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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954 	Yes.	<p>Decree on Ratification of the 1954 Convention Relating to the Status of Stateless Persons and Final Act of the UN Conference on Legal Status of Stateless Persons, Official Gazette of the Republic of Federal Peoples Republic of Yugoslavia - International Agreements, no. 9/59.</p> <p>Notification of succession of the Federal Republic of Yugoslavia, 12 March 2001: https://treaties.un.org/doc/Treaties/1960/06/19600606%2001-49%20AM/Related%20Documents/CN.249.2001-Eng.pdf</p> <p>Serbia succeeded to the Convention on the basis of Art 60(4) of the Constitutional Charter of the State Union of Serbia and Montenegro, Official Gazette of Serbia and Montenegro, no. 1/2003: http://www.worldstatesmen.org/SerbMont_Const_2003.pdf</p>
IOB	1	b		If yes, when was ratification/accession?		12 March 2001	Notification of succession of the Federal Republic of Yugoslavia, 12 March 2001: https://treaties.un.org/doc/Treaties/1960/06/19600606%2001-49%20AM/Related%20Documents/CN.249.2001-Eng.pdf
IOB	1	c		Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons. 	No, there are no reservations in place.	UN Treaty Collection, Reservations and Declarations for Convention relating to the Status of Stateless Persons: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en#2
IOB	1	d		Does the Convention have direct effect?	<ul style="list-style-type: none"> • Best practice is that the Convention has direct effect, though this may depend on legal regime. 	Yes.	Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 98/2006, Art. 16(2) & 16(3): “Generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly.” Ratified international treaties must be compatible with the Constitution: http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_odredbe.php?id=217 http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_odredbe.php?id=217 (S)
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 	Yes.	The Law on Ratification of the Convention on the Reduction of Statelessness, Official Gazette of the Republic of Serbia - International Agreements, no 8/2011

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IOB	2	b		If yes, when was ratification/accession?		8 th of December, 2011	Notification of succession of the Federal Republic of Yugoslavia, 7 December 2011: https://treaties.un.org/doc/Publication/CN/2011/CN.782.2011-Eng.pdf
IOB	2	c		Are there reservations in place? Please list them.	As above	No, there are no reservations in place.	UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&clang=en
IOB	2	d		Does the Convention have direct effect?	As above	Yes	Constitution of the Republic of Serbia, Art. 16 (2) & 16(3): “Generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly.” Ratified international treaties must be in accordance with the Constitution: http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav.php?change_lang=en
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Nationality, 1997 	No	Council of Europe, Chart of signatures and ratifications of Treaty 166 (European Convention on Nationality): http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=DpBZwnVo
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Human Rights, 1950 	Yes, Serbia is a State Party to ECHR. No reservations in force.	Law on Ratification of the European Convention on Human Rights, Official Gazette of Serbia and Montenegro – International Agreements, no. 9/2003, 5/2005, 7/2005 – correction and Official Gazette of Serbia, 12/2010. Reservations and Declarations for Treaty No.005 (Convention for the Protection of Human Rights and Fundamental Freedoms): https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=PnAxVuNA
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 	No	Chart of signatures and ratifications of Treaty 200 (Council of Europe Convention on the avoidance of statelessness in relation to state succession): https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=PnAxVuNA

IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive) 	No.	Serbia is not a Member State of the European Union.
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989 	Yes , Serbia is a State Party to the Convention and there are no reservations in force.	<p>Law on Ratification of the Convention on the Rights of the Child, Official Gazette of the Republic of Socialistic Federal Republic of Yugoslavia, no. 7/71, 15/90 and Official Gazette of the Republic of Socialistic Republic of Yugoslavia, no. 4/96 and 2/97.</p> <p>Notification of succession to the Convention on the Rights of the Child, 12 March 2001: https://treaties.un.org/doc/Treaties/1998/05/19980501%2004-05%20AM/Actions/Related%20Documents/CN.153.2001-Eng.pdf</p> <p>Serbia succeeded to the Convention on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec</p>
IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights 1966 	Yes , Serbia is a State Party to the Covenant. There are no reservations in force.	<p>Law on Ratification of International Covenant on Civil and Political Rights, Official Gazette of the Republic of Socialistic Federal Republic of Yugoslavia, no. 7/71.</p> <p>Notification of succession to the International Covenant on Civil and Political Rights, 12 March 2001: https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Related%20Documents/CN.233.2001-Eng.pdf</p> <p>Serbia succeeded to the Covenant on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en</p>

I OB	3	g		<p>State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • International Covenant on Economic, Social and Cultural Rights 1966 	<p>Yes, Serbia is a State Party to the Covenant. There are no reservations in force.</p>	<p>Law on Ratification of International Covenant on Economic, Social and Cultural Rights, Official Gazette of the Republic of Socialistic Federal Republic of Yugoslavia, no. 7/71.</p> <p>Notification of succession to the Covenant, 12 March 2001: https://treaties.un.org/doc/Treaties/2002/01/20020103%2009-57%20PM/Related%20Documents/CN.175.2001-Eng.pdf</p> <p>Serbia succeeded to the Covenant on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=_en</p>
I OB	3	h		<p>State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • Convention on the Elimination of all Forms of Discrimination Against Women 1979 • Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness. 	<p>Yes, Serbia is a State Party to the Convention and there are no reservations in force.</p>	<p>Law on Ratification of Convention on the Elimination of all Forms of Discrimination Against Women, Official Gazette of the Republic of Socialist Federal Republic of Yugoslavia, no.11/81.</p> <p>Notification of succession to the Convention, 12 March 2001: https://treaties.un.org/doc/Treaties/1995/05/19950522%2005-30%20AM/Related%20Documents/CN.156.2001-Eng.pdf</p> <p>Serbia succeeded to the Convention on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en</p>
I OB	3	i		<p>State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 	<p>Yes, Serbia is a State Party to the Convention and there are no reservations in force.</p>	<p>Law on Ratification of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Official Gazette of the Republic of Socialistic Federal Republic of Yugoslavia, no.9/91.</p> <p>Notification of succession to the Convention, 12 March 2001: https://treaties.un.org/doc/Treaties/1992/09/19920908%2002-43%20AM/Related%20Documents/CN.238.2001-Eng.pdf</p> <p>Serbia succeeded to the Convention on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection:</p>

							https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=_en
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • International Convention on the Elimination of All Forms of Racial Discrimination 1965 	Yes, Serbia is a State Party to the Convention and there are no reservations in force.	<p>Law on Ratification of International Convention on the Elimination of All Forms of Racial Discrimination, Official Gazette of the Republic of Socialistic Federal Republic of Yugoslavia, no.31/67.</p> <p>Notification of succession to the Convention, 12 March 2001: https://treaties.un.org/doc/Treaties/1992/01/19920115%2008-49%20AM/Related%20Documents/CN.166.2001-Eng.pdf</p> <p>Serbia succeeded to the Convention on the basis of Art 60(4) of the Constitutional Charter of Serbia and Montenegro. UN Treaty Collection: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&clang=en#EndDec</p>

