

This document highlights the statelessness related challenges in the countries that will be reviewed at the Human Rights Council during the 34<sup>th</sup> Session of the Universal Periodic Review (UPR): **Angola, Bolivia, Bosnia and Herzegovina, Egypt, El Salvador, Fiji, Gambia, Iran, Iraq, Italy, Kazakhstan, Madagascar, San Marino and Slovenia**. The issues raised in this summary include: discrimination on the basis of race and sex, birth registration and the child's right to acquire a nationality. All recommending states are urged to draw on this document when formulating recommendations to states under review. In addition to this summary, the Institute also made joint submissions to the 34<sup>th</sup> Session on human rights and statelessness issues in **Iran, Italy, Madagascar** (in English and French) and **Slovenia**.<sup>1</sup>

### Angola

While at the time of writing, Angola is not a party to the Statelessness Conventions, on 14 March 2019, the Council of Ministers of Angola approved the country's accession to Conventions. In its previous UPR review, Angola accepted the Democratic Republic of Congo recommendation to "consider its pending reservations on the international instruments relating to refugees and displaced persons so as not to create any stateless persons, despite migratory pressures", but has not yet withdrawn any reservations. Angola continues to face challenges realising universal birth registration and adult civil registration. In 2019, The Human Rights Committee (HRC) noted the practical obstacles to birth registration especially for children born to foreigners, including those born to refugees and asylum seekers, which may result in statelessness and recommended Angola to step up its efforts to achieve universal birth registration.<sup>2</sup> Similar issues have also been raised by the Committee on the Rights of the Child.<sup>3</sup> In 2019, the Committee on the Elimination of Discrimination against Women noted that many women, in particular rural women, face barriers to obtaining identity documents which restricts their access to, inter alia, education, health care and employment.<sup>4</sup>

#### *Proposed recommendations:*

1. Ensure free access to birth and civil registration, particularly by simplifying procedures, strengthening access through, inter alia, the usage of mobile registration units and raising awareness in rural areas, and remove the requirement that both parents should be present for birth registration;
2. Introduce legal safeguards for children who would otherwise be stateless, especially for children born to refugees, asylum seekers and other foreigners.

### Bolivia (Plurinational State of)

Bolivia has acceded to the 1954 and 1961 Statelessness Conventions. There are no statistics on statelessness in Bolivia. UNHCR has noted, that although statelessness can be determined under the refugee legislation, no legal provision has been included in Migration Law No. 370/2013 regulating the legal and protection status of stateless. In 2016, Bolivia implemented a Resolution of the Ministry of Interior to simplify the procedures for the naturalisation of refugees and stateless persons, including by removing minimum residence requirements and reducing fees by 90%.<sup>5</sup> According to Bolivia's Law 370, children born abroad to a Bolivian parent who have not been registered at a Bolivian Consulate before the age of eighteen, must initiate a nationality acquisition procedure within Bolivia. Law 370 therefore restricts the constitutional right to automatically acquire Bolivian nationality at birth and may affect the compliance of the State with its obligations to prevent statelessness at birth. The CEDAW has previously noted the gendered dimensions of refugee status, asylum, nationality and statelessness of women in the context of smuggling and sexual violence.<sup>6</sup> Further, the CRPD has previously noted that universal registration of all persons with disabilities is not guaranteed and that new-borns with disabilities are less likely to receive identity documents, which impedes their access to basic services.<sup>7</sup>

#### *Proposed recommendations:*

1. Ensure that the nationality law complies with the State's Constitution in ensuring that no person is born or rendered statelessness as a result of birth abroad;
2. Establish a statelessness determination procedure to ensure the identification and protection of stateless persons;
3. Ensure protection from statelessness to refugees, asylum seekers and victims of smuggling and sexual violence.

<sup>1</sup> <http://www.institutesi.org/ourwork/humanrights.php>.

<sup>2</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Angola, 8 May 2019, CCPR/C/AGO/CO/2.

