

# KEY CONSIDERATIONS FOR THE PREVENTION AND REDUCTION OF STATELESSNESS AMONG ROMA IN BOSNIA AND HERZEGOVINA



## IN CO-OPERATION WITH :

- > European Network on Statelessness
- > Association Vaša Prava

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Key Considerations for the Prevention and Reduction of Statelessness among Roma in Bosnia and Herzegovina

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Roma Integration Phase III is a Joint Programme of the European Union and the Council of Europe. It aims to strengthen the capacity of governments in the Western Balkans and Türkiye to effectively address the multifaceted challenges faced by the Roma community through the implementation of comprehensive public policies. These policies cover critical areas such as housing, employment, population registration, as well as the green and digital transition.

This paper was produced as part of a grant-funded project implemented under Roma Integration Phase III. The grant was awarded to Association Vaša Prava, an organisation based in Bosnia and Herzegovina and a member of the European Network on Statelessness (ENS), which also contributed to the preparation of this paper. The project aims to address gaps in law, policy, and practice that contribute to statelessness among Roma communities in the Western Balkans. It focuses on eliminating discriminatory laws and practices, and on providing technical recommendations to close identified gaps at both national and regional levels. The intended outcome is agreement on, and commitment to, concrete actions by key stakeholders, including national authorities. This paper was presented alongside a synthesised regional report during a regional event in Podgorica in May 2025, facilitating multi-stakeholder discussion and agreement on next steps.



European  
Network on  
Statelessness



VAŠA PRAVA BiH  
Legal Aid Network

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# **KEY CONSIDERATIONS FOR THE PREVENTION AND REDUCTION OF STATELESSNESS AMONG ROMA IN BOSNIA AND HERZEGOVINA**

Roma Integration Phase III

July 2025



# Contents

<b>List of Abbreviations</b>	<b>7</b>
<b>Summary</b>	<b>8</b>
<b>Introduction</b>	<b>9</b>
<b>Legal framework on the prevention and reduction of statelessness in Bosnia and Herzegovina</b>	<b>10</b>
<b>Population data</b>	<b>12</b>
<b>Remaining gaps in measures to prevent statelessness</b>	<b>13</b>
Challenges accessing safeguards in citizenship law to prevent statelessness at birth	13
Remaining barriers to immediate birth registration	13
Determination of citizenship at birth	15
Late birth registration	15
<b>Remaining gaps in measures to reduce statelessness</b>	<b>17</b>
<b>Statelessness in a migratory context</b>	<b>18</b>
<b>Action Areas</b>	<b>19</b>



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## List of Abbreviations

<b>1954 Convention</b>	1954 Convention Relating to the Status of Stateless Persons
<b>1961 Convention</b>	1961 Convention on the Reduction of Statelessness
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations International Children's Emergency Fund
<b>BiH</b>	Bosnia and Herzegovina
<b>FBiH</b>	Federation of Bosnia and Herzegovina
<b>RS</b>	Republika Srpska
<b>BAM</b>	Bosnia and Herzegovina Convertible Mark
<b>ENS</b>	European Network on Statelessness
<b>EU</b>	European Union
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>UN</b>	United Nations
<b>NGO(s)</b>	Non-governmental organisation(s)

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## Summary

The legacy of historical conflicts in the Western Balkans, forced displacement, destroyed civil records, antigypsyism, and lack of awareness contribute to high levels of statelessness among Roma individuals in the region, limiting their access to essential rights and services, including healthcare, education, and employment.

Existing laws and policies in Bosnia and Herzegovina do not sufficiently protect Roma communities from statelessness, and over-restrictive laws and by-laws on registry books, inadequate birth registration processes, and insufficient outreach initiatives only serve to exacerbate the problem.

There is a significant lack of awareness-raising campaigns and coordinated efforts to enable effective identification and provision of assistance to affected individuals, coupled with limited free legal aid available to those without recognised citizenship.

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## Introduction

This paper was produced as part of a grant-funded project implemented under the Roma Integration Phase III Joint Programme of the European Union and the Council of Europe. The grant was awarded to *Vaša Prava BiH*, an organisation based in Bosnia and Herzegovina (BiH) and a member of the [European Network on Statelessness \(ENS\)](#). The project aims to address gaps in law, policy, and practice that contribute to statelessness among Roma communities in the Western Balkans. It focuses on eliminating discriminatory laws and practices, and on providing technical recommendations to close identified gaps at both national and regional levels. The intended outcome is agreement on, and commitment to, concrete actions by key stakeholders, including national authorities. This paper was presented alongside a synthesised regional report during a [regional event](#) in Podgorica in May 2025, facilitating multi-stakeholder discussion and agreement on next steps.