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> • Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends... • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons... • UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations... • Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory... 	<p>No, there is not a separate category of 'stateless'. There are only separate data on the number of persons without citizenship who were born in ex-Yugoslavia countries. The only official Government data is from the Census. The last one was conducted in 2011. According to this around 99% of the population are Serbian citizens. A total of 0.62 % are foreign citizens, while 0.08% are without citizenship. In numbers, a total of 5951 declared themselves as persons without citizenship. Among them 5764 were born in ex-Yugoslavia countries, and 187 were born in other countries. However, it cannot be concluded that all of them were stateless because they did not have citizenship at that moment (it is possible that some of them are citizens but facing administrative difficulties getting a citizenship certificate).</p>	<p>Official Census 2011 results, Book 9, <i>Migrations</i>: http://pod2.stat.gov.rs/ObjavljenjePublikacije/Popis2011/Knjiga%209Migracije-Migrations.pdf (S)</p>
POP	1	b		Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	See above. The only data available is from the census, which uses the term 'without citizenship' .	<p>Official Census 2011 results, Book 9, <i>Migrations</i>: http://pod2.stat.gov.rs/ObjavljenjePublikacije/Popis2011/Knjiga%209Migracije-Migrations.pdf (S)</p>
POP	1	c		What is the UNHCR estimate for the population of stateless persons and/or those	As above	UNHCR has done two surveys on persons at risk of statelessness in Serbia: in 2010 and in 2015 . The overall objective of the surveys was to obtain reliable and representative data on statelessness of	UNHCR, Persons at risk of statelessness in Serbia, Progress report 2010-2015, June 2016:

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				at risk of statelessness on the territory? What is UNHCR's source for this information?		Roma, Ashkali and Egyptians (RAE) in Serbia since statelessness and lack of documents in Serbia mainly affects RAE population. The survey was carried out in 'Roma' settlements on a sample which included 1,987 households with a total of 8,765 (RAE) members. According to this data, the share of persons without basic identity documents among the RAE population in Serbia has dropped from 6.8% in 2010 to 3.9% in 2015. According to the 2015 survey: 1% of RAE who live in 'Roma' settlements are not registered in birth registries (approx. 700 people). 5.2% of RAE who live in 'Roma' settlements have no identity cards (approx. 2700 people).	http://www.unhcr.rs/media/docs/UNHCR_Brosura_Apatridi_ENGLESKI.pdf UNHCR, Persons at risk of statelessness in Serbia, June 2011: http://www.refworld.org/pdfid/4fd1bb408.pdf
POP	1	d		Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.	As above	There is no reliable indirect source of statistics on stateless persons. Since 2015 some data about country of origin of refugees exists within UNHCR and relevant state bodies (e.g. in 2016, 37 persons from Palestine and three persons from 'unknown countries' expressed the intention to seek asylum in Serbia). However, data is not systematised and no conclusions or predictions about stateless persons can be drawn from that.	The Belgrade Centre for Human Rights, <i>Right to Asylum in the Republic of Serbia 2016</i> , Belgrade 2017, p. 24: http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2017/03/Right-to-Asylum-in-the-Republic-of-Serbia-2016-2.pdf
POP	1	e		Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10 	Aside from the UNHCR surveys (see 1c above), no other mapping studies have been done.	

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POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	There is data on the number of children who are not registered in birth registry books (and therefore at risk of statelessness) from UNICEF surveys carried out as a part of the global program Multiple Indicator Cluster Survey – MICS. According to the 2014 survey, Roma have the lowest birth registration rate (94%) . The births of 95% of children under five years-old in Roma settlements have been registered . The birth registration rate is lower among children age 0-5 months (83%) and among children from the poorest wealth quintile (89%). According to the survey carried out in late 2014 among internally displaced Roma in Serbia, 5% of Roma IDP households have one member not registered in the birth registries, and less than 1% of domiciled Roma households. 9% of IDP Roma and 6% of domiciled Roma have a member of their household who cannot obtain a citizenship certificate.	Statistical Office of the Republic of Serbia and UNICEF, <i>Serbia Multiple Indicator Cluster Survey 2014 and Serbia Roma Settlements Multiple Indicator Cluster Survey, 2014, Final Reports</i> , Belgrade, Serbia: https://www.unicef.org/serbia/Serbia2014MICS_NationalandRomaSettlements_Eng_2015FINAL.pdf UNHCR and the Commissariat for Refugees and Migration of the Republic of Serbia, <i>Assessment of the needs of internally displaced Roma in Serbia</i> , May 2015, p. 41-42 and 73: http://www.unhcr.rs/media/UNHCR_Roma_IDPs_Needs_Assessment.pdf
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	Yes . The data related to stateless persons and those at risk of statelessness are not completely reliable in Serbia . Statelessness related problems are primarily connected to the lack of birth registration. The exact number of those who are not registered has never been determined , which was the main reason for UNHCR to conduct the two abovementioned surveys (see Answer 1c). However, these surveys are limited too . Firstly, there is no precise number for the Roma population in Serbia . The surveys were conducted in Roma settlements only . Therefore, the results are an estimation . census data is based only on self-declaration , without any further questions on statelessness.	
POP	1	h		Are there indications that the stateless	As above	It is likely that the stateless population in Serbia is underreported . The UNHCR surveys showed that	Praxis casework/practice.