<sup>3</sup> Committee on the Rights of the Child, Concluding observations on the combined fifth to seventh periodic reports of Angola, 27 June 2018, CRC/C/AGO/CO/5-7.

<sup>4</sup> UN Committee on the Elimination of Discrimination against Women, Concluding observations on the seventh periodic report of Angola, 14 March 2019, CEDAW/C/AGO/CO/7.

<sup>5</sup> UN High Commissioner for Refugees (UNHCR), Overview of UNHCR's operations in the Americas, 23 September 2016, available at: <https://www.refworld.org/docid/57f256634.html>; UN High Commissioner for Refugees (UNHCR) Fact Sheet, Bolivia, August 2018 available at: <https://www.acnur.org/5b9921c94.pdf>.

<sup>6</sup> UN Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fifth and sixth periodic reports of the Plurinational State of Bolivia, 28 July 2015, CEDAW/C/BOL/CO/5-6.

<sup>7</sup> UN Committee on the Rights of Persons with Disabilities Concluding observations on the initial report of the Plurinational State of Bolivia, 4 November 2016, CRPD/C/BOL/CO/1.

## Bosnia and Herzegovina

Bosnia and Herzegovina is party to the 1954 and 1961 Statelessness Conventions. The lack of civil registration and documentation increases the risk of statelessness among the Roma population, and particularly acts as an obstacle to access such rights as health care, social welfare, housing, employment and education. The CMW has noted the legislative obstacles impeding universal birth registration and that laws on free legal aid at municipal levels do not cover members of the Roma community in this regard.<sup>8</sup> The CERD has noted that migrants and other minorities are at risk of statelessness and urged Bosnia and Herzegovina to pursue its efforts to implement the statelessness conventions.<sup>9</sup>

### *Proposed recommendations:*

1. Ensure universal birth registration and equal access to registration with no discrimination to Roma children;
2. Develop measures to systematically identify unregistered individuals, including adults, and ensure that they are registered and provided with personal identity documents.

## Egypt

Egypt is not a party to the 1954 Convention and 1961 Statelessness Conventions. There are no reliable statistics on statelessness in the country, with UNHCR statistics only indicating four stateless persons.<sup>10</sup> Other sources point to several populations that are stateless or at risk of statelessness in Egypt, including Palestinians<sup>11</sup> and members of the Azazma tribe,<sup>12</sup> as well as potentially some children of migrants and refugees who can face barriers accessing birth registration.<sup>13</sup> On September 21, 2017, the Egyptian Parliament issued an amendment to Law No. 26 of 1975 concerning Egyptian Nationality allowing for the stripping citizenship from individuals who are convicted of membership in groups that aim to harm the country's government or undermine the social, political and economic order by force or illegal means; as well as of individuals convicted of crimes related to state security.<sup>14</sup>

### *Proposed recommendations:*

1. Amend law No. 26 of 1975 to prohibit deprivation of nationality as a national security measure;
2. Accede to the 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on Reduction of Statelessness;
3. Conduct and make publicly available, mapping studies and data collection on birth registration, citizenship and statelessness.

## El Salvador

El Salvador is a party to the 1954 Statelessness Convention but not the 1961 Convention. There are no available statistics on statelessness in El Salvador. Further there is no procedure to identify and protect stateless persons in the country.

### *Proposed recommendations*

1. Accede to the 1961 Convention and implement the 1954 and 1961 Convention provisions in the national laws;
2. Establish a statelessness determination procedure to ensure the protection of stateless persons in the country;
3. Conduct and make publicly available, mapping studies and data collection on citizenship and statelessness.

