgyz Republic treats women and men equally with regard to 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 regulating citizenship does not contain gender discriminatory norms.

## UNHCR RECOMMENDATIONS

No recommendations.

# PREVENT DEPRIVATION OF CITIZENSHIP ON DISCRIMINATORY GROUNDS

## INTERNATIONAL STANDARD

**6. States may not deprive any person or group of persons of their citizenship on discriminatory grounds.**

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

## NATIONAL LEGISLATION

**Constitution of the Kyrgyz Republic, Article 51, Paragraph 2**

“No citizen of the Kyrgyz Republic can be deprived of his or her citizenship and has the right to change his or her citizenship.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

The national legislation meets the international standard: the legislation of the Kyrgyz Republic does not permit the revocation of citizenship on discriminatory grounds – racial, ethnic, religious or political.

#### UNHCR RECOMMENDATIONS

No recommendations.

## PREVENTION OF STATELESSNESS IN CASES OF STATE SUCCESSION

#### INTERNATIONAL STANDARD

**7. National legislation prevents statelessness as a result of state succession**  
(1961 Convention on the Reduction of Statelessness, Article 10)

#### NATIONAL LEGISLATION

The legislation of the Kyrgyz Republic does not include regulations on the prevention of statelessness in the event of future situations of state succession.

#### ANALYSIS OF THE NATIONAL LEGISLATION

Under Article 10 of the 1961 Convention on the Reduction of Statelessness, “Every treaty between Contracting States providing for the transfer of territory shall include provisions designed to ensure 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.

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.”

In order to bring national legislation into compliance with this standard, it is not at all necessary that the State has a developed template international agreement on the transfer or acquisition of territory in advance, or provides in advance a legislative norm defining the specific procedure for acquiring citizenship in the

event of the legal acceptance of states. However, it is advisable that the legislation provides for the provision of preventive retention, as a preliminary statement by the State that it (the State) guarantees that no person will become stateless as a result of the transfer or acquisition

#### UNHCR RECOMMENDATIONS

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

## GRANTING PROTECTION STATUS TO STATELESS PERSONS AND FACILITATING THEIR NATURALIZATION

#### INTERNATIONAL STANDARD

**8. National legislation contains a definition of stateless persons 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”, Article 3  
Law of the Kyrgyz Republic “On External Migration”, Article 1**

“A stateless person is a person who is not a citizen of the Kyrgyz Republic and does not have proof of citizenship of another State.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

According to the 1954 Convention relating to the Status of Stateless Persons, the term “stateless” means a person who is not considered to be a citizen by any state under its law. The definition of this term implies that a state, in order to determine the status, should rely on the legislation on citizenship of those countries with which the person has / had a connection through residence, origin, etc. The legislation of the Kyrgyz Republic considers persons to be stateless if they are not citizens of the Kyrgyz Republic and do not have evidence of citizenship of another state. This norm differs significantly from the definition of a stateless person and the goals specified in the Convention, as to establish a stateless person the norm

only uses documents confirming the citizenship of a person. Lack of proof of citizenship of a particular state does not imply that a person is without question a stateless person. Therefore, the definition of a stateless person does not correspond to the definition given in the 1954 Convention relating to the Status of Stateless Persons. The incorrect definition of a stateless person can contribute to an increase in cases of statelessness in the country.

#### UNHCR RECOMMENDATIONS

It is recommended to bring the definition of a stateless person into line with Article 1, paragraph 1, of the 1954 Convention relating to the Status of Stateless Persons.

#### INTERNATIONAL STANDARD

**9. States define stateless migrants through determination procedures that lead to a legal status that permits residence, guarantees enjoyment of fundamental human rights and facilitates naturalization**

(UNHCR Global Action Plan to End Statelessness 2014-24 Action 6)

#### NATIONAL LEGISLATION

The Kyrgyz Republic has not established a special procedure to determine the status of stateless persons in legislation.

