



UNHCR
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TLAS



MAPPING OF THE POPULATION AT RISK OF STATELESSNESS IN ALBANIA

Acknowledgements

This report was written and researched by Tirana Legal Aid Society's (TLAS) group of experts, with the support of UNHCR Albania. The report was drafted by Maylis de Verneuil on behalf of TLAS, Lorena Isla Rodriguez on behalf of UNHCR and was edited by David Whitbourn, TLAS expert. The research methodology and tools were designed by Raimonda Bozo and Anisa Metalla, TLAS. The report benefited from additional editorial inputs by Anisa Metalla, Raimonda Bozo, Herald Kosta on behalf of TLAS, Fatmir Mema, University of Tirana and Erjona Dhama, INSTAT. The report was proofread by Herald Kosta, Borana Resulaj, TLAS.

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The mapping exercise has been a joint effort with Albanian government ministries, including the General Directorate of Civil Status within the Ministry of Interior, Directory of Consulates within Ministry of Europe and Foreign Affairs, the General Directorate of Social Services and Directorate for Primary Care within the Ministry of Health and Social Protection, the Directorate of Pre-university Education, Ministry of Education, the Social Statistics Director at INSTAT, as well as with non-governmental and international organizations, including UNDP and UNICEF.

CONTACT US

UNHCR

Address:
Rruga "Skënderbej", ndërtesa Gurten,
Kati 2-të, Tiranë, Shqipëri

Contacts

Tel/Fax: +355 4 22 502 84

E-mail: albti@unhcr.org
Web: www.unhcr.org

Tirana Legal Aid Society

Address:
Pallatet Agimi, Shkalla 18 /322
P.O BOX 69, Tiranë, Shqipëri

Contacts

Tel/Mob: 04 2258442 +355 69 20 93731

Email: tlas@tlas.org.al
Web: www.tlas.org.al
www.portal.tlas.org.al

COVER PHOTOGRAPH:

Photo by Armando Bode

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List of Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (1979)	HRC	Human Rights Committee
CERD	Convention on the Elimination of All Forms of Racial Discrimination (1965)	ICCPR	International Covenant on Civil and Political Rights (1966)
CoE	Council of Europe	ICESCR	International Covenant on Economic, Social and Cultural Rights (1966)
CPU	Child Protection Unit	ILC	International Law Commission
CRC	Convention on the Rights of the Child (1989)	INSTAT	Albanian Institute of Statistics
CRPD	Convention on the Rights of Persons with Disabilities (2006)	IOM	International Organisation for Migration
CSO	Civil Society Organisation	ISI	Institute on Statelessness and Inclusion
CWD	Children with Disabilities	MoEFAA	Ministry for Europe and Foreign Affairs
ECHR	European Convention on Human Rights and Fundamental Freedoms (1950)	MoHSW	Ministry of Health and Social Welfare
ECtHR	European Court of Human Rights	MoJ	Ministry of Justice
ECN	European Convention on Nationality (1997)	Moi	Ministry of Interior
ECSR	European Committee of Social Rights	MoESY	Ministry of Education, Sports and Youth
ECOSOC	United Nations' Economic and Social Council	NGO	Non-Governmental Organisation
EMN	European Migration Network	SAPCR	State Agency for the Protection of Children's Rights
ENS	European Network on Statelessness	SSS	State Social Service
ESC	European Social Charter (1961)	TLAS	Tirana Legal Aid Society
ExCom	Executive Committee of the Programme of the United Nations High Commissioner for Refugees	UNDP	United Nations Development Programme
EU	European Union	UNICEF	United Nations Children's Fund
EUDO	European Union Observatory on Democracy	UNHCR	United Nations High Commissioner for Refugees
		UNTS	United Nations Treaty Series
		UN	United Nations
		UDHR	Universal Declaration of Human Rights (1948)

EXECUTIVE SUMMARY

- Key findings

This report found 1031 persons at risk of statelessness mostly due to difficulties to have their nationality confirmed. However, the actual number may be higher as persons at risk of statelessness often remain invisible and are hard to census.

The objectives of the report were to conduct an in-depth analysis of the factors that contribute to the risk of statelessness in Albania, as well as provide a clear picture of the demographics of those at risk. This study found that the majority of persons at risk of statelessness in Albania are entitled to nationality as per the law on citizenship, but find difficulties to have it confirmed in practice.

The main obstacle remains access to birth registration, which is hindered due to costly and lengthy administrative and judicial procedures. This particularly affects Roma and Egyptian communities, as they are often socially and economically marginalized, but also Albanian returnees whose children were born abroad. 97% of those recorded as at risk of stateless in Albania are children. Just under 50% of the total is children under 5.

The primary causes reported are: i) being born outside of Albanian territory (53%), ii) being born to parents who aren't married (12%), iii) being born at home (10%), and iv) being born in hospitals or maternity units that hold incorrect personal details on the mother (9%). Altogether 84% of those identified at risk of statelessness had obstacles related to birth registration procedures. Of those born outside of Albania, the majority of births were in Greece (53%), followed by Germany (29%), Kosovo (6%) with the final 12% listed as 'other'.

Members of Roma and Egyptian communities are disproportionately affected; and they make up half of all recorded cases at risk of statelessness despite representing between 0.4% and 3.3% of the total Albanian population (according to varying estimates)¹.

Geographically, you are more likely to find a person at risk of statelessness in Tirana (18% of the total), then Fier (12%), Shkodra (11%) and Gjirokastra (10%). However, if you look at the relative prevalence of persons at risk of statelessness, Gjirokastra and Berat come out as the worst affected areas.

¹ INSTAT/UNDP, *Roma and Egyptians in Albania: a socio-demographic and economic profile based on the 2011 census April, 2015*

Albania has signed the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961) and incorporated them into national law in 2003. The national Law on Foreigners includes a definition of a stateless person and foresees issuing residence permits to stateless persons, on humanitarian grounds.

However, as there is currently no adequate procedure in place to determine statelessness, the provision for issuing residence permits is, in practice, not being used.

- Key recommendations

Any approach to prevent statelessness and ensure confirmation of nationality for those entitled to it, will inevitably involve a partnership between the State, international organisations (IOs), non-governmental organisations (NGOs), grassroots organisations and international cooperation.

The process of civil registration and birth registration needs to be simplified and all relevant staff trained to carry it out efficiently and without discrimination. Any unduly onerous requirements around documentation should be simplified and costs to the applicant should be reduced and/or minimized. An efficient, computerized system of electronic birth registration, shared across all relevant institutions, departments and ministries, should be introduced.

The following are the recommendations based on the findings of this report:

International and regional obligations

The Albanian Government should 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. The three key pieces of legislation in this regards are the Law on Citizenship, Law on Civil Status and Family Code.

Birth registration

The Albanian Government should take steps to reform law and practice that impedes the enjoyment of Albanian nationality, and safeguard every child's right to a nationality, irrespective of the status, documentation, or actions of their parents. This means providing legal identity for all, including guaranteeing universal, free and immediate birth registration for every child irrespective of the parents' status, documentation, or whether the child was born in a medical institution.

Civil registration procedures

The Albanian Government should ensure that all civil registration and documentation procedures, in-

cluding birth registration, are universally accessible by simplifying complex procedures and eliminating barriers related to cost, time, distance and bureaucracy.

Inter-Ministerial cooperation

The cooperation between Ministry of Internal Affairs, Ministry of Foreign Affairs and State Ministry of Diaspora are key to address bureaucratic challenges related to recognition of Albanian citizenship of children born to Albanian nationals abroad.

In addition, Ministry of Interior should work closely with Ministry of Health and Social Welfare and Ministry of Education to enhance identification of those at risk at the local and national levels.

International cooperation and consulate services

The Albanian Government should strengthen international cooperation with other States, and in particular with Greece, to ensure birth registration for Albanian nationals whose children are born abroad. Simplified procedures for data correction and unification of the act of birth and/or birth certificates is needed.

Tackling prejudice and discrimination.

The Albanian Government should actively address structural discrimination against Roma and Egyptian communities, including prejudicial attitudes and negative stereotypes, to ensure access to documentation, enjoyment their right to a nationality and all other human rights.

Access to justice.

The Albanian Government should make available effective remedies for all those seeking to resolve their documentation status, including high-quality, state-funded legal aid (that does not require the very documentation they have been denied, in order to access it), the removal of barriers such as court fees or fees for DNA testing, judicial oversight, and robust complaints and compensation mechanisms.

Statelessness determination procedure

In particular, Albania should introduce a procedure in law to identify and protect stateless persons in line with the 1954 Convention and UNHCR Guidelines. Furthermore, once a stateless determination procedure is in place, persons recognized as stateless shall be guaranteed a real and effective access to rights and services. For those entitled to Albanian citizenship, confirmation of nationality should remain the preferred solution.

Stronger cooperation and collaboration between public institutions and CSOs.

The Government of Albania and civil society organizations working on prevention of statelessness should strengthen their cooperation and work together to promote sustainable solutions.

Personnel training and capacity building

The Albanian Government should encourage continuous professional development for all state officials, such as registry office staff, health workers, and consular officials, who have a legal role to play in civil registration procedures. Working with relevant experts, the Government should ensure that these officials, decision makers and other key actors are equipped to address the risks of statelessness and discrimination, by providing training and continuous capacity building on core topics including equality and non-discrimination, statelessness, gender, human rights and public law.

1. INTRODUCTION

1.1. Raison d'être of the report: Why to do a mapping of persons at risk of statelessness in Albania?

UNHCR led a process of consultation with all relevant actors to agree on a Global Action Plan to End Statelessness. It was drafted in consultation with States, civil society and international organizations and aims at eradicating the problem by 2024. In order to do this, the scale of the problem, its location and its causes all have to be known. Notably, Action 10 which is to “Improve quantitative and qualitative data on stateless populations” encourages the exercise of mapping statelessness: “Statistics and information on the situation of stateless populations can be gathered using a range of methods, including analyses of civil registration data, population censuses, targeted surveys and studies”.²

The objective is to establish a qualitative analysis of the risks of statelessness, based on available data on stateless populations collected by public institutions and civil society actors, and come up with concrete, practical and efficient recommendations for the given country.

Within Europe, the breakup of States is responsible for the creation of a significant stateless problem. From 1991, the disintegration of the Socialist Republic of Yugoslavia and the ensuing conflicts, left tens of thousands at risk of statelessness, that and the fact that the conflicts had led to many records being destroyed, only exacerbated the problem. Indeed, across the region, no accurate figure for the number of stateless people exists and it is for precisely this reason that the mapping exercise has been carried out in each of the countries of South Eastern Europe.

In October 2011, officials from Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kosovo³, Montenegro and Serbia, gathered for a Regional Conference on the Provision of Civil Documentation and Registration in South-Eastern Europe. They adopted the Zagreb Declaration, whereby they agreed, inter alia, to remove all obstacles to documentation and registration, keeping in mind particularly vulnerable people. This includes legal reforms, registration of residency and documentation requirements which are appropriate also for displaced people and refugees, the waiving of fees, **facilitated birth and subsequent registration and the issuance of identity cards.**⁴

² Cf. <http://www.unhcr.org/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html>

³ This designation is without prejudice to positions on status and is in line with United Nations Security Council Resolution 1244/1999 and the International Court of Justice Opinion on Kosovo's declaration of independence.

⁴ Zagreb Declaration 27 October 2011, available here: <http://www.unhcr.org/events/commemorations/4ec12d0d9/zagreb-declaration-conference-provision-civil-status-documentation-registration.html>

According to the most recent population data gathered through the 2011 national census, and compiled by the Albanian Institute of Statistics (INSTAT), there were 7,443 “unregistered” persons in Albania.⁵ Of this total, 3,874 were men and 3,569 were women.

Statelessness can lead to the denial of rights or be an obstacle to accessing rights, as individuals become ‘legally invisible’.

This report provides a summary of findings from a joint ‘identification exercise’ involving relevant government counterparts, local governance units, UNHCR and TLAS. The exercise aimed at providing a realistic baseline for the populations at risk of statelessness in Albania and improving understanding about their profile, geographical location and the root causes. Further, it makes recommendations for action that can achieve the goal of eliminating statelessness in Albania.

UNHCR’s Global Action Plan to end Statelessness 2014-2024, has as Action 1: Resolve existing major situations of statelessness. Action 6 is: Grant protection status to stateless migrants and facilitate their naturalization. Action 7 is: Ensure birth registration for the prevention of statelessness. Action 8: Issue nationality documentation to those with entitlement to it, and Action 10: Improve quantitative and qualitative data on stateless populations.

This mapping report complements previous research work undertaken by TLAS in two other studies: “Ending Childhood Statelessness – A Study on Albania” in 2015, and “Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in Albania” in 2017.

The report aims at a better profiling of the risks of statelessness, the causes and consequences, the segments of population affected and their location. With a real baseline of those at risk of being stateless, UNHCR and TLAS can propose solutions to the Albanian government, by developing the right mechanisms of registering the undocumented or those at risk.

1.2 Preliminary remarks about drafting the report

1.2.1.1. Contributors

This report was written and researched by Tirana Legal Aid Society’s (TLAS) group of experts, with the support of UNHCR Albania.

The report was drafted by Maylis de Verneuil on behalf of TLAS, Lorena Isla Rodriguez on behalf of UNHCR and was edited by David Whitbourn, TLAS expert. The research methodology and tools were

⁵ Census data is available at: http://www.avokatipopullit.gov.al/sites/default/files/RAPORTET/RAPORTET_VJETORE/Raporti_2016.pdf
This number is based on the census questionnaire regarding citizenship, and consequently on individuals’ answers and self-perception (Questionnaire available at: <http://catalog.ihsn.org/index.php/catalog/4279>).

designed by Raimonda Bozo and Anisa Metalla, TLAS. The report benefited from additional editorial inputs by Anisa Metalla, Raimonda Bozo, Herald Kosta on behalf of TLAS, Fatmir Mema, University of Tirana and Erjona Dhamo, INSTAT. The report was proofread by Herald Kosta, Borana Resulaj, TLAS. Special thanks are owed to a large number of researchers, mainly from state structures and CSO partners. We are grateful to the key persons and direct beneficiaries who agreed to be interviewed in order to share their experiences and consented for their stateless cases to be analysed. In particular, TLAS want to thank the General Directorate of Civil Status, Directorate of Pre-University Education, Directorate of Primary Health Care, Directorate of Social Services and Child Protection structures, for their dedication and commitment.

This report could not have been achieved without the help of persons at risk of statelessness who agreed to share their life experiences with TLAS' interviewers. Interviews with persons at risk of statelessness and community representatives enriched the research with personal experience, their perception of their difficulties, their hopes and future plans. Indeed, recording life histories provided concrete and meaningful examples of the daily difficulties that persons at risk of statelessness have to undergo and sometimes endure for their entire lives.

The mapping exercise has been a joint effort with Albanian government ministries, including the General Directorate of Civil Status within the Ministry of Interior, Directory of Consulates within Ministry of Europe and Foreign Affairs, the General Directorate of Social Services and Directorate for Primary Care within the Ministry of Health and Social Protection, the Directorate of Pre-university Education, Ministry of Education, the Social Statistics Director at INSTAT, as well as with non-governmental and international organizations, including UNDP and UNICEF. The objective was to access the best possible sources of knowledge, as well as the stakeholders that play a role in prevention of statelessness.

Finally, in addition to the field work with civil registration offices and other local institutions and interviews conducted as part of the project, the most recent census, data and surveys, gave the necessary statistical base for this report. As far as written documents are concerned, only part of the research material has been officially translated into English (international IO and NGO reports, national legislation and official websites). For the remaining sources (most of the by-laws, administrative acts and civil society reports) the authors used translations provided by colleagues or field practitioners.

1.2.1.2. Semantics used in this report

For the sake of clarity, the term 'citizenship' will be preferred over 'nationality' in this report. Indeed, 'citizenship' is generally understood as the mere legal tie between the individual with the state, while 'nationality' can also be the informal membership or identification with a particular nation, encompassing people sharing a language, a culture, a religion, an emotional identity or a common ancestry.

Roma and Egyptian communities are facing a level of poverty estimated at three times higher than that of other parts of the population in Albania, due to long-standing social exclusion. While Egyptians speak Albanian and tend to be generally more integrated than the Roma, and while the Roma have been recently recognized as a national minority⁶, they often suffer the same difficulties and ostracism. Within this report, when using the term Roma it should also be understood to include those referred to as Egyptian individuals.

Furthermore, the term 'Foreigners' will be used rather than 'Aliens', as it is the term used in official translations. *Shtetas* and *shtetësi* ('citizen' and 'citizenship') are the legal terms used in Albania to describe the legal bond between the state (*shtet*) and an individual. They only refer to this bond and the mutual rights and obligations it implies, without any reference to ethnicity.

According to Article 1 (paragraph 1) of the Law on Albanian Citizenship, "Albanian citizenship is a stable legal relationship which is expressed on the interrelated rights and duties between the physical person and the Albanian state". The term *shtetas* is sometimes used interchangeably with the term *qytetar* (citizen), where the latter has additional civic and political connotations. The latter term derives from the word *qytet* (city) and although originally it was used to distinguish city dwellers from the others, the term *qytetar* now is usually used to describe all legal subjects of the political entity (state).

There is also a distinction in between *shtetasshqiptar* (Albanian citizen) and *shqiptar* (Albanian), the first term referring to persons that have legal bonds with the Albanian state (regardless of their ethnic origin) and the second one referring to a person of Albanian ethnic origin.

Lastly, the expression 'at risk of being stateless' refers to a situation where an individual is entitled to citizenship by law, but faces obstacles to having it confirmed in practice.⁷

1.2.2 Methodology used for this report

The methodology of this research was devised to address the four objectives: a) identifying the personal and demographic information of persons at risk of stateless at the national level; b) providing visibility to the importance of preventing statelessness and offering information on its causes and consequences; c) developing adequate solutions and strategies for the identified group of cases, by providing direct services or case management reference and assistance; d) analysing and addressing the legal problems which require further legislative interventions and amendments.

A proper response to all these concerns, dictated the structure of the methodology. In order to identify as many persons at risk of statelessness as possible in Albania, TLAS engaged closely with the state

⁶ Law No.96/2017 on the "Protection of National Minorities in the Republic of Albania"

⁷ For further references, see Hugh Massey 'UNHCR and De Facto Statelessness', in *Legal and Protection Policy Research Series*, 2010, available at <http://www.unhcr.org/4bc2ddeb9.pdf>

structures that are in contact with the stateless individuals, such as Social Services Structures, Child Protection Units, Regional Directories of Education, Regional Directories of Health, Civil Status Offices in all territories, NGOs, civil society organisations (CSOs) and community based organizations (CBOs), grassroots organizations, etc.