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				population is either over or under reported? Please describe.		the number of those at risk of statelessness significantly dropped to about 700 persons . On the other hand, Praxis as a legal aid provider still identifies new cases of those not registered or with undetermined citizenship which leads us to conclude that the number could be higher .	
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	There is no available data . Statistics on asylum seekers contain only data on the country of origin . There is no data about stateless asylum seekers or their number is unrealistically low . For example, from 1 January 2015 until 31 October 2015, the Asylum Office registered 335,246 persons who expressed the intention to seek asylum in Serbia and there were only two stateless persons and four persons whose country of origin was unknown. In 2016, of 12,821 persons who expressed the intention to seek asylum, none of them was recorded as stateless and three persons came from 'unknown countries'.	UNHCR, Asylum Seekers in Serbia, 2015: http://www.unhcr.rs/media/AsylumSeekers2015-05NovENG.xlsx Belgrade Centre for Human Rights, <i>Right to Asylum in the Republic of Serbia 2016</i> , Belgrade 2017, p. 24: http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2017/03/Right-to-Asylum-in-the-Republic-of-Serbia-2016-2.pdf
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	In 2016 and 2017 there were no stateless persons (or persons with unknown or undetermined nationality) in immigration detention in Serbia (i.e. in the Shelter for Foreigners).	Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 issued on 15 May 2017.
POP	2	b		Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide.	As above	In 2016, 205 unremovable persons were released from immigration detention (Shelter for Foreigners) and they were mainly from Afghanistan, Pakistan, Syria and some from Palestine, Morocco, Eritrea, Congo, Bangladesh, Western Sahara, Cuba, Vietnam. In 2017, 77 unremovable persons were released from immigration detention from Pakistan, Afghanistan, Syria, Morocco. In 2016, the average length of detention was 18 days and in 2017 it was 15 days .	Response from Border Police Directorate of Ministry of Interior (to freedom of information request) 03/8/6/2 no. 26-338/17, 31 May 2017.

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Existing SDP procedure	<p>Which of the following best describes the situation in your country (choose only one and then proceed to question indicated)?</p> <p>1. There is a dedicated Statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a).</p> <p>2. There is no dedicated SDP procedure but there are other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence permit and international protection procedures or ex-officio) (proceed to Question 10a).</p> <p>3. There is a dedicated statelessness status even if no formal procedure exists for determining this (proceed to Question 16a).</p> <p>4. If none of the above describe the situation in your country, are there other possibilities by which stateless persons can regularize their stay without their statelessness being determined (proceed to Question 17a)?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. • UNHCR (Good Practices Paper 6): Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention. • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness. 	Group 3	
IDP	16	a	Statelessness status but unclear mechanism (if no options under IDP1-15)	<p>Is there a dedicated statelessness status even if no formal procedures exists for determining this? If there is a dedicated status for stateless persons how are beneficiaries identified and what rights are attached to the status?</p> <p>If there is no stateless status proceed to question 17a.</p> <p>If yes, IDP section is complete. Proceed to questions on Detention.</p>	As above	There is no prescribed formal procedure to identify stateless persons. According to data from UNHCR in Serbia, based on information from the Serbian Ministry of Interior from 2011, a total of 155 persons have been determined to have the status of stateless persons in Serbia in an <i>ad hoc</i> procedure carried out by the Ministry of Interior. According to unofficial data, all of these people were of Albanian origin. No recent cases of statelessness determination are known and the procedure for determination of status is unclear. Of those whose stateless status was	Unpublished information given on multiple occasions by UNHCR representatives and the Ministry of Interior at conferences and other events.

					<p>determined, 146 were granted a permanent residence permit, and 9 a temporary residence permit. In accordance with Article 60 of the Law on Foreigners, all were issued with travel documents.</p> <p>Domestic legal provisions explicitly mentioning stateless persons are very rare. The Law on Foreigners prescribes that a travel document (valid for two years) for persons without citizenship is issued by a competent authority based on the place of permanent or temporary residence. The Law on Foreigners also prescribes that the 1954 Convention should be applied to stateless individuals, if this is more favorable for them. Some of the few laws that explicitly guarantee certain rights to stateless persons are the Labor Law that guarantees the right to work to stateless persons and the Law on Social Protection that prescribes that stateless persons can also be beneficiaries of social protection. Under the Law on Fundamentals of Education System, stateless persons shall be entitled to education (primary and secondary) under the same conditions and in the same manner as prescribed for Serbian citizens. Law on the Prohibition of Discrimination guarantees to stateless persons the right to initiate legal action for protection against discrimination. Facilitated naturalisation of stateless persons has not been envisaged. There is a risk that stateless persons would not be able to exercise these rights in practice, because of the lack of a formal statelessness determination procedure.</p>	<p>Law on foreigners, Art. 60; Art. 2(2); Labour Law, Art. 29; Law on Social Protection, Art. 41(2.8); Art 41(3.5); Law on Fundamentals of Education System, Art. 6(5); Law on the Prohibition of Discrimination, Art. 2(1.1-2).</p>
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Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> • ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. • ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 	<p>Yes. As Immigration detention occurs in situations of illegal entry and/or in cases of deportation and extradition, it is mainly regulated by the Law on Foreigners, Law on State Border Protection and Law on Police.</p>	<p>Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html</p> <p>Law on State Border Protection, Official Gazette of the Republic of Serbia. No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d92582.html</p> <p>Law on Police, Official Gazette of the Republic of Serbia, No. 6/2016: https://www.paragraf.rs/propisi/zakon_o_policiji.html (S)</p>
DET	1	b		In what circumstances does the law provide for immigration detention? Does domestic law allow immigration detention for purposes other than	<ul style="list-style-type: none"> • ECHR Art 5 (1)(f) 	<p>The Law on Foreigners prescribes that the competent authority shall determine, by decree of the Ministry, a stay in the Shelter for Foreigners under enhanced police supervision, to a foreigner who cannot be expelled forcibly and to a foreigner without determined identity or who does not have travel documents, as well as in other cases prescribed by the law. Also, as an exception, if required for reasons of security of forced removal, a foreigner may be detained on the premises of the competent authority, but not longer than 24 hours.</p>	<p>Articles 49 & 48, Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html</p> <p>Belgrade Centre for Human Rights, Human Rights in Serbia 2015, Law, Practice and</p>

				those allowed under ECHR 5(1)(f)?		<p>Detention of a foreigner in this case shall be subject to provisions of the Law on Police. Domestic law does not allow immigration detention for purposes other than those allowed under ECHR 5(1)(f), but there is data suggesting that in practice, a number of people were referred to the Shelter for Foreigners in 2015 and 2016, pending their testimony in criminal proceedings against people reasonably suspected of having committed the crime of illegal state border crossing and human smuggling or the crime of human trafficking. As testimony in criminal proceedings is not laid down as a ground for depriving foreigners of their liberty and their confinement in the Shelter for Foreigners, the need to establish their identity under the Law on Foreigners was quoted as the ground for depriving them of liberty. Testimony in criminal proceedings is not one of the grounds for detention in law in Serbia, so these people were deprived of liberty arbitrarily and in contravention of the safeguards under Article 5 ECHR. The period of their detention in the Shelter ranged from several days to several weeks, depending on the efficiency of public prosecutors and the time they needed to hear their testimonies.</p>	<p>International Human Rights Standards, Belgrade 2016, p. 111-112: http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2013/04/Human-Rights-in-Serbia-2015.pdf</p> <p>Belgrade Centre for Human Rights, Human Rights in Serbia 2016, Law, Practice and International Human Rights Standards, Belgrade 2017, p. 156: http://azil.rs/en/wp-content/uploads/2017/04/Human-Rights-in-Serbia-2016.pdf</p>
DET	1	c		<p>Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please</p>	<ul style="list-style-type: none"> • ICCPR Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment. • ECHR Art 5 (1)(f) 	<p>According the Border Police Directorate (Ministry of Interior), a country of origin or a proposed country of removal is identified before a person is detained for the purpose of removal. Nothing suggests that the situation is different in practice. A proposed country of removal is not always identified for persons whose stay is cancelled and who are ordered to leave the country. For example, the Police Department in Subotica issued a decision by which a foreigner was obliged to leave Serbia</p>	<p>Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 issued on 15 May 2017.</p> <p>Ministry of Interior, Police Directorate, Police Department in Subotica, Decision no. 26-30-330/2014 from</p>