## Fiji

Fiji is a state party to the 1954 Statelessness Convention but not the 1961 Convention. There are no statistics on statelessness in Fiji. Birth registration can be a challenge for people who live in the more remote islands, particularly when coupled with the current penalty under section 12(2) of the Births, Deaths and Marriages Registration Act [Cap 49] for births registered after 12 months. The CRC has recommended that Fiji permanently abolish any fees connected to birth registration, and that Fiji to take all necessary measures to ensure that foundlings receive Fijian nationality.<sup>15</sup>

### *Proposed recommendations*

1. Accede to the 1961 Convention and implement the 1954 and 1961 Convention provisions in the national laws;
2. Amend relevant nationality laws to ensure that a child born on the territory of Fiji or found abandoned in Fiji who is otherwise stateless acquires Fijian nationality;
3. Increase accessibility to registration offices and amend the section 12(2) of the Births, Deaths and Marriages Registration Act to remove fees and penalty charges related to late birth registration.

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<sup>8</sup> UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the third periodic report of Bosnia and Herzegovina, CMW/C/BIH/CO/3, 13 September 2019.

<sup>9</sup> UN Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina, CERD/C/BIH/CO/12-13, 10 September 2018.

<sup>10</sup> Table 7. Persons under UNHCR's statelessness mandate, 2017, available at: [www.unhcr.org/statistics/17-WRD-table-7.xls](http://www.unhcr.org/statistics/17-WRD-table-7.xls).

<sup>11</sup> Institute on Statelessness and Inclusion, The World's Stateless, 2014, available at <http://www.instituteforstatelessness.org/worldsstateless.pdf>.

<sup>12</sup> Ahmed Awadalla (Global Voices), 'The Stateless People of Egypt' (16 October 2012), available at: <https://globalvoices.org/2012/10/16/egypt-the-stateless-people-of-egypt/>.

<sup>13</sup> Bronwen Manby, 'Preventing Statelessness among Migrants and Refugees: Birth Registration and Consular Assistance in Egypt and Morocco', June 2019, LSE Middle East Centre Paper Series (27), available at: [http://eprints.lse.ac.uk/101091/1/Manby\\_preventing\\_statelessness\\_among\\_migrants.pdf](http://eprints.lse.ac.uk/101091/1/Manby_preventing_statelessness_among_migrants.pdf).

<sup>14</sup> <http://english.ahram.org.eg/NewsContent/1/64/277487/Egypt/Politics-/Egypt-cabinet-broadens-legislation-to-strip-citize.aspx>; <https://www3.shorouknews.com/news/view.aspx?cdate=20092017&id=423f70ee-2f41a4-93bd-c0f532de8b78>.

<sup>15</sup> UN Committee on the Rights of the Child (CRC), Concluding observations on the combined second to fourth periodic reports of Fiji, 13 October 2014, CRC/C/FJI/CO/2-4

## The Gambia

The Gambia is a party to the 1954 and 1961 Statelessness Conventions. There are no available statelessness statistics in the Gambia. The Constitution of the Gambia (1997) and the Gambia Nationality and Citizenship Act (1965) contains some gaps that might result in some persons being left stateless. There is no safeguard against statelessness in the nationality law, to protect foundlings or otherwise stateless children. Article 9 of the Nationality and Citizenship Act allows the relevant Minister to deprive the citizenship of citizens by registration and naturalised persons, without considering any risk of statelessness.<sup>16</sup>

The CEDAW Committee has noted the high number of children not immediately registered at birth and the cumbersome procedures are in place for the registration of children above 5 years of age and children born out of wedlock, often due to the stigmatisation of single mothers.<sup>17</sup> Similar issues were also raised by the CRC which also focused on the lack of provision of identification documents to child refugees born in the Gambia or arriving as minors and recommended that the Gambia provide identification documents to child refugees to avoid the risk of statelessness.<sup>18</sup>

### *Proposed recommendations*

1. Amend the Gambian Nationality and Citizenship Act to ensure the prohibition of the arbitrary deprivation of nationality and the avoidance of statelessness;
2. Amend the Constitution of the Gambia (1997) and the Gambia Nationality and Citizenship Act (1965) to grant nationality to foundlings and other children born in the country who would otherwise be stateless;
3. Ensure that all children born in the country, including those born out of wedlock or in rural areas, are immediately registered at birth to enable them to gain access to citizenship;
4. Provide identification documents to child refugees born in the Gambia or arriving as minors to avoid the risk of statelessness.