Given the covert nature of statelessness – after all the phenomenon is defined as rendering people legally “invisible” – a probability sampling technique would not have been viable to collect data. Hence, using pre-existing relationships with the public structures, TLAS conducted a convenience sampling technique to collect as much data as possible in a limited amount of time. For this reason, TLAS distributed questionnaires – handed over either directly or through the established networks – to all the structures mentioned above, to share information on the identified persons at risk of stateless. The questionnaire collected data regarding the number of persons at risk of stateless that were pinpointed by a certain structure, each individual personal name (or relatives’ names) and demographic (age, gender, residing administrative units) background, the reasons behind the non-registration, and consequences of the lack of status (limited access to healthcare, education, economic aid, etc.).

Before the distribution of the questionnaires, TLAS deemed necessary the provision of training sessions with the staff responsible for filling out the questionnaires. First, a draft version of the questionnaire was compiled and used as a pilot test with the relevant structures. Then, TLAS held four meetings, involving more than 200 people, to inform them of the importance of preventing statelessness and ways to fill out the questionnaires, and to discuss concerns and feedback that they had with the pilot questionnaire. Any concerns were reflected in the final form of questionnaire. The calendar of these meetings is shown in the table below:

Date	Place	Institution	No. of participants
24.08.2017	MoHSW	Heads of the Public Health Departments	35
31.08.2017	SSS	Regional Social Services	40
22.09.2017	MoESY	Heads of Education Offices	39
29.09.2017	Hotel “Tirana”	Representatives of the Civil Status Offices	87

The involvement of public structures in the mapping project did not serve only to identify cases of persons at risk of statelessness but also to raise awareness within the relevant institutions. Hence, this project will, hopefully, also work as a first step in increasing the capacity of public entities regarding this problem.

TLAS also instructed the trainees to use snowball sampling methods to maximize the number of identified cases of persons at risk of statelessness.

After collecting the questionnaires, TLAS and UNHCR experts compiled the data onto the database and the experts checked them qualitatively and quantitatively. The database was checked arithmetically and

logically for consistency before data processing. In the end, the data were presented throughout the study, more particularly in Section 5, using descriptive statistics.

Moreover, TLAS conducted a qualitative assessment of the situation through various interviews with important decision-makers in this field, including from the General Director of Civil Status Office, Ministry of Education, Sports, and Youth, Ministry of Health and Social Protection, and INSTAT.

1.2.2.1. Quantitative methodology: data and statistics used

In order to measure the size of the population at risk of statelessness in Albania, quantitative methods were also used.

As has already been mentioned, the nature of statelessness and the ‘invisibility’ in legal terms makes data extremely difficult to collect. The definition of statelessness is complex, and it is often difficult to assess whether people are stateless, at risk of becoming stateless, or simply undocumented.

Furthermore, around half of the persons at risk of statelessness in Albania are Roma and Egyptian communities, who, are not always cooperative with researchers.

For official statistics data, the Institute of Statistics of the Republic of Albania (INSTAT)⁸ can be referenced. The most recent data is that gathered through the general population census conducted in 2011. This included the category of ‘unregistered’, containing 7,443 persons. There is not any further data available regarding the demographics of these individuals, except the gender distribution: 3,874 men and 3,569 women. It is to be emphasized that there are no official data on the number of persons at risk of statelessness who are children. The most accurate figures currently available were collected by TLAS personnel, based on cases of persons at risk of statelessness who confirmed nationality thanks to TLAS free legal aid support in the period 2012 – 2016 (after the census). It is estimated that number of persons at risk of statelessness has been reduced to some 4,971 persons.

According to TLAS’s database, the districts where the issue is most prevalent – and consequently where the mapping project was concentrated were Berat, Dibër, Durrës, Elbasan, Fier, Gjirokastër, Korçë, Kukës, Lezhë, Shkodër, Tiranë, Vlorë, their 61 Municipalities: Belsh, Berat, Bulqizë, Cërrik, Delvinë, Devoll, Dibër, Divjakë, Dropull, Durrës, Elbasan, Fier, Finiq, Fushë-Arrëz, Gjirokastër, Gramsh, Has, Himarë, Kamëz, Kavajë, Këlcyrë, Klos, Kolonjë, Konispol, Korçë, Krujë, Kuçovë, Kukës, Kurbin, Lezhë, Libohovë, Librazhd, Lushnjë, Malësi e Madhe, Maliq, Mallakastër, Mat, Memaliaj, Mirditë, Patos, Peqin, Përmet, Pogradec, Poliçan, Prrenjas, Pukë, Pustec, Roskovec, Rrogozhinë, Sarandë, Selenicë, Shijak, Shkodër, Skrapar, Tepelenë, Tiranë, Tropojë, UraVajgurore, Vau-Dejë, Vlorë, Vorë and in their local administrative units

⁸ <http://www.instat.gov.al/en/>

TLAS' data analyst developed a specific database for the purpose of this exercise, through which 1,031 persons at risk of statelessness were identified. TLAS case management database allowed the organization to record biodata including age and gender, obstacles for registration, actions taken and follow up for specific individuals. Data information, segregation and in-depth analyses can be found under section 5 of this report "Demography and risk of statelessness in Albania".

1.2.2.2 Qualitative methodology: people interviewed, types of questionnaires

In order to understand the reasons behind statelessness or the risk of being stateless, qualitative research work was undertaken, via questionnaires, interviews and focus groups:

- 1) With persons at risk of statelessness
- 2) With various stakeholders involved in issues linked with the prevention of statelessness.

- 1) 11 individuals and their families were interviewed.

A semi-structured questionnaire was developed in order to capture every important element of each individual's story: see Annex 1. Questionnaire template and Annex 2. Summaries of interviews.

- 2) Questionnaires, interviews and focus groups were used to identify actual practice around Albania. In particular, questionnaires were distributed in each administrative unit, social services within municipalities, civil status offices, child protection units, regional education directories, health centres and police border stations.

Questions raised included the interviewed person's role, contact and understanding with regards to the risks linked to statelessness, and most importantly their awareness of the reasons behind lack of civil documentation of those persons.

Interviewed persons were also asked their opinion and for suggestions on how to prevent statelessness in Albania. Practical and administrative dysfunction, as well as good practices, were also discussed.

2. STATELESSNESS AROUND THE WORLD

2.1. Overview of the statelessness situation around the world

Being stateless means, in practice, that a person doesn't have the recognition or protection of any country. Without the protection of citizenship, stateless individuals are highly vulnerable to discrimination and abuse and are often denied their human rights by the state in which they live. Many stateless persons try to avoid detection, for fear of poor treatment or even expulsion. Consequently, it is extremely difficult to put an accurate figure to the number of stateless people in the world today. UNHCR estimates that there are more than 10 million stateless persons globally, of which 3.5 million are in countries for which there are reliable statistics counting stateless individuals (only 55 countries report to UNHCR on their statelessness statistics and situation). Of this number around a third are children.⁹

Around the world, it is no coincidence that countries with the greatest population of stateless people are also those in conflict or where the state is failing or struggling.

The Institute on Statelessness and Inclusion lists 20 countries with an officially recorded stateless population of more than 20,000 people – including, Poland, Germany and Sweden. However, it recognises that these official figures are only a part of the story and that the world cases of statelessness are not recorded or officially acknowledged.¹⁰

However, the report goes on to note “[i]n terms of absolute numbers, most of the persons UNHCR reports as falling within its statelessness mandate can be found in Asia and the Pacific.” In terms of continents, Africa shows the second greatest number of stateless cases, followed by Europe. If we look at a national level, of the top twenty countries with a stateless population of more than 10,000, seven are in Europe, six in Asia and the Pacific, four in the Middle East and North Africa, two in Africa and one in the Americas.

⁹ UNHCR, *ending statelessness*, available here: <http://www.unhcr.org/statelessness-around-the-world.html>

¹⁰ Institute on Statelessness and Inclusion “*The World’s Stateless*” December 2014, available here: <http://www.institutesi.org/worldsstateless.pdf>

Taken together, the Asia Pacific region has both the greatest number of documented cases of statelessness but also shows evidence of the greatest number of unrecorded cases. While it should be remembered that the Asia Pacific region is, globally, the most populous in absolute terms, there is, nonetheless, cause for concern at the levels of statelessness it contains. At the other end of the scale, the Americas have the lowest levels of statelessness, with the overwhelming majority of cases being in just one country (the Dominican Republic). It is almost certainly no coincidence that across the Americas, the legal norm for citizenship is a *jus soli* approach to nationality: children born in a territory are given citizenship in that territory.

2.2. Definitions

Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons defines a stateless person as: “a person who is not considered as a national by any State under the operation of its law”. The authors believed this definition would cover the large majority of stateless individuals who would not otherwise be recognized as refugees and receive international protection through the 1951 Refugee Convention.

The International Law Commission has concluded that the definition of a stateless person contained in the 1954 Convention can “no doubt be considered as having acquired a customary nature” and is therefore binding on all nations because every nation is bound to observe and respect an international principle or obligation that has achieved the status of customary international law even if a State has not ratified a particular treaty concerning that issue. There is not universal agreement that the Article 1 stateless definition is customary law. Nevertheless, the fact that at least some international law authorities have agreed that this stateless definition has attained this level of recognition shows that it is now significant.

Under the 1954 Convention definition, both nationality laws and the practices in applying or implementing these laws need to be looked at to determine whether an individual is “not considered as a national”. To be “a national” under this definition requires the existence of a formal bond but does not require an effective or genuine link between the State and the individual. Individuals who have a formal bond of nationality but are not granted the rights and protections generally accorded other nationals of that country, would not typically be viewed as stateless. Such individuals would, nevertheless, be vulnerable to the same or similar hardships as stateless individuals and should be treated in a similar manner as individuals who are stateless. At the same time, the 1954 Convention definition of a stateless person is intended to be interpreted inclusively to include the broadest scope of stateless individuals in order to ensure that those individuals lacking nationality receive the necessary protection.

Most people are used to a variety of social, political and economic rights that are considered inalienable to human beings. However, these rights are in fact only guaranteed to citizens of countries.

2.3. Causes of statelessness

Statelessness has a number of causes: dissolution and creation of States, lack of sufficient safeguards to prevent statelessness in national laws, inadequate birth registration procedures and discrimination, among others. Sometimes national laws or the compatibility of laws between states can be to blame and as we are seeing to frequently these days, children of refugees are at particular risk.

The global map is changing and continues to be in flux. The dissolution of States and the creation on new ones, inevitably leads to numbers of people who were citizens of one country, now not being recognized as citizens of any.

The stateless population is also increased through historic problems and modern ones. Foundlings are at risk, as are those subject to international adoption and more recently children born through surrogacy have proved to be vulnerable to gaps in a legal system that may not have anticipated or made provision for their birth.

The fact that there is also a large group of stateless people who are in that condition through prejudice and discrimination is another matter of great concern. They may receive poor treatment or even hostility when they come to register a birth or through any process that may be related to their status or recognition as citizens.

Through all of the above causes it can be seen the problems of statelessness can start early for a person and are likely to start in childhood and birth. In her report, 'Child refugees without nationality - A short overview of statelessness policy and practice in Spain'¹¹, Aleksandra Semeriak notes, 'Some countries make it impossible for stateless parents or parents who can't prove their identity, to register the birth of their children, which is the main reason why stateless children can't acquire an identity document or passport - a basic tool to access fundamental rights such as healthcare and education. The consequences of this situation are devastating.'

It is not uncommon, around the world, to find nationality laws that hinder or prevent women from passing their nationality to their children. For example, there are twelve countries in the Middle East, Syria being one, where it is only fathers who can pass on their nationality to their children. If we consider too that many married people may not have official documents to prove their marriage or those documents could be lost or left behind on displacement. It is also common for children whose parents are not married at the time of their birth to not be officially registered.

¹¹ 'Child refugees without nationality - A short overview of statelessness policy and practice in Spain', ENS, 2017... A. Semeriak, available here: <https://www.statelessness.eu/blog/child-refugees-without-nationality-short-overview-statelessness-spain>

The factors contributing to statelessness were summarized in the UNHCR report 'Citizens of Nowhere'¹² as follows:

- **State succession**
- **Discrimination and arbitrary denial or deprivation of nationality**
- **Technical causes**

These three causes often overlap.

State Succession happens when two or more states separate to form a new country or when parts of a country break away to form a new and independent territory. In these cases, many people are left needing to formalise their citizenship of the new state. Often securing citizenship in a time of transition can be complicated and delaying the process to a later stage can mean that it is, in effect, put off forever.

Historically, this redrawing of national boundaries has led to huge issues of statelessness. Since the Second World War, more than 100 new countries have come into being and almost without exception this has caused either short term or long term issues of statelessness, either because of bureaucracy or politics.

Following the widespread adoption of the 1954 and 1961 UN Conventions, statelessness was not perceived to be an issue of concern. However, the break-up of the Soviet Union and then Yugoslavia in the 1990s, once again highlighted statelessness as a phenomenon and the problems that can accompany it.

Over the past twenty years, border and nations have continued to form and reform, most recently, the Republic of South Sudan came into being in 2011. Every one of these changes has impacted citizens to a greater or lesser extent and if the engine for change has been political difference or disagreement, then the statelessness that can be caused can also come with discrimination and a lack of will to resolve many of the inherent issues.

Discrimination and Arbitrary Deprivation of Nationality. Discrimination can be a root cause of statelessness. If a particular group is targeted on the basis of ethnicity, race, religion or other reason, they may be marginalised, ostracised or excluded; all of which can lead to forced or self-imposed distancing from the rest of society and authority. Gender discrimination has a direct causal link to statelessness. As has been noted already, there are countries whose nationality laws prevent the handing down of citizenship from mother to child but insist that it comes instead through the father. Any dispute over paternity or absence of the father can easily result in the child being overlooked or denied their rightful citizenship

¹² Page 13 of the report. The report is available here: <http://www.refworld.org/docid/50c620f62.html>

“Technical causes” – is a catch-all term that refers to statelessness that comes from unintended gaps in a country’s nationality laws or conflicts between citizenship laws or the actions or inactions of individuals. A prime example of the technical causes that can result in statelessness is the possible incompatibilities between *jus sanguinis* (citizenship through blood relationship) and *jus soli* (citizenship through birth in the country). There have been many cases where a child who would qualify for citizenship based on blood can be denied it through not being born on the territory of a country with citizenship laws based on the principle of *jus soli*. Similarly, a child who is born on a territory that has citizenship laws based on the *jus sanguinis* principle but who lacks an officially recognised blood line may also be denied citizenship.

Other technical causes that may result in statelessness either at birth or later in life include; removing the citizenship of those living abroad who fail to meet registration criteria, failing to provide citizenship for abandoned babies, complications that can arise upon marriage where a new citizenship may not be conferred at the same time as the old citizenship is deemed lost.

Many countries are rigorous in their demands for proof of eligibility for citizenship. A person may be asked to comply with any or all of the following: comprehensive and timely, birth registration certificates, proof of nationality, proof of family relationships (sometimes involving costly DNA tests) heavy fees for registration. Groups or individuals may not be able to fulfil the criteria due to income constraints or a nomadic lifestyle or migration that leaves them without the required documentation. Normally, undocumented children do have a nationality but they can still be left stateless if they cannot satisfy the requirements made of them by the official of the country of their nationality – which then refuses to acknowledge their citizenship.

2.4. Consequences of statelessness

Citizenship is often defined as the first right from which all others derive. Without that formal recognition, a person is likely, through misfortune, oversight or design, to be either ineligible for services that are theirs by right or invisible – with the same consequence.

The Institute on Statelessness and Inclusion has this to say on the impact of statelessness¹³:

“The harsh reality for many stateless persons is a story of lack of opportunity, of lack of human rights protection and of lack of participation. They face challenges in all areas of life, including: accessing education and healthcare, finding gainful employment, buying or inheriting property, registering a car or a business, obtaining a birth certificate, driving license, marriage certificate or even death certificate, opening a bank account or getting a loan; falling back on social security, and enjoying a pension. Obtaining a passport or being issued any form of identity documentation is extremely difficult, such that many stateless persons have no proof that they exist and no means by which to identify themselves in their day-to-day interactions with the state or with private entities.”

¹³ <http://www.institutesi.org/world/impact.php>

The impact of statelessness on an individual would be felt on a daily basis. Any and all interactions with the State or authorities or agencies representing the state become impossible, problematic, anxious or possibly dangerous. Through a person's life cycle, it can be seen that without state recognition, access to healthcare can be denied, access to education can be denied, access to state support in the form of services, the right to own property, right to a bank account and full access to the jobs market. They may not be able to officially marry.

Any disputes or legal redress that they seek, could be denied, as access to justice is largely dependent upon citizenship. If they are a victim of a crime, they may well not be able or even prepared to approach the appropriate authorities.

A stateless person, or a person at risk of being stateless is also deprived of freedom of movement. Since a passport can be difficult or impossible to secure, crossing borders will not be allowed and the attempt to do so may result in detention or deportation. The only available option may be illegal movement that could lay them open to personal dangers. Even within a country, the freedom of movement can be restricted in a way that an officially recognized citizen's would not.

Psychologically, many stateless people feel inadequate, incomplete or marginalised. Because of so many difficulties and obstacles faced in their daily lives, they are more prone to illnesses such as anxiety and depression.

3. THE INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK

3.1 The International Law on Statelessness

The 1954 United Nations Convention relating to the Status of Stateless Persons and the 1961 UN Convention on the Reduction of Statelessness are the key international conventions addressing statelessness. They are complemented by international human rights treaties and provisions relevant to the right to a nationality.

Between 2011 and 2015, there were 49 accessions to the two Conventions on Statelessness – an increase that will lead to more action to protect stateless people, resolve their predicament and prevent new cases.

In addition, other fundamental articles that relate to statelessness are:

Article 15 of the Universal Declaration of Human Rights, which states that “[e]veryone has the right to a nationality” and that “[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.”

Article 7 of the Convention on the Rights of the Child states that every child has the right to acquire a nationality.

Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination requires States to “prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights . . . the right to nationality.”

3.1.1 Specific conventions on statelessness¹⁴

The 1954 Convention is designed to ensure that stateless people enjoy a minimum set of human rights. It establishes the legal definition of a stateless person as someone who is “not recognized as a

¹⁴ UNHCR, *UN Conventions on statelessness*, available here: <http://www.unhcr.org/un-conventions-on-statelessness.html>

national by any state under the operation of its law.” Simply put, this means that a stateless person is someone who does not have the nationality of any country. The 1954 Convention also establishes minimum standards of treatment for stateless people in respect to a number of rights. These include, but are not limited to, the right to education, employment and housing. Importantly, the 1954 Convention also guarantees stateless people a right to identity, travel documents and administrative assistance.

There were 83 States party to the 1954 Convention in November 2014 when teams at UNHCR launched the Campaign to End Statelessness in 10 Years.

The 1961 Convention aims to prevent statelessness and reduce it over time. It establishes an international framework to ensure the right of every person to a nationality. It requires that states establish safeguards in their nationality laws to prevent statelessness at birth and later in life. Perhaps the most important provision of the Convention establishes that children are to acquire the nationality of the country in which they are born if they do not acquire any other nationality. It also sets out important safeguards to prevent statelessness due to loss or renunciation of nationality and state succession. The Convention also sets out the very limited situations in which states can deprive a person of his or her nationality, even if this would leave them stateless.