			describe the situation in law and in practice.	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • EU Returns Directive: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. 	<p>within 10 days, without any determination as to where he could go, and, in fact, there was no country that could admit him. In this case, the country of removal was not identified for the purpose of removal, but neither was he ever detained for the purpose of removal.</p>	26/03/2014, on file with author.
DET	1	d	Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – states must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’. 	<p>No, there is no legal regulation that provides for specific guarantees for the protection of stateless persons from removal and/or detention. The Law on Foreigners states that a foreigner shall be released from the Shelter, if it is reasonably expected that s/he shall not be able to be expelled forcibly, provided that his/her identity is verified. According to the Border Police Directorate of Ministry of Interior, “the Law on Foreigners stipulates that a foreigner is every person who does not have citizenship of the Republic of Serbia and the fact that a person is stateless is not relevant for the decision to detain, i.e. to determine a stay in the Shelter for Foreigners. But, if it is established that a person is unremovable, he/she will be released from the Shelter.”</p> <p>The risk of statelessness is identified after establishing that a person is unremovable. According to available reports, if a person’s identity is not determined or she/he cannot be deported despite the fact that her/his identity is established, a person will be released after the expiry of the maximum period for immigration detention. There is no formal SDP procedure/no referral to SDP within the detention regime.</p>	<p>Art. 50(4) & Art. 3(1.1), Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.refworld.org/docid/4b5d715a2.html</p> <p>Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 issued on 15 May 2017.</p> <p>Group 484, Challenges of forced migration in Serbia: the state of human rights of asylum seekers and returnees based on the Readmission Agreement, Belgrade, July 2012, p. 11: http://grupa484.org.rs/wp-content/uploads/2015/09/Challenges%20of%20Forced%20Migrations%20in%20Serbia,%202012.pdf</p>

	1	e	Are stateless persons detained in practice? Please provide figures and source of information if available.	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: as above. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: as above. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: as above. 	In 2016 and 2017 stateless persons (and persons with undetermined or unknown citizenship) were not detained in practice . According to the response of the Border Police Directorate of the Ministry of Interior, the persons mentioned in POP 2 b were released under Article 50(4) of the Law on Foreigners which prescribes: “A foreigner with a verified identity shall be released from the Shelter, if it is reasonably expected that s/he shall not be able to be expelled forcibly”. Since the Border Police Directorate answered that there were no stateless persons in detention center in that period, these persons were apparently unremovable because of some other reasons , such as the non-refoulement principle, and not because of their statelessness . Available reports suggest that in practice persons from Afghanistan, for instance, are always considered to be unremovable and that deportation is not conducted for persons originating from countries without diplomatic mission in Serbia	Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 from 15 May 2017 Group 484, Challenges of forced migration in Serbia: the state of human rights of asylum seekers and returnees based on the Readmission Agreement, Belgrade, July 2012, p. 11: http://grupa484.org.rs/wp-content/uploads/2015/09/Challenges%20of%20Forced%20Migrations%20in%20Serbia,%202012.pdf APC/Asylum Protection Center, <i>Nadležnosti I Praksa U Azilnom Sistemu Srbije</i> (Competence and Practice in the Asylum System in Serbia), p. 22: http://www.apc-cza.org/images/publikacije/Anex%201-Responsibilities%20brochure.pdf (S)
DET	1	f	Does law (and/or policy) provide that immigration detention should be	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. 	According to the Border Police Directorate of Ministry of Interior, detention (stay in the Shelter for Foreigners) is only one of the possible measures and only a last resort. Their answer is in accordance with the Law on Foreigners which established another measure besides detention – a travel restriction order	Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 issued on 15 May 2017.

				used only as a last resort, after all alternatives to detention have been exhausted?	<ul style="list-style-type: none"> • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. 	requiring compulsory stay in a specific place (Law on Foreigners, Art. 54-55). However, the law does not state explicitly that this measure must be considered prior to any decision to detain . Even though the law does not explicitly provide that immigration detention should be used only as a last resort, such rule is established in practice (according to the answer of competent body).	Art. 54-55, Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html
DET	1	h		Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?	<ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed... • EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons... • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention: The special circumstances and needs of particular asylum-seekers must be taken into account... • Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention... 	Stateless persons are not defined as a vulnerable group in the law , but there is a provision on treatment of persons with special needs . Throughout the removal procedure, the competent authority shall take into consideration the specific situation of a foreigner belonging to a group of persons with special needs , such as: minors, persons fully or partially deprived of their legal capacity, children separated from their parents or legal guardians, persons with disabilities, elderly persons, pregnant women, single parents with underage children and persons who have been subjected to torture, rape or other grave forms of psychological, physical or sexual violence. During the course of the execution of official actions in respect of these groups, the competent authority is obliged to act in conformity with regulations governing the status of persons with special needs and with international treaties .	Art. 58 & 49(2), Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html
DET	1	i		Are there measures to protect stateless persons scheduled for deportation because	<ul style="list-style-type: none"> • OHCHR, Administrative Detention of Migrants: [detention] should last only for the time necessary for the deportation/expulsion to become effective. • Mikolenko v. Estonia, Application no. 10664/05, 8 October 2009 (ECtHR): Detention is justified as long as “deportation proceedings are being conducted” and these proceedings must be carried out with due diligence... when expulsion becomes impossible, the continuation of detention “cannot be 	There is only a provision in the Law on Foreigners stipulating that foreigners whose identity is established shall be released from the Shelter for Foreigners if there is no reasonable prospect for removal . Attempts were made to determine the position of persons convicted of violating the Law on State Border Protection, but no reliable information was	Art. 50(4), Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html