#### 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. This status in turn should provide stateless migrants with the right to lawful residence and enjoy basic human rights. On this issue, the legislation of the Kyrgyz Republic does not comply with the international standard: a special procedure for determining the status of a stateless person has not been established by legislation.

#### UNHCR RECOMMENDATIONS

In order to bring national legislation into line with international standards, it is recommended to develop procedures for determining the status of a stateless person, under which stateless persons would be able to obtain legal residence permits and have the opportunity to enjoy basic human rights.



## **10. National legislation provides for the provision of lawful residence to stateless persons**

(UNHCR Global Action Plan to End Statelessness 2014-24 Action 6)

### NATIONAL LEGISLATION

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

“Foreign citizens or stateless persons living in the Kyrgyz Republic for a period longer than six months can receive temporary residence permits in accordance with this Law.

Foreign citizens or stateless persons living in the Kyrgyz Republic for a period longer than five years and who, in accordance with this Law, have the status of immigrant receive permanent resident permits in accordance with this 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”, Paragraphs 6, 7 and 12**

“6. Permanent residence is granted to:

- persons who have received, in the manner prescribed by this Regulation, a permit 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 resident 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 resident 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 of 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 of 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 resident 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 on the territory of the Kyrgyz Republic for more than 5 years can acquire permanent residence permits in the Kyrgyz Republic. Stateless persons living in the country for less than 5 years can apply for a temporary residence permit only: to work in the territory of the Kyrgyz Republic, or to study at an educational institution at the request of an educational institution and the Ministry of Education and Science of the Kyrgyz Republic, or to invest the territory of the Kyrgyz Republic.

The law also connects obtaining a permanent residence permit with permanent residence / possession of a permit and termination of citizenship of the Kyrgyz Republic, but it is not clear on what basis a person who does not meet any of the above conditions resides in the country, for example, due to lack of documents confirming permanent residence. or lack of documentary evidence confirming termination of citizenship or other relevant circumstance.

At the same time, the extensive list of documents that must be submitted for the issuance of a residence permit poses a significant obstacle to the acquisition of a residence permit by stateless persons. Thus, on this issue, the legislation cannot be considered in accordance with the international standards.

#### UNHCR RECOMMENDATIONS

In order to bring national legislation into line with international standards, it is recommended to: define in legislation the possibility to grant a legal residence permit to all stateless persons residing in the territory of the country; it is desirable that additional conditions / requirements are not established for these purposes;

An exception can be made for those persons whose status is determined by another country: they can be subject to the same legal regime that applies to foreign citizens.

## ENSURING BIRTH REGISTRATION TO PREVENT STATELESSNESS

#### INTERNATIONAL STANDARD

**11. Children born to stateless persons, undocumented migrants and persons with indeterminate citizenship are registered at birth and receive birth certificates**

#### NATIONAL LEGISLATION

**Law of the Kyrgyz Republic “On Acts of Civil Status”, of 1 August 2020 No 110, Article 7, Civil registration**

“2. To draw up a civil registration record, one of the following documents proving the identity of the applicant must be submitted:

- 1) On state registration of birth, establishment of birth, marriage, divorce, change of surname, first name, patronymic, and death:
  - a) current passport of a citizen of the Kyrgyz Republic (ID-card), and for outside the Kyrgyz Republic: the passport of a citizen of the Kyrgyz Republic (ID-card) or an internal passport;
  - b) officer's ID;
  - c) residence permit for stateless person;
  - d) passport of foreign citizen;
  - e) 'Kayrylman' certificate for state registration of the birth of a child."