## Islamic Republic of Iran

Iran is not a signatory to the 1954 or 1961 Statelessness Conventions. There are no statistics on the number of stateless people in Iran. In October 2019, Iran reformed its law to allow Iranian women married to foreign men to apply for Iranian citizenship for their children.<sup>19</sup> The law is still discriminatory, as the children of Iranian fathers (and foreign mothers) automatically acquire citizenship, whereas Iranian mothers must apply for citizenship, and also pass a security check. If the mother has not applied for citizenship, the child may do so for themselves upon turning 19, and also undergo the security check – the parameters of which are not legally defined. Historically, the children of Iranian women and undocumented Afghan men have been most at risk of statelessness as a result of the gender discriminatory nationality law.<sup>20</sup> Further, according to Iran's nationality law, Iranian women are denied the right to confer nationality on non-national spouses and stripped of their nationality if they marry a non-Iranian national in order to acquire their spouse's nationality, according to the laws of the spouse's country.

The Sistan and Baluchistan provinces are predominantly inhabited by ethnic and religious minority Baluch populations. Since 2007 all registered Afghan residents were either relocated or repatriated to Afghanistan. Only those registered Afghans married to Iranian women were given permission to stay. Mixed marriages are prevalent in the province and children born into these marriages are often without proof of citizenship. The province in general hosts a population without proof of citizenship who have been denied naturalisation for decades. Article 12 of the Personal Status Registration Act stipulates that the birth of every child born in Iran shall be reported to the Civil Birth Registration Organisation, regardless of the parent's nationalities. However, there are administrative, economic, and cultural hurdles and lack of awareness preventing parents from registering the birth of their children. Stateless persons cannot register the child's birth anywhere.

### *Proposed recommendations*

1. Ensure that all children who are born to Iranian mothers, including children born out of wedlock, are entitled to Iranian citizenship on the same conditions as children born to Iranian fathers;
2. Reform the Civil Code of the Islamic Republic of Iran to uphold women's ability to change and retain their nationality, and to confer their nationality on children and spouses on an equal basis with men;
3. Accede to the Convention on the Elimination of All Forms of Discrimination against Women, as well as the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
4. Ensure every child's right to a nationality and implement safeguards against statelessness, particularly ensuring the right to a nationality of children of Afghan or stateless fathers and children born in the Sistan and Baluchistan provinces;
5. Ensure that the birth of every child is registered, regardless of the nationality or lack thereof of their parents, by addressing legal, administrative, financial and cultural barriers;
6. Strengthen the collection and monitoring of disaggregated data and conduct a comprehensive mapping on statelessness and the risk of statelessness, with appropriate safeguards in place to ensure anonymity.

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<sup>16</sup> Gambia Nationality and Citizenship Act, Cap 82 [], 18 February 1965, available at: <https://www.refworld.org/docid/3ae6b4fb18.html> [accessed 8 May 2019].

<sup>17</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the combined fourth and fifth periodic reports of Slovenia, 28 July 2015, CEDAW/C/GMB/CO/4-5.

<sup>18</sup> UN Committee on the Rights of the Child (CRC), Concluding observations on the combined second and third periodic reports of the Gambia, 20 February 2015, CRC/C/GMB/CO/2-3.

<sup>19</sup> See <https://www.hrw.org/news/2019/10/03/reforms-will-grant-nationality-children-iranian-women>.

<sup>20</sup> <http://www.icana.ir/Fa/News/386247>.