Across the Western Balkans region, statelessness is a key factor driving a mutually reinforcing cycle of discrimination and denial of fundamental rights. Statelessness is an issue that affects both migrants and refugees as well as people who have lived in the same place for generations. In the Western Balkans region, as in other parts of Europe and globally, statelessness is a particular concern for members of minoritised communities.<sup>1</sup> Discrimination is both a cause and a consequence of statelessness, with nationality laws often structured or implemented in ways that exclude certain groups or make it more difficult for them to acquire or prove their nationality. In Europe, among the most affected by this issue are Roma communities, who face systemic exclusion and further marginalisation due to the cycle of antigypsyism and legal barriers.<sup>2</sup>

In the Western Balkans region, statelessness among Roma communities is shaped by a complex combination of factors, including state succession, historical conflict, forced displacement, lack of civil documentation, and systemic exclusion. Many thousands of Roma people continue to be disproportionately impacted by these issues, which are exacerbated by deep-rooted antigypsyism. Being stateless usually means being unable to benefit from the fundamental rights afforded to people recognised as citizens of a country, including access to healthcare, education, the right to marry, open a bank account, and participate in the labour market on an equal basis. Not only does it hinder access to these basic rights and entitlements, but it also affects the psychological sense of belonging and inclusion that is vital for achieving equality in societies. In this way, statelessness becomes a real and significant part of the cycle of discrimination experienced by minoritised groups globally, including Roma communities in Europe.

This paper examines the key issues and challenges related to statelessness among Roma communities, focusing on gaps in law, policy, and practice. It outlines both the legal obligations relating to statelessness and highlights issues within policy and practice, focusing on practical barriers such as birth registration, data collection and identification of affected populations, and access to citizenship. The paper also examines national measures aimed at preventing and reducing statelessness, as well as the role of outreach and identification initiatives to reduce statelessness among Roma communities and presents targeted areas for action aimed at closing these gaps and promoting the rights and inclusion of Roma communities.

1 See: <https://www.statelessness.eu/issues/stateless-minorities>.

2 The term 'Roma' encompasses a wide diversity of groups and identities, many of which are intersecting and overlapping. There are also people who do not identify as Roma – such as Ashkali and Egyptians – who are nonetheless the targets of antigypsyism. For the purpose of this report, the terms are used to encompass all groups in the region who are subject to antigypsyism, in line with the Council of Europe definition, and commonly adopted by most international organisations in the last decade. However, it is important to underline that not all the members of these populations agree on the single use of this standardised autonym.

## Legal framework on the prevention and reduction of statelessness in Bosnia and Herzegovina<sup>3</sup>

Bosnia and Herzegovina is State party to three of the core statelessness conventions: the 1954 United Nations (UN) Convention relating to the Status of Stateless Persons (1954 Convention), 1961 UN Convention on the Reduction of Statelessness (1961 Convention), and the 1997 European Convention on Nationality. It entered no reservations to these treaties. The conventions do not have direct effect but form an integral part of the Constitution as they are listed in its Annex. BiH is State party to almost all other relevant international and regional instruments except for the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession.

BiH is State party to various other human rights instruments relevant to addressing statelessness, including the 1989 Convention on the Rights of the Child, 1966 International Covenant on Civil and Political Rights and Two Optional Protocols to the Covenant, 1966 International Covenant on Economic, Social and Cultural Rights, 1979 Convention on the Elimination of all Forms of Discrimination Against Women and Optional Protocol, 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and the 2006 Convention on the Rights of Persons with Disabilities. These international instruments are completely integrated in the BiH legislation and are an integral part of Annex 1 of the BiH Constitution.

At the high-level meeting on statelessness within the 70th Plenary Session of the Executive Board of the United Nations High Commissioner for Refugees (UNHCR), held on 7 October 2019, the delegation of BiH, consisting of representatives of the Ministry of Civil Affairs, the Ministry of Human Rights and Refugees, and the Ministry of Security, committed to undertake activities and measures aimed at ending statelessness in BiH by 2024 in accordance with the UNHCR Global Action Plan to End Statelessness. The commitments include, among other things, the improvement of registration of births for all people regardless of their sta-

tus or their parents' status, and regardless of the lack of personal documents, as well as the commitment to create a mechanism to regulate the status of people displaced for a long time in BiH and who do not have a registered residence.

Following the OSCE-UNHCR Regional Conference on Access to Civil Documentation and Prevention of Statelessness in South-Eastern Europe held in October 2023 in Skopje, North Macedonia, BiH made a new commitment registered within the Second Global Refugee Forum to make all necessary efforts to resolve all known cases of statelessness in its territory without delay, including by granting citizenship or confirming the citizenship of the existing *in situ* stateless population, when the legal conditions provided for by the statelessness conventions are met, and by making legislative amendments if necessary, to ensure that no child is born stateless.

In addition to obligations under international law, as a candidate country for membership of the European Union (EU), BiH has obligations to address statelessness as part of the EU Enlargement Process and specifically under the Berlin Process. This is especially relevant to Roma communities and the specific commitments made by Western Balkan countries under the 2019 [Poznan Declaration](#), which includes pledges to achieve universal civil registration, eliminate barriers to obtaining identity documents, and ensure legal recognition for all. Additionally, the [EU Strategic Framework on Roma Equality, Inclusion, and Participation 2020-2030](#) sets out a roadmap for tackling discrimination, improving access to fundamental rights, and promoting social inclusion for Roma populations, including addressing the risks and consequences of statelessness.