				of criminal records from arbitrary detention?	said to have been effected with a view to his deportation as this was no longer feasible.”	available about what happened to them after release and their treatment may be very different in practice. A number of them were released with certificates confirming their conviction, while others were escorted to the Shelter for Foreigners. However, if it is established that persons are unremovable and that the maximum detention period already expired, they will be released.	Group 484, Challenges of forced migration in Serbia: the state of human rights of asylum seekers and returnees based on the Readmission Agreement, Belgrade, July 2012, p. 10-11: http://grupa484.org.rs/wp-content/uploads/2015/09/Challenges%20of%20Forced%20Migrations%20in%20Serbia,%202012.pdf
DET	2	a	Alternatives to immigration detention	Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and periodic reviews of their necessity and proportionality?	<ul style="list-style-type: none"> • ICCPR Art 9 • FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends... • UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all States ... to adopt, where applicable, alternative measures to detention. • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to detention...are part of any assessment of the necessity and proportionality of detention. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards. • Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non- 	<p>It is established in the Law on Foreigners (Art. 54) that the competent authority may issue a decision imposing a travel restriction order requiring stay in a particular place (compulsory stay) on a foreigner whose identity is known, who has residence and means of subsistence and who cannot be forcibly removed immediately. A foreigner subject to compulsory stay is obliged to remain at a particular address and to regularly report to the nearest competent authority. A time limit of 180 days is prescribed by law. The right to appeal is guaranteed.</p> <p>By Law, a compulsory stay terminates by cancellation of the decision by the competent authority if the reasons for compulsory stay cease to exist. Therefore, it is implicitly prescribed that the competent authority examines if there is still a need for this measure. There is also a measure of temporary withdrawal of travel documents.</p>	<p>Art. 54-55 & 57, Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.refworld.org/docid/4b5d715a2.html</p> <p>Source from PRAXIS practice: Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 issued on 15 May 2017.</p>

				<p>custodial measures) before resorting to detention should be established by law.</p> <ul style="list-style-type: none"> • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems. • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual. • International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case. 		
DET	2	b	Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above	No.	

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				Please cite relevant reports.			
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set out in the law? What is it?	<ul style="list-style-type: none"> • UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : to guard against arbitrariness, maximum periods of detention should be set in national legislation. • EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention. 	The total duration of residence in the detention center shall not exceed 180 days .	Art. 50, Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.refworld.org/docid/4b5d715a2.html
DET	3	h		Does law/policy provide that individuals	<ul style="list-style-type: none"> • UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the 	A stay in the Shelter (detention center) is determined on the basis of a decree by the Ministry of Interior, i.e. written decision . According to the Law on General Administrative	Art. 7(1), Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008,

				<p>must be informed in writing of the reasons for immigration detention?</p>	<p>reason for his arrest and shall be promptly informed of any charges against him.</p> <ul style="list-style-type: none"> • EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they understand and this must outline the reasons for their detention. 	<p>Procedure (the law applied in procedures involving rights and obligations of foreigners where otherwise not provided by the Law on Foreigner) all decisions must contain an explanation. However, in practice, detainees are not aware of the reasons for their detention. For example, during a visit to the Shelter for Foreigners of the National Preventive Mechanism against Torture, 10 Syrian nationals reported not knowing the reason for their referral to the Shelter (that they had been placed there pending forced removal to the countries from where they had entered Serbia illegally).</p>	<p>available in English at: http://www.ref-world.org/docid/4b5d715a2.html</p> <p>Art. 141, Law on General Administrative Procedure, <i>Official Gazette of the Republic of Serbia</i>, no. 18/2016: https://www.paragraf.rs/propisi/zakon_o_opstem_upravnom_postupku_2016.html (S)</p> <p>Belgrade Centre for Human Rights, Right to Asylum in the Republic of Serbia, 2014, p. 26: http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2015/04/Right-to-Asylum-in-the-Republic-of-Serbia-2014.pdf</p>
DET	3	b		<p>Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality</p>	<ul style="list-style-type: none"> • International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition): The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal 	<p>Management of the detention centre (Shelter for Foreigners) claims that a factsheet on the rights of foreigners is handed out to all detainees. According to the Strategy on Combating Irregular Migration in the Republic of Serbia 2009-2014, everyone accommodated at the centre is acquainted with the possibility to contact diplomatic or consular representatives from his/her country of origin. Detainees are informed of the possibility to contact organisations providing legal aid or other assistance. Guidance on how a detainee may access a dedicated statelessness</p>	<p>Belgrade Centre for Human Rights, Right to Asylum in the Republic of Serbia 2014, Belgrade 2015, p. 26: http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2015/04/Right-to-Asylum-in-the-Republic-of-Serbia-2014.pdf</p> <p>Response from Border Police Directorate of Ministry</p>

				<p>of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?</p>	<p>assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and that contains information on all their rights and entitlements during detention.</p>	<p>determination procedure is not available, as there is no dedicated SDP.</p>	<p>of Interior to freedom of information request, 03/8/62 no. 26-338/17, 31 May 2017.</p> <p>Strategy for Combating Irregular Migration in the Republic of Serbia 2009-2014, Official Gazette of the Republic of Serbia, No 25/2009, p. 24: http://www.kirs.gov.rs/docs/Strategy%20for%20Combating%20Illegal%20Migration%20in%20the%20Republic%20of%20Serbia.pdf</p>
DET	3	c		<p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. • EU Returns Directive: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. • Aaad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued. • Kim v Russia [2014] Application no 44260/13 (ECtHR): The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. • A. v. Australia, CCPR/C/59/D/560/1993, (HRC): Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed. • Saïd Shamilovich Kadzoev v Direktsia Migratsia' priMinisterstvo na vatreshniteraboti [2009] Case C-357/09 (ECJ): There 	<p>Periodic reviews are not prescribed by law. There is a time limit prescribed in law: 90 days, which can be exceptionally prolonged to 180 days. It is prescribed in law that a foreigner whose identity has been ascertained shall be discharged from the detention centre if it is expected, on reasonable grounds, that forced removal will not be possible.</p>	<p>Art. 50, Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html</p>

				<p>must, at the time of the national Court’s review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully.</p> <ul style="list-style-type: none"> • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not executed with due diligence the detention will cease to be permissible. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 41 To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. 		
DET	3	d	<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. • ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. • Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. 	<p>It is possible to appeal to a responsible district court against the decision ordering or extending the measure of stay in immigration detention (Shelter for Foreigners), but this remedy cannot be invoked more than once. There is a legal gap in the procedure for deciding on the appeal, as it refers to the old Law on Police (<i>Official Gazette of the Republic of Serbia</i>, no. 101/05), which is no longer in force. The new Law on Police says only that the appeal procedure shall be subject to the Law on Foreigners (which refers only to the old Law on Police). A new Law on Foreigners is likely to be adopted soon, which should resolve this legal gap and outline new procedures relating to detention. An appeal against the detention decision does not postpone its execution.</p>	<p>Art. 49(3-5), Law on Foreigners, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, available in English at: http://www.ref-world.org/docid/4b5d715a2.html</p> <p>Art. 86(2), Law on police, Official Gazette of the Republic of Serbia, no. 6/2016: https://www.paragraf.rs/propisi/zakon_o_policiji.html (S)</p>
DET	3	e	<p>Are there rules/guidance in place that govern</p>	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. 	<p>According to the Border Police Directorate of the Ministry of Interior, there is a procedure for redocumentation and/or ascertaining entitlement to nationality, for the purpose of</p>	<p>Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61</p>