There were 61 states party to the 1961 Convention in November 2014 when teams at UNHCR launched the Campaign to End Statelessness in 10 Years.

3.1.2. Other legal instruments on statelessness in international human rights law¹⁵

The right to a nationality is recognized in a series of international legal instruments, including the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Nationality of Married Women, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The issue of nationality is also regulated in the Convention on the Reduction of Statelessness, the Convention relating to the Status of Stateless Persons and the Convention relating to the Status of Refugees.

An explicit and general prohibition of arbitrary deprivation of nationality can be found in numerous international instruments. In particular, it is worth noting that article 15 of the Universal Declaration of Human Rights explicitly provides that no one should be arbitrarily deprived of his or her nationality. The General Assembly, in its resolution 50/152, also recognized the fundamental nature of the prohibition of arbitrary deprivation of nationality.¹

¹⁵ United Nations, Human Rights Office of the High Commissioner available here: <http://www.ohchr.org/EN/Issues/Pages/Nationality.aspx>

3.2 Statelessness in Regional Law

Within Europe a number of specific laws and conventions exist to augment the international laws on statelessness. Prime among these are the conventions of the Council of Europe.

One of the first actions of the newly-formed Council of Europe in 1950 was to draft the Convention for the Protection of Human Rights and Fundamental Freedoms. It entered into force in September of 1953 for the existing members and all new members are expected to sign and ratify it at the earliest possible opportunity. The Convention established the European Court of Human Rights, so that any person who feels their fundamental rights have been violated may seek a judgement that would be binding on any member state.

The European Convention on Nationality which came into force in March 2000 and has subsequently been signed and ratified by Albania. Article 6 expressly requires signatories to “facilitate” the acquisition of nationality and refers explicitly to stateless persons. Article 5 prohibits any form of discrimination in a state’s nationality laws that relates to sex, religion, race, colour or national or ethnic origin.

The second CoE instrument is the Convention on the Avoidance of Statelessness in Relation to State Succession, from 2006. This Convention also expressly forbids discrimination (Article 4) and Article 3 sets out that states should have a clear goal, “The elimination of statelessness is to be achieved by application of the set of principles and rules contained in the Convention”. Yet, at the time of the writing of this report, Albania is not a signatory to this Convention.

The other regional institutions have also set out laws and conventions that urge states to act to end statelessness in a just and equitable manner. One can mention notably: Jurisprudence of the European Court of Human Rights, soft law from the OSCE, minority rights and anti-discrimination law from the European Union and constitutional advice from the CoE Venice Commission.

3.3. Role and mandate of UNHCR on Statelessness

The United Nations General Assembly decided to establish a High Commissioner’s Office for Refugees as of 1 January 1951. The Statute of the Office of the United Nations High Commissioner for Refugees was adopted by the General Assembly (GA) on 14 December 1950 as Annex to Resolution 428 (V).¹⁶

¹⁶ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), available at: <http://www.refworld.org/docid/3ae6b3628.html>

UNHCR was mandated by the GA to provide international protection and seek permanent solutions for refugees. In addition, UNHCR was given a supervisory responsibility for the implementation of the 1951 Convention Related to the Status of Refugees¹⁷ which is laid down explicitly in paragraph 8(a) of the Statute, article 35 of the 1951 Convention and Article II of the 1967 Protocol. As such, the High Commissioner for Refugees has responsibilities for refugees who are stateless, pursuant to paragraph 6 (A) (II) of the Statute and Article 1 (A) (2) of the 1951 Convention.

Nonetheless, UNHCR was not explicitly mentioned in the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.

To undertake the functions foreseen by Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness (“1961 Convention”) UNHCR’s mandate was expanded to cover persons falling under the terms of that Convention by General Assembly Resolutions 3274 (XXIX) of 1974 and 31/36 of 1976. The Office was entrusted with responsibilities for stateless persons generally by General Assembly Resolution 50/152 of 1995, which endorsed UNHCR Executive Committee Conclusion 78. Subsequently, in Resolution 61/137 of 2006, the General Assembly endorsed Executive Committee Conclusion 106 which sets out four broad areas of responsibility for UNHCR: the identification, prevention and reduction of statelessness and the protection of stateless persons.¹⁸

In 2014, UNHCR launched a Global Campaign to end statelessness by 2024, 60 years after the international community agreed on the first Convention¹⁹ to regulate the status of stateless persons. In this context, the *Global Action Plan to End Statelessness 2014 – 2024*²⁰ (*The Global Action Plan herein after*) was developed in consultation with States, civil society and international organizations and sets out a guiding framework to address statelessness worldwide. The *Global Action Plan* includes 10 actions that will help States to progress against the 2024 goal:

- Action 1: Resolve existing major situations of statelessness.
- Action 2: Ensure that no child is born stateless.
- Action 3: Remove gender discrimination from nationality laws.
- Action 4: Prevent denial, loss or deprivation of nationality on discriminatory grounds.
- Action 5: Prevent statelessness in cases of State succession.
- Action 6: Grant protection status to stateless migrants and facilitate their naturalization.
- Action 7: Ensure birth registration for the prevention of statelessness.
- Action 8: Issue nationality documentation to those with entitlement to it.

¹⁷ UN High Commissioner for Refugees (UNHCR), *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol*, September 2011, available at: <http://www.refworld.org/docid/4ec4a7f02.html>

¹⁸ UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>

¹⁹ UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <http://www.refworld.org/docid/3ae6b3840.html>

²⁰ UN High Commissioner for Refugees (UNHCR), *Global Action Plan to End Statelessness*, 4 November 2014, available at: <http://www.refworld.org/docid/545b47d64.html>

- Action 9: Accede to the UN Statelessness Conventions.
- Action 10: Improve quantitative and qualitative data on stateless populations.

Together with the *Global Action Plan*, UNHCR launched the *IBelong Campaign* in 2014. On 4 November 2014, the UN High Commissioner for Refugees, Antonio Guterres, the UNHCR Special Envoy Angelina Jolie and more than 30 celebrities and world opinion leaders published an Open Letter to end stateless. The Open Letter is available online, and the campaign aims at increasing awareness on the consequences of statelessness and promoting global commitment to put an end to it.

Through the *Global Action Plan*, UNHCR and its partners commit to support States to achieve this goal through several actions, including i) enhancing identification and data collection regarding population at risk of statelessness, ii) development of policy, including National Action Plans to reduce and prevent statelessness iii) advocate and provide technical advice to draft and reform primary and secondary legislation iv) advocate and provide technical advice to remove procedural obstacles for confirmation of nationality v) support Governments to improve birth registration procedures and practices vi) provision of free legal aid services vii) support the Governments with issuance of documentation viii) support with the deployment of mobile teams to ensure that all stateless persons or persons at risk of statelessness have access to procedures viii) promote exchange of good practices and lessons learnt ix) organize awareness raising campaigns about statelessness x) advocate for non-discriminatory policies, procedures and practices xi) support the government to put in place stateless determination procedures and ensure that stateless persons are able to access and enjoy rights.

In order to end statelessness among these groups and other at-risk persons in South Eastern Europe, UNHCR is working with local authorities and institutions to reduce the numbers of stateless persons and/or persons at risk of statelessness by:

- Identifying/profiling and protecting stateless persons, including those with a migratory background;
- Advocating for accession to both UN Statelessness Conventions
- Preventing statelessness at birth; and
- Collaborating with civil society organizations (free legal aid providers in particular), European Network on Statelessness (ENS), other UN agencies, and other international organizations, such as the OSCE and Council of Europe. These objectives are the relevant part of the UNHCR regional strategy designed to address the underlying causes and ongoing drivers of statelessness in the region, namely the institutionalized marginalization of at-risk communities, the poor socioeconomic prospects for affected persons in the region, and the slow pace of legal reform and implementation.

4. ANALYSIS OF THE LEGAL FRAMEWORK IN RELATION TO STATELESSNESS IN ALBANIA

Interestingly, Weissbrodt and Collins classify remedies for statelessness into three categories: “pre-emptive remedies”, which try to prevent statelessness before it develops; “minimization remedies”, which lessen the difficulties associated with statelessness and serve to protect stateless persons; and “naturalizing remedies”, which attempt to secure nationality for those already stateless.²¹ One will see that in the Albanian context, one of the most significant features is the failure to address the cases of persons in a statelessness situation or at risk of being stateless but without being recognised as such.

The Constitution of the Republic of Albania guarantees the fundamental rights and freedoms of foreigners and stateless people in the territory. In particular, it grants the entitlement to citizenship to persons born to an Albanian parent and guarantees the safeguard against the loss of citizenship.

This section assesses the incorporation of the objectives of the Statelessness Conventions in Albanian legislation: within the Law on Citizenship (1999), On Foreigners (2013), On Civil Status (2009), and the Family Code (2003).

4.1. Overview of the national legal framework and international obligations

4.1.1. Albania’s International obligations

The Republic of Albania is party to the United Nations 1954 Convention Relating to the Status of Stateless Persons (1954 Convention) and to the 1961 Convention on the Reduction of Statelessness, both of which it acceded to in 2003.²²

²¹ D.S. Weissbrodt and C. Collins, “The Human Rights of Stateless Persons”, *Human Rights Quarterly* 28, no. 1 (2006), 271.

²² Law no. 9057, date 24.4.2003, “On the adherence of the Republic of Albania to the Convention Relating to the Status of Stateless Persons”. Law no. 9059, date 8.5.2003, “On the adherence of the Republic of Albania to the Convention on the Reduction of Statelessness”.

Since 2002, Albania is also party to the 1997 European Convention on Nationality (ECN).²³ However, it has not acceded to the 2006 Convention of the Council of Europe on the Avoidance of Statelessness in Relation to State Succession.

Albania also has a strong record of accession to the core international human rights treaties, which are relevant to the prevention of statelessness and the protection of stateless persons. These include the Convention on the Rights of the Child (CRC), accessed in 1991²⁴, (CRC), the International Covenant on Civil and Political Rights (ICCPR), also accessed in 1991²⁵, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)²⁶ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁷, both accessed in 1993, and the UN Convention on the Rights of Persons with Disabilities (CRPD), accessed in 2012²⁸. Lastly, since 1996, Albania has been party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).²⁹

The obligations of Albania under these treaties include minority rights, statelessness prevention and reduction, notably through documentation and birth registration of all. For example, Article 7 of the Convention on the Rights of the Child obligates states to register every child immediately after birth and to ensure that no child is left stateless. Similarly, Article 5(d)(iii) of the Convention on the Elimination of All Forms of Racial Discrimination prohibits racial and ethnic discrimination in relation to the right to nationality. Consequently, these treaty bodies are relevant mechanisms in ensuring that Albania upholds its obligations under international law.

4.1.2. Albania's hierarchy of norms

The Albanian Constitution provides for the hierarchy, status and effect of legal norms. In particular, Article 4/2 declares that "the Constitution is the highest law in the Republic of Albania."

Article 116 of the Constitution reflects the hierarchy of legal norms by providing that "normative acts that are effective in the entire territory of the Republic of Albania are: a. the Constitution; b. ratified international agreements; c. laws; d. normative acts of the Council of Ministers."

Therefore, International agreements come after the Constitution in the ranking of norms, and ratified international treaties have direct effect in Albania.

²³ Law no. 8942, date 19.9.2002, "On the ratification of the European Convention on Nationality".

²⁴ Law no. 7531, date 11.12.1991, "On the ratification of the Convention on the Rights of Child".

²⁵ Law no. 7510, date 13.8.1991, "On the adherence of the Republic of Albania to the International Covenant on Civil and Political Rights".

²⁶ Law no. 7768, date 9.11.1993, "On the adherence of the Republic of Albania to the International Convention on the Elimination of all Forms of Racial Discrimination".

²⁷ Law no. 7767, date 9.11.1993, "On the adherence of the Republic of Albania to the Convention on the Elimination of all Forms of Discrimination Against Women".

²⁸ Law no. 108/2012, date 15.11.2012, "On the ratification of the UN's Convention on the Rights of Persons with Disabilities".

²⁹ Law no. 8137, date 31.7.1996, "On the Ratification of the European Convention on Human Rights".

Article 122 of the Albanian Constitution emphasizes this idea by providing that international agreements, ratified by law, prevail over incompatible laws of Albania.³⁰

Consequently, the aforementioned international acts are considered part of Albania's legislation and so a number of important international legal safeguards against statelessness are subject to direct application in the country.³¹ However, one will see infra that the Albanian State has felt so far that the necessary measures for these safeguards can be decided and policed at a local level.

4.2. Current citizenship regime in Albania

The Constitution of the Republic of Albania guarantees the fundamental rights and freedoms of foreigners and stateless people in the territory. In particular, it grants the entitlement to citizenship for persons born to an Albanian parent, and guarantees the safeguard against the loss of citizenship.

The acquisition and relinquishment of Albanian nationality is regulated by Law no. 8389 dated 5th August 1998 "On Citizenship" as amended by Law no. 8442, dated 21st January 1999. The legislative changes which occurred in 1999 are the most recent reforms passed.³²

In 1998, UNHCR was entrusted by its Executive Committee and by the UN General Assembly with providing technical and advisory services pertaining to the preparation and implementation of nationality legislation to interested states. After examination of the draft Law on Citizenship of Albania, UNHCR estimated that it was 'of a high standard and, in principle, achieves this goal of the avoidance of statelessness'.³³ Unfortunately, as will be developed infra, there are significant gaps between the theoretical legal framework and the actual functioning of the Albanian institutions.³⁴

4.2.1. A combination of jus soli and jus sanguini

The Law No. 8442 provides that "everyone born of at least one parent with Albanian citizenship automatically gains Albanian citizenship". The Law also provides that a child born within the territory of the Republic of Albania of parents holding another citizenship who are lawful residents in the territory of the Republic of Albania can acquire Albanian citizenship with the consent of both parents. In that case, the procedure is the same as any birth from Albanian parents in the territory: the civil status office asks for a proof of legal residency of the parents and the birth certificate from the hospital.

³⁰ See *Euralius Law Drafting Manual: A Guide to the Legislative Process in Albania*, 2006, available at: www.euralius.eu/en/archive-2?download=74:law-drafting-manual

³¹ See *Ending Childhood Statelessness, A Study on Albania*, TLAS/ENS Working Paper 06/15, p4, available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/Albania.pdf>

³² See *Law on Albanian Citizenship*, Law No. 8389, 6 September 1998, available at: <http://www.refworld.org/docid/3ae6b5c10.html> [accessed 11 February 2018]

³³ UN High Commissioner for Refugees (UNHCR), *UNHCR: Analysis and Comments Draft Law on Citizenship of Albania*, 21 April 1998, available at: <http://www.refworld.org/docid/3ae6b31dab.html> [accessed 16 March 2018]

³⁴ See *Ending Childhood Statelessness, A Study on Albania*, TLAS/ENS Working Paper 06/15, p4, available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/Albania.pdf>

According to Albanian legislation, nationality is based on both a blood relationship and on birth within the territory of Albania, so *jus sanguinis* and *jus soli*. Albanian nationality is granted pursuant to the registration of birth. In the application of the *jus sanguinis* rule, the child will be registered as an Albanian citizen, provided that the connection with the Albanian parent is proven through his/her ID or birth certificate. Foreign citizens, whose children are born in the Republic of Albania, must present themselves to the civil status office in order to claim nationality for their child via the *jus soli* provision in the law.³⁵

4.2.2. Acquisition of citizenship through naturalization

Albanian citizenship legislation provides for regular, facilitated and exceptional naturalisation in Article 9 of the Law on Albanian Citizenship.

In cases of regular naturalisation, a foreigner who has submitted an application for acquisition of Albanian citizenship by naturalisation shall acquire Albanian citizenship if he or she fulfils the following six requirements: is over 18 years of age, has been in lawful and continuous residence for at least five years; has sufficient income and a habitation; absence of criminal offence record; elementary knowledge of the Albanian language; and no threat to security and defence of Republic of Albania.³⁶

Article 11 adds that if both parents acquire Albanian citizenship by naturalisation, their children under the age of 18 can also become Albanian citizens at the request of the parents and with the consent of the child, if he or she is over fourteen.

Refugees are not part of the facilitated categories for naturalization. They may acquire Albanian nationality based on general rules that apply to foreigners in Albania, with the same documentation requirements. This constitutes a real obstacle for refugees since they often cannot obtain the required documentation from their country of origin.

Additionally, in Albania the act of naturalisation must be ratified by a decree of the President of the Republic.³⁷ The person concerned must complete the necessary documentation required and the Ministry of Interior checks and verifies these documents before delivering the request to the President for consideration and enactment. The President and the Ministry of Interior have different prerogatives: the Ministry checks whether the format of the request is correct, while the President of the Republic decides on the legal basis of the application.

³⁵ See Gezim Krasniqi, *Albanian Citizenship Configurations in the Balkans*, in *Central and Eastern European Migration Review*, Vol. 6, No. 1, 2017, pp. 49-64

³⁶ Article 9 of the Law "On Albanian Citizenship" provides that a foreigner who has submitted an application for acquisition of Albanian citizenship by naturalisation shall acquire Albanian citizenship if he or she fulfils the six following requirements: (i) age of 18; (ii) lawful and continuous residence for at least five years; (iii) sufficient income and a dwelling; (iv) absence of criminal offence records; (v) elementary knowledge of the Albanian language, and (vi) no threat to security and defence of Republic of Albania.

³⁷ Articles 17-23 of Law no. 8389 "On Albanian Citizenship", dated 05.08.1998 as amended by Law no. 8442 "On Some Changes in Law No. 8389 dated 5 August 1998 "On Albanian Citizenship" – define the procedure.

Facilitated naturalisation is applied in the case of spouses, individuals of Albanian origin and stateless people. Therefore, the following conditions which are a part of the regular naturalisation are waived for stateless persons: being over 18 years old, having accommodation and sufficient financial means, having never been sentenced for a criminal offence for which the law provides a three-year (or higher) prison sentence, having basic knowledge of the Albanian language.

However, individuals who are undocumented and at risk of statelessness – but not officially recognised as a stateless person - have to apply for Albanian citizenship through the regular procedure. Consequently, they do not benefit from the above-mentioned legal facilities, but have to fulfil all requirements, including a lawful and continuous residence for at least five years or a sufficient income and a habitation, which are conditions that are often impossible for undocumented persons to meet.

4.2.3. Loss of citizenship

According to the law, a minor can lose his/her Albanian nationality only where both their parents agree for the child to renounce citizenship. Sometimes, this procedure is carried out even when one of the parents is unwilling to do this, as long as the loss (substitution with another nationality) of the Albanian nationality is considered to be in the child's best interest. A request for the renunciation of the Albanian nationality cannot be approved unless the citizen presents the guarantee of the acquisition of a new nationality. Thus, today, no request for the renunciation of nationality is accepted as long as the authorities are not sure if the child has or will acquire a new nationality. For this, the individual is required to bring an official document that provides a promise of a new nationality or a document that shows that he or she has already gained a new nationality.

