





TOGETHER WE CAN

THE COVID-19 IMPACT ON STATELESS PEOPLE & A ROADMAP FOR CHANGE

INTRODUCTION

The COVID-19 pandemic and state responses to it have had a significant negative impact on the lives, wellbeing, and rights of the approximately 15 million stateless people around the world who have been denied a nationality, as well as tens of millions whose nationality is at risk. Globally, the devastating impacts of exclusion and denial of fundamental rights, including healthcare, during the pandemic relate to much deeper structural problems - the historic and systemic exclusion. deprivation and marginalisation of communities that have been made stateless as part of wider discriminatory political acts, or pursuant to dominant, discriminatory ideologies. COVID-19 has shone a light on these challenges and also presents a unique opportunity to raise visibility, address the structural causes of statelessness, and secure lasting change, through working directly with stateless people and being accountable to them. The same is true for Montenegro, where the pandemic has further brought to light the acute human rights deprivations endured by the Roma community and other minorities including ethnic Egyptians.



This publication is an extract of the global report, Together We Can:
The COVID-19 Impact on Stateless People & a Roadmap for Change, 1 published in June 2021 by the COVID-19 Emergency Statelessness Fund (CESF) Consortium, 2

a global consortium of NGOs and citizenship rights activists, initiated by the Institute on Statelessness and Inclusion (ISI) in June 2020 to respond to the impact of COVID-19 on stateless populations. It focuses on the situation in **Montenegro**, by presenting the Montenegro chapter of the global report, along with the **key thematic findings** and a practical 3-step **Roadmap for Change**, which

provides a framework for resolving and addressing the structural discrimination and exclusion of stateless people, during times of COVID-19 and beyond.

The Together We Can global report is grounded in the experiences and expertise of Consortium members drawing on a mix of desk research and findings from research-based action advocacy projects being implemented by CESF consortium members in 13 countries. In addition to documenting challenges, the report identifies emerging positive practice and concrete examples from the CESF project countries. It also draws on information from other countries, solicited through an open call for information which ISI shared with partners, regular tracking of news and information on COVID-19 and statelessness by the ISI team, as published in ISI Monthly Bulletins,3 interviews and conversations with relevant partners, and dedicated desk-based research conducted for this report. All desk research reflects public information available at the time of writing. While we have made efforts to verify the ongoing nature of practices identified, this was not always possible, and we welcome any updates or corrections from relevant stakeholders. All information is up to date as of 25 May 2021.

ACRONYMS

CESF – COVID-19 Emergency Statelessness Fund COVID-19 – Corona Virus Disease 2019 ID - Identity Document SDP - Statelessness Determination Procedure INJUSTICE. INEQUALITY, AND EXCLUSION DRIVE AND PERPETUATE THE MARGINALISATION OF **VULNERABLE AND STIGMATISED POPULATIONS. INCLUDING STATELESS COMMUNITIES.** THESE FACTORS HAVE LED TO DEVASTATING **CONSEQUENCES DURING THE COVID-19** PANDEMIC, AS STATELESS PEOPLE, THE **MAJORITY OF WHOM LIVE IN POVERTY, ARE FORCED TO WORK IN UNSAFE ENVIRONMENTS** WITHOUT ACCESS TO HEALTH CARE, TESTING OR VACCINES. ALL OF US IN THE PUBLIC HEALTH **AND HUMAN RIGHTS COMMUNITY HAVE A DUTY TO PROTECT THE RIGHT TO HEALTH CARE** FOR ALL POPULATIONS. IRRESPECTIVE OF THEIR CITIZENSHIP OR IMMIGRATION STATUS. THUS, IT IS CRUCIAL THAT WE UNDERSTAND AND RESPOND TO THE WAYS IN WHICH THE PANDEMIC HAS AGGRAVATED THE ALREADY **GRAVE STATELESSNESS CRISIS. THIS REPORT** AND ROADMAP PROVIDE AN EXCELLENT **GUIDE TO MORE INCLUSIVE APPROACHES TO** ADDRESSING THE CRISIS INCUMBENT ON **MULTIPLE STAKEHOLDERS. AND THEY ARE AN** IMPORTANT STARTING POINT FOR ALL HEALTH AND HUMAN RIGHTS ACTORS DEDICATED TO AN EOUITABLE. INCLUSIVE. AND EFFECTIVE RESPONSE TO THE PANDEMIC.