				<p>the process of re-documentation and/or as-certain entitlement to nationality, for the purpose of removal?</p> <p>Do these rules articulate the respective roles that state and individual are expected to play?</p> <p>Are there time limits clearly set out?</p> <p>Are the outcomes of such processes used/considered relevant for subsequent determination of whether an individual is stateless?</p>	<ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible. 	<p>removal. No details about that procedure are available. The outcomes of such processes are not relevant for determination statelessness since there is no formal SDP.</p>	<p>No. GZ 06-124/17 from 15 May 2017.</p>
DET	3	f		<p>Is free legal aid available to challenge</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Judicial oversight of detention is always necessary and 	<p>Serbia does not have a free legal aid system, and legal aid is provided by a limited number</p>	

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				detention? Are there any barriers to accessing this in practice?	detained individuals need to have access to legal representation, including free counselling for those without means. <ul style="list-style-type: none"> • EU Returns Directive: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance. 	of NGOs. There are no relevant reports on the subject.	
DET	4	a	Protections on release	Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 • UNHCR (2014), Handbook on Protection of Stateless Persons: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons. • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guidelines 55 & 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation. 	Persons released from detention (Shelter for foreigners) are not issued with any identification documents, but their citizenship status is entered in a decision on cancellation of stay in the country.	Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 from 15 May 2017.
DET	4	b		If the purpose of detention cannot be fulfilled (e.g. removal) and	<ul style="list-style-type: none"> • Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vateshnite raboti [2009] Case C-357/09 (ECJ): Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to 	It is not prescribed in law what status should be issued in those cases and this is one of the recognised problems in law and practice. It is proposed in the Draft Law on Foreigners to introduce humanitarian residence for people released from detention where the purpose	Draft law on foreigners: http://www.paragraf.rs/nacrti_i_predlozi/181016-nacrt_zakona_o_strancima.html

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				<p>the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare? Do they have the right to work?</p>	<p>support him/herself or his/her “aggressive conduct” should not be a deterrent to his/her release.</p> <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 55 as above. 	<p>cannot be fulfilled. At the moment, the only document they have is a decision on cancellation of stay in the country.</p>	
DET	4	c		<p>If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?</p>	<ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 40 When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration. 	<p>No.</p>	<p>Response from Border Police Directorate of Ministry of Interior to freedom of information request, 03/8/61 No. GZ 06-124/17 from 15 May 2017.</p>

Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? If yes, continue with PRS1b below. If no, proceed to PRS1j.	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... • Convention on the Rights of the Child 1989: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 	Yes	Art. 13(1), Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ... • ENS (2015), No Child Should Be Stateless: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, and optimal, 	According the Law on Citizenship, children are considered to be citizens since birth and they acquire citizenship automatically . However, it stems from practice that, in order to acquire citizenship in these cases, one should submit an appropriate request, and citizenship is not acquired by operation of law but on the basis of a decision of the competent body.	Art. 13, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf Praxis, Analysis of Practical Application of the Law on Non-Contentious Procedure – Determining the Date and Place of Birth, p. 24 (note 45): http://www.praxis.org.rs/images/praxis_downloads/Analysis_of_Practical_Application_of_the_Law_on_Non-Contentious_Procedure_-_Determining_the_Date_and_Place_of_Birth.pdf

					method – as it is all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth.		Prevention of statelessness at birth: adequate nationality law but inconsistent implementation, ENS blog by Milijana Trifkovic, Legal Analyst, Praxis, 30 July 2013: https://www.statelessness.eu/blog/prevention-statelessness-birth-%E2%80%93-adequate-nationality-law-inconsistent-implementation Decision of the Ministry of Interior 03/10 No. 204-2-248/2013 from 14 March 2013, on file with author. Letter of the Ministry of Interior sent to Praxis on 15 March 2013, 13/10 No. 204-159/13-R, on file with author.
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions. • ENS (2015), No Child Should Be Stateless: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a nationality themselves, but are unable to pass this on... 	No. Both parents must be either unknown, or stateless, or of unknown nationality or the child must be stateless.	Art. 13(1), Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf
PRS	1	d		Are children born stateless required to prove they cannot access another nationality	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own 	According to the Regulation on the manner of registration of the fact of citizenship, a document should be provided proving that parents are of unknown citizenship, stateless, or	Art. 10, Regulations on the Manner of Registration of the Fact of Citizenship in the Birth Registry Book, Forms for Keeping Records on Decisions on Acquisition and Termination of Citizenship and Form of

				<p>to acquire nationality of the country of birth?</p> <p>If yes, please describe the requirement e.g. what is the standard and burden of proof, and how lack of any other nationality (i.e. statelessness) is determined in practice?</p>	<p>interpretation of another State’s nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... ‘reasonable degree’... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.</p>	<p>that the child is stateless for the child to acquire citizenship by birth, but there are no detailed guidelines referring to the procedure and necessary evidence. The Law on Foreigners prescribes that the Ministry of Interior is only authorised to issue a travel document to a stateless person, but it remains unclear how the status of stateless person is determined and what evidence a person should enclose for issuance of the travel document. Furthermore, it has not been prescribed how one can obtain a document proving that citizenship is unknown, what the procedure of determination of unknown citizenship entails, what evidence should be enclosed for that purpose.</p> <p>From Praxis’ practice and according to data obtained from the Ministry of Interior, it can be concluded that in the procedure before this body (for those children who acquire citizenship by birth in the territory of the state, but whose fact of citizenship has not been registered in birth registry book) the conditions relating to necessary evidence are interpreted more flexibly. Thus, as a piece of evidence proving that the parents do not have citizenship of the state they were born in or that they are of unknown citizenship, a certificate proving that they are not registered in the citizenship records of that state could be used. In case of a child, it would be sufficient to enclose</p>	<p>Citizenship Certificate, Official Gazette of the Republic of Serbia, no. 22/2005, 84/2005, 121/2007 and 69/2010: http://www.praxis.org.rs/images/praxis_downloads/Pravilnik%20o%20nacinu%20upisa%20cinjenice%20drzavljanstva%20u%20mat-icnu%20knjigu%20rodenih%202010.pdf (S)</p> <p>Information derived from casework, including the decisions of the Ministry of Interior in individual cases (decision of the Ministry of Interior, 03/10 No. 204-2-248/2013 from 14 March 2013, on file with author).</p>
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						a birth certificate and a certificate/evidence that the child has not been registered in citizenship records.	
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all. • UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence” This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence. • Convention on the Rights of the Child 1989: Arts 3 & 7 • Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: The Committee recommends that the 	<p>There are no conditions related to residence for the child.</p>	<p>Art. 13, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf</p>