The 2005 Strategy of BiH for Addressing the Issues of Roma was adopted to improve the socio-economic status of Roma people in BiH. The Strategy itself does not have a timeframe for implementation as it was considered that the integration and inclusion of Roma people is a long-term process. The goals of the Strategy are focused on improving access to education, employment, healthcare, social housing, and effective antidis-

<sup>3</sup> For more detailed information and sources on law, policy, and practice relating to statelessness in Albania, see the ENS Statelessness Index: <https://index.statelessness.eu/country/bosnia-herzegovina>.

crimination measures for Roma people in BiH. With the consent of the entity governments and government of Brčko District, four action plans (2009-2012, 2013-2016, 2017-2020, and 2021-2025) were adopted and implemented to support implementation of the strategy through strategic measures. The Council of Ministers of BiH adopted the 2021-2025 Action Plan on 20 April 2022. The Action Plan aligns with BiH's EU enlargement objectives as an accession country and is a step towards harmonising existing policies for the Roma population in line with the 2019 Poznan Declaration and the EU Roma Strategic Framework for Equality, Inclusion and Participation 2020-2030.

The 2021-2025 Action Plan envisaged five strategic objectives:

1. Strengthening the system of support, coordination and supervision of the Action Plan of Bosnia and Herzegovina for the Social Inclusion of Roma for 2021-2025, reducing discrimination against Roma and combating antigypsyism;

2. Improving employability and employment of Roma;
3. Improving the housing conditions of the Roma population in BiH;
4. Improving accessible and quality healthcare for members of the Roma population;
5. Improving the coverage of Roma education in BiH through more effective implementation of the Framework Plan on the Educational Needs of Roma for the period 2018-2022.

The Ministry of Human Rights and Refugees of BiH has announced the drafting process for the new 2026-2030 Action Plan. Representatives of association Vaša prava BiH are invited to actively participate in this working group.

## Population data

According to official information from the Agency for Statistics of BiH, 5,350 people declared themselves to be stateless during the 2013 census. This data was provided to Association Vaša prava BiH by the BiH Agency for Statistics and is not publicly available. In addition, according to the census results, it was determined that there were 254 people of 'unknown citizenship'. Data on the stateless population is not disaggregated by sex, age, place of residence, nor residence status and this information is also not publicly available. In the 2013 census, 12,583 people declared themselves to be Roma.

In 2013, based on the results of research conducted by the Ministry for Human Rights and Refugees, UNHCR estimated that 4,500 individuals were at risk of statelessness in BiH. According to UNHCR data, there were 28 stateless people/people at risk of statelessness in BiH in January 2023. According to Vaša prava BiH and UNHCR, as of April 2024, there are 20 identified stateless people and people with undetermined or unknown citizenship. This figure represents the number of cases that Vaša prava BiH is currently working on. This excludes 30 cases of stateless people and people with undetermined or unknown citizenship for which Vaša prava BiH has ceased its assistance due to the individuals being uncontactable or unavailable. However, this should not be considered a definite or precise number of stateless people or people with undetermined citizenship in BiH. To gather this information would require extensive research and fieldwork. Unfortunately, no government body nor institution is currently gathering or monitoring such data.

In the fifth periodic report of BiH on legislative and other measures implementing the principles established in the Framework Convention for the Protection of National Minorities from December 2022, the Min-

istry for Human Rights of BiH stated that there are 50 individuals in BiH for whom a procedure to register in the civil registry is necessary. These are mainly individuals who have been returned to BiH under readmission agreements, whose children were born abroad and do not have civil registry extracts in an international format or apostilles. This data is also based on casework information from the Association Vaša prava BiH.

As the Government of BiH does not collect data on the stateless population in the country, the only data available is that collected through legal advice providers who have provided assistance in individual cases. The number of stateless people reported through Vaša prava BiH's casework is not representative of the affected population, which is therefore under-reported in the country. Nevertheless, employees of Association Vaša prava BiH, through direct communications with beneficiaries during field visits and in communication with social welfare centres and Roma non-governmental organisations (NGOs), are continuously working on identifying and addressing new cases of stateless people amongst the Roma population, which continue to emerge. For example, between June 2024 and April 2025, Vaša prava BiH identified 23 new cases of people at risk of statelessness, the majority of which concerned children born abroad to BiH citizens.

BiH still has not established a system for the collection of reliable information on stateless people and people at risk of statelessness. Specifically, if an undocumented person's request for enrolment in the civil records at the Registry Office or social welfare centre is rejected, there is no established system to record that the person is not registered in the civil records. This is very concerning and the lack of action to address this fundamental problem undermines the positive commitments made by government institutions.

## Remaining gaps in measures to prevent statelessness

### Challenges accessing safeguards in citizenship law to prevent statelessness at birth

In terms of safeguards to prevent childhood statelessness, Article 7 of the *Law on Citizenship of Bosnia and Herzegovina*, Article 6 of the *Law on Citizenship of the Federation of Bosnia and Herzegovina (FBiH)*, and Article 9 of the *Law on Citizenship of Republika Srpska*, citizenship of BiH, Federation of Bosnia and Herzegovina (FBiH), or Republika Srpska (RS) will be granted to a child born or found on the territory of BiH, the FBiH, or RS if the child is stateless, or if both their parents are unknown, of unknown citizenship, or stateless.