4.3. Statelessness in Albanian national law

4.3.1. An incomplete definition of statelessness

With regards to statelessness, Albanian citizenship law provides for specific safeguards for foundlings, or for persons who have renounced Albanian citizenship, having been promised another nationality, who do not acquire the promised citizenship within a reasonable period of time.

Article 3.2 of the Albanian Law “On Foreigners” defines a stateless person as “a person who is not a citizen of any state”. 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”.

The failure to include the phrase “under the operation of its law” in the Albanian law is a significant gap in the definition. It means that those who under the letter of the law should have a nationality, but have

been denied their nationality due to non-implementation (or discriminatory implementation) of the law, may not be considered to be stateless in the country. In the absence of a procedure to identify and protect stateless persons, the impact of this gap may be less obvious in practice, but it is a significant one nonetheless, as it can result in stateless people not being identified and being denied protection.

Article 3 of the 2013 Law on Foreigners also foresees the possibility of issuing travel documents or residence permits on humanitarian grounds, to stateless status holders who are “determined by competent authorities” to be so. However, Albanian law does not provide a special status for stateless people, nor a statelessness identification mechanism or a status determination procedure. Due to the lack of a law on statelessness, the legal status of stateless persons is not governed by any regulation and law. Moreover, in practice, stateless persons are not issued with travel documents to allow them to leave the country.

The gap in the definition identified above, together with the lack of a statelessness determination procedure, prevents stateless persons being recognised as such in Albania and enjoying the protections and rights and the possibility of being issued travel documents or of obtaining a residence permit on humanitarian grounds.

Nevertheless, as will be developed under section 5, most of the persons identified through the survey are ‘at risk of statelessness’ and fulfil the requirements to be considered as Albanian citizens. Therefore, the problem often lays on the confirmation of their citizenship. For these persons ‘at risk of statelessness’, as well as for the refugees recognised as refugees but not as stateless because of the absence of stateless determination procedure, access to rights such as social services, is sometimes impossible, sometimes undermined.

4.3.2. Preventing statelessness

4.3.2.1. Avoiding statelessness at birth

4.3.2.1.1. Granting of nationality to otherwise stateless children born on Albanian territory

As mentioned, every child born within the territories of the Republic of Albania, even to parents who are citizens of another country but legally residing in Albania, can acquire Albanian citizenship. However, the law excludes children whose parents are not legal residents in Albania – and it also requires consent of both parents to be given. For children born to foreign or stateless parents who do not hold legal residence in the country, there is no pathway for accessing Albanian citizenship, even if the child would otherwise be left stateless. This is a clear gap in the legislation and conflicts with the terms of the 1961 Convention and the ECN, to which Albania is a state party.³⁸

³⁸ See Gezim Krasniqi, *Albania to Grant Citizenship to Ethnic Albanians in the Neighbourhood and Diaspora, Citizenship in South East Europe, 2013*, <http://www.citsee.eu/blog/albania-grant-citizenship-ethnic-albanians-neighbourhood-and-diaspora>

In addition, there are, in practice, obstacles to birth registration of children of asylum seekers, such as delays on issuance of residence permits, coupled with the fact that they sometime prefer to move forward and leave Albania without a birth certificate for their new-borns.

Foreign parents who wish to claim citizenship for their Albanian-born child must make an application, submitting documents which prove that they are lawful residents in the Republic of Albania, following which the child is registered immediately as an Albanian citizen on the basis of this procedure initiated by the parents. The institution in charge of the process of acquisition is the civil status office in the area where the parents reside or in the area where the child has been found. These offices sit within the General Civil Status Division, which in turn is part of the Ministry of Interior.

4.3.2.1.2. Access to nationality for otherwise stateless children born outside the country

Article 7 of Law no. 8389, date 5th August 1998 “On Albanian Citizenship” amended by law no. 8442, date 21st January 1999 “On some amendment of the law no.8389, date 5th August 1998 “On Albanian Citizenship”, provides that “Any individual born to one (or two) parent(s) of Albanian nationality, acquires automatically Albanian nationality”. This provision makes no distinction on whether the parents are married or not. The child acquires Albanian nationality, as long as at least one of the parents has Albanian nationality, even if the parents in question are not married.

The aforementioned legal provision benefits every child, regardless whether he/she is born outside or inside the Republic of Albania. If the child is born outside the territory of Albania to parents that are citizens of Albania, since December 2016 the registration is assigned as soon as the parents present themselves to the Albanian diplomatic institutions in the country where the birth has taken place. This is done by providing documentation proving that the child was born in that country (e.g. documentation from the hospital where the child was born)³⁹. The Law on Civil Status was amended in December 2016, and Albanian consulates no longer have the power to register the births of the children of Albanian citizens.⁴⁰ Alternatively, if the child is born outside the country and has been registered in a civil status office in the foreign country, the parents, if they are Albanian citizens, can register their child directly in their local civil status office. In this case, the birth certificate must be in the form prescribed by the law, hence the certificate must be a legalized act, which can be recognized by the Albanian authorities.

Albanian legislation is in harmony with the international conventions, regarding the acquisition of nationality by children born to nationals abroad at it does not leave any room for statelessness. However,

³⁹ Article 41/3 of Law no. 10129, date 11.5.2009 “On Civil Status” as amended that provides as follows:

“For children born out of the territory of the Republic of Albania by Albanian citizens who are permanently resident in Albania, the birth registration of the child is done at the Albanian Diplomatic or Consular Representations in the country where he was born. When this is impossible, registration is also done in the civil status of that country”

⁴⁰ Law Nr.134/2016, Dt.22.12.2016, Dt of approval:22.12.2016, Official Gazette Nr.265, page:12012017 “For Some Additions and Amendments in Law No. 10 129, Dated 11.5.2009, “On Civil Status”.

in practice, stringent requirements to complete the registration process such as possessing a legalized act of registration, can put children at risk of statelessness because it can prevent a child born abroad to Albanian parents having their nationality recognised. We will see infra in Part 6. the example of Greece, where the authorities do not issue a full birth certificate to those irregularly living in the country, and where the collaboration with Albanian consular authorities is sometime inefficient or simply absent.

4.3.2.2. Preventing statelessness in other contexts

4.3.2.2.1. Foundlings

Article 8(1) of Law no. 8389, dated 5th August 1998 “On Albanian Citizenship”, as amended provides that: “A child born or found within the territory of the Republic of Albania acquires Albanian nationality if he/she is born to unknown parents, and as a result the child would otherwise remain stateless. If the child’s parents become known before the child reaches the age of 14, and they are of foreign citizenship, Albanian citizenship can be relinquished at the request of the legal parents, provided that the child does not become stateless as a consequence of this action”.

With this provision, domestic legislation provides a guarantee that foundlings, whose parents are unknown to the authorities, will not be left stateless: the child is registered as an Albanian citizen. In terms of the law, there are no impediments, as regards acquisition of nationality, for children found in the Albanian territory – no age limits and no risk of statelessness should foreign parentage later be discovered. As such, the legislation is in harmony with the provisions of the conventions to which Albania is a state party in respect of protecting the right to nationality for foundlings.

According to article 49 of Law no. 10129, dated 11 May 2009 “On Civil Status” as amended:

1. “The child of unknown parents is presumed born in the place where he/she is found and at the time that is determined by a medical report.
2. The child of unknown parents is provided with a record by the relevant bodies of public order and a medical report issued by the medical doctor of the area where it was found.
3. At the request of the civil status service or, ex officio, by the approval of the mayor/head of municipality unit/head of commune, where the child is found, it is assigned the name and surname, as well as names of imaginary parents, that can be changed at the request of the child, upon adulthood, or by the parents’ legal certification.
4. The above rules apply to children with unknown parents who suffer memory loss or are mentally disabled and cannot be identified. The situation can be changed for a found child, when the memory returns, he/she recovers from the mental disease or he/she is identified in any other way.
5. In all the cases provided in this Article, the found child is registered in the location where he/she will reside, except when he/she is found as an adult, speaks only foreign language and is registered as

stateless person.

6. The criteria set out in this Article shall also apply to an adult person who has lost his/her memory, are mentally disabled, is found with a deceased parent or unidentified parent, except when the person speaks only foreign language. In this case, he/she is registered as a stateless person”.

Foundlings thus acquire the Albanian nationality, with the location where they are found as the place of acquisition of nationality. However, registration is an important practical condition to the acquisition of nationality. Albanian law, regarding the registration process of a child in the office of civil registry, requires two key elements, first, a valid document certifying the birth and second, the person authorized to make declaration of birth. Registration as a foundling (according to the procedure provided for in the above-mentioned Article 49) requires the coordination of three institutions: the Municipal Unit or the Commune where the child is found (or the child lives), the Health Centre of that location and the Civil Status Office. These three institutions are obliged to identify such cases and, in cooperation with each other, facilitate the registration of the child. Specifically, the employee of the public order in the municipality unit or commune is obliged to bring the child and persons who accompany him/her to the Health Centre, which should provide the child with a medical report determining the gender and approximate age of the child, and together with the employee of the civil status office make a record, followed by the child’s registration.

In practice, problems that have existed for years concerning civil registration in Albania and a failure to register children who did not have parental care, have created problems for persons who, for years, were unable to be registered directly at the office of civil registry. This provision is used as a solution for the registration of children and consequently, the reduction of statelessness for this category. Thus, many children were registered as found children and automatically have acquired Albanian nationality. Later on, court procedures are followed to appoint a legal custodian of the child. Unfortunately, there are no available data to properly quantify the last statement.⁴¹

4.3.2.2.2. Adoption and Surrogacy

Under domestic law, if two Albanian citizens adopt a child, he/she automatically acquires Albanian nationality. An adopted child also acquires Albanian nationality if only one of the adoptive parents is an Albanian citizen, provided that both are residents in the Republic of Albania. After the Court decision granting the adoption of the child, he/she is registered with the family status of the adoptive parents and consequently, automatically gains their nationality. Therefore, it is not necessary for the parents to follow a special procedure for the adopted child in applying for nationality. Whether, if the child originally had a foreign nationality, he/she loses that nationality depends on the legal framework of the foreign country, in which the child previously enjoyed nationality.

⁴¹ See *Ending Childhood Statelessness, A Study on Albania*, TLAS/ENS Working Paper 06/15, pp7-9, available at :<https://www.statelessness.eu/sites/www.statelessness.eu/files/Albania.pdf>

According to the Albanian Family Code, adoption is irrevocable, so if a child acquires nationality through adoption he/she cannot lose it. A minor may, however, lose his/her original Albanian nationality when he/she is adopted by foreign citizens – but only if he/she acquires a new nationality through the adoption process. As such, there is no evidence of a risk of statelessness arising from inter-country adoption under Albanian law.

Albanian legislation does not specifically deal with the question of acquisition of citizenship for children who born through a process of surrogacy. “Surrogacy” is mentioned indirectly in article 261 of the Family Code, which talks of surrogate adoption and refers to the Albanian Act on reproductive health. This act stipulates that surrogate adoption will follow the regular Albanian adoption procedures. In theory, a child who was a product of surrogacy would be adopted by the parents and would be entitled to Albanian nationality according to the same rules as outlined above. The law on reproductive health further provides that the procedure will be regulated through sub-legal acts, but no such sub-legal acts appear to have been formulated on this matter. Nor is there any information available on whether or how such cases have been dealt with in practice.

4.3.2.2.3. Re-acquiring Albanian nationality

Article 14 of the Albanian Law on Citizenship, notably, enables all persons who have renounced Albanian citizenship because they have been promised another citizenship, to re-acquire Albanian citizenship in a situation in which they do not acquire the promised citizenship within a reasonable period of time. In addition, Article 24 provides that: “The person who has renounced the Albanian citizenship before this law comes into force and does not have another citizenship is re-granted immediately Albanian citizenship based upon a request presented by him”.

4.3.3. Birth registration and paternity

The 2009 Law on Civil Status regulates birth registration in its chapter 6 (Article 38-45). It should be noted that Albania does not have an electronic birth registration system: parents have to manually file an application form for birth registration after the birth of their baby. UNICEF is currently supporting the MoHSW and its subordinate entities to digitalise birth-related records within the health system, however, no intervention is currently planned for birth registration at the civil registry.⁴²

The 2003 Family Code is linked to birth registration based on: 1) Article 43(4) of 2009 Law on Civil Status “Recognition and rejection of paternity and maternity are done according to criteria established in the Family Code”; its Article 165, “Maternity and paternity of a child born of a marriage are proven by the birth certificate, which is recorded in the civil registration office”; and its following chapters on maternity

⁴² *Studying and Evaluating the Situation for Enabling Electronic Registration of New-borns in Albania*, TLAS-UNICEF, available at: <http://www.tlas.org.al/sites/default/files/Executive%20Summary%20one%20shqip.pdf>

(Article 175-179) and paternity (Article 180-191).

To summarize, the below articles of the Family Code are considered to be the most relevant to birth registration gaps in Albania:

- Article 180 (1): “A child born during a marriage is presumed to be the child of the husband.”
- Article 167: “Renunciation after the recognition of maternity or paternity of a child born out of wedlock is not allowed.”
- Article 176 and 182: Maternity and paternity can be recognized for a child with unknown parents through a will. Such recognition cannot be revoked even if it was completed through a will.
- Article 181: The father of a child born outside of wedlock is considered to be the adult male who recognizes him/her as their child. Recognition of paternity is valid when the mother has expressed her consent.
- Article 189: The paternity of a child born out of wedlock can be certified by a court decision, if it is proved during the trial that at the time of conception of the child the father cohabitated with the mother of the child, or has engaged in sexual intercourse with or without violence, or has promised her marriage, or if from a penal or civil trial the paternity of the child born outside wedlock is established either directly or indirectly, or when it is publicly known that he has recognized the child as his own.

Therefore, theoretically, every child is entitled to birth registration regardless of family circumstances. However, things get more complicated when there are on-going family disputes, since parents become reluctant to register the birth of children born out of wedlock, for example. Thus, if the mother is married, her child can only be registered as a child of herself and her husband, even if her husband is not the biological father. Once the child is registered to the husband, by the time she divorces him and moves on to a new marriage with the child’s biological father, a new custody case shall be opened to re-designate the father. This type of custody cases often requires a court-authorized DNA test, which costs around EUR400-800. Thus, many parents decide not to register the birth of their child before family disputes are cleared, so as to avoid a more complex judicial procedure after divorce.

Furthermore, the Family Code becomes a serious burden when the parents’ divorce case is protracted due to other civil disputes (property, custody, housing, pension, etc.), and they are unwilling to register the child’s birth under the husband (non-biological father).

One possibility to solve this issue could be to ‘de-link’ birth registration and paternity determination, as it is the case in neighbouring Serbia, for example. If the birth registration could be completed without nominating the father, and if the mother could add the data of father at a later stage, it could avoid Court procedures on false paternity and correction.⁴³

⁴³ Law on Citizenship of the Republic of Serbia [Serbia], 2004, available at: <http://www.refworld.org/docid/4b56d0542.html> [accessed 16 April 2018]

4.3.4. Birth registration and statelessness

Birth registration can play a critical role in ensuring the recognition of a person's entitlement to nationality by the state. In Albania, birth registration is strongly linked with acquisition of citizenship at birth and, indeed, citizenship is one of the key elements of identity established in an individual's registration. As a result of various obstacles in the birth registration process, there are certain occasions when children have the right to Albanian citizenship (*jus sanguinis*), but they are not recognised as nationals because they are not registered.

The registration of children in the Republic of Albania is regulated through law no. 10129, dated 11 May 2009 "On Civil Status". This law asserts that the parents bear primary responsibility for the registration of their children, and in case this procedure fails, it falls to the state institutions to carry out this procedure. Under Article 38(1) of the : *"Birth as fact, time, location, gender and motherhood are verified with the birth assistance certificate, the medical report or record, compiled at the time of birth, which is proved by the present medical personnel, and in case of lack of medical personnel by the responsible person of the train, the captain of the ship or the aircraft on the trip, the director of the prison or military unit, the body of public order, or official diplomatic representations abroad, the lack of medical staff"*. The legislation recognizes the records held on a ship or airplane to prove the fact of birth. If the record accurately confirms the birth, it is immediately registered in the civil register office of Albania, if the aircraft or the ship carries the flag of the Albanian State. Naturally, all the other conditions, as aforementioned in the cases of children born within Albanian territory, must also be fulfilled for this to result in the acquisition of nationality.

The basic document that proves that a birth has taken place is the birth notification (in Albanian: *çertifikatë asistencë në lindje*) that is provided to every mother in the hospital in which she gave birth. This document must be sent to the Civil Status Office (the office where the mother of the child is registered or the closest office to mother's residence), which registers new-borns and maintains the act of birth for the child. A birth can also be proven through a medical report or a written report (at the time of birth), where the mother gives birth outside the hospital, e.g. at home, on a train, ship or plane, or in prison. The written report has to be made by the supervisor of the vehicle or of the institution. In other cases, when the mother cannot prove birth through a written document, or when the latter is not in the required format, she must go to court to verify the fact of birth.

The birth of a child is declared at the Civil Status Office by the parents, other adults from the family, the custodians, the legal representatives, and in their absence by other persons that can prove the right. A child born in Albania to foreign parents, who are not lawful residents in the Republic of Albania, does not acquire Albanian citizenship, but can, in theory, be registered. In such cases, the child is registered with his/her parents' citizenship. The law does not provide any time limits for registration, but it encourages

early registrations. However, in practice, UNHCR reported that registration of children whose parents did not have residence permit yet has been refused to asylum seekers.

Mothers who register their new-borns within 60 days from the birth (births inside the territory of the Republic of Albania) or within 90 days (births from Albanian citizens outside Albania) receive a monetary reward (of 5000 ALL or approx. 40 Euros).⁴⁴

Children who are abandoned or given up for adoption are registered in the Civil Status Office located in same area as the hospital where the child was born. Where available, the child is registered according to the data provided by the mother (in her identification document). The child is registered as a foundling if the mother is not known or cannot verify her identity (lacks the identification documents). After that, the child undergoes the procedures for adoption or for custody appointment. The declaration of birth for foundlings is carried out by the institutions of local government, or the institution responsible for the public order (police) having jurisdiction in the place the child is found.

In Albania, there is a gap between the number of births proven through acts of birth from hospitals and maternity units, and the number of births registered in the civil status offices: indeed, the number of registered births reported by the General Directorate of Civil Status (which is the same number stated by INSTAT) is smaller than the number of births recorded by the Department of Statistics at the Ministry of Health which receives data from maternity units and/or health centres. A Feasibility Study for the need of establishing an electronic birth registration system, completed by TLAS with close collaboration of the General Directory of Civil Office and Ministry of Health, in 2013, found that difference between the birth number reported from Ministry of Health and the number of births registered by civil offices during the same Year is nearly 10%. However, considering the fact that civil status offices also registered children born outside the institutions we can reach the conclusion that the difference is even bigger, which means that a more in-depth analysis must be conducted.⁴⁵

The law on Civil Status tries to pre-empt this problem by providing that: "All health centres, public or private, which are authorized to verify births, are obliged to send every Monday to the civil status offices where parents have their residence, information on births that occurred in the institution. Failure to comply with this provision is punishable by a fine equal to 50,000 Albanian Lek". However, the Ministry of Health has not met this reporting requirement (the health centres are failing to make the aforementioned reports) and the Ministry of Interior has not applied so far, the penalty provided by the law.