				<p>State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions.</p> <ul style="list-style-type: none"> • European Convention on Nationality, 1997: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application. • ENS (2016), Ending Childhood Statelessness: The ECN cannot be interpreted as undermining states' obligations under the CRC...and the requirement of lawful residence should be removed. 		
PRS	1	f	<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless. • ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention which permits only the condition of a certain period of habitual residence. 	No.	<p>Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf</p>
PRS	1	g	<p>What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years... 	<p>The age limit for making an application is 18 years. The deadline until which one should submit the request is not prescribed by the law – since the acquisition of citizenship is automatic – but, in practice, the competent body derives it from the legal definition of “child”, resulting in the standpoint of</p>	See PRS1b.

				<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21 in accordance with Article 1(2)(a) of the 1961 Convention. • ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents. 	the competent body that after 18 years of age otherwise stateless children born in Serbia can no longer acquire citizenship under Article 13 of the Law on Citizenship.	
PRS	1	h		<p>Are there specific provisions for the nationality or statelessness of children born to beneficiaries of international protection?</p> <ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities. 	No.	
PRS	2	a	Foundlings	<p>Are foundlings granted citizenship <i>by law</i>? If it's not automatic, is there an application procedure?</p> <ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired ex lege 	Foundlings are automatically granted citizenship by law.	Art. 13, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf

					by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless.		
PRS	2	b		If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities. 	The age limit is 18 years .	Legal definition of the term 'child', i.e. person under 18 years-old.
PRS	2	c		Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality. 	No. It should be taken that foundlings are protected from statelessness if their parents are later identified . If their parents are later discovered and it is proven that they were foreign citizens, the Law on Citizenship (Art. 13) only stipulates that a child can cease to be a citizen not that they can lose citizenship automatically. A child can cease to be a citizen only at the request of the parents. The law does not explicitly state that a parent's action cannot result in statelessness, as it does in the case of adoption, renunciation and release of adult citizens and loss of citizenship acquired by fraud. However, having in mind the spirit of the law (which in all other cases of loss of citizenship aims to prevent statelessness and in some cases of loss of citizenship offers more protection than required by international standards) it	Arts. 13, 28 & 34, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf

						<p>should be taken that Article 28(1.6) applies to children as well, even though it is not explicitly stated. If parents request release where it may result in a child's statelessness, there is an additional safeguard in Article 34, which prescribes that a person whose citizenship of the Republic of Serbia was terminated by release or renunciation at the request of their parents, can be readmitted to citizenship if they apply for readmission, if they are 18 years-old and not deprived of legal capacity, and if they submit a written statement.</p>	
PRS	3	a	Adoption	<p>Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his 	No.	<p>Arts 30 & 31, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf</p>

				<p>or her arrival in the State party and formal adoption.</p> <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process. 		
PRS	3	b	<p>ius sanguinis and discrimination</p> <p>Can children of a parent who is a national, born outside the country, access nationality by descent (<i>ius sanguinis</i>)? Are there any conditions? Could these conditions be regarded as discriminatory? (see question below for where child would otherwise be stateless)</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Art 4 • UNHCR Guidelines on Statelessness #4 2012: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011: While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of 	<p>Yes, children born outside the country to a parent who is Serbian can access nationality by descent (<i>ius sanguinis</i>). There are some conditions regarding registration, but these conditions are not discriminatory. A child born abroad shall acquire the citizenship of Serbia by the force of the law (<i>ex lege</i>) if at least one of the parents is a Serbian citizen while the other parent is unknown or of unknown citizenship or stateless. A child born abroad shall acquire Serbian citizenship by descent if one of the parents is a citizen at the time of the child's birth and the other parent is a foreign citizen, and if the parent who is a Serbian citizen registers the child as a citizen of the Republic of Serbia before they turn 18 with the competent diplomatic or consular office of the Republic of Serbia and submits a request for registering the child into citizenship records. An adult whose one parent is a citizen of the Republic of Serbia (and the other parent is a foreign citizen) may also acquire Serbian citizenship, even if the parent who is a Serbian citizen failed to register the child with the</p>	<p>Art. 7(1)&(3), Art. 9(1) & Art. 10, Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf</p>

				<p>Article 8, the Court considers that its impact on the applicant’s social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [. . .] must ensure that the right is secured without discrimination within the meaning of Article 14.</p> <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: States are free to impose additional conditions [to Ius Sanguinis conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result.... • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 • Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012 • Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 	<p>diplomatic or consular office. The person who fulfils the conditions to acquire citizenship on this ground, may submit a request for registration in the citizenship records of Serbia until the age of 23.</p>	
PRS	3	c	<p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis) if they would otherwise be stateless? Are there any</p>	<p>As above</p>	<p>Yes, these children can acquire nationality by descent. No conditions (if the child would otherwise be stateless).</p>	<p>Art. 7(3) and Art. 9(2), Law on Citizenship of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 135/2004 and 90/2007, available in English at: http://www.praxis.org.rs/images/praxis_downloads/Law%20on%20Citizenship%20of%20the%20Republic%20of%20Serbia_ENG.pdf</p>