## Iraq

Iraq is not a state party to the 1954 or 1961 Statelessness Conventions. According to the UNHCR statistical information, there were 47,515 stateless persons in Iraq at the end of 2018.<sup>21</sup> While UNHCR's 2018 statistics place the number of Internally Displaced Persons (IDPs) at 1.8 million, a 2016 report by the Minority Rights group states that the approximately 4 million IDPs (at the time),<sup>22</sup> faced complicated registration procedures which might lead to statelessness. Displaced women in particular face difficulties regarding civil registration and often require the assistance of a male relative to access such gendered procedures.<sup>23</sup>

Due to the discriminatory provisions of Act 26/2006 women still cannot transmit their nationality on an equal basis with men especially in cases of unmarried women transmitting their nationality to children born outside the country (Art.4); foreign mothers born in the country passing their nationality to a child born in the country (Art.5); married women passing their nationality to their foreign spouse (Arts. 7 & 11); and married mother passing their nationality to child born outside country (Art.4); and if an Iraqi man loses his Iraqi nationality, his minor children shall consequently lose that nationality (Article 14(II)). Gender discrimination in Iraq's nationality law can also result in the children of Iraqi women being rendered stateless when they cannot acquire their father's nationality. In February 2014, the CEDAW Committee recommended that Iraq should "amend the discriminatory provisions of Act No. 26 (2006), namely articles 4, 7 and 11, in order to ensure that women and men enjoy equal rights to acquire, transfer, retain and change their nationality, in line with article 9 of the Convention".

### *Proposed recommendations:*

1. Amend remaining discriminatory articles in the Nationality Law No. 26/2006 to make sure that women and men enjoy equal rights to acquire, transfer, retain and change their nationality on equal basis;
2. Establish accessible, non-discriminatory and fair registration procedures for IDPs;
3. Accede to the 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on Reduction of Statelessness.

## Italy

Italy is party to the 1954 and 1961 Statelessness Conventions. There is likely to be statistical under-reporting on the stateless population in Italy. The Italian national census form provides data only for the 732 persons who have been granted stateless status and reside legally in Italy. Studies show the disproportionate impact of the risk of statelessness among Roma people, and estimate that 3,000-15,000 Roma are either stateless or at risk of statelessness in Italy.<sup>24</sup> While Italy has in place, procedures to determine statelessness, access is limited by their procedural complexities. Further, while Italian law provides that a child born in Italy who would otherwise be stateless acquires citizenship at birth, in practice, the implementation of the provision is often not automatic, and parents must provide relevant supporting documentation to have the child's Italian nationality recognised.

Stateless persons face a heightened risk of arbitrary detention particularly as procedural safeguards to identify and determine statelessness and related barriers to removal are lacking.<sup>25</sup> In practice, detention is used prior to the consideration or implementation of alternatives<sup>26</sup> and there is no formal mechanism of referral from detention to a procedure to determine statelessness. Through Law No 132/2018, individuals who had been found guilty of criminal offences tainted with terrorist purposes could be stripped of their Italian citizenship, a law that has been criticised by thirteen UN Special Rapporteurs and Independent Experts, as targeting minorities and those of migrant backgrounds in the country.<sup>27</sup> As deprivation of nationality is only for those who have acquired Italian citizenship by naturalisation, the law clearly discriminates between Italian citizens by birth and citizens by naturalisation and can even result in statelessness if the individual holds only the Italian citizenship.

### *Proposed recommendations:*

1. Improve the statelessness determination procedure by amending the law to incorporate the rights enshrined in the 1954 Convention and international human rights law;
2. Implement concrete measures to regularise the legal status of Romani people at risk of statelessness in Italy and guarantee the child's right to a nationality and legal identity, including through legal outreach and engagement initiatives;
3. Take further steps to protect stateless people from arbitrary detention, including by introducing a clear referral mechanism to the statelessness determination procedure from return procedures and embedding consideration of statelessness as a juridically relevant fact in all decisions to detain;
4. Amend Law 132/2018 providing for new measures to revoke citizenship, to eradicate discrimination between citizens by birth and naturalised citizens, prohibit the arbitrary deprivation of nationality and ensure the avoidance of statelessness.