This safeguard is non-automatic. The procedure for registration in the birth and citizenship registry for children whose parents are unknown, of unknown citizenship, or stateless, or if the child is stateless, is conducted according to the entity laws and bylaws on citizenship.

Article 17(1)(c) and (d) of the *Rulebook on Amendments to the Rulebook on the Procedure, Evidence and Manner of Registration of Citizenship of the Federation of Bosnia and Herzegovina in the Register of Births and Register of Citizens* specifies the evidence required to apply for citizenship. If a stateless child is born in the territory of the FBiH, in accordance with Article 6 of the *Law on Citizenship*, the application must include the following:

- Birth registration of the child on Form 1 or Form 2,
- Certificate, confirmation, or another appropriate act by the competent authority of the parents' country (or countries) of origin that the child does not meet the conditions to acquire citizenship of that country by descent (*ius sanguinis*),
- A declaration by the parents of the child, certified by the competent authority, stating that the child does not hold citizenship of any other country.

The *Instruction on Keeping Civil Registers of Republika Srpska* does not specify the procedure or evidence for a child whose parents have unknown citizenship who would otherwise be stateless. There is no written procedure.

When it comes to the Brčko District of Bosnia and Herzegovina, the *Law on Civil Records and the Instructions on Keeping Civil Records* do not specify the procedure for acquiring citizenship for a child whose parents are known but of unknown citizenship who would otherwise be stateless. Neither is there any written procedure in Brčko District of BiH.

Apart from the communication between NGOs providing free legal aid in the area of prevention and reduction of statelessness, there is no systemic cooperation between state institutions in terms of solving individual cases of childhood statelessness.

The complexity of procedural requirements to acquire citizenship for children born stateless on the territory, lack of systemic cooperation between institutions, limited access to legal aid, and lack of information proactively provided to parents about how to navigate procedures, means that it is very likely that children are being born stateless in BiH and facing significant bureaucratic hurdles to acquiring citizenship.

### Remaining barriers to immediate birth registration

Article 14 of the *Law on Registry Books of the FBiH* prescribes that the registration of a child's birth in a health-care institution must be carried out within 15 days using a prescribed form, while births outside of healthcare institutions must be reported within 30 days from the day of birth. Children of foreign nationals whose status is regulated by the *Law on the Movement and Stay of Foreigners*<sup>4</sup> as well as children born to refugees in the FBiH, and children of other foreigners residing in BiH, are registered in the birth registry according to their reported place of residence. If they do not have a reported place of residence, registration is based on the reported place of stay. If neither a place of residence nor stay is reported, the child is registered in the birth registry according to their place of birth.

The *Law on Registry Books of the Republika Srpska (RS)* prescribes the obligation to report a child's birth within eight days from the day of birth. The registration is made in the birth registry according to the place of birth of the child. This law allows all children born on

4 Official Gazette of BiH, 36/08 and 87/12.

the territory of RS to be registered in the birth records under the same conditions, implying that stateless people, their children, and all other citizens enjoy the same rights regarding registration in the birth register and are entitled to extracts from the birth register, as prerequisites for exercising other rights, such as ID cards, passports, and other documents.

The *Law on Registry Books of the Brčko District of BiH* prescribes that the registration of a child's birth must be completed within 15 days from the day of birth if the child is born in a healthcare institution, and that the healthcare institution reports the child's birth. A child born outside a healthcare institution must be reported within 30 days from the day of birth.

The abovementioned laws on registry books also prescribe misdemeanour liability for failing to report a birth as regulated.

People who are undocumented – disproportionately members of the Roma community – face the greatest difficulties during the registration of children in the civil records in all entities and districts of BiH.

Specifically, although Article 8 of the *Rulebook on Forms for Reporting the Birth of a Child and Confirmation of Death in the FBiH* provides for an exemption that allows parents without documents (extracts from the birth register, certificate of citizenship, identity card) to register children based on oral statements as a means of evidence from the parents in accordance with the *Law on Administrative Procedure*, this procedure is not applied in practice, which prevents undocumented parents from enrolling their newborns within the regular deadline.

In addition, there are difficulties during the enrolment of newborn children whose mothers are foreign nationals without registered residence in BiH. Namely, since the FBiH *Law on Registry Books* prescribes that the registry office in the place of residence of the mother is competent for the registration, the registry offices require that a mother who is a foreign national must submit her residence registration (i.e. 'white card') issued by the Service for Foreigners' Affairs, in order to determine their competency for the birth registration procedure. According to the practice of the registry offices, if the child's mother does not have a registered residence or

a white card, registration in the birth register within the regular deadline will not be possible. Similarly, in a situation where the mother of the child does not have a registered residence and does not have a white card but has all other documents such as a birth certificate, a certificate of citizenship, and a valid passport, the authorities will not register the birth within the regular deadline. This practice shows an unwillingness on the part of registry offices to act according to the law and unjustifiably delays birth registration. After the expiry of the regular 30-day deadline, the registry offices forward the case to the social work centre for further processing to determine the personal name. It is the opinion of Vaša prava that registry offices should be able to carry out the relevant procedures in such cases according to the law and establish the facts necessary for registration in the registry books within the regular legal period of 30 days from the date of the child's birth.