MICHELLE WILLIAMS
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MONTENEGRO

"Our goal is clear: in times of COVID-19 aid should be distributed to all vulnerable groups, regardless of documentation, and we should reopen the public call to resolve legal status and simplify the entire procedure. These are not simple steps, but either way we have to do it, for the sake of people who over the last few decades have been denied basic human dignity."

Phiren Amenca Executive Director, Elvis Beriša

Statelessness in Montenegro is underreported, and Montenegro has been criticised for its inadequate study of statistical data. The majority of stateless people in Montenegro belong to the Roma community who were disproportionality impacted by the fall of the Yugoslavian republic in the 1990s, the subsequent forced displacement from Kosovo in 1999,⁵ changes in the determination of citizenship and the destruction of civil registers during the Kosovan Conflict.⁶ Other minority groups at risk of statelessness in Montenegro include ethnic Egyptians.

Unresolved documentation is a decades-long problem that the people of the Roma community live with in Montenegro. Many Roma are without legal status as they missed the timeframe within which such applications could be made. Although the Strategy for Social Inclusion of Roma and Egyptians 2016-20207 aimed to register people with unresolved legal status and assist in this process, in reality, lack of realistic and credible data on statelessness, as well inadequate steps to address it, mean that these schemes do not work in practice. As a result, the Roma are discriminated against, marginalised and face the threat of deportation to Kosovo and elsewhere. Lack of access to birth registration is a leading cause of statelessness and risk of statelessness in Montenegro. While the birth registration process has improved in recent years, the procedure to register births is diverse and complex among both the Roma and Egyptian communities. Very often, parents who do not have documentation must travel to Kosovo to register a child as a citizen of Kosovo, following which they can return to Montenegro. The procedure is costly and complicated, with burdensome evidentiary requirements.

In 2018, Montenegro introduced a statelessness determination procedure in a bylaw to the Law on Foreigners.⁸ As of January 2021, only five people had secured stateless status through the procedure.⁹ The consequences of the conditions they are forced to live in have been worsened by the COVID-19 pandemic and institutional blindness has resulted in an increase of their vulnerabilities, as well as a very real threat to health and safety.

RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS

The Roma community faces significant challenges in accessing legal status, which disproportionately affect Roma children. To register a

birth, an authorised person (generally parent or legal guardian) must attend the municipal registry office and provide official proof of the identity and civil status of both parents. 10 This can be an impossible requirement for Roma parents living with unresolved status. Further, often parents who do not have regulated citizenship must travel to Kosovo to register the child there. During the pandemic, the ability to do this was significantly impacted by movement restrictions and the cost of COVID-19 testing prior to travel. Those Roma who do hold IDs are also at risk when their documents expire. It is common for the Ministry of Internal Affairs to put the individual 'on hold' without any further indication of when their documentation will be renewed. This impacts the ability to secure employment, ultimately impacting livelihoods. During COVID-19 there has been no official suspension of birth registration services. However, the services are slow and complicated, making it more difficult for Roma and Egyptian minorities to access

EQUALITY AND NON-DISCRIMINATION

Ever since the pandemic began, public manifestations of antigypsyism have increased, as Roma and Egyptians have been perceived as carriers of the virus. The state reacted to news of one confirmed COVID-19 infection in the settlement of Vrela Ribnička, by strictly locking down the settlement for two weeks, with all movement prohibited.¹¹ Strong public reactions, including online hate speech, exemplified public approval of this discriminatory treatment. The lockdown segregated an already isolated community and disrupted much of the progress made in the last decade in combatting discrimination.