**Law of the Kyrgyz Republic "On Acts of Civil Status", of 1 August 2020 No 110, Article 13, Authorizing documents for registration of birth**

"1. The authorizing documents for state registration of birth are:

- 1) a birth certificate provided by the health care facility where the birth took place, or a birth certificate provided by a doctor or another health care professional with the authority of the mandated health authority in the case of childbirth outside a health care facility;
- 2) documents certifying the identity of the parents, marriage certificate (documents confirming the identity of the mother, if she is not married);
- 3) documents (medical birth certificate, extracts from the register, birth certificate and others) issued by the competent authorities of foreign states, confirming the birth of children born in a foreign state, whose parents (or one of whose parents) are citizens of the Kyrgyz Republic.
- 4) standard statement.

2. In the absence of a birth certificate, the child's birth receives state registration of on the basis of a court decision that has entered into legal force to establish the fact of the birth of the child to the given woman.

[...] 4. An application for the birth of a child must be submitted no later than one month from the date of birth of the child.

5. If the parents (parent) do not have documents proving their identity, state registration of the fact of the birth of a child is carried out by drawing up a record of the birth certificate with the issuance of an extract from the register of births. This extract is a document that ensures the right to receive social and medical services until the parents (parent) provide documents proving their identity. A child's birth certificate is issued on presentation by the parents (parent) of documents proving their identity. State registration of the fact of the birth of a child is carried out for children under one year of age.

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

7. State registration of the birth of a child born in the territory of the Kyrgyz Republic, whose parents are foreign citizens or stateless persons residing in the territory of the Kyrgyz Republic, is carried out in accordance with part 1 of this Article.

#### **ANALYSIS OF THE NATIONAL LEGISLATION**

The Law of the Kyrgyz Republic "On Acts of Civil Status" sets out the procedure for birth registration and the list of documents necessary for this, both for the registration of children born in maternity houses and outside them, and also for the registration of the birth of children of citizens of the Kyrgyz Republic born abroad. A separate paragraph regulates the registration of births in the country of children whose parents are foreign citizens or stateless persons living in the territory of the Kyrgyz Republic – the Law provides for the registration of the birth of a child of a stateless person residing in the country but does not specify whether this person must be permanently resident in the country or can be temporarily

residing. The Law defines the conditions under which the birth of a child born to undocumented persons is registered with the issuance of an extract, a document on the basis of which the child will be able to receive medical and social services. A birth certificate is issued only after the parents receive identity documents and is valid for children under one year of age. This norm only regulates registration of the fact of birth; it is carried out without the issuance of a birth certificate, and it is also limited in time “only for children under one year of age”. According to these norms, a child’s birth certificate is issued on presentation by the parents (parent) of documents proving their identity.

#### UNHCR RECOMMENDATIONS

In order to bring national legislation into accordance with international standards, it is recommended to cover under the Law of the Kyrgyz Republic “On Acts of Civil Status” the possibility of issuing a birth certificate to children of undocumented parents without time limitations and in the absence of an identity card. In addition, it is proposed to establish a norm under which registration of births outside medical institutions is possible at the request of a person present at the birth, local authorities, and bodies in the field of ensuring the rights and interests of children

## ACCESSION TO THE UNITED NATIONS CONVENTIONS ON STATELESSNESS

#### INTERNATIONAL STANDARD

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

#### NATIONAL LEGISLATION

The Kyrgyz Republic has not acceded to the 1954 Convention on the Status of Stateless Persons.

#### ANALYSIS OF THE NATIONAL LEGISLATION

Accession to the 1954 Convention on the Status of Stateless Persons is an important step towards bringing national legislation into line with international standards: the Convention is an important tool that will contribute to correct and proper implementation of legal changes in the country in the field of citizenship and

statelessness, and the development of this field in compliance with international standards.

#### UNHCR RECOMMENDATIONS

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

#### INTERNATIONAL STANDARD

### **13. States are party 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 would bring national legislation closer into line with international standards. The Convention is an important tool that will contribute to correct and proper implementation of legal changes in the country in the field of citizenship and statelessness, and the development of this field in compliance with international standards.