In conclusion, in the Albanian legal framework concerning statelessness, the identification of cases of statelessness is problematic, since there is no dedicated procedure. UNHCR supports the introduction of a stateless determination procedure, under the responsibility of a specialised public authority. Among

⁴⁴ Article 41 of Law no. 10129, date 11.5.2009 "On Civil Status" amended.

⁴⁵ See *Ending Childhood Statelessness, A Study on Albania*, TLAS/ENS Working Paper 05/15, p12, available at: <http://www.tlas.org.al/sites/default/files/ENS%20-%20TLAS.pdf>

other legislative gaps identified, a definition of statelessness is missing in the Law on Foreigners. In the Administration practice, there are obstacles to confirmation of citizenship for individuals who are entitled to it, because of difficulties arising from family disputes, birth registration of vulnerable Roma and Egyptians families, birth registration of Albanian children born abroad, and birth registration for children of foreign parents (even if lawfully residing in Albania). Lastly, as will be further developed under section 6., fees and expenses can constitute an additional obstacle for the most economically vulnerable.

5. DEMOGRAPHY OF PERSONS AT RISK OF STATELESSNESS IN ALBANIA

5.1 The challenges of mapping persons at risk of statelessness in Albania

As has already been noted, there are no reliable official data regarding the total number of persons at risk of statelessness in Albania. The only available information is the number of persons who declared themselves as “unregistered” during the 2011 census, which is 7443.⁴⁶

In 2016, the Civil Status Office, with support from the UNHCR, implemented a new online software, accessible to civil registrars at local and national levels, to improve detailed profiling, recording of unsolved cases and collection of disaggregated data, including age, sex, ethnicity, and geographical location. During 2017, the Civil Status Office, UNHCR, and TLAS trained over 300 civil registrars on the use of the software and promoted its use to enhance identification of persons at risk of statelessness.

This demographic study is the result of concerted efforts of the Ministry of Interior, Ministry of Health and Social Welfare, Ministry of Education, local authorities, INSTAT, TLAS, and UNHCR. The aim of the mapping exercise is to provide a realistic, statistically sound, baseline of the persons at risk of statelessness in Albania, as well as evidence-based information of the root causes and major obstacles that this population faces.

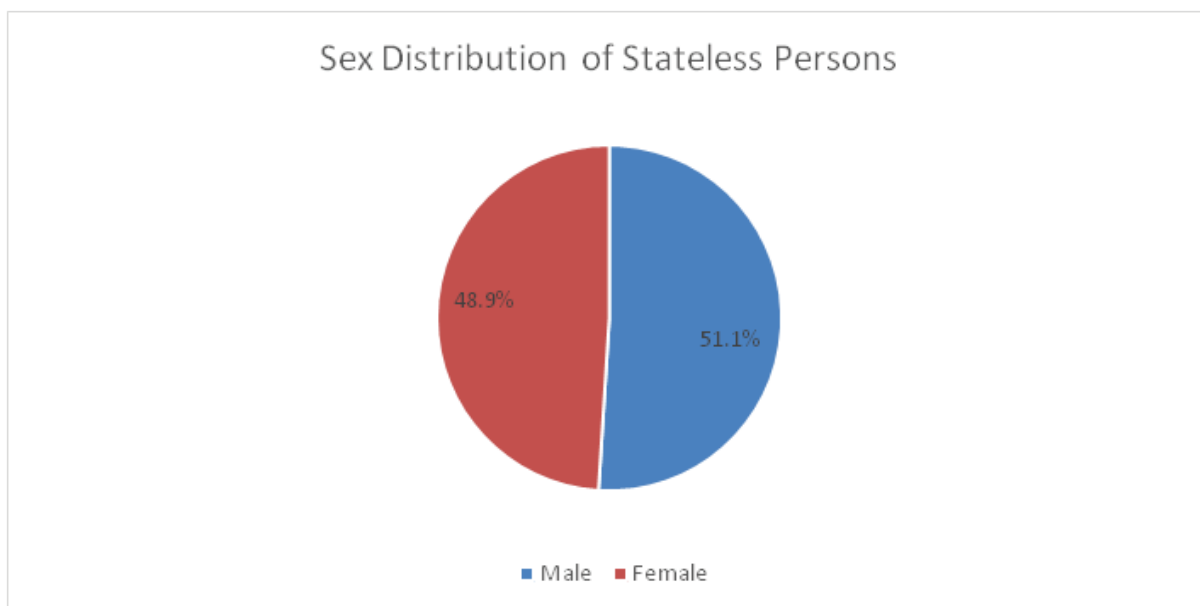
5.2. A statistical overview of the persons at risk of statelessness in Albania

Through this mapping exercise, which took four months to complete, **1031** persons at risk of statelessness were identified in Albania. This group of stateless persons was almost symmetrically divided between the two sexes: **49%** men and boys and **51%** women and girls. This, combined with the fact that according to INSTAT⁴⁷ the number of men and women in the Republic of Albania are approximately the

⁴⁶ <http://www.instat.gov.al/all/temat/censuset/censusi-i-popullsis%C3%AB-dhe-banesave/>
⁴⁷ INSTAT publication “Women and men in Albania”, 2017

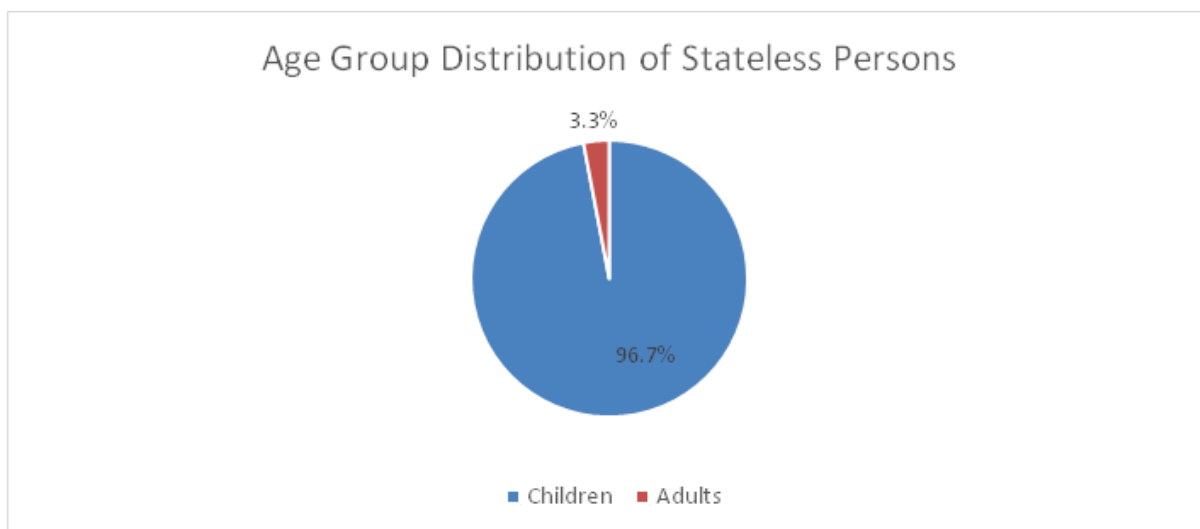
same, seems to indicate that the risk of statelessness is not determined by the gender of the person.

Figure 1: Identified Stateless Individuals According to Sex



As expected, and shown in Figure 2, a large majority (97%) of 1031 identified stateless, or at risk of statelessness, persons were children.

Figure 2: Identified Persons at risk of statelessness according to Age Group (General)



A more detailed breakdown, as represented by Figure 3, demonstrates that almost 50% of our sample falls between the ages of 0-5 years old, and more than a third falls between the ages of 6-14. Together, these groups account for 87% of all the identified persons at risk of statelessness. On the other hand, as Figure 4 shows, only 18% of the Albanian population falls within these age groups.⁴⁸ This suggests that children are disproportionately at risk of statelessness and that birth registration remains key to solve

⁴⁸ INSTAT, *Vjetari Statistikor 2017*.

situations of statelessness in Albania. In quantitative terms, in Albania, children are roughly 95 times more vulnerable to statelessness issues than adults.⁴⁹

Figure 3: Identified Persons at Risk of Statelessness According to Age Group (Detailed)

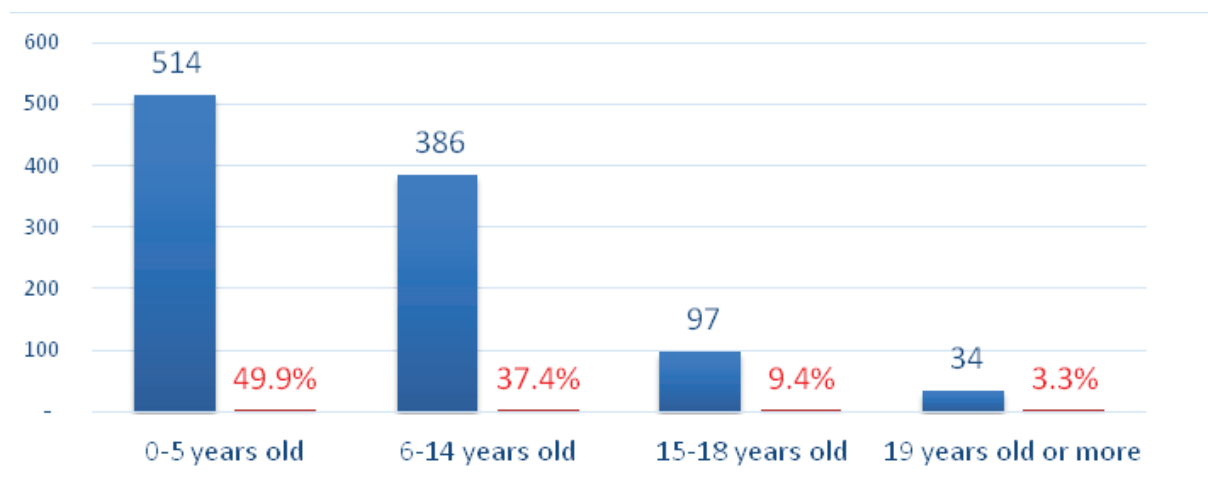
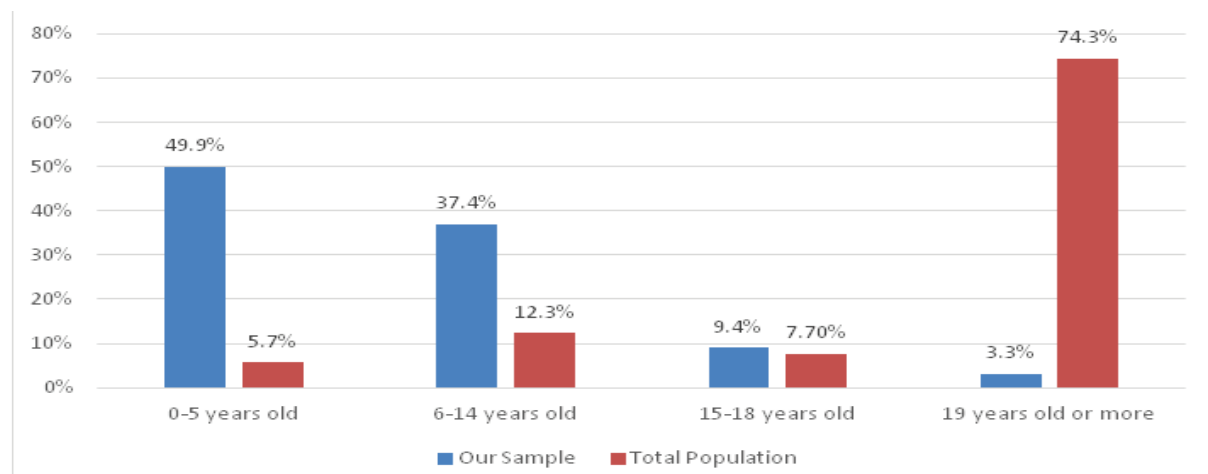


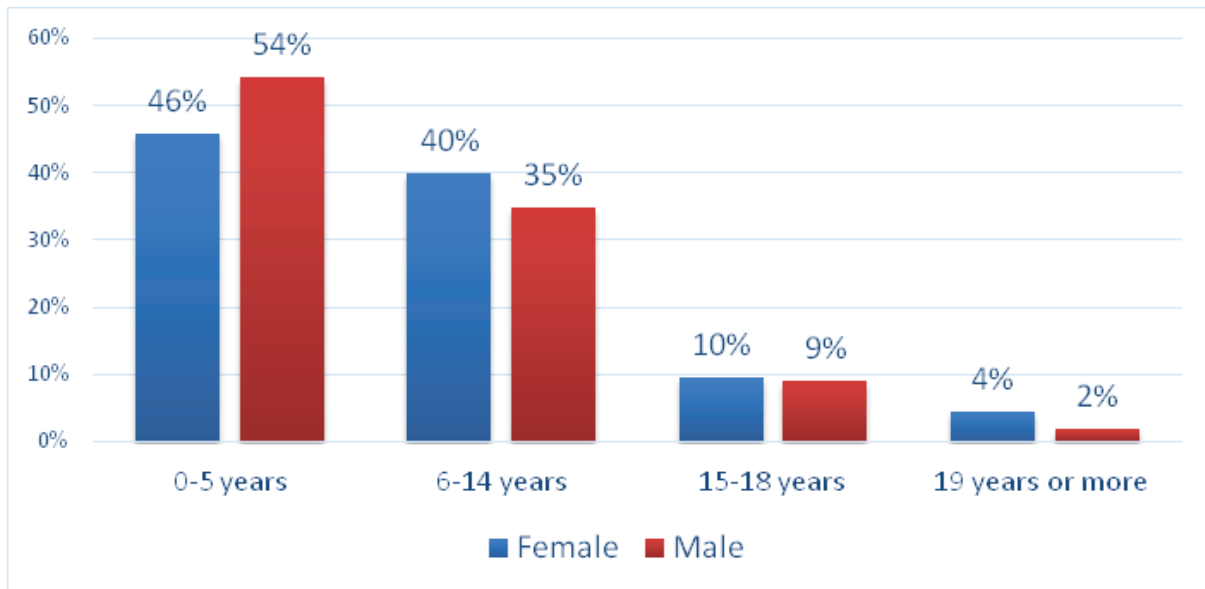
Figure 4: Distribution of our Sample against Total Population regarding Age Groups



An evaluation of the combined variables of age and gender, shows that in the first group (0-5 years old), there are relatively fewer females than males. This is reversed for the second age group, i.e., the relative number of females is higher than the number of males albeit the difference is insignificant. These two age groups (up to 14 years old) include, respectively, 86% of all the females and 89% of all the males. Regarding the rest of the groups, (15-18 years and 19 years or more), they indicate a lower percentage for both females and males compared to the two previous groups, respectively 15% of females and 11% of males. In conclusion, the differences between the two sexes, even when accounting for different age groups, remain too limited to assert any type of relation between sex and risk of statelessness.

⁴⁹ This number is the result of the division (97/25.3) / (3/74.3). The numerator is the ratio between the proportions of children in our sample at risk of statelessness over the proportion of children in the general population. The denominator represents the same ratio for adults. The correct scientific approach would require inferential statistics, probably a multivariate binary logistic regression model. Nonetheless, the latter falls beyond the scope of this report and is not viable due to small sample size and lack of data (explanatory variables). In this case, the measured approximate effect is sufficient to conduct our analysis.

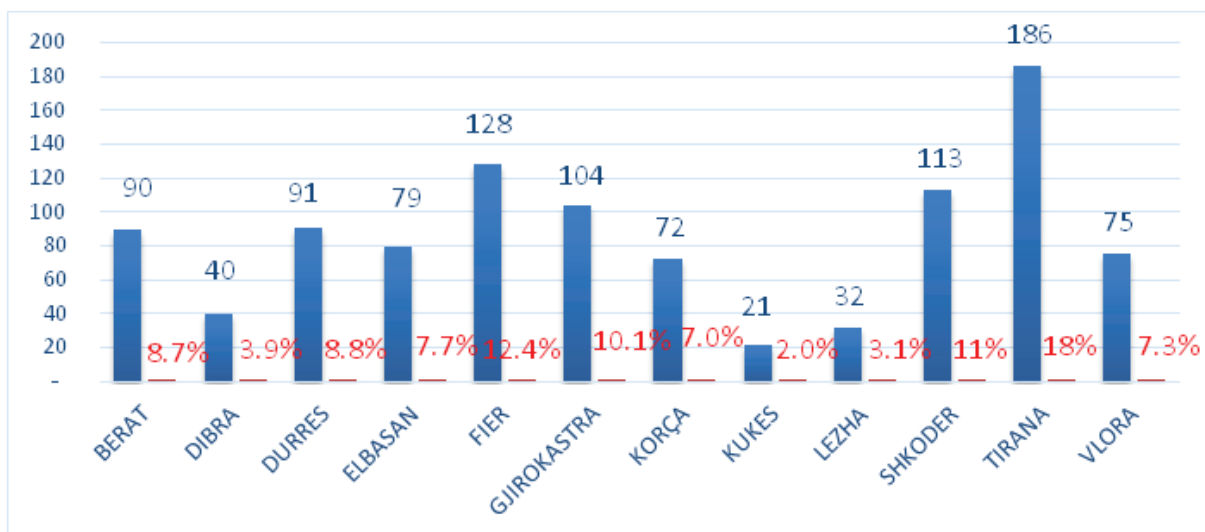
Figure 5: Identified Persons at risk of statelessness according to Age Group and Sex (Combined)



5.2.1 Geographical distribution of persons at risk of statelessness

According to our collected data, the geographical distribution of persons at risk of statelessness shows that most of the persons are identified in Tirana (18%), Fier (12%), Shkodra (11%) and Gjirokastra (10%). On the other hand, relatively few cases of persons at risk of statelessness have been identified in small districts like Kukës, Dibra and Lezha.

Figure 6: Identified Persons at Risk of Statelessness According to District



However, the numbers above tell us nothing regarding the relationship between residence in one district and risk of statelessness. In order to assert this correlation, the graph above has to be put in a different perspective. Figure 7 compares the proportion of individuals (from our sample) in one district with the

proportion of the population living in that district. In this way, we eliminate the direct effect that the size of a district has on the number of persons at risk of statelessness in that district. In other words, we evaluate the relative prevalence of the issue of statelessness. The new graph indicates that larger cities like Tirana or Durres, which have large numbers of persons at risk of statelessness, are doing better, in relative terms compared to their populations, than smaller cities with fewer statelessness cases, such as Berat or Vlora.