Based on available information, in situations where a child's mother is a foreign national without registered residence, registry offices and social welfare centres do not report these cases to the Service for Foreigners' Affairs. Such cases are submitted to the social welfare centres to determine the personal name after the 30-day regular period. As such, there is no evidence to suggest that this constitutes a barrier to eventual birth registration, but it does result in unnecessary delay and complexity.

Further challenges to immediate universal birth registration arise from the persistent problem of unequal access to healthcare, particularly for those who lack health insurance. This issue disproportionately impacts on Roma families in BiH. Vaša prava BiH is aware of situations where pregnant women who do not have health insurance (and therefore lack access to hospitals) give birth at home. There are additional requirements to register a birth that occurs outside a healthcare institution. The FBiH *Law on Registry Books* requires that the registration of the birth of a child born outside a healthcare institution has to be on a prescribed form. The *Rulebook on Forms for Reporting the Birth of a Child and Confirmation of Death in the FBiH*<sup>5</sup> prescribes that this (Form No. 2) is completed by an authorised doctor within 15 days from the day when a person referred to in the law (i.e. the father of the child, a member of the household, the person in whose apartment the child was born, the mother when she is capable of doing so, etc.) registers

5 Article 5, paragraph 1 of the Rulebook on Forms for Reporting the Birth of a Child and Confirmation of Death in the FBiH (FBiH Official Gazette, 38/12 i 83/14)



the birth of the child with the healthcare institution for the purpose of issuing a document on birth registration.

However, people who do not have health insurance are usually unable to access a doctor to fill out the form and even if they manage to do so, many doctors do not want to complete the form because they were not present at the birth and cannot confirm that the woman actually gave birth to the child, especially if a longer period of time has passed. This legal procedure is senseless as it further complicates the registration process. The parents are unable to register their own child, and an additional layer of proof is introduced by asking a doctor to confirm the birth, even though they were not present at the birth.

Among the regulations in the field of civil registration that are in force in BiH, only the *FBiH Law on Registers and the Instruction on the Manner of Keeping the Civil Registers of the FBiH* contains provisions that mention national minorities. Item 25 of the *Instruction* prescribes the acceptable means of proof for recording facts in the civil registers. Before the establishment of civil registry books by the state, records such as birth, marriage, and death certificates were maintained by religious authorities. During the World War II, many of the state-held registry books were destroyed, prompting people to rely once again on the records preserved by religious institutions. These religious records thus remained an essential source of personal and family information where state records were lost or incomplete. To date they in parallel record marriages, however those are not recognised by the state in any way. Article 52 of the *FBiH Law on Registry Books* prescribes that the municipality, or city, is obliged to organise the provision of free professional assistance for the registration of individuals in the birth and death records for people who have the status of socially vulnerable individuals or national minorities, and to create conditions for all these individuals to be registered in the birth and death records. The law also provides that these people must be exempted from the obligation of paying the fees and taxes foreseen for registration in the birth and death records.

However, after the adoption of the *Law on Amendments to the Law on Extrajudicial Procedure of the FBiH* in 2021, practically all “disputed” cases were placed under the jurisdiction of the Court and many more complex cases will require resolution through the judicial process to determine the time and place of birth. This will complicate, lengthen, and impose significant cost on affected

parents in such situations. This is not to mention that legal support in such court cases does not exist, which will compound the challenges for affected families and hinder effective registration of births.

### Determination of citizenship at birth

The registration of Federation citizenship in the birth registry based on Articles 5, 6, and 7 of the Law (by descent, birth on the territory of the FBiH, adoption) is done based on an application (request) under Article 8 (1) of the *Rulebook on the Procedure, Evidence and Manner of Registration of Citizenship of the FBiH in the Register of Births and Register of Citizens*, and is acquired on the day of the child’s birth. Although the registration of a child’s citizenship at birth is provided for in law, there is no deadline for registration of citizenship if it was not recorded upon birth registration, and there is no obligation for the registry office or social welfare centre to submit a request for confirmation of citizenship. A child whose citizenship has not been determined at birth can later have their citizenship determined in the administrative procedure. There are occasionally delays in situations where the mother of a child who is a citizen of BiH does not have a registered residence or does not have a valid identification document or if the mother of a child is a foreign citizen without regular residence and a white card.

The procedure is different in Republika Srpska and the Brčko District of BiH. The regulations on registry books of Republika Srpska and the Brčko District of BiH prescribe that when registering in the birth registry, the fact of citizenship is also recorded, and the fulfilment of the conditions for recording the fact of citizenship is determined in accordance with the Citizenship Law.

### Late birth registration

If a child is not registered in the birth registry, it is possible to conduct a subsequent birth registration procedure regardless of their age. If the child/person was born in a healthcare facility and if the registration was not made immediately after birth, the competent social welfare centre will, in accordance with the *Law on Personal Name*, issue a decision on determining the personal name, and administrative fees will not be charged for the procedure.