#### UNHCR RECOMMENDATIONS

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

## **IMPROVING QUANTITATIVE AND QUALITATIVE DATA ON STATELESS PERSONS**

#### INTERNATIONAL STANDARD

### **14. National legislation ensures that quantitative statistics about persons without citizenship are publicly accessible**

(UNHCR Global Action Plan to End Statelessness 2014-24 Action 10)

#### NATIONAL LEGISLATION

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

#### ANALYSIS OF THE NATIONAL LEGISLATION

This does not meet international standards.

#### UNHCR RECOMMENDATIONS

In order to bring national legislation into line with international standards, it is recommended to improve the current legislation and provide in it, on the one hand, for the collection and processing of data on stateless persons in a form and volume that enables assessment / analysis of the existing statelessness situation; and on the other hand, it is important that the statistics of stateless persons are open and accessible to stakeholders, with the information being complete, understandable and easily seen by stakeholders - in this regard, it is encouraged to use it on a tool for disclosure of information, and a web portal.

## LEGAL GUARANTEES IN PLACE

#### INTERNATIONAL STANDARD

**15. States prevent statelessness as a result of deprivation of citizenship if a citizen already has or is acquiring another citizenship**

(1961 Convention on the Reduction of Statelessness, Article 7.1)

#### NATIONAL LEGISLATION

The legislation does not establish mechanisms to prevent statelessness as a result of deprivation of citizenship of the Kyrgyz Republic.

#### ANALYSIS OF THE NATIONAL LEGISLATION

National legislation is not in accordance with international standards. As a rule, a person relinquishes citizenship to obtain citizenship of another state, and if the person is refused this citizenship, that person becomes stateless. The lack of a mechanism to prevent statelessness at the point of relinquishing citizenship could be a reason for growth in the number of stateless persons.

#### UNHCR RECOMMENDATIONS

In order to bring national legislation into line with international standards, it is recommended to improve the extant legislation and consider within it mechanisms to prevent statelessness when relinquishing citizenship of the Kyrgyz Republic,



with a condition that a person could only relinquish citizenship if the person has acquired or is in the process or acquiring citizenship of another country.

#### INTERNATIONAL STANDARD

### **16. 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 termination 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 7 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

### **17. States prevent 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”, Article 26**

“Citizenship of the Kyrgyz Republic is lost:

- 1) due to the admission of a person to the military or intelligence service of a foreign state; undergoing training outside the Kyrgyz Republic aimed at acquiring skills and abilities to commit a terrorist or extremist crime; or participation in armed conflicts or hostilities on the territory of a foreign state, except when performing official duties to maintain international peace and security;

- 2) if citizenship of the Kyrgyz Republic was acquired as a result of knowingly submitting false information or forged documents.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

National law provides for more grounds for loss of nationality than is allowed by Article 8 of the 1961 Convention on the Reduction of Statelessness. The 1961 Convention does not provide for the deprivation (loss) of citizenship for the commission of terrorist crimes (training aimed at acquiring the skills and abilities to commit a terrorist or extremist crime).

#### UNHCR RECOMMENDATIONS

It is proposed that detailed procedures governing loss of citizenship and that further steps be developed for such persons, in accordance with the principles of non-discrimination, proportionality, fair trial and the right to an effective remedy in the event of wrongful acts of loss or deprivation of nationality.

When amending and adopting national legislation on loss and/or deprivation of nationality, it is recommended that international human rights standards be applied on loss and deprivation of nationality in the context of countering terrorism.

#### INTERNATIONAL STANDARD

### **18. The State prevents discrimination between men and women with relation to obtaining, changing or retaining citizenship in cases of marriage or dissolution of marriage**

(UNHCR Global Action Plan to End Statelessness 2014-24 Action 3)

#### NATIONAL LEGISLATION

### **Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, Article 8**

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

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

#### ANALYSIS OF THE NATIONAL LEGISLATION

The legislation does not establish special norms on the prohibition of discrimination. However, it does not provide for norms that could serve as preconditions for discrimination. The norm is in accordance with the international standards.