Figure 7: Proportion of Persons at Risk of Statelessness by District Against the Relative Size of the District

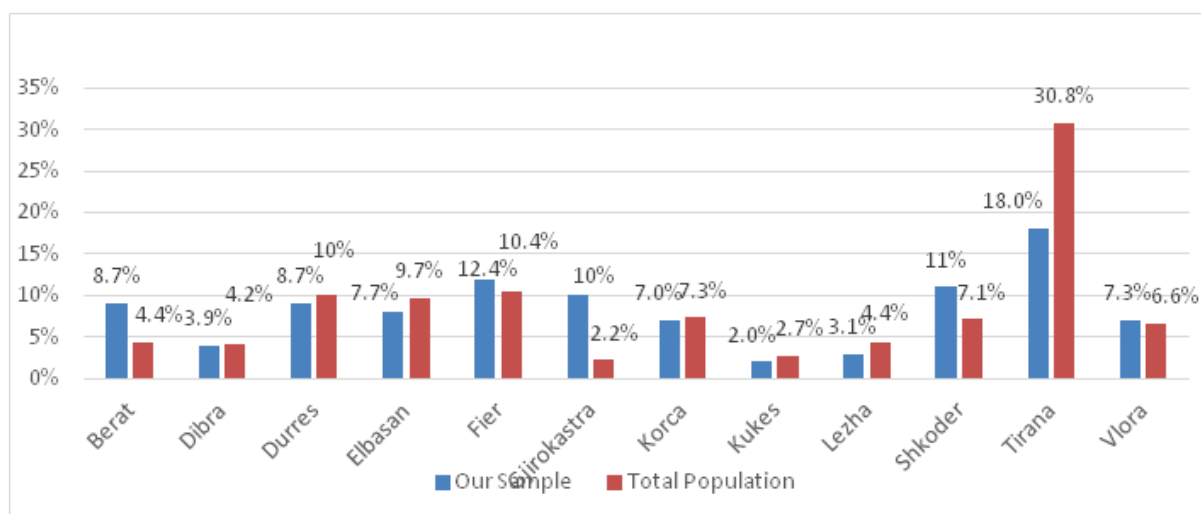


Table 1 follows the discussion of the earlier paragraph. Dividing the proportion of identified persons at risk of statelessness in each district by their relative population size, one arrives at a number that represents the relationship between residence in a district and the risk of statelessness, which we label as the “coefficient of statelessness risk.” As mentioned previously, the correct scientific approach would be through multivariate binary logistic regressions (twelve in this case, one for each district) or through multivariate linear regressions (depending on the type of independent variables). Nonetheless, given the scope of this report, the following table provides a suitable approximation of the effect.

Table 1: Coefficient of Statelessness Risk by District

District	Coefficient of Statelessness Risk
Berat	2.04
Dibra	0.95
Durres	0.9
Elbasan	0.82
Fier	1.15
Gjirokastra	4.55
Korça	0.96
Kukes	0.74
Lezha	0.68
Shkoder	1.55
Tirana	0.58
Vlora	1.06

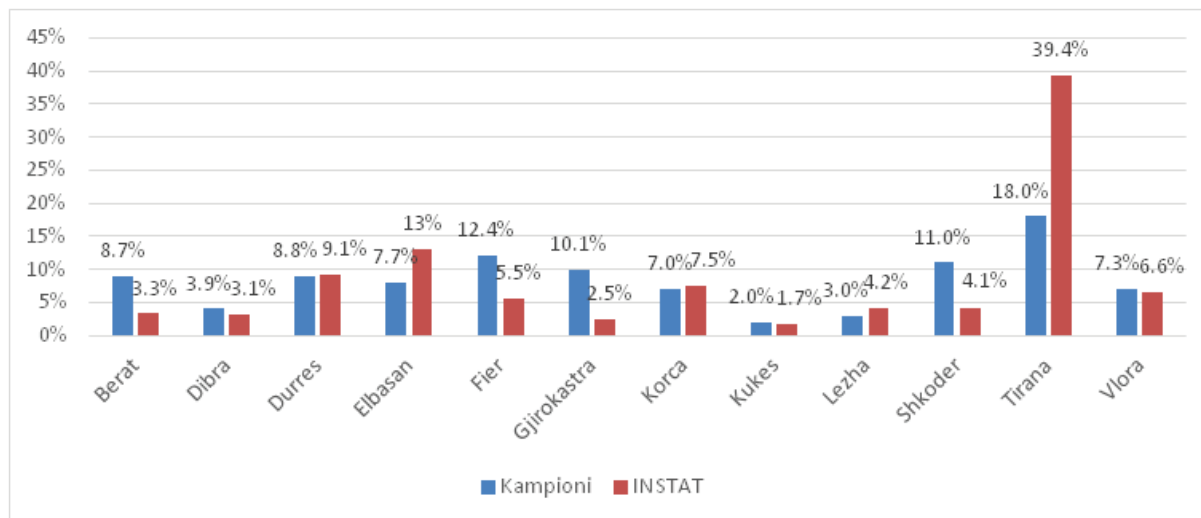
Each number represents how many more times is an individual at risk of facing statelessness compared to the average if he/she resides in a particular district.⁵⁰ Regarding the risk of statelessness, from the figures it would appear that people living in Gjirokastra are at greatest risk of statelessness, while those in Tirana are at the least risk.

There are many reasons behind these differences. First, from TLAS/UNHCR's long experience and other reports⁵¹, it can be seen that Roma and Egyptian communities reside in relatively large numbers in the districts of Fier, Shkodra, Elbasan and Gjirokastra. These communities, for several reasons, are among the most vulnerable groups regarding the issue of statelessness. Second, the influx of immigrants returning to Albania over the past few years, produces more cases of persons at risk of statelessness in cities near the borders than in central regions, such as Tirana. The importance of this point is asserted by Figure 9, which demonstrates that the most pervasive cause of statelessness in Albania is being born outside of Albania. Third, those NGOs that are specialized in tackling the risks associated to statelessness, including TLAS, are located and have strong structures in Tirana, but, usually, have fewer resources in other districts. Related to this, Figure 8 shows that after 2011 (INSTAT Census) the problem of statelessness has relatively improved in the districts of Tirana, Durres, or Lezha, but has significantly deteriorated in the districts of Shkoder, Fier, or Gjirokastra (assuming that our sample of stateless persons collected in four months is representative of the Albanian population).

⁵⁰ Keep in mind that if you want to compare how many more times one is at risk by living in a district instead of another, you have to divide the coefficients. For example, an individual residing in the District of Shkoder is 2.28 (1.55/0.68) times more at risk of being stateless compared to a person in the District of Lezha.

⁵¹ "Roma and Egyptians in Albania: A socio-demographic and economic profile based on the 2011 census."

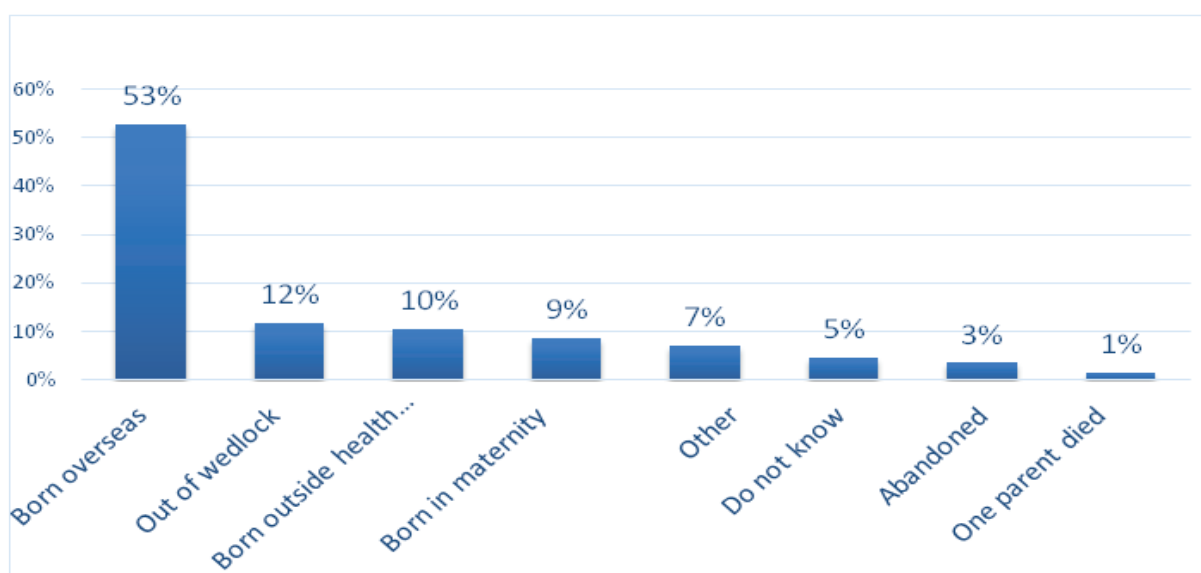
Figure 8: Proportion of persons at risk of statelessness by District against the Census of 2011



5.2.2 Root causes- lack of civil documentation/birth registration

The data collected show that the main factor putting someone at risk of statelessness is being born outside of Albanian territory (**53%**), that's followed by children born out of wedlock (**12%**), children born at home (**10%**) and those born in maternity units holding incorrect personal information on the mother (**9%**). Altogether, **84%** of the persons identified, face obstacles to confirm their nationality due to birth registration procedures. It should be noted that **5%** of the subjects have answered “do not know about the causes of non-registration.”

Figure 9: Causes of the lack of confirmation of Albanian citizenship for the population at risk of statelessness

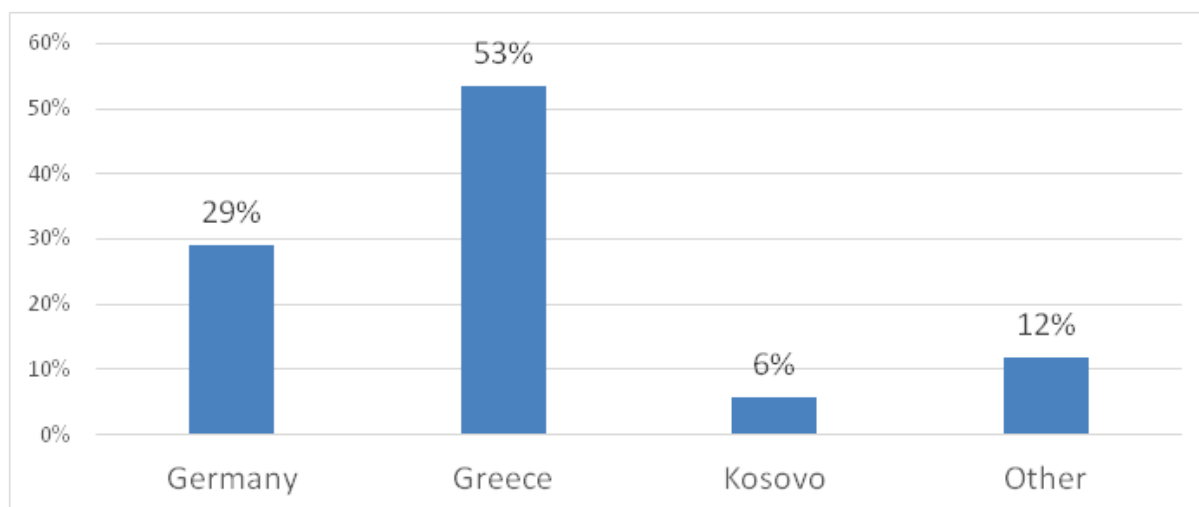


Other reasons mentioned are related to access to services and the socio-economic situation of the persons at risk. This includes parent's divorce and negligence, children raised by relatives, blood feud, and intersex children.

5.2.3 Birth place distribution of persons at risk of statelessness

Out of 1031 persons identified, 546 are born abroad, which represents 53 percent of the group of people identified by our survey. Of those born abroad, the distribution of data shows that 53% were born in Greece, followed by those born in Germany (29%) and then Kosovo (6%). As explained before, children of Albanian returnees face multiple challenges to having their children documented and their nationality confirmed.

Figure 10: Country of Birth of Identified Persons at Risk of Statelessness Born Outside Albania



It should be noted that while, on the one hand, only **22%** of the persons identified through this mapping have declared their country of birth, on the other hand, **53%** declared that the risk of statelessness is linked to the fact that they were born outside Albanian territory. This may indicate some weakness in data recording, but it does not invalidate the presumption that cross border birth registration is one of the main issues that will need to be addressed to solve statelessness in Albania.

5.3 Data sources

For official statistics data, we can refer to the Institute of Statistics of the Republic of Albania (INSTAT). The most recent data is that gathered through the general population census conducted in 2011. This included the category of 'unregistered persons', containing 7,443 persons. There is not any further data available regarding the demographics of these individuals, except the gender distribution: 3,874 men

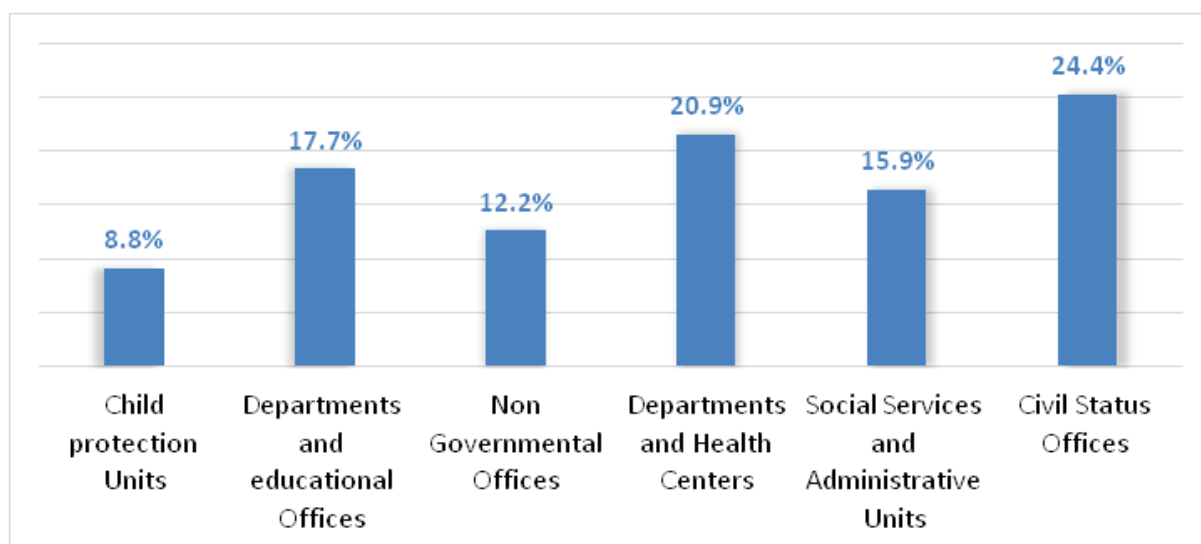
and 3,569 women. The most accurate figures currently available were collected by TLAS personnel, based on cases of persons at risk of statelessness who confirmed nationality thanks to TLAS free legal aid support in the period 2012 – 2016 (after the census). It is estimated that number of persons at risk of statelessness has been reduced to some 4,971 persons.

For this study, TLAS data analyst collected data from the institutions mentioned in the section below and developed a specific database, through which 1,031 persons at risk of statelessness were identified. TLAS case management database allowed the organization to record biodata including age and gender, obstacles for registration, actions taken and follow up for specific individuals.

5.3.1. Groups covered by administrative and non-administrative data

Based on the collected aggregate data, most of the identified cases come from the Civil Status Offices (24%), followed by Ministry of Health (21%), Ministry of Education (18%), followed by Ministry of Social Services and Social Services departments at the local level (16%), Non-Governmental Offices (12%) and the Child Protection Units (9%).

Figure 12: Data Sources



5.3.1.1 Identification of cases through the project “Socrates”

In addition to our report, the Ministry of Education, through the assistance of the digital project, “Socrates,” has alerted the responsible Civil Status Office on 1130 students that have not presented a registration document at their schools. Out of this number, 995 children were not found in the Civil Registry. While this check does not automatically imply that they are stateless as they could have a different

nationality and are not registered in the Albanian registry, it serves as a preventive step against the risk of statelessness.

The authors of this report find the Socrates Project worthy of both praise and investigation as to scalability. It will probably help to prevent new cases of statelessness and respond to existing ones. Furthermore, an assessment of the actual situation is necessary for all the relevant ministries to address the gaps in the system. The only remark that we would like to make is related to the need for stronger cooperation between public institutions and NGOs. For instance, we discovered that 49 of the children reported by the Ministry of Education were also collected by our study — thus the same work was done twice due to lack of coordination. Working together could save time and resources, which in turn could make the life of another unfortunate person better.

6. REMAINING CHALLENGES OF PREVENTING STATELESSNESS AND PROTECTING PERSONS AT RISK OF STATELESS PERSONS IN ALBANIA

As seen supra, the Albanian legislation on statelessness allows neither for a fully effective prevention of statelessness, nor for a sufficient protection of people in – or at risk of - statelessness.

6.1. Prevention of statelessness

The shortcomings of Albanian legislation, challenges during birth registration and other bureaucratic challenges, as well as the lack of State support for subsequent registration, undermine the prevention of statelessness.

6.1.1. Albanian legislation shortcomings

6.1.1.1. Absence of statelessness determination procedures

Gábor Gyulai defines the stateless status determination procedure as “a formalised procedure based on specific legal provisions and having as its objective to establish whether or not a person is stateless (either de jure or de facto). Such a procedure may be conducted either at the request of a foreigner (similarly to a refugee status determination procedure), or ex officio (for example in case of illegal aliens, in preparation of their expulsion)”.⁵²

As seen supra in this report, Article 3(2) of the Albanian Law “On Foreigners” enshrines a definition of a stateless person - “stateless person means a person who is not a citizen of any state” -, which neverthe-

⁵² Gábor Gyulai, *Hungarian Helsinki Committee report ‘Forgotten Without Reason - Protection of Non-Refugee Stateless Persons in Central Europe’, 2007*

less falls short of international standards. Furthermore, it does not have specific and formal procedures to establish statelessness. Yet, identifying stateless persons and granting them basic rights allows them to fully participate in and contribute to the society in which they live. It also reduces costs and security risks related to the marginalization of stateless persons.⁵³

In order to ensure fairness and efficiency, UNHCR recommends that statelessness determination procedures ensure guarantees, including the right to an effective remedy in case of rejected application. Legal aid should be available and administrative fees for statelessness applications should be lowered. Lastly, deportation of individuals who have an application pending in a statelessness determination procedure should be suspended until the authorities' final decision.⁵⁴

Furthermore, a stateless person may still fail to benefit from facilitated naturalization because of this absence of a statelessness determination procedure. Indeed, the fact that statelessness determination procedure is missing, hinders the implementation of the legal provisions. Thus, although the Albanian law provides children of stateless persons with the right to acquire the nationality of the country they were born in, they may be deprived of this right because their parents do not have the possibility to prove their status as stateless persons.