<sup>21</sup> <http://popstats.unhcr.org/en/overview>.

<sup>22</sup> Minority Rights Group International, Humanitarian challenges in Iraq's displacement crisis, 22 December 2016, available at: <https://www.refworld.org/docid/587cd47e4.html> [accessed 1 May 2019].

<sup>23</sup> Ibid.

<sup>24</sup> CIR, IN THE SUN, Survey on the phenomenon of statelessness among Roma communities living in Italy, February 2013:

<sup>25</sup> ENS (2017) Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change, [https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/ENS\\_LockeInLimbo\\_Detention\\_Agenda\\_online.pdf](https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/ENS_LockeInLimbo_Detention_Agenda_online.pdf).

<sup>26</sup> Senato della Repubblica, Commissione Straordinaria per la Tutela e la Promozione dei Diritti Umani, Rapporto Sui Centri di Identificazione ed Espulsione in Italia, Jan 2017: [https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20\(2%20gennaio%202017\).pdf](https://www.senato.it/application/xmanager/projects/leg17/file/Cie%20rapporto%20aggiornato%20(2%20gennaio%202017).pdf).

<sup>27</sup> See Office of the High Commissioner for Human Rights, 'Legal changes and climate of hatred threaten migrants' rights in Italy, say UN experts, 21 November 2018, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23908&LangID=E>.

## Kazakhstan

Kazakhstan is not a party to 1954 or 1961 Statelessness Conventions. According to UNHCR statistics, there were 7690 stateless persons in Kazakhstan in 2018.<sup>28</sup> Kazakhstan's nationality law provides for deprivation of the citizenship by a court decision for committing terrorist crimes, and crimes provided for by relevant articles of the Special part of the Criminal Code, as a result of which other grave harm is caused to vital interests of the state.<sup>29</sup> In doing so, the law does not consider the risk of statelessness. The CEDAW Committee has expressed concern that there are still stateless persons facing difficulties in accessing education, health care and other services owing to a lack of identification documents and proof of residence. The Committee also expressed concern that a considerable number of childbirths are not registered. CERD has also noted that Kazakhstan should address statelessness and ensure that laws concerning acquisition of Kazakh nationality do not increase the number of stateless persons.

### *Proposed recommendations:*

1. Scrutinise the provisions of nationality which provide for deprivation on nationality and protect against arbitrary and discriminatory nationality deprivation as well as statelessness as a result of nationality deprivation;
2. Undertake programmes to accelerate and facilitate the naturalisation of stateless individuals and ensure their equal access to education, health care and other basic services;
3. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.

## Madagascar

Madagascar is not a party to the 1954 and 1961 Statelessness Conventions. There is no reliable data about stateless people in the country.<sup>30</sup> In 2017, Madagascar reformed its nationality law to guarantee the right of Malagasy women to confer nationality on their children on an equal basis with Malagasy men.<sup>31</sup> However, in 2017 the HRC noted that women are still not able to transmit their nationality to a foreign or stateless spouse or to their adoptive children.<sup>32</sup>

Madagascar has a sizeable community of Muslims of Indo-Pakistani origin, who originally migrated to the country during the 19th and 20th centuries. Many among this community failed to acquire any citizenship at the time of Madagascar's independence from France (1960) and have not been able to resolve this since. Racial discrimination also causes statelessness among individuals of Comorian origin and others who are not perceived as ethnically Malagasy. These groups are also unable to access naturalisation and even those who are theoretically eligible for nationality face difficulties in acquiring documentation and proof of citizenship as a result of discriminatory administrative practices. Madagascar's 1993 national census reported 0.2% of Madagascar's 12.3 million population (at the time) as foreign and 9.3% of these - or 2,200 persons - as stateless.<sup>33</sup> This is likely to be an underrepresentation of the number. There has yet to be a comprehensive mapping of statelessness in Madagascar. UNHCR has suggested that the population of those of Indo-Pakistani descent is estimated to be at least 20,000<sup>34</sup> and within that group, "only a handful of individuals hold citizenship rights". The US Department of State, quoted community leaders that "as much as 5 percent of the approximately two million Muslims in the country" are stateless.<sup>35</sup> The OHCHR has noted that the Malagasy Nationality Code is very restrictive, leading to statelessness among these communities. Moreover, instances of racial profiling and discrimination based on race and religion have been reported when issuing identity documents.<sup>36</sup>