#### UNHCR RECOMMENDATIONS

No recommendations.

#### INTERNATIONAL STANDARD

### **19. States prevents 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”, Article 8**

“A change in citizenship by one of the spouses does not entail a change in the citizenship of the other spouse.”

### **Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic”, Article 21**

“Changing the citizenship of children between the ages of 14 and 18 in the event of a change in the citizenship of their parents, as well as during adoption is only allowed with the notarized consent of the children.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

The legislation does not provide for an automatic change in the citizenship of a spouse or child in the event of a loss of citizenship. The law does not regulate the citizenship of a child in the event that the parent loses citizenship of the Kyrgyz Republic.

#### UNHCR RECOMMENDATIONS

No recommendations.

## INTERNATIONAL STANDARD

**20. States reduce statelessness by expediting naturalization procedures for stateless persons (expediting: reducing fees, not requiring applicants to submit documents that they cannot reasonably obtain, not requiring proof of health or mental / physical health, not requiring language tests, not discriminating based on race, ethnicity, religion, political opinion or gender)**

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

## NATIONAL LEGISLATION

### **Law of the Kyrgyz Republic “On Citizenship of the Kyrgyz Republic” Article 14**

“1. Foreign citizens and stateless persons who have reached 18 years of age have the right to apply for citizenship of the Kyrgyz Republic in a simplified manner. The required period of their residence in the territory of the Kyrgyz Republic, as established by paragraph 1 of 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 that have entered into force in the manner prescribed by law, if they:

- have at least one parent with citizenship of the Kyrgyz Republic and living in the territory of the Kyrgyz Republic;
- were born in the Kirgiz SSR and had citizenship of the former USSR;
- are restored to citizenship of the Kyrgyz Republic.

2. Persons who are ethnic Kyrgyz, with citizenship of a foreign state or who are stateless, former citizens of the Kyrgyz Republic returning for permanent residence in the Kyrgyz Republic, as well as female foreign citizens and stateless persons who have married a citizen of the Kyrgyz Republic and arrived at a permanent place of residence in the Kyrgyz Republic, are accepted into citizenship of the Kyrgyz Republic without requiring the period of residence in the territory of the Kyrgyz Republic and without observing the conditions provided for in Article 13 and Part 1 of this Article, within the time frame established by law. Their admission to citizenship of the Kyrgyz Republic is carried out without prior renunciation of the citizenship of another state on the basis of their written application for admission to citizenship of the Kyrgyz Republic, with an indication of renunciation of the citizenship of the other state.

3. Citizenship of the Kyrgyz Republic is granted in a simplified manner without observing the conditions provided for in part 1 of article 13 of this Law to:

- 1) a child, one of whose parents has citizenship of the Kyrgyz Republic – on the basis of an application from this parent for the child to acquire citizenship of the Kyrgyz Republic. This agreement is not required if the child lives on the territory of the Kyrgyz Republic;
- 2) a child whose only parent has citizenship of the Kyrgyz Republic - on the basis of an application from this parent;
- 3) a child or an incapacitated person over whom guardianship or trusteeship is established – at the request of a guardian or trustee who has citizenship of the Kyrgyz Republic.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

The law does not provide for any relaxation / simplification of naturalization for stateless persons, and so granting of citizenship to them is carried out using the standard conditions, which they are often unable to meet. For example, the law only provides for the possibility of shortening the period of residence established for admission to the citizenship of the Kyrgyz Republic or the abolition of this requirement on a general basis, and not related to having the status of a stateless person; this norm is not in accordance with the international standards.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to simplify the conditions for naturalization of stateless persons, establish for them a different, more simple procedure, by requiring a smaller number of documents to be submitted, the abolition of fees and state duties, reduction in the general requirements established by law for naturalization, and provision of a different legal regime to stateless persons in order to facilitate their naturalization and reduce the number of stateless persons.