When it comes to children born in healthcare institutions in the FBiH and Republika Srpska, after the 30-day period from the day of birth, the responsibility for

determining the personal name transfers to the social welfare centre.<sup>6</sup> In the Brčko District, a subsequent entry of data can be made based on a decision by the competent municipal authority.<sup>7</sup> Parents must pay a fee if the decision is made after the deadline for the regular registration of the child has expired. The fee is prescribed by the competent municipalities, and certain people can be exempted from paying the fees based on their social status.

For children born outside of healthcare institutions, as well as children born abroad who do not have a birth certificate on an international form or an extract of birth register that is apostille certified, the authorities responsible for conducting the registration process have taken the position that all these procedures should be resolved in a court procedure to determine the time and place of birth in accordance with the *Law on Extrajudicial Procedure of the Federation of BiH* and *Republika Srpska*, rather than in a subsequent registration procedure.

Article 73a(1)(a) of the *Law on Extrajudicial Procedure of the Federation of BiH* prescribes that a proposal for determining the time and place of birth can be submitted to the court by a person who is not registered in the birth registry and cannot prove the time and place of their birth in the manner prescribed by the regulations

governing the maintenance of registry books. One difficulty for persons conducting this procedure is that Article 73f(3) of the law prescribes that the court will order a medical expert to examine the person whose time and place of birth is being determined and provide a finding and opinion on their age, which places the proposers in a situation where they must bear the costs of medical expertise for age determination. The *Law on Extrajudicial Procedure of Republika Srpska* contains a provision that medical expertise is not mandatory but can be ordered by the court.

A further difficulty is the lack of access to legal aid. Of the 12 laws on free legal aid in force in BiH, nine are at the cantonal level. The others are the Law on Free Legal Aid of Republika Srpska, the Law on Free Legal Aid of Brčko District, and the Law on Free Legal Aid of BiH. Only the Law on Free Legal Aid of Una-Sana Canton recognises stateless people, people with undetermined or unknown citizenship, and people without identification documents as groups of people eligible for free legal aid, while other laws do not recognise these groups. Under the other laws, people with undetermined or unknown citizenship, and people without identification documents are not entitled to free legal aid. Stateless people whose statelessness has been identified are eligible, but no such case has been reported.

<sup>6</sup> Article 16, paragraph 3 of the FBiH *Law on Registry Books* prescribes: if the parents, or persons from Article 15, paragraph 2 of this law, do not report the child's name within the period from paragraph 1 of this article, after the expiration of that period, the personal name of the child is determined by the guardianship authority within 30 days from the receipt of the registrar's document, which is done in the manner prescribed by the Law on Personal Name. Article 16 of the *Law on Registry Books of Republika Srpska* prescribes that people who are authorised by the *Law on Personal Name* (RS Official Gazette, 27/93 and 15/00) to determine the personal name of the child are obliged to report the child's personal name to the competent registrar no later than 30 days from the day of the child's birth.

<sup>7</sup> Article 29 of the *Law on Registry Books of the Brčko District of BiH* prescribes that if certain data are not entered in the birth register, the registrar can perform a subsequent entry of data based on a decision.



## Remaining gaps in measures to reduce statelessness

To obtain citizenship by naturalisation in BiH under the general rules, an individual must have continuous residence in BiH for a period of eight years (at least three years of permanent residence) as well as knowledge of the language, sufficient income and settled financial/tax obligations, and must renounce or have lost any previous citizenship. Stateless people can apply for naturalisation after five years of continuous residence, which is reduced from the standard eight years in line with provisions for refugees, if there is no pending expulsion order, if the person has not been convicted of a crime, is not subject to criminal proceedings, and if the person does not pose a threat to national security. Stateless people are exempt from language requirements, the requirement to renounce or have lost any previous citizenship, minimum income requirements, and the requirement to settle financial obligations. However, some stateless individuals granted residence on humanitarian grounds do not have a birth certificate, which represents an obstacle to submitting an application for naturalisation in practice. Stateless people are required to pay administrative fees for naturalisation, which varies depending on the regional authority handling the application, between 100 Bosnia and Herzegovina Convertible Mark (BAM) (approximately 51 EUR) and 450 BAM (approximately 230 EUR). In FBiH, stateless people granted temporary residence on humanitarian grounds are exempted from the payment of fees. There is no access to legal aid in the naturalisation process.

BiH does not currently have any programmes in place to promote civil registration and reduce (the risk of) statelessness, although information campaigns have been organised in the past by international organisations including OSCE, UNHCR, and UNICEF, as well as by NGOs, targeted at Roma communities in particular. Since 2009, the UNHCR office in BiH has organised multiple projects to raise awareness among members

of the Roma community about how to exercise their right to registration in the birth registry books and to provide free legal assistance in subsequent registration procedures. After the adoption of new regulations in the Federation of BiH, numerous workshops, training sessions, and roundtables were held with all relevant stakeholders in the field of civil registration, also attended by representatives of Roma NGOs. Additionally, field visits were made to all Roma settlements - working together with community organisations and Roma mediators - to familiarise users with the new regulations on civil registration and to raise awareness among the population about the importance of being officially registered in birth and personal status records.