The CRC has previously recommended that Madagascar intensify its efforts in ensuring free and compulsory birth registration for all children, including through the use of mobile registration centres.<sup>37</sup> The CEDAW has stated that 20% of births remain unregistered, and noted the difficulties faced by women in ensuring the registration of their children.<sup>38</sup>

### *Proposed recommendation:*

1. Reform ordinance n°60-064 of the Nationality Code to uphold the right of Malagasy women to confer nationality on their foreign or stateless spouse on an equal basis with Malagasy men;
2. Immediately end the discriminatory denial of nationality to populations of Indo-Pakistani and Comorian descent and other minority groups in Madagascar, and take all necessary steps to ensure their right to a nationality.

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<sup>28</sup> <http://popstats.unhcr.org/en/overview>.

<sup>29</sup> The Citizenship Law of The Republic of Kazakhstan, article 20-1.

<sup>30</sup> Table 7. Persons under UNHCR's statelessness mandate, 2017, available at: [www.unhcr.org/statistics/17-WRD-table-7.xls](http://www.unhcr.org/statistics/17-WRD-table-7.xls), accessed on 13/05/2019.

<sup>31</sup> UN High Commissioner for Refugees (UNHCR), Madagascar: UNHCR welcomes new law giving men and women equal rights to transfer nationality to children, 3 February 2017, available at: <https://www.refworld.org/docid/589467714.html> [accessed 13 May 2019].

<sup>32</sup> UN Human Rights Committee (HRC), , CCPR/C/MDG/CO/4.

<sup>33</sup> The national census report is available here: [http://www.gripweb.org/gripweb/sites/default/files/databases\\_info\\_systems/Madagascar\\_RGPH%20Vol2%20Tome1.pdf](http://www.gripweb.org/gripweb/sites/default/files/databases_info_systems/Madagascar_RGPH%20Vol2%20Tome1.pdf).

<sup>34</sup> See <https://www.unhcr.org/news/latest/2017/11/5a018ff44/madagascars-karana-people-still-awaiting-nationality.html>.

<sup>35</sup> US Department of State, *Country reports on human rights practices for 2018: Madagascar*. Available at: <https://www.state.gov/j/dri/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>36</sup> Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, A/HRC/WG.6/20/MDG/3, para 27, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/099/91/PDF/G1409991.pdf?OpenElement>.

<sup>37</sup> UN Committee on the Rights of the Child (CRC), Consideration of reports submitted by States parties under article 44 of the Convention, Madagascar, 8 March 2012, CRC/C/MDG/CO/3-4.

<sup>38</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the combined fifth and sixth periodic reports of Madagascar, Concluding observations on the fourth periodic report of Madagascar, 22 August 2017, CEDAW/C/MDG/CO/6-7.



3. Ensure that all international and regional obligations related to the right to nationality, prevention and reduction of statelessness, protection of stateless persons, non-discrimination, and birth registration are fully incorporated into domestic law and implemented in practice.
4. Strengthen the collection and monitoring of disaggregated data (including by ethnicity, age, and gender) and conduct a comprehensive mapping on statelessness, the risk of statelessness, and Karana and other affected minority populations in Madagascar, with appropriate safeguards in place to ensure anonymity.
5. Accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