# RIGHTS ATTRIBUTED TO STATELESS PERSONS

## INTERNATIONAL STANDARD

**21. States issue identity documents in accordance with Article 27 of the 1954 Convention relating to the Status of Stateless Persons and the provisions 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 to Foreign Citizens and Stateless Persons in the Territory of the Kyrgyz Republic”, Clauses 1, 6, 7 and 12**

“1. A residence permit of the Kyrgyz Republic is a document entitling foreign citizens or stateless persons to temporary or permanent residence in the Kyrgyz Republic.

A residence permit is an identity card of a foreign citizen or stateless person during that person’s 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 permit 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 citizenship of the Kyrgyz Republic, or whose citizenship of the Kyrgyz Republic has been terminated in accordance with law;
- foreign citizens or stateless persons permanently residing in the territory of the Kyrgyz Republic on reaching the age of 18;

7. An application for a residence permit is submitted in person by a foreign citizen or a 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.

12. A permanent residence permit is issued to foreign citizens or stateless persons:
- to work on the territory of the Kyrgyz Republic;
  - to study at 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

The legislation of the Kyrgyz Republic does not provide for the issuance of a special document intended only for a stateless person.

The legislation establishes the possibility of issuing residence permits linked to living for more than 5 years in the territory of the country (for permanent residence), or subject to the conditions established for the issuance of a temporary residence permit. These conditions are common to both stateless persons and citizens of other countries. Just having the status of a stateless person is not enough to obtain a residence permit. A person is obliged to meet the conditions established for the issuance of a temporary residence permit (which, as a rule, is unlikely), or to satisfy the requirements for the issuance of a permanent residence permit (including residence for 5 years), which is also difficult. As a result, a circle of stateless persons remains who will not be able to meet these requirements and obtain a residence permit. The legislation is not in accordance with the international standards.

#### UNHCR RECOMMENDATIONS

In order to document and record the population, the legislation should also establish the right to obtain an identity card for persons who do not reside permanently in the country or do not have proof of permanent residence. To ensure the exercising of such a right, the legislation should also provide for a mechanism to identify such persons. An effective and proven mechanism for identifying such persons for subsequent documentation, this procedure establishes the status of a stateless person.

#### INTERNATIONAL STANDARD

**22. States ensure the right of stateless persons to apply to court in accordance with Article 16 of the 1954 Convention relating to the Status of Stateless Persons**

#### NATIONAL LEGISLATION

### **Civil Procedural Code of the Kyrgyz Republic, Article 380**

“1. Foreign citizens and stateless persons, foreign and international organizations (henceforward foreign persons) have the right to apply to the courts of the Kyrgyz Republic to protect their violated or disputed rights, freedoms and interests protected by law.

2. Foreign persons shall enjoy civil procedural rights and perform procedural duties on an equal basis with citizens and legal entities of the Kyrgyz Republic.“

#### ANALYSIS OF THE NATIONAL LEGISLATION

On this issue, the national legislation fully meets the international standards. The legislation concretely sets out the right of stateless persons in the Kyrgyz Republic to apply to courts to protect their rights, and also their equality in procedural rights and responsibilities with citizens of the Kyrgyz Republic.

#### UNHCR RECOMMENDATIONS

No recommendations.

#### INTERNATIONAL STANDARD

**23. 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

### **Labour Code of the Kyrgyz Republic, Article 7**

“This Code, laws and other normative legal acts containing labour law norms apply to foreign citizens and stateless persons working in organizations located in the territory of the Kyrgyz Republic, unless otherwise provided by the law of the Kyrgyz Republic or an international treaty.”

**Law of the Kyrgyz Republic “On the Legal Situation of Foreign Citizens in the Kyrgyz Republic”, Article 7**

“Foreign citizens permanently residing in the Kyrgyz Republic can 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.”