RIGHT TO HEALTH

Discrimination in access to healthcare is common in Montenegro. The stateless and those at risk of statelessness are entitled to free emergency healthcare, but are often required to pay a fee. The stateless can access private healthcare, but the high costs make these services inaccessible to many. The National Immunization Strategy originally stated that stateless people will be the last people to receive the vaccine. In a show of good practice, the new Montenegrin Government changed the policy and placed the Roma in a priority group, adding that they do not have to be insured by the Health Insurance Fund of Montenegro, and also

THIS CHAPTER LOOKS MORE CLOSELY AT RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS; EQUALITY AND NON-DISCRIMINATION; RIGHT TO HEALTH AND SOCIO-ECONOMIC RIGHTS, AND MAKES THE FOLLOWING CALL TO ACTION TO THE GOVERNMENT AND RELEVANT STAKEHOLDERS:

EXTEND STATE RELIEF, INCLUDING FINANCIAL RELIEF, FOOD RELIEF PACKAGES AND HYGIENE ITEMS TO STATELESS AND UNDOCUMENTED PEOPLE WHO ARE NOT REGISTERED AT THE CENTER FOR SOCIAL WORK AND CARE.

PROVIDE EQUAL ACCESS TO FREE HEALTHCARE TO ALL MEMBERS OF THE ROMA AND EGYPTIAN COMMUNITY.

PROVIDE DIGITAL TOOLS FOR ONLINE LEARNING, SUCH AS TABLETS AND FREE WI-FI, TO ALL ROMA AND EGYPTIAN CHILDREN, INCLUDING THOSE WHO ARE UNDOCUMENTED OR STATELESS.

REOPEN THE 2015 PUBLIC CALL FOR APPLICATIONS TO PROVIDE A FACILITATED PATHWAY TO LEGAL STATUS AND NATIONALITY, FOR ALL PEOPLE WITH UNRESOLVED LEGAL STATUS.

SIMPLIFY THE PROCEDURE TO ADDRESS UNRESOLVED LEGAL STATUS AND NATIONALITY, THROUGH REDUCING PAPERWORK, AND IMPROVING DIGITAL COOPERATION BETWEEN NEIGHBOURING COUNTRIES.

that all Montenegrin residents, regardless of citizenship status, can receive the vaccine. The Institute of Public Health has clarified that this includes persons who are in the process of resolving their legal status and those who have no documents at all.¹³

"Given low computer literacy as well as accessing electronic services, the implementation of immunisations in the Roma population is being carried out without prior appointment at all vaccination points. Work is being done to open vaccination centers to improve both health education and the healthcare of the Roma population."

SOCIO-ECONOMIC RIGHTS

Exclusion from Emergency Relief: During the COVID-19 pandemic, those without resolved legal status have not been able to benefit from government measures. The government rolled out four levels of financial help for Montenegrin citizens.¹⁵ Each level only applied to Roma with documentation and did not sufficiently account for their needs. The first level of financial help was the distribution of €50 to persons who receive social assistance via the Center for Social Work; the second level was also €50 to assist those officially recorded as unemployed at the Labor Office within the Employment Bureau; the third and fourth instalments of €100 or €200 also applied to people on the records of the Center for Social Work. The increase in financial aid at the third level coincided with the Montenegrin general elections. Roma who lack documentation were denied access to these financial relief programmes. Those living in informal settlements were completely excluded because they do not have any official identity documents.

Undocumented Roma communities were also not fully reached by humanitarian organisations. For example, the official humanitarian organisation in Montenegro, the Red Cross, did not include those without documentation in its relief efforts, as it relies on government data, due to its role as the official conduit of the government relief fund. In cooperation with the Red Cross, the state provided aid packages, some of which did reach people with resolved legal status and in some cases, this type of assistance also went to people with unresolved legal status. However, this was only if they lived close to the areas where assistance was given, for example in Camps 1 and 2 in Vrela Ribničk. Such relief has only been provided once or twice since the pandemic started and has not been sufficient to alleviate its impacts.