On this point, Albania could take example from neighbouring Kosovo's legislation⁵⁵ amended in 2013, and by-law adopted in 2015, and notably by the administrative instruction for statelessness determination procedure and criteria.

6.1.1.2. Absence of non-contentious procedures to remedy untimely birth registration

In Albania, obstacles to the registration of a child's birth include: a certain rigidity or inflexibility of the public officials, limited cooperation and knowledge of the registry civil servants, limited autonomy of civil servants to solve cases, lack of information and training of civil registry personnel, giving birth at home or a lack of cooperation by local authorities and administrations.

To remedy untimely birth registration issues, some neighbour countries improved their legislations, especially by introducing procedures for determination of date and place of birth for persons.

Thus, Serbia adopted, in 2012, amendments to the Law on Non-Contentious Procedure, providing that persons who are not registered in birth registry books and as a result are at risk of statelessness, file a petition with the court to determine the date and place of birth.⁵⁶ Even if this procedure is imperfect,

mainly because of the slow process stretching from the Court decision determining the date and place

⁵³ UNHCR report 'Statelessness determination procedures - Identifying and protecting stateless persons', August 2014, p3, available at: www.refworld.org/docid/5412a7be4.html

⁵⁴ See UNHCR Expert Meeting Summary conclusions 'Statelessness Determination Procedures and the Status of Stateless Persons', December 2010, p4, available at: www.refworld.org/docid/4d9022762.html

⁵⁵ <https://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Citizenship%20of%20Kosovo.pdf>

⁵⁶ See Stephanie Woldenberg, 'Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration', Report for the OSCE High Commissioner on National Minorities, UNHCR and EC, 2013, available at: <http://www.refworld.org/pdfid/5280c5ab4.pdf>

of birth of a person to their registration in civil registry books and issuance of a birth certificate, it still has the merit of existing, and with time is becoming more and more efficient.⁵⁷

In Kosovo, the recent Law on Civil Status also allows for the use of witnesses in birth registration for all inhabitants who lack the required documents.⁵⁸ The law notably foresees the right of all children who are born within Kosovo to register in the civil registry books, no matter the permanent settlement of their parents.⁵⁹

Yet, one cannot play down the fact that even when a country adopts the appropriate legislation to avoid the occurrence of statelessness, this legislation has no effect if it is not adequately implemented in actual fact by sub-laws, administration practices and the actions of local authorities.

6.1.2. Birth registration and bureaucratic challenges

For the period 2005-2012, UNICEF Albania estimated the birth registration to be at 98.6 per cent. Birth registration remains problematic for children born:

- Outside health care institutions.
- Abroad (two different administrative/legal systems involved).
- To parents who: provide wrong data, abandon their children, do not register their children, or a combination of these.⁶⁰

6.1.2.1. In Albania

There are divergences between the theoretical legal frameworks and the actual functioning of the institutions. Long, complex and costly administrative procedures continue to be a major obstacle for many persons at risk of being stateless. Marginalized minorities, especially Roma, often have difficulty meeting the various requirements for confirming or acquiring citizenship.

Importantly, within the National Plan for Integration of Roma and Egyptian Communities in the Republic of Albania, 2016-2020, there is a chapter dedicated to Civil registration and access to justice.⁶¹

These obstacles can be real as well as perceived. For example, fear of being charged a hospital fee

⁵⁷ PRAXIS Report 'Analysis of Practical Application of the Law on Non-Contentious Procedure Determining the Date and Place of Birth', 2013, pp5-15

⁵⁸ Kosovo Law on Civil Status No. 04/L-003, 23 June 2011, available at: <https://www.kuvendikosoves.org/common/docs/liqjet/Law%20on%20civil%20status.pdf>

⁵⁹ See UNICEF Every Child Counts: Birth registration in Kosovo, available at https://www.unicef.org/kosovoprogramme/UNICEF_Birth_Registration_2009_English.pdf

⁶⁰ UNICEF, Child Notice Albania 2015, p29, available at: <https://www.unicef.nl/files/unicef-child-notice-albania.pdf>

⁶¹ The National Plan for Integration of Roma and Egyptian Communities in the Republic of Albania 2016-2020, pp25-27, available at: <http://www.al.undp.org/content/albania/en/home/library/poverty/national-action-plan-for-integration-of-roma-and-egyptians-in-th.html>

for giving birth without health insurance is an incentive for some women to give birth at home. Or some women without documents may borrow the health booklet of a relative to avoid fees, and the baby is consequently legally registered with a different family. Moreover, hospitals sometimes fail to execute their legal obligation to report births to the registry office.⁶²

If a family opts for later registration, the requirements are heavy and include providing the ID cards of both parents, legally registered residence of the parents, marriage certificates, fees connected to the administrative process. All these requirements can be particularly problematic for Roma, who may potentially lack ID documents, live in illegal settlements, may not be officially but rather traditionally married and have low-income.

In any case, administrative practices vary from one place to another, depending on the willingness as well as on the capacities and knowledge of local administrative bodies and municipal officers. The problem is that administrative failures or breaches often affect vulnerable and discriminated populations that may not know their rights or have limited access to justice and limited possibilities of appeal against administrative decisions.

As UNHCR describes in its Global Action Plan to End Statelessness 2014-2024, reforms of citizenship laws and policies, even if they go towards improvement, are sometimes difficult to achieve in practice. Besides, prevailing social views regarding ethnic, religious or other minorities may be difficult to change. Sometimes, governments merely lack capacity to undertake the fight against statelessness.⁶³

6.1.2.2. Abroad

Complexity and challenges related to birth registration are exacerbated in cases of children born abroad, especially when the parents live abroad irregularly. Children are then likely to not have their births registered, or only receive a birth notification which does not include the basic information required by Albanian authorities in order to proceed to the registration of their birth.

Until December 2016, Article 41(3) of 2009 Civil Status Law stipulated that the registration of the birth of children born outside Albania is done in diplomatic or consular mission of the country where he or she was born. It added, "When this is impossible, registration takes place in the civil service of the country." The law changed in December 2016, and Albanian diplomatic or consular mission no longer have the power to register the births of the children of Albanian citizens.⁶⁴

So, in order to register the birth of child born abroad a child's birth certificate must be obtained from the

⁶² UNHCR, 'Report on Statelessness in South Eastern Europe', UNHCR Offices in Bosnia, Macedonia, Serbia, Kosovo, Croatia and Montenegro, September 2011, p28

⁶³ UNHCR Global Action Plan to End Statelessness 2014-2024, November 2014, p8, available at : www.unhcr.org/54621bf49.html

⁶⁴ Law Nr.134/2016, Dt.22.12.2016, Dt of approval:22.12.2016, Official gazette Nr.265, page:12012017 "For Some Additions And Amendments In Law No. 10 129, Dated 11.5.2009, "For Civil Status", as amended".

country of birth and must be in the form prescribed by the law: a legalised act, translated into Albanian and notarised. This document must be verified by the Foreign Ministry and the Ministry of Interior of the foreign country. It must then be legalised at the Albanian Consulate in the foreign country. This document needs to be translated and the translation notarised. Once this has been done, the child can be registered with the civil registry office in Albania.⁶⁵

The bureaucratic requirements of this procedure are demanding and expensive, and often impossible to fulfil, particularly for undocumented migrants who give birth in foreign countries. Due to their own lack of documentation and irregular status, they often avoid giving birth in hospitals, and therefore, do not always receive birth certificates. In the best case, birth notifications are received that do not have all the information that the Albanian authorities require. Many parents do not manage to address all the bureaucratic obstacles linked to the legalisation of the birth certificates in the foreign country and travel back to Albania before having obtained a certificate in the form requested by the Albanian authorities. In such cases, these certificates are not legalised and the children's births are not registered in Albania regardless of whether the parents are Albanian. This prevents the registration of their children's birth and, because very often they are unable to return to the country where their children are born to resolve the issue, there is a higher risk that these children will be stateless.

This problem is particularly significant for children born in Greece where the authorities do not issue a full birth certificate to those irregularly living in the country and secondly to verify it for the legalisation purposes with Albanian authorities that refuse to acknowledge simple foreign acts for civil registration purposes.

6.1.3. Subsequent registration

As developed supra, many cases of risk of statelessness, whether identified or not, are due to a mere lack of birth registration and consequently a lack of identity documentation. Later, subsequent registration requires legal and administrative assistance that most of the concerned people do not know where to obtain and/or cannot afford.

Subsequent registration is a complex and costly procedure in Albania, involving notably a DNA (deoxy-ribonucleic acid) test, a gynaecological exam of the mother, and the parents' identity documentation. Although Albania adopted a Law on Free Legal Aid⁶⁶ and subsequent by-laws in 2011 and 2012, that theoretically guarantee free primary and secondary legal aid services to persons who cannot afford them, access to justice remains a real challenge for a vulnerable population. Among the shortcomings of this Law on Free Legal Aid, the lack of budget, the restricted selection of beneficiaries, the scarcity of lawyers prepared to take on Legal Aid cases and the high costs of court fees continue to exclude

⁶⁵ See the Albanian Ministry of Foreign Affairs' website: <http://www.punetejashtme.gov.al/en/legalization-of-documents&page=1>

⁶⁶ Law on Free Legal Aid, Law no. 10039, 22 December 2008, available at: www.eurailius.eu/pdf/13.Law%20on%20Legal%20Aid.%20promulgated%20on%2012_01_2009_en.pdf

vulnerable populations and have been denounced by various stakeholders. Costs of DNA tests to prove a child's identity and parental links still have to be met by the applicant/parent, although the State laboratories could provide this service free of charge in case of subsequent birth registration.

The Ministry of Foreign Affairs of Albania charges fees to people who must get their foreign-issued identity documents certified by the consulate or embassy. These barriers demonstrate the ministries' lack of ownership of the problem and the risk for expansion of statelessness in the future. Worse still, in case of Roma and Egyptians, there is a tendency to shift all responsibility to the Ministry of Youth and Social Welfare, while other concerned institutions often do not see pro-active work as part of their mainstream activities or mandate.⁶⁷

6.2. Available protection for stateless persons and persons at risk of statelessness

6.2.1. Barriers to accessing justice and legal aid

As mentioned above, Albania adopted a Law "On Legal Aid" in 2008 and subsequent by-laws designed to guarantee free legal aid services to those who otherwise would not be able to afford the costs associated with a legal process. However, the funds that have been made available do not meet the demand, the selection criteria for legal aid qualification are too restrictive, lawyers are not readily available to take on legal aid cases and court fees remain high. This means that the very people that the system is designed to help, the vulnerable and poor, continue to be excluded and often do not even know they have a right to legal aid.

This is true also regarding lack of legal redress and access to justice for those denied documentation or who have been unable to access documentation due to the structural issues identified above. Legal aid plays a crucial role in this context. Not only in Albania, but also in other South Eastern Europe countries, NGOs had to fill the gaps and have played a key role in advancing the rights of persons at risk of statelessness, as well as advocating for legislative improvement.

According to the Law on Legal Aid, the Ministry of Justice develops state policy in the field of legal aid services for individuals. It should also assist in preparing the necessary legal acts, provide for the implementation of legal provisions and assesses the quality of legal assistance provided. The State Commission on Legal Aid works under the Ministry of Justice and implements government policy for providing legal assistance to individuals, managing the public budget allocated for legal aid, establishing criteria for assessing the quality of service and cooperating with civil society organisations working in this field.

⁶⁷ Milena Isakovic Suni, *Comparing Approaches to Combating Statelessness in Albania and Serbia*, June 2015, p6, available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/2015-05-14%20Comparing%20Approaches%20Albania%20and%20Serbia.pdf>

In spite of these mechanisms, free legal aid remains largely inaccessible for stateless or undocumented people, because they cannot always provide the necessary documentation, especially proof of residence or income/economic assistance, to establish their eligibility to receive the legal aid.

Furthermore, the system does not offer in practice legal aid for persons at risk of statelessness. According to the law, legal aid can be provided for civil registration matters but only those who can prove that they cannot afford to pay the costs and that they benefit from social assistance are eligible. As persons at risk of statelessness are not eligible for social welfare and invisible, they cannot benefit from the legal aid system. As a result, so far, legal aid on civil registration and nationality cases has been and continues to be provided by non-profit organisations.

Finally, the State Legal Aid Commission lacks capacity and resources to respond effectively to the needs. Even the small number of persons who receive legal aid, face the real risk of not having effective representation. In fact, legal aid lawyers tend to lack competence and are paid poorly.⁶⁸

It shall be noted here that, at the time of this report writing, there is an ongoing reform of the Law on Legal Aid. The new Law was approved by Parliament in December 2017, and shall enter into force on 1st June 2018.⁶⁹ Among other legislative change, it notably abolishes the State Legal Aid Commission.

Stateless persons who reside in the territory of the Republic of Albania for a temporary or permanent period and are provided with a residence permit in accordance with the legislation in force for aliens are officially eligible for legal aid guaranteed by the state. So too, stateless persons entering the territory of the Republic of Albania on a regular basis and benefiting from international agreements ratified by the Republic of Albania or based on the principle of reciprocity can also benefit from legal aid guaranteed by the State.⁷⁰ Eligibility for benefiting secondary legal aid (representation by a lawyer) is by a court decision. On the other hand, the primary legal aid (legal counselling and support) will be provided by specially trained employees, non-profit organizations, or legal clinics at higher education institutions.⁷¹

6.2.2. The discriminatory factor

Anti-Roma feelings may also increase the risk of statelessness, when some personnel from civil registries refuse to register or issue documents to Roma individuals with the pretext that they do not pay their taxes. This practice is, of course, forbidden by a specific Ministry of Interior instruction.⁷²

⁶⁸ See Euralius comments on the Future of the Legal Aid system in Albania, at: <http://www.euralius.eu/index.php/en/news/211-abolishment-of-state-commission-for-legal-aid>

⁶⁹ Law no. 111/2017 "For Legal Aid Guaranteed by the State", available here: <https://www.parlament.al/wp-content/uploads/2017/12/ligj-nr.-111-dt.-14.12.2017.pdf>

⁷⁰ Article 10 of Law no. 111/2017 "For Legal Aid Guaranteed by the State".

⁷¹ Article 13 of Law no. 111/2017 "For Legal Aid Guaranteed by the State".

⁷² Milena Isakovic Suni, *Comparing Approaches to Combating Statelessness in Albania and Serbia*, June 2015, p4, available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/2015-05-14%20Comparing%20Approaches%20Albania%20and%20Serbia.pdf>

In 2013 the People's Advocate proposed amending the Law on Civil Status, raising awareness about the fact that many Roma and Egyptians live in informal settlements and cannot enjoy political, social or economic rights as citizens, for the reason that they are not officially registered as residents in local and municipal administrations.⁷³

Members of the Albanian civil society and interviewees suggested that one of the main obstacles of civil registration for Roma people is the lack of awareness on adequate documentation, culture of constant migration, social and economic vulnerability, and widespread discrimination in daily life including discouraging treatment in civil offices. In addition, considering the high level of corruption in Albania, vulnerable Roma people might have faced more difficulties in getting through the birth registration procedure.

Furthermore, anti-Roma discrimination in Albania incites them to migrate, which makes it even more complicated for them to acquire citizenship. Discrimination impacts decisions on migration, which then jeopardize obtaining citizenship or naturalization, which is often based on residence criteria. All this constitutes an unfortunate vicious circle.

Sometimes the law itself does not appear discriminatory, but its implementation and effects, in reality, have a discriminatory impact. Because the Albanian government does not take into account the specific circumstances of the Roma, the latter are disproportionately affected by statelessness and situations of undetermined nationality, as compared to the general population. In cases where citizenship is acquired following an application procedure or even through naturalization, the criteria set, as well as the primary access to the procedure itself, and at the end the margin of discretion that the authorities may have in determining the case can all leave room for discrimination.⁷⁴

⁷³ Milena Isakovic Suni, *Comparing Approaches to Combating Statelessness in Albania and Serbia*, June 2015, pp8-9, available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/2015-05-14%20Comparing%20Approaches%20Albania%20and%20Serbia.pdf>

⁷⁴ De Verneuil M, *Statelessness of Romani People in the Western Balkans: Negligence or Discrimination?*, 2016, pp192-193

7. CONCLUSIONS

7.1 Conclusions

UNHCR's monitoring activities have suggested that the majority of persons at risk of statelessness in Albania are persons who should have access to nationality in theory but in practice could not confirm their nationality due to various obstacles in access to birth registration. This particularly affects Roma and Egyptian communities, as they are often socially and economically marginalized, but also Albanian returnees whose children were born abroad.

Indeed, besides persons who have resided in their own country since their birth, there are individuals born in other countries (mainly EU Member States), many of whose parents were irregularly residing in there after the collapse of communist regime in 1991 and did not register the child's birth. From 2008, following the economic crisis in Italy and Greece, many undocumented persons returned or were deported to Albania, where they are currently investigating the possibility of late birth registration in Albania.

Statelessness is not recognised as a significant issue by authorities and stakeholders in Albania. There is no status for stateless persons in place, nor a statelessness determination mechanism that would allow for the identification of cases. As a result, stateless persons are not systematically and individually identified and there are obstacles to the attainment of lawful residence in the country by stateless persons. Moreover, reliable data are difficult to gather, by the very nature of being 'legally invisible', and due to methodological constraints (e.g. census data based on self-identification).

It is important that a clear distinction be drawn between civil registration and statelessness in order to provide a better understanding for all relevant authorities. The gaps that exist within the nationality law framework and are contributing to the creation of childhood statelessness must be recognised and addressed. In particular, a safeguard is needed, in line with Albania's international obligations, which guarantees access to a nationality for all otherwise stateless children born in the territory. Nevertheless, gaps in access to civil registration and the provision of ID documents are also putting children born in Albania or to Albanian parents abroad at risk of statelessness at birth. The government of Albania should take further steps to reform laws and practices that impede the enjoyment of Albanian nationality by those entitled to it.⁷⁵

⁷⁵ Tirana Legal Aid Society, *Ending Childhood Statelessness – A Study on Albania*, European Network on Statelessness, Working Paper 05/15, 2015, p13.

Many of the bureaucratic procedures disproportionately disadvantage Roma, as they do not appropriately accommodate their specific circumstances. This indirect discrimination increases the barriers to documentation and birth registration faced by Roma; there are no bureaucratic solutions being implemented to address the situation of lack of documentation and permanent residence that many Roma live with, which under the current system, they are condemned to pass on to their children. The situation of Roma children born abroad exemplifies the intransigence of the bureaucracy, which fails to uphold basic principles of non-discrimination and the best interests of the child, to ensure that children are not penalised or disadvantaged as a result of the imposition of requirements that cannot be met by their parents.