### **Law of the Kyrgyz Republic “On External Labour Migration”, Article 6**

“The conducting by employers of activities related to recruiting and using foreign labour in the Kyrgyz Republic is mandated by permits for the recruitment and use of foreign labour, issued by the authorized state body in the field of migration in the manner determined by the Government of the Kyrgyz Republic. A foreign citizen or stateless person temporarily staying for the purpose of carrying out labour activities in the territory of the Kyrgyz Republic is issued a work permit by an authorized state body in the field of migration in the manner determined by the Government of the Kyrgyz Republic, provided that the employer submits funds required to ensure the departure of a foreign worker by an appropriate mode of transport from the Kyrgyz Republic (as a deposit) to the specially opened account of the authorized state body in the field of migration.”

#### **ANALYSIS OF THE NATIONAL LEGISLATION**

On this issue, the national legislation is in line with the international standards. The Law of the Kyrgyz Republic “On the Legal Status of Foreign Citizens in the Kyrgyz Republic” notes that stateless persons permanently residing in the Kyrgyz Republic enjoy the same rights as citizens of the Kyrgyz Republic. According to the Labour Code, all stateless persons can work, regardless of how long they have lived in the country. The Law of the Kyrgyz Republic “On External Labour Migration” requires a work permit for foreigners and stateless persons. With this formulation, the legislation places stateless persons temporarily residing in the Kyrgyz Republic in a common regime with foreigners, which is in accordance with the principles of the Convention.

#### **UNHCR RECOMMENDATIONS**

No recommendations.

#### **INTERNATIONAL STANDARD**

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

#### NATIONAL LEGISLATION

### **Law of the Kyrgyz Republic “On Education”, Article 3**

“Citizens of other states and stateless persons in the territory of the Kyrgyz Republic receive education in accordance with the legislation of the Kyrgyz Republic.”

### **Law of the Kyrgyz Republic “On Education”, Article 5.3**

“Citizens of other states and stateless persons in the territory of the Kyrgyz Republic receive preschool education under the procedure established for citizens of the Kyrgyz Republic, unless otherwise established in the legislation of the Kyrgyz Republic.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

On this issue, the national legislation is fully aligned with the international standards. On issues of primary education the 1954 Convention relating to the Status of Stateless Persons equalizes the rights of stateless persons to that of citizens of the country; according to the law, stateless persons have the same rights to primary education as foreigners, which fully complies with the requirement 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 regulation, it can be concluded that the legislation on education complies with the 1954 Convention on the Status of Stateless Persons.

#### UNHCR RECOMMENDATIONS

No recommendations.

#### INTERNATIONAL STANDARD

**25. States 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 1954 Convention relating to the Status of Stateless Persons**

#### NATIONAL LEGISLATION

**Law of the Kyrgyz Republic “On Protection of the Health of Citizens”, Article 63**

“Foreign citizens residing on the territory of the Kyrgyz Republic, stateless persons permanently residing in the Kyrgyz Republic and refugees are guaranteed the right to health care in accordance with the legislation of the Kyrgyz Republic and international agreements of the Kyrgyz Republic.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

On this issue, the national legislation is not aligned with the international standards. The 1954 Convention relating to the Status of Stateless Persons obliges the state to establish the same regime for stateless persons in the field of health protection as is established for the citizens of the country. The Law of the Kyrgyz Republic “On the Protection of the Health of Citizens” only gives the right to health care to stateless persons permanently residing in the Kyrgyz Republic. This issue of protecting the health of stateless persons temporarily residing in the country remains unregulated.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to ensure at legislative level the right to health care for all stateless persons, including those whose status has not been established in states party to the 1954 Convention relating to the Status of Stateless Persons.

#### INTERNATIONAL STANDARD

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

#### NATIONAL LEGISLATION

**Law of the Kyrgyz Republic “On the legal status of foreign citizens in the Kyrgyz Republic”, Article 10zh**

“Foreign citizens permanently residing in the Kyrgyz Republic have the right to receive benefits, pensions and other forms of social provision on the same grounds as citizens of the Kyrgyz Republic. Temporarily resident foreign citizens have the right to receive benefits, pensions and other forms of social provision on the basis of the procedure established in the legislation of the Kyrgyz Republic. In cases where a certain length of service is required for the awarding of pensions,

foreign citizens, on the basis and in the manner established by law, may count the length of service abroad.”