Lost Livelihoods: The stateless, and those at risk of statelessness are generally unable to access formal employment due to their lack of legal documentation. They tend to therefore work in the informal economy. As a result of the lockdowns, many lost their sources of income pushing them further into poverty. The Roma community is very aware of the pandemic and the health risks. However, due to lack of government assistance and state failures to ensure food and clean water for all individuals, they are forced to continue working, if they can, to ensure survival.

STATELESSNESS AND THE RIGHT TO NATIONALITY IN MONTENEGRO

The Constitution of Montenegro 2007.16 Law on Montenegrin Citizenship 2008,17 and Law on Foreigners 2018,18 collectively set out the rules related to citizenship. The 2008 Citizenship Acts stipulates that Citizenship can be acquired via origin; birth on the territory; naturalisation and international agreements and treaties. 19 Due to the nexus between lack of birth registration and the risk of statelessness, in 2015, the Law on Non-Contentious Proceedings²⁰ was amended to establish a procedure to register the date and place of birth of those born outside the formal health system. This amendment has improved the situation of late birth registration in Montenegro and reduced the risk of statelessness.21 By December 2020, Montenegro had also begun the implementation of new birth registration practices for children abandoned by their mothers, or whose mothers are without ID.22 Further, in 2018 a bylaw to the Law on Foreigners introduced an SDP²³ giving stateless people the opportunity to formalise their stateless status and thus acquire legal residence and access to basic rights.

THE CESF CONSORTIUM PROJECT

The project "Learn My Name", carried out by Walk With Us -Phiren Amenca, aims to tackle statelessness in Montenegro by documenting the exclusion of the Roma community within Podgorica via evidence-based research, and developing a better understanding of the impact of exclusionary COVID-19 relief policies on the stateless. The findings of this project will be used as a basis for advocacy, initiating dialogue with humanitarian and government actors, calling for the simplification of procedures and improving regional collaboration. In particular, the project will engage the Ministry of Interior Affairs, which is responsible for regulating the legal status of the Roma and Egyptian communities; the Ministry of Economic Development, which is responsible for the distribution of financial assistance; the Ministry of Finance and Social Welfare, which is responsible for the distribution of assistance packages, and the Red Cross.

Roma Youth Organization "Walk with us- Phiren Amenca" is a non-profit organisation that acts in the best interest of the Roma and Egyptian community in Montenegro, monitoring policies and actively improving conditions for this community in the areas of employment, education, housing, health, legal status, safety and equality. This organisation creates opportunities for non-formal education and dialogue in order to challenge prevalent stereotypes and antigypsyism. It aims to integrate and actively engage young Roma and Egyptian men and women into Montenegrin society, strengthen institutional capacities for the inclusion of Roma and Egyptian communities and reduce negative attitudes and discrimination against Roma and Egyptians in Montenegro.

Impact

The impact of this project is primarily reflected in obtaining more accurate data on the number of people with unresolved legal status, as well as understanding how the distribution of COVID-19 aid took place and how many people were left out.²⁴ In discussions with relevant institutions, there have been visible shifts and sensitisation on the issue, as well as a clear intention and recognition of the necessity to reopen the public call to submit requests for the resolution of legal status in Montenegro, which originally closed in January 2015. The project has also placed additional pressure on the Montenegrin Government to honor its pledges to engage in European political activities to end statelessness.

KEY GLOBAL THEMATIC FINDINGS

Many of the above findings on Montenegro, also resonate at the global level. As the Together We Can report sets out, denial of the right to nationality, documentation and legal status as well as inequality and discrimination represent the main structural challenges impacting stateless people in a cyclical and intergenerational way. The other three thematic issues addressed in the global report - right to health, socioeconomic rights and civil and political rights - relate to some of the main rights deprivations stateless people endure, exacerbated by the pandemic. These challenges are interrelated and mutually reinforcing, heightening the cost of statelessness, generating new risks of statelessness and stifling efforts to promote the right to nationality and the rights of stateless people.