### **San Marino**

San Marino is not a state party to the 1954 and 1961 Statelessness Conventions. There is no statistics on the number of stateless people in the country. During the first UPR cycle, Mexico recommended San Marino to guarantee dual nationality in order to prevent discrimination against children whose parents have not renounced their nationality of origin. The Czech Republic recommended San Marino to soften the very strict demands for acquiring citizenship and ensure non-discrimination particularly for children who have one parent who does not have the citizenship of San Marino. While San Marino rejected both recommendations, Law no. 35/2012 on the citizenship has reduced the general requirement of actual stay in the territory to apply for citizenship from 30 to 25 years and to 18 years for those who have been living in the territory since birth. It has kept the 15-year period for the spouses of San Marino citizens, also covering situations of widowhood.<sup>39</sup>

#### *Proposed recommendations:*

1. Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and the European Convention on Nationality;
2. Establish a statelessness determination to ensure the protection of stateless persons;
3. Reduce further the length of residence necessary to apply for naturalisation, in line with the standards of the Council of Europe Convention on Nationality.

### **Slovenia**

Slovenia is party to the 1954 Statelessness Convention, but not the 1961 Convention. According to Article 2 of the Slovenian 'Aliens Act', a stateless person is a foreigner who 'is not deemed to be a national of any country in accordance with the legal acts of individual countries'. This definition falls short of the international law definition of a stateless person as someone who is "not considered as a national by any state under the operation of its law". Slovenia has no statelessness determination procedure. There is little available data on the stateless population in Slovenia. UNHCR records four people as stateless, however the number in reality is likely to be much higher. The last census from 2002 recorded 2,527 people as having 'unknown citizenship' status.

Safeguards against arbitrary detention of stateless people are few as statelessness is not considered a juridically relevant fact in detention decisions and stateless people are detained in practice. Statelessness prevention among children born in Slovenia relies on the status of the parents rather than the child. For the child to acquire Slovenian nationality the parents must also be stateless (or unknown). If the parents have citizenship of another state which they cannot confer to the child, said child is not protected from statelessness. Since the erasure, out of 25,671 Erased People only around 11,000 managed to regain their status in Slovenia, out of which around 7,000 gained Slovenian citizenship.<sup>40</sup> The issue has also been raised by the Special Rapporteur on minority issues<sup>41</sup> and the CEDAW Committee urging Slovenia to simplify the issuance of permanent residence permits and grant compensation to all those whose names were deleted from the register with CEDAW focusing on women and girls.<sup>42</sup>

#### *Proposed recommendations:*

1. Amend the law to bring the definition of a stateless person in national law in line with the definition provided in the 1954 Convention definition;
2. Establish a dedicated statelessness determination procedure in law and in line with UNHCR Guidance and good practice and fulfil its obligations to stateless persons under the 1954 Convention;
3. Take steps to protect stateless persons from arbitrary detention by introducing a statelessness determination procedure and protection status, as well as embedding consideration of statelessness as a juridically relevant fact in all decisions to detain;
4. Amend the law to ensure that all children born on Slovenian territory who would otherwise be stateless acquire a nationality at birth, regardless of the status of their parents;
5. Take all necessary steps to resolve the 'Erased Persons' issue, including by facilitating access to citizenship without any further delay, to all erased persons who have been left stateless;
6. Accede to the 1961 Convention on the Reduction of Statelessness, the European Convention on Nationality and the Convention on the Avoidance of Statelessness in Relation to State Succession.

<sup>39</sup> National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 San Marino, A/HRC/WG.6/20/SMR/1, para 70 available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/090/73/PDF/G1409073.pdf?OpenElement>.

<sup>40</sup> Information published by the Ministry of the Interior of the Republic of Slovenia, January 2009.

<sup>41</sup> UN General Assembly, Report of the Special Rapporteur on minority issues in Slovenia, 8 January 2019, A/HRC/40/64/Add.1.

<sup>42</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the combined fifth and sixth periodic reports of Slovenia, 24 November 2015, CEDAW/C/SVN/CO/5-6.