### **Law of the Kyrgyz Republic “On state benefits”, Article 1**

“The right to pensions under state pension social insurance (hereinafter referred to as pensions) in accordance with this Law is vested in insured citizens of the Kyrgyz Republic, foreign citizens and stateless persons residing in the republic, making contributions to state pension social insurance on the basis and conditions stipulated by the Law Of the Kyrgyz Republic “On State Social Insurance”, Article 1, paragraph 1. “This Law applies to:

“This Law applies to:

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

#### **ANALYSIS OF THE NATIONAL LEGISLATION**

On this issue, the national legislation is not aligned with the 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 the right to social security, stateless persons temporarily residing in the country are equated to foreigners; this contradicts the principle of the 1954 Convention relating to the Status of Stateless Persons, as it restricts the rights of stateless persons who do not reside in the country on a permanent basis. In addition, according to the Law “On State Benefits in the Kyrgyz Republic”, the right to state benefits does not apply to stateless persons. 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 living in the republic who make contributions to the state pension social insurance.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, it is recommended to foresee in legislation provision of the right to state benefits for all stateless persons living in the country, including those whose status is not established in states party to the 1954 Convention relating to the Status of Stateless Persons.

#### INTERNATIONAL STANDARD

**27. States protect stateless persons from expulsion 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”, Article 19**

“A foreign citizen and stateless person whose visa or residence permit has expired, or whose residence permit has been cancelled, are ordered by the authorized state body for the implementation of foreign policy, internal affairs bodies or national security bodies to leave the Kyrgyz Republic. A foreign citizen or a stateless person is obliged to leave the territory of the Kyrgyz Republic within the period specified in the order to leave. In case of failure to comply with this order, the foreign citizen or a stateless person is subject to administrative expulsion from the Kyrgyz Republic.

A foreign citizen or a stateless person can be administratively expelled if:

- 1) that person’s actions are contrary to the interests of ensuring state security or protecting public order;
- 2) it is necessary to protect the health and morals of the population, to protect the rights and legitimate interests of citizens of the Kyrgyz Republic and other persons;

- 3) the person has repeatedly violated the legislation of the Kyrgyz Republic and there are no grounds for bringing that person to criminal liability.

Materials for administrative expulsion are drawn up by the authorized state body for the implementation of foreign policy, the internal affairs bodies or the national security bodies.

A foreign citizen or stateless person is subject to forced expulsion from the Kyrgyz Republic without a court decision in the following cases:

- 1) carrying out labour or individual entrepreneurial activity without appropriate permits;
- 2) staying in the territory of the Kyrgyz Republic for more than one year without a visa, registration or residence permit;
- 3) refusal to voluntarily leave the territory of the Kyrgyz Republic, despite expiration of the term, cancellation or reduction of the validity of visas or residence permits.”

#### ANALYSIS OF THE NATIONAL LEGISLATION

Regarding this issue, national legislation contradicts the principles of international law. The legislation of the Kyrgyz Republic not only allows the possibility of expulsion on the ground of ensuring state security, but also establishes a wide list of grounds for expulsion of a stateless person. The grounds for forced expulsion without trial established by Article 19, Paragraph 9, sub-para 1 and 2 of the Law on External Migration should also be noted: this measure is disproportionate to the actions set out in the said norm.

#### UNHCR RECOMMENDATIONS

In order to bring the national legislation into line with international standards, in accordance with Article 31 of the 1954 Convention relating to the Status of Stateless Persons, it is recommended that legislation should only allow the expulsion of a stateless person from the country in an exceptional case in which the residence of the stateless person in the country is contrary to the interests of state security or public order of the state.

# 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