THE RIGHT TO HEALTH:

The right to health should have universal application regardless of race, religion, legal status or other criteria. A year into the pandemic however, healthcare related challenges faced by stateless people have only heightened. The cost of healthcare continues to be an insurmountable hurdle for many stateless people who are excluded from healthcare plans, subsidies, insurance schemes and free healthcare. The lack of documentation has further prevented access to healthcare, while fear of arrest, detention and harassment by police or officials has also cultivated a culture of fear around accessing healthcare for stateless and undocumented people. The inability to carry out effective preventative measures including social distancing and wearing PPE, as well as lack of access to sanitation and hygiene products and facilities due to living and working conditions, also places stateless communities at great risk. The mental health impacts of lockdowns, loss of livelihoods, exposure to health risks and starvation and exclusion from state relief measures, are also significant. There is an urgent need to ensure inclusivity in the roll out of COVID-19 vaccines, rising above

vaccine nationalism. Unfortunately, we are already seeing a 'citizens first' approach to vaccine distribution and worrying initiatives including vaccine passports which would further exclude stateless people.

SOCIO-ECONOMIC RIGHTS:

When the pandemic took hold in early 2020, state responses prioritised citizens to the exclusion and detriment of migrants, refugees and stateless people. Over a year into the crisis, there has been hardly any shift in the approach to social and economic support by states and other actors. There has been a significant impact on employment and income and consequently the loss of livelihoods amongst the stateless and those at risk of statelessness. Jobs are mainly found in the informal sector which have been brought to a standstill with the implementation of lockdowns and curfews. There are further barriers to education during lockdowns due to the nature of online classes and the need for access to equipment and the internet.

CIVIL AND POLITICAL RIGHTS:

In order to address the threat to public health, most States have implemented restrictions which limit civil and political rights. Some states have also introduced more permanent restrictions. Stateless communities and those whose nationality is at risk face ongoing restrictions and rights violations which, due to pre-existing conditions, have a disproportionately devastating impact. Arbitrary detention, the risk of arrest and fear of harassment by officials has impacted stateless populations and those whose nationality is at risk. For those in detention, there is an increased risk of infection due

to the inability to adequately social distance or self-isolate. Restrictions on **freedom of movement** have exacerbated the impacts of COV-ID-19 including for those trying to seek health-care and education outside of refugee camps and has further had an impact on livelihoods and family reunions.

THE RIGHT TO NATIONALITY, DOCUMENTATION AND LEGAL STATUS:

COVID-19 related measures have impacted the right to nationality, documentation and legal status in deeply concerning ways. Disruptions to crucial civil registration procedures have resulted in delays and backlogs leaving stateless people and those whose nationality is at risk in limbo, completely vulnerable to the multiple effects of COVID-19. Such documentation and registration challenges also subject people to longer-term risks of statelessness. Unregistered births and subsequent non-issuance of IDs can heighten the risk of statelessness, particularly among minority and border communities and those with migrant heritage. Asylum and statelessness determination procedures have also been disrupted, as have permanent residence applications, visa processes and other consular services.

EQUALITY AND NON-DISCRIMINATION:

Discrimination continues to be an underlying and entrenched driving force behind statelessness worldwide. There has been a rise in hate speech, xenophobia and racism. Minority and migrant communities have been vilified in populist political narratives and used as scapegoats for the spread of infection, including to distract from the failings of political leaders. Gender discrimination has also had a significant impact where gender discriminatory nationality laws deny nationality to children. Increased cases of gender-based violence have also been reported, where, particularly in the country contexts with gender discriminatory nationality laws, women are unable to extract themselves from unsafe situations.

For a more detailed overview of these global thematic findings and related calls to action, please refer the full report.²⁵

TOGETHER WE CAN: A ROADPMAP TO ADDRESS THE COVID-19 IMPACT ON STATELESS PEOPLE

This roadmap serves as a framework for resolving and addressing the structural discrimination and exclusion of stateless people during times of COVID-19 and beyond. The starting point is that change is within our grasp and can be achieved through creative, committed and courageous action. **Together we can** and **together we must** address the structural discrimination underlying statelessness, protect the rights of stateless people and meet their emergency needs. The Roadmap informs and guides the necessary inclusive responses of multiple stakeholders including governments, UN actors, humanitarian agencies, donors and NGOs.