Vaša prava BiH is not aware of any formally established institutional cooperation between other countries in the region concerning cross-border cases of (risk of) statelessness. However, in the past, numerous workshops, roundtables and seminars have been held with the support of UNHCR and were attended by relevant stakeholders in the field of civil registration. Association Vaša prava BiH has also successfully cooperated with other NGOs from the region to address statelessness for years, and a number of complex cases were successfully completed thanks to this cooperation. It is the opinion of Vaša prava that without regional cooperation, many of these cases would still be pending.

Given that the number of remaining cases is likely to be relatively small, Association Vaša prava BiH is of the opinion that alongside measures to simplify and facilitate registration procedures, proactive inter-institutional cooperation and effective regional cooperation would be the best approach to identify remaining cases and take swift action to resolve them as soon as information is received that an individual is not registered in the registry books or does not have citizenship.

## Statelessness in a migratory context

In BiH, there is no dedicated statelessness determination procedure leading to a specific statelessness status, but there are other procedures in which statelessness can be identified in a migratory context, or other routes through which stateless people can regularise their stay and/or access their rights. According to the interpretation of relevant provisions of the *Law on Foreigners*, *Law on Asylum*, and *Law on Citizenship of BiH*, the identification of stateless persons is possible in the following procedures: 1) temporary residence on humanitarian grounds; 2) asylum procedures; 3) temporary protection procedures.<sup>8</sup>

Under the *Law on Foreigners*, stateless people may be identified during the procedure for temporary residence on humanitarian grounds, which may be granted if they do not meet the conditions for being granted temporary residence under the general conditions. The granting of this temporary residence permit is at the discretion of the Government. The competent authority within the Ministry of Security is the Service for Foreigners' Affairs. Stateless people may also be identified and granted asylum under the *Law on Asylum*. The competent authority within the Ministry of Security is the Sector for Asylum, in the Department for Asylum Procedure.

Stateless people who have been granted temporary residence on humanitarian grounds have the right to stay on the territory for up to one year, which may be extended. After five years of temporary residence, they may apply for naturalisation. They are automatically granted a certificate of identity and may be granted a travel document upon application. Under the *Law on Foreigners*, stateless people have the right to work under the same conditions applicable to foreigners and the right to education under the same conditions as BiH citizens. The right to healthcare is not guaranteed to all stateless people but may be granted to stateless people with temporary residence on humanitarian grounds,

provided other conditions are met.<sup>9</sup> Access to social protection varies depending on the geographical entity. Stateless people have the right to family reunification if they have been granted residence for at least one year and have a reasonable prospect of obtaining permanent residence. They do not have the right to housing.

Asylum seekers have the right to stay in BiH and are provided with accommodation in asylum seekers' centres, primary healthcare only, primary and secondary education, and the right to work. Stateless people granted refugee status or subsidiary protection have the right to an identification document, accommodation, work, education, healthcare, and social assistance. Refugees have the right to a travel document and to family reunification, while beneficiaries of subsidiary protection have the right to maintain family unity. Stateless people do not have the right to vote nor participate in elections. They may benefit from consular protection abroad.

Interpreting the provisions of the *Law on Asylum* and the *Law on Foreigners* indicates that free legal aid in the above procedures for stateless people is only guaranteed within the asylum procedure in accordance with the *Law on Asylum*. Stateless applicants for temporary residence on humanitarian grounds may seek free legal assistance from NGOs or from government providers of free legal aid. However, access is not guaranteed, as laws and eligibility for free legal aid vary across BiH. Notably, only the *Law on Free Legal Aid of Una-Sana Canton* explicitly includes stateless persons, individuals with undetermined or unknown citizenship, and undocumented persons as eligible beneficiaries. In most other jurisdictions, these groups are not recognised in legal aid legislation, resulting in unequal and inconsistent access to legal assistance for those most in need of support to resolve complex legal and administrative procedures.

<sup>8</sup> It is also possible to identify statelessness under the *Law on Citizenship* in the procedure for renunciation, withdrawal, or deprivation of citizenship.

<sup>9</sup> FBiH *Law on Health Insurance* (FBiH OG 30/97, 7/2002, 70/2008, 48/2011, 100/2014, decision of the CC BiH no. 36/2018, 61/2022) and RS *Law on Healthcare* (RS OG 57/2022).

## Action Areas<sup>10</sup>

### Relevant public authorities should:

- Align domestic regulations with international standards to ensure that every child born on the territory is registered in the registry books immediately after birth, regardless of their citizenship, documentation or immigration status, or that of their parents.
- Remove legal obstacles in the Law on Registry Books of the Federation of Bosnia and Herzegovina and the Law on Registry Books of Brčko District of Bosnia and Herzegovina, and its accompanying bylaws. This would allow registration in the registry books based on other available evidence where it is not possible for children born abroad to BiH citizens to obtain the required documents to register their birth in BiH.
- Conduct outreach programmes to improve connections and relationships and build engagement and trust between national and international authorities and agencies and affected communities.
- Reinforce training and strengthen capacity of front-line service providers to identify and address and prevent statelessness and tackle antigypsyism (e.g. Centres for Social Welfare, hospitals, municipalities, etc.).
- Establish a dedicated statelessness determination procedure and protection status in law and in line with good practice to give full effect to the rights prescribed in the 1954 Convention to stateless migrants and refugees in the country.
- Establish a transparent mechanism for the collection, management and monitoring of disaggregated data of stateless persons and conduct a comprehensive mapping of (risk of) statelessness in the country.
- Amend the Law on Permanent and Temporary Residence of Citizens of Bosnia and Herzegovina to allow people who do not meet the conditions prescribed in Article 8 to register their residence,

by including the possibility to be registered by the competent authority of the Ministry of Interior at the address where they live or through social welfare centres in case of a lack of a formal address or homelessness. Registration should be accessible in practice without any discrimination, irrespective of documentation or citizenship status, so that people can fully enjoy their rights.