The main challenge relates to the gap between Albania's legal framework (including its international obligations which have the force of law) and the bureaucracy that is mandated to implement the law and guarantee rights. Albania's international and national law obligations related to non-discrimination, birth registration, the right to nationality, the prevention of statelessness and the identification and protection of stateless persons are all undermined by an inadequate policy framework and a burdensome bureaucracy. It is significant that there is no one state entity with the unique mandate to address statelessness. Although the Directorate for Nationality and Directorate of Civil Status are the relevant authorities dealing with granting of nationality, there is little attention to the prevention and reduction of statelessness, or for the protection of the rights of stateless persons.

Finally, Albanian authorities must put greater effort in tackling the issue of Albanian children born abroad, given the fact that they represent about 50 % of the identified persons at risk of being stateless. In order to do so, a better inter-ministerial (MoI – MoJ - MoEFA – MHSW) coordination, as well as improved cross border cooperation, will be key to address these issues.

ANNEXES

- Annex 1: Semi-structured interview questionnaires
- Annex 2: Profiles of the interviewed stateless/ or at risk of being stateless persons
- Annex 3: Questionnaire template for the quantitative data gathered from TLAS

ANNEX 1

SEMI-STRUCTURED INTERVIEW QUESTIONNAIRES

A: INTERVIEWS WITH STAKEHOLDERS

Q 1: Baseline level of understanding

- What is the mission/mandate/role/purpose of the organisation you represent/your work? What is your role within that work?
- In which way does your work bring you into contact stateless people? Can you give examples?
- What does the word 'statelessness' mean to you? Is this an issue you are familiar with?
- In your opinion which is the group most affected by statelessness or at risk of statelessness?
- Are you aware of your country's international and national legal obligations relating to statelessness and documentation? What are they?

Q 2: Current attitude

- How would you describe stateless people and the issues they face, that your work brings you into contact with?
- Do you believe that statelessness is serious factor that puts stateless persons at any risk? Why?
- If statelessness is an issue specifically affecting a particular group? Why/How?
- Do you believe the state should grant nationality to all stateless people in the country? And should the state protect the rights of such persons?
- What changes are needed to the attitudes and practices of stakeholders working on statelessness to address statelessness among affected population?

Q 3: What information do they have on causes, scope & extent of statelessness?

- What do you consider to be the scope and extent of statelessness in the country?
- What are the causes of statelessness?
- What impact does 'statelessness' and/or 'lack of documentation' have on the lives of people? On children and families?
- Do you have any statistical information or anecdotal evidence related to lack of documentation and statelessness among the Albanian population that you can share with us?

Q 4: Does their practice cause obstacles, or serve as a good example?

- What role does your organisation/do you play in relation to the issues just discussed?
- Do you believe your practice serves to mitigate statelessness among affected populations? Do you have any good practices you can share in this regard?

Q 5: Changes to law, policy & implementation that is needed

- How do you assess the relevant national law and policy framework and its implementation against the international obligations of Albania?
- What solutions do you see to improve the situation of the stateless?
- What changes are needed to the law and policy frameworks of the country to address statelessness and the risk of statelessness among affected groups of people?

B: INTERVIEWS WITH STATELESS/AT RISK OF BEING STATELESS PEOPLE

- Introductory questions about your family and the place where you were born and anywhere else where you have lived.
 - Where were you born (town and country)? Where else have you lived?
 - Were your parents married? Where were your parents born? Where were your grandparents born? Do you have brother and sisters?
 - Are you a member of any particular ethnic group? Were your parents part of the same/another ethnic group?
 - Are you or have you been married? What is/was the nationality of your spouse(s)? And their place of birth, ethnic group and religion?
 - Do you have children? If so, are your children stateless/at risk of statelessness? Were you and your partner married at the time that your children were born?

- Do you work? If so, what job do you do?

Statelessness: information on the statelessness status of the interviewee, extent, scope, causes and obstacles.

- What is your nationality?
- Do you and all members of your family have documents? If not, why don't you?
- Do you think that not having documents has had an impact on your quality of life? How?
- Do you know what the word 'stateless' means?
- Has anyone ever told you that you, or any of your family members are 'stateless' or that you have no nationality or that you are not Albanian?
- If yes, do you think that people treat you differently/unfairly because of this?
- Are you treated any differently/unfairly to other people from your community who do have documents? How so?
- Have you ever had to try and prove your nationality or that you don't have one? Has anyone tried to do this for you? What was the outcome of this effort? Can you elaborate?
- Have you ever tried to get Albanian nationality and/or related documentation? What was your experience and what was the outcome? Did anyone help you in this process? Did anyone obstruct you in this process? Can you elaborate?
- What do you think of nationality? What does nationality mean to you?
- How do you cope with your present situation? Or how did you cope with your previous situation?
- What emotional, psychological and other impact has this situation had on you?
- How does statelessness affect the way you see yourself?
- What experiences have you had with the legal system? What faith do you have in the legal system?
- What is your biggest worry?
- How do you see your future? What solution(s) would you propose for your situation?
- What would you say to someone who has the power to change your situation?

ANNEX 2

PROFILES OF THE INTERVIEWED STATELESS OR AT RISK OF BEING STATELESS PERSONS

PROFILES OF THE INTERVIEWEES FOR THE MAPPING REPORT

Interview 1

I.T. was an Albanian citizen. She lived with N.L. for a 5-year period. During this period two children, a girl and a boy, currently aged 15 and 14, were born. In both cases, the mother gave birth in a health institution but gave incorrect information on her identity and as a result the children were not registered. I.T. suffered with mental health issues and in 2005, she committed suicide. Today, the children remain unregistered at the Civil Registry Office. Their father (N.L.), throughout this period, cared for the children but without being able to register them as he and the children's mother weren't legally married. As a result of not being registered, the children have not been provided with health care and also had no opportunity to attend pre-school or later school education.

Interview 2

Xh.A. and K.M, both Albanian citizens, are the parents of a 1-year-old boy who is unregistered and at risk of being stateless. They migrated for about two years to Sweden where their son was born in a health institution. At the time of delivery, Xh.A. and K.M. were not married. At birth, however, they stated that the child would take the father's surname.

After Xh.A and K.M. returned to Albania, they went to the civil status office to register their child and consequently confirm his Albanian citizenship. However, the Civil Registry refused to register the child on the grounds that as long as a child is born out of wedlock and the parents are not legally married, the child cannot obtain a surname other than that of the mother. The authorities suggested XH.A. and K.M. to return to Sweden to fix the surname on the child's birth certificate and then to return for registration. Xh.A. and K.M. are stressed and do not understand why their child is not registered. Also unclear to them is the fact why the registration of a child should be conditioned by maternal marriage. XH.A. and K.M. have no way of returning to Sweden, the child cannot even travel because there is no document for his identity and he also does not have access to the services.

Interview 3

S.M. is an Albanian citizen and is the uncle of K.M. a 12-year-old girl he cares for with his family. K.M.'s mother has been diagnosed with severe mental health problems. She is legally married to an Albanian citizen who has been away for years and has never been interested in the family.

Because of her aggravated mental health condition and lack of proper care, K.M.'s mother has been living on the streets. From a casual extramarital relationship, K.M. was born. She was not registered in the civil registry office because she wasn't born in hospital and there is no document certifying her birth. K.M. lived for many years with her mother on the streets and has never received health care and has never been registered in school. Now that her mother has been hospitalized, K.M. is being cared for by her uncle S.M. and his family.

S.M. requires K.M. to be registered and obtain an identification document in order to enrol in school or receive health care. The Civil Status Office has suggested to S.M. that for the registration of K.M., there needs to be a judicial process to prove the fact of her birth and allow the registration to take place.

Interview 4

S.M is a 12 year old girl. Her parents T.M and D.M. are married and have three other children.

S.M. was born at home in 2005 and has never had a birth certificate.

In June 2017, the Child Protection Unit was informed by the police that S.M had been sexually abused by her father. The Child Protection Unit took her into care and settled her in a child care institution. Her father was arrested, prosecuted and is waiting to be sentenced for his crimes.

The institution discovered that S.M. had no birth certificate and was unregistered and has been unable to secure access to health care for her and has not been able to put her into pre-school. Being a victim of domestic sexual abuse, as well as unregistered and at risk of statelessness, S.M. is highly vulnerable and at high risk of further violation of her rights. The Child Protection Unit has requested assistance from TLAS for the registration of S.M.

Interview 5

V.D. a retired schoolteacher asked to help and register 9 Albanian nationals who were unregistered (7 children, their mother and nephew).

S.A. is a 44 year old Albanian citizen and the mother of 7 children. When she lived with V.G. (also Albanian citizen) she had 6 children, respectively E.A. (22), A.A. (20), B.A. (17), L.A. (16), 14 year old N.A., 8 year old A.A., R.A. (10 years of age) and her nephew who is 4 years of age.

S.A. and the seven children were not registered in the civil status office. Civil servants could not register the children since initially S.A. herself couldn't be registered. This was due to the fact that in her birth certificate she was born on 31 April 1973, which was impossible since April has 30 calendar days. Clearly this was a mistake made by the employees of the hospital where S.A. was born, but it also stopped

the registration of her children.

Likewise, the eldest daughter, E.A., became a mother and because she wasn't registered, it was impossible to register her marriage and she consequently failed to register her child, which was born in August 2013.

Interview 6

K.Y. an Albanian citizen has been, for almost three years, living with another Albanian citizen, A.B.

From their cohabitation, in 2009, a male child, F.Y., is born in a hospital. At the moment of birth, the mother A.B. stated her exact identity data but did not go to register the child in the civil status office, but instead, after five months, she left her family (K.Y. and F.Y.) and has never returned. The child's father now looks after him

The first time K.Y. found the child was unregistered was when he took him to be vaccinated at the hospital. The hospital initially refused to vaccinate and asked for the boy to be registered and return when he had an identity document

K.Y. went to the civil status office but was told he is not recognized as F.Y.'s legal father as he and the mother weren't married at the time of the birth. Since that time and for many years, K.Y. has been unable to find a solution and F.Y. remains unregistered.

Interview 7

L.M. is a 22-year-old boy and was born in Korça a town in southeastern Albania. His mother, after his birth (which happened in a hospital) due to family conditions, left L.M. under the care of the nuns of Korça. L.M. was her third child. She had stated that she would leave L.M. in the institution for a short time as soon as her social conditions were improved and then she would take L.M. to live in the family with her two other children, but this never happened and the child was finally settled after 3 years of waiting at the preschool child's home in Shkodra, after his mother was no longer interested.

L.M. was a child with physical disabilities and in 2004 he was admitted to an association that provided services for people with disabilities. For several years, this association had asked for L.M.'s birth certificate to allow him to be registered at school, but their request couldn't be met. Although L.M. is now 22, he has never been registered and his existence still remains officially unrecognized..

Interview 8

V.A and Q.B. are two Albanian citizens that have been cohabiting for 25 years with each other. From their relationship they gave birth to 6 children of whom four children are unregistered in the civil registry. Unregistered children are respectively 18 years old, 9 years old, 6 years old and 3 years old. V.A and Q.B. cannot register their children because three of the unregistered children were born at home while

one of the children was born in Devoll-Korçë maternity.

Having no birth certificate for home-born children, the citizen V.A. could not register the children in the civil status because they had been told to pursue a court procedure to verify the fact of birth. She found the process impossible to understand and did not have the money to hire a lawyer to help.

Even the child born in a maternity unit remains unregistered as V.A. felt unable to travel from Dibra to Korça to take her document to the hospital because of her financial situation. As a result the child remains unregistered. None of the children have been given access to the healthcare system or been able to attend school as a result of being unregistered and not having an identification document.

Interview 9

P.H and A.H. have been married for 15 years. In 2002 they emigrated illegally to Greece and stayed there for many years until they finally returned in 2016 to Albania.

During their cohabitation in Greece, they had three children: S.H. currently 13 years old, A.H. - 12 years old and F.H. - 10 years old. Since they were illegal migrants and because they were afraid that if they were found as such by the Greek authorities they could be deported, they avoided any contact with the Greek state institutions. The children were born at home and as a result none of the three children has any legal document certifying their birth.

Upon their return to Albania, they tried to register the children in the civil status office, but the authorities requested the legal documents for the birth of children from the Greek state. Not having any documents, they were advised to pursue a court procedure for establishing the fact of birth.

Since their return to Albania, none of the family has benefited from state services. The children cannot be registered in school, they speak almosts no Albanian.

P.H. and A.H. are unable to pursue a legal procedure because of their financial inability to pay for legal services.

Interview 10

E.C. and H.C. are Albanian nationals and are parents of the child E.C. who is 17. The child was born in London while E.C. and H.C. were illegal immigrants in Great Britain. E.C. is unregistered in Albania and does not enjoy Albanian citizenship.

E.C. and H.C emigrated to England in 1999 and declared themselves to be Kosovo citizens, taking advantage of the war situation in Kosovo and by the fact that Kosovo citizens were granted special protection at that time by the European Countries.

In 2000 when E.C was born, parents E.C. and H.C checked in the hospital under the fake identity they held as Kosovars in the UK.

After many years E.C. and H.C. eventually returned to Albania where they are currently living. They wanted to register E.C. for school but the birth certificate from the UK is not notarized or translated into Albanian and it also contains the incorrect identities of the parents. For these reasons, E.C. cannot register or acquire Albanian citizenship.

Interview 11

M.P. is a 32 year old Romanian woman. She had been trafficked from Romania to Greece when she was 15 years old. There she met an Albanian man and wanted to be with him in order to stop prostituting herself. He brought her to Albania, with two children that he acknowledges being the father of (today they are 10 and 8 years old). M.P. also gave birth also to a third child, who is 2 years old now. The two first children are facing potential statelessness, because they couldn't be registered in the civil status office. Meanwhile M.P. was without legal papers, as a result couldn't have a formal job, housing etc. The 2 year-old child was registered since he was born in Albania and in a hospital.

M.P. continued to be exploited and forced to continue as a prostitute by the father or her children. He controlled her money and was also using drugs and involved in crime. M.P. and her children were like slaves. Being illegally in Albania, M.P. had no possibility to register her children. She had birth certificates from Greece but they were not notaried, nor translated. The children were missing a name in the birth certificates and could not be identified.

They were locked in limbo for a long time with no local state institution giving any solution or advice to M.P.

By chance, a visit by TLAS to the city where M.P. was living led to them being able to offer help and support. She now in a shelter for trafficked woman together with her children. Her abuser is now under arrest. In his house, police found also guns, bullets, knives and two unlawful firearms with 200 bullets.

M.P. is seeking help from the state to be granted legal residency on humanitarian grounds and she also wants to register her children as Albanian citizens.

ANNEX 3:

QUESTIONNAIRE TEMPLATE FOR THE QUANTITATIVE DATA GATHERED FROM TLAS

BASIC INFORMATION ON THE QUESTIONNAIRE

Tirana Legal Aid Society, with the support of the UNHCR, offers free legal services for all stateless persons and individuals not registered in the civil registry.

We plead all our partners in the public institutions, including those in the field of child protection, and in the organizations with a community base to fill in the attached questionnaire, so, to support and assist the affected individuals with their registration in the civil registry.

The solutions will be provided on a case by case basis, following either the administrative or the legal way. All the necessary expenses, whether public fees, notary actions, experts' payments, or court expenditures will be covered by TLAS as part of the project supported by the UNHCR.

This project aims to solve every case of non-registration in the civil registry and every case of statelessness for all children and adults.

The lack of registration in the civil registry and statelessness hamper the exercise of basic rights including:

Healthcare Services

Employees in the healthcare sector could discriminate children or stateless individuals by negating them access to healthcare services due to the lack of relevant documents.

Moreover, families that face registration and statelessness problems are reluctant to ask for healthcare services because of unaffordable fees and fear of being reported to the authorities for their lack of documentation (refugees, etc.)

Education System

Stateless children could be deprived of their right to education as a result of their lack of documents.

Schools can forbid stateless children to take exams or can refuse to issue transcripts or diplomas for them.

Access to primary and preschool education is harder for stateless children.

Civil Registration

Stateless and unregistered individuals cannot access identity documents such as passports or identity cards, etc.

Social Assistance and Housing

Stateless individuals/children can lack access to economic aid and other social services. Furthermore, stateless children and their families face a permanent risk of deportation.

Protection from Trafficking and Abuse

Protection of children/individuals from trafficking and other forms of abuse becomes harder when the afflicted are stateless or lack identity documents.

Stateless children, who are unable to verify their age or to complete their education, are more susceptible to trafficking, exploitation, begging, early marriage, etc.

Independence and Living Opportunities

Stateless children/individuals face more restrictions regarding employment, housing, traveling, etc.

QUESTIONNAIRE⁷⁶

Questionnaire Goals :

- To establish the number of unregistered and stateless individuals in the territory of the Republic of Albania
- To discover the causes behind non-registration and statelessness
- To delineate the ways for solving the problem
- To assist and complete the civil registrations and the registrations of nationality

Directed to the Municipalities and the Administrative Units. Please identify yourself by circling one of the following alternatives:

- a. Regional Department of Public Social Service
- b. Civil Registry Office
- c. Children Protection Unit
- d. Regional Education Directory
- e. Health Center
- f. NGO: _____
- g. Other (Specify): _____

1. Are you aware of any case of stateless or unregistered children or individuals in the civil registry?

Yes No

If you answered “Yes,” please fill in below:⁷⁷

- a. First Name, Last Name of the children/individual:
- b. or a parent:
- c. or a relative:

⁷⁶ A single questionnaire will provide information for only one person.

⁷⁷ Personal data collected by this form are confidential, and Tirana Legal Aid Society (TLAS) is responsible for their use and protection.

- d. Gender of the unregistered or stateless individual:
- e. Age (even approximated):
- f. Address of the relevant individual (if it is known):
- g. Residing administrative unit:

2. Are you aware of the reasons behind the non-registration or statelessness:

Yes No

If you answered “Yes,” circle one or more of the following alternatives:

- a. Born outside the maternity hospital and lacking documents
- b. Born in the maternity hospital with wrong personal data from the mother side
- c. Born abroad
- d. Abandoned by the parents
- e. One or both the parents are dead
- f. Born outside marriage
- g. Other reason (explain):

3. Are you aware whether this person has access or not to social services, education, health-care, etc.?

Yes No

If you answered “Yes,” circle one or more of the following alternatives:

- a. Does not receive economic aid
- b. Informal employment
- c. Does not receive healthcare services
- d. Receives partial healthcare services
- e. Attends preschool education
- f. Do not attend preschool education
- g. Does not attend any school at all
- h. Attends school and can receive a diploma for the completion of elementary education

- i. Attends school and cannot receive a diploma for the completion of elementary education

4. What do you think that the state or the person him/herself can do to improve this situation?

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UNHCR

Rruga "Skënderbej", ndërtesa Gurten,
Kati 2-të, Tiranë, Shqipëri

Tel/Fax: +355 4 22 50284

E-mail: albt@unhcr.org
Web: www.unhcr.org



Tirana Legal Aid Society

Pallatet Agimi, Shkalla 18/322
P.O BOX 69, Tiranë, Shqipëri

Tel/Mob: +355 4 22 58442 + 355 69 20 93731

Email: tlas@tlas.org.al
Web: www.tlas.org.al
www.portal.tlas.org.al