CHECK FOR INSTITUTIONAL BLIND-SPOTS

We invite states, UN actors, humanitarian groups and other stakeholders to engage in careful introspection, check for institutional blind-spots, and review and reform policies and practices to ensure that stateless people are prioritised, their particular contexts and needs are understood and addressed and they are not excluded or left behind through:

- strengthening awareness of the issue at all levels;
- acknowledging historical failures;
- collecting and sharing information on statelessness and nationality rights deprivations; and
- resourcing the enhancement of capacities, collaborations and funding.

INCLUDE. **CONSULT & ENGAGE IN DIALOGUE**

We invite activists and NGOs to make their expertise available and those in positions of power, to have open consultation and meaningful and constructive dialogue with affected communities, and commit to including stateless people on equal terms by:

- consulting with activists and affected communities;
- building trust and strengthening solidarity with stateless communities;
- meeting the needs and priorities of affected communities and ensuring their meaningful participation; and
- facilitating wider discourse within society and institutions on equality, inclusion and the right to nationality.

BUILD **BACK BETTER**

We invite all actors to learn the hard lessons that the pandemic has taught us and invest in future-proofing, ensuring a lasting commitment to breaking down the pervasive injustice, indignity, inequality, deprivation and exclusion that stateless people face, focusing on:

- implementing reforms to address discriminatory laws, policies and practices;
- redressing the intergenerational disadvantage and legacy of statelessness;
- being accountable to stateless communities and activists;
- monitoring the performance and progress of states;
- ensuring access to justice and reparations for stateless people; and
- sustainably investing in inclusive societies.

STATELESSNESS DOES NOT ONLY EXIST IN HISTORY RUT IS ANGAING IN REAL TIME AND IN PRACTICALLY EVERY CORNER OF THE WORLD. EVEN THOUGH STATELESSNESS INTERSECTS WITH EVERY OTHER HUMAN RIGHTS VIOLATION, IT REMAINS LARGELY UNKNOWN AND MISUNDERSTOOD. THE LARGE STATELESSNESS KNOWLEDGE GAP EVEN AMONG PROMINENT DEVELOPMENT, MIGRATION. **HUMANITARIAN AND HUMAN RIGHTS ACTORS, IS** A CHALLENGE AND BURDEN FOR STATELESS PEOPLE LIKE ME. GLOBALLY. WE ARE NOT JUST A COLLECTION OF STORIES. WE ARE OUR OWN ADVOCATES AND EXPERTS THROUGH OUR LIVED EXPERIENCES. THIS REPORT RECOGNISES STATELESS PEOPLE AS LEADERS WHO MIIST SHAPE THE VISION AND MAKE DECISIONS AROUT THE PRIORITIES THAT DIRECTLY AFFECT OUR LIVES. OUR FAMILIES AND OUR COMMUNITIES. THE **ROADMAP OFFERS A WAY FORWARD FOR OUR ALLIES** TO CHECK THEIR STATELESSNESS BLIND-SPOTS, CENTRE US IN THEIR ACTIONS AND BE ACCOUNTABLE US WHEN DELIVERING THEIR MANDATES. WE CANNOT **END STATELESSNESS BY OURSELVES. TOGETHER** WE MUST WORK TO ENVISION A WORLD WHERE NOBODY IS DEPRIVED OF NATIONALITY BASED ON THEIR RACE, ETHNICITY, SEX, GENDER, OR RELIGION. A WORLD WHERE EVERYONE'S HUMAN RIGHT TO NATIONALITY IS PROTECTED AND LIPHELD. AND WHERE STATELESSNESS IS TRULY RELEGATED TO THE HISTORY BOOKS.

KARINA AMBARTSOUMIAN-CLOUGH, FOUNDING MEMBER & EXECUTIVE DIRECTOR, UNITED STATELESS



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