- Ensure the right to free legal aid for stateless people, people with undetermined or unknown citizenship, and people without identification documents in all laws concerning the provision of free legal aid in Bosnia and Herzegovina.
- Improve and ensure systematic cooperation of all authorities at the local level by establishing a sustainable mechanism for identification of and timely response to the risk of statelessness.

### European Union and Council of Europe

- The EU Delegation in BiH should prioritise the alignment of the current legislation addressing minoritised communities to best practice in EU countries as BiH progresses on its accession path to becoming a member of the EU.
- Statelessness and civil registration issues should be integrated into EU Enlargement process monitoring under fundamental rights and Roma inclusion benchmarks.
- In order to ensure transparency and non-bias, the EU should insist on the inclusion of NGOs with relevant expertise in government-led processes relating to minority rights and inclusion in line with best practice.
- An initiative should be undertaken to map organisations providing free legal aid across the EU and connect them with their counterparts in the Western Balkans to address issues with cross-border cases where legal assistance is required both in BiH and another European country.

<sup>10</sup> Action areas are directed at the governments of both entities and the Brčko District of BiH unless otherwise specified.

- Support BiH to participate in regional cooperation initiatives.
- Promote inclusive data systems and monitoring frameworks involving civil society to track progress on ending statelessness.

### UNHCR, Other International Organisations and Donors

- Continue to support BiH governing bodies and civil society to prevent and reduce statelessness and address systemic barriers to birth registration, citizenship acquisition, and personal documentation.
- Provide technical assistance, resources, and monitoring support for the implementation of relevant legislative reforms, and introduction of a statelessness determination procedures in BiH.
- Assist in aligning national laws with the 1954 and 1961 Conventions, ensuring procedural safeguards, residence status, and rights for recognised stateless persons.
- Support improved data collection and analysis on statelessness and facilitate coordination among government institutions and civil society.
- Encourage BiH to join the Global Alliance to End Statelessness and participate in its various initiatives.

- Fund projects working with and for communities affected by statelessness in the Western Balkans, including specifically for legal assistance, capacity-building of state institutions and services, community engagement, and law and policy reform.

### Civil society organisations

- Raise awareness, advocate for policy change, and participate in national consultations to support the government in evaluating and improving statelessness-related frameworks.
- Provide free legal aid, engage in strategic litigation, and conduct community outreach to identify and support stateless persons, especially among Roma, Egyptian, and undocumented migrant communities.
- Strengthen coordination among CSOs working on Roma inclusion to increase the efficiency and impact of services in areas such as housing, healthcare, and employment.
- Monitor implementation of BiH's international and regional commitments, including pledges under the 2019 UNHCR High Level Segment on Statelessness and the Poznan Declaration.

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### **This paper was prepared by Association Vaša prava BiH in collaboration with the European Network on Statelessness (ENS).**

Association Vaša prava BiH, originating from the UNHCR's Legal Aid and Information Centre network established in 1996, is a Bosnian NGO committed to ensuring the protection and efficient exercise of individual rights through comprehensive legal aid. Since becoming a fully Bosnian organisation in 2003, it has provided free legal assistance, education, and representation to over 450,000 individuals. The organisation's main activities include legal aid, advocacy, strategic litigation, and policy development. Vaša prava BiH informs beneficiaries about their legal rights and obligations, organises legal clinics, and engages in public awareness programmes. It also promotes human rights, advocates for laws supporting the democratic process, and aims to establish

legal precedents through strategic litigation. The primary beneficiaries are marginalised and vulnerable groups, individuals seeking legal redress, and the general public. By collaborating with domestic and international organisations, Vaša prava BiH strives to create an inclusive community where legality, the rule of law, and civil liberties are upheld, empowering individuals to protect their rights and contribute to society.

ENS is a civil society alliance of NGOs, lawyers, academics, and other independent experts committed to addressing statelessness in Europe. Based in London, it currently has over 180 members in 41 European countries. ENS organises its work around three pillars – law and policy development, awareness-raising, and capacity-building. ENS provides expert advice and support to a range of stakeholders, including governments.

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Roma Integration Phase III is a Joint Programme of the European Union and the Council of Europe. It aims to strengthen the capacity of governments in the Western Balkans and Türkiye to effectively address the multifaceted challenges faced by the Roma community through the implementation of comprehensive public policies. These policies cover critical areas such as housing, employment, population registration, as well as the green and digital transition.

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