				conditions? Could these conditions be regarded as discriminatory?			
PRS	4	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired. • UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Ensure birth registration for the prevention of statelessness. 	The Constitution of the Republic of Serbia guarantees to every child the right to a name and the right to be registered in the birth registries . The Family Law also stipulates that everybody has the right to a name and that the right to a name is acquired by birth. However, according to bylaws (Rulebook on the Procedure for the Issuance of Birth Notification and Form of Issuance of Birth Notification in a Health Care Institution), to register the birth and the name of their child immediately upon birth, parents need to possess birth certificates and ID cards, or, if they are foreign citizens, passports. Therefore, children whose parents are undocumented cannot be issued a birth certificate upon birth with their names determined . They need to undergo one of the following procedures: determination of personal name, subsequent birth registration, or determination of the date and place of birth. Each of these procedures often lasts several months, while in particularly complicated cases they may last a year or more. Therefore, the law/bylaws and practice do not ensure that children are registered immediately after birth if parents are undocumented.	<p>Art. 64(2), Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 98/2006: http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_od-redbe.php?id=217http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_od-redbe.php?id=217 (S)</p> <p>Art. 13, Family Law, Official Gazette of the Republic of Serbia, no. 18/2005, 72/2011 – other law and 6/2015: https://www.paragraf.rs/propisi/porodicni_zakon.html (S)</p> <p>Art. 5, Rulebook on the Procedure for the Issuance of Birth Notification and Form of Issuance of Birth Notification in a Health Care Institution, Official Gazette of the Republic of Serbia, nos. 5/2011, 9/2016, 16/2016 and 36/2016</p> <p>Points 10 & 24, Instruction on administering registry books and forms of registry books, Official Gazette of the Republic of Serbia, nos. 109/2009, 4/2010, 10/2010, 25/2011, 5/2013 and 94/2013: http://www.loznica.rs/cms/mestoZaUplod-Fajlove/Uputstvo%20o%20vodjenju%20maternih%20knjiga%20i%20obrascima%20maternih%20knjiga%20-%20precisacen%20tekst.pdf (S)</p>

				<ul style="list-style-type: none"> • UN Sustainable Development Goal 16: By 2030, provide legal identity for all, including birth registration. • UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights. 	<p>In mid-October 2016, the project entitled Baby, Welcome to the World was introduced, with the purpose to simplify birth registration. The simplified procedure is regulated by the Instruction for Implementing Administrative Procedures related to the child’s birth on the basis of “one-stop-shop” rule, which allows the registration into birth registry books also for the children whose mothers are undocumented. However, this Instruction is not a legally binding act (it serves only as guidance for competent bodies) and its provisions are in contradiction with the existing and legally binding regulations. According to the existing bylaws, to register the birth and the name of their child immediately upon birth, parents need to possess birth certificate and ID cards. Children cannot be registered immediately after birth if parents are undocumented. Children can be registered if parents are not legally residing in the country.</p>	<p>Information on ‘Baby, Welcome to the World’ in <i>2016 Annual Report on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia</i>, Ministry of Public Administration and Local Self-Government, February 2017, p. 29: http://www.mduls.gov.rs/doc/Annual%202016%20text%20with-out%20the%20annex.pdf (S)</p> <p>Instruction for implementing administrative procedures related to the child’s birth on the basis of “one-stop-shop” rule: http://www.dragisami-sovic.bg.ac.rs/news/doc/Uputstvo%20za%20sprovodjenje%20upravnih%20postupaka%20vezanih%20za%20rođenje%20deteta%20po%20sistemu%20sve%20na%20jednom%20mestu.pdf (S)</p>
PRS	4	b	Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents’ legal residence?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Art 7(1) • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • UNHCR Guidelines on Statelessness #4 2012: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • UN Sustainable Development Goal 16 	<p>There are credible reports suggesting that children are prevented from registering in practice because of parents’ lack of documentation.</p>	<ul style="list-style-type: none"> • Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence in 2016, 2016 • Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence in 2015, 2015 • Analysis of the Late Birth Registration Procedures, 2015

				<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above 		<ul style="list-style-type: none"> • The Right to Citizenship in the Republic of Serbia – a brief analysis of the remaining challenges, 2014 • Preventing Childhood Statelessness - Remaining Problems in Serbia, 2014 • The Right to Citizenship in the Republic of Serbia – a brief analysis of the remaining challenges, 2014 • Persons at Risk of Statelessness in Serbia – Case Studies, 2011 • Persons at Risk of Statelessness in Serbia, 2010 • Analysis of Practical Application of the Law on Non-Contentious Procedure – Determining the Date and Place of Birth, 2013 <p>All published by Praxis, all available at: http://praxis.org.rs/index.php/en/reports-documents/praxis-reports</p>
PRS	4	c	<p>Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical authorities required to report undocumented migrants)?</p>	<ul style="list-style-type: none"> • UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... • PICUM, Rights of Accompanied Children in an Irregular Situation, 2011: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often below the standards set out in human rights law, implicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements. 	<p>No. The Law on registry books prescribes a fine for parents who do not register the birth of their child and don't declare a personal name in a specified time (15 and 30 days after the birth). However, according to the experience of Praxis, this provision does not apply in practice and it is not a factor that discourages parents from attempting to register their children.</p>	<p>Art.48, 54 & 87, Law on Registry Books, The Official Gazette of Republic of Serbia, no. 20/2009 and 145/2014</p> <p>Praxis casework/practice.</p>

PRS	5	a	Late Birth Registration	<p>Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?</p>	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births... 	<p>The prescribed deadline for registration of a child's birth is 15 days from the day of birth. If a child's birth has not been registered within 30 days, the registrar may register the child's fact of birth only on the basis of a decision by the competent administrative body, so it is necessary to initiate a procedure for the subsequent registration of the fact of birth. The Law on Non-Contentious Procedure prescribes a separate procedure that should enable registration of the fact of birth by persons who are not able to register in the birth registry book through the administrative procedure.</p>	<p>Articles 25 and 28, Law on Registry Books, The Official Gazette of Republic of Serbia, no. 20/2009 and 145/2014</p> <p>Articles 71a-71lj, Law on Non-Contentious Procedure, Official Gazette of the Republic of Serbia, no. 8/2012</p>
PRS	5	b		<p>Is late birth registration possible in practice?</p>	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: as above. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: as above. 	<p>Yes.</p>	<p>Praxis practice/casework - see reports in PRS 4b.</p>

PRS	5	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. 	No. Administrative and court procedures for late birth registration are free of charge , but the length of both procedures stands out as one of the most frequent problems.	Praxis practice/casework - see reports in PRS 4b.
PRS	6	a	Awareness of birth registration	Does the government have programs in place to promote birth registration? If yes, please provide details.	<ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless and to foresee effective remedies for the child to challenge a decision (or lack of decision) by the state in this regard. 	Yes. The government established a Technical Group in 2012 through a memorandum of understanding between the Ombudsperson, Ministry of Public Administration and Local Self Government and UNHCR. Activities included a campaign to raise awareness among members of the Roma minority about how to exercise their right to registration in the birth registry books and the provision of free legal assistance in subsequent registration procedures.	Praxis, Technical Group Formed for the Purpose of Providing Assistance to Members of Roma Community Who are not Registered in Birth Registry Book and Do not Possess Personal Documents, 23 Nov 2012: http://praxis.org.rs/index.php/en/praxis-in-action/status-and-socioeconomic-rights/item/482-technical-group-formed-for-the-purpose-of-providing-assistance-to-members-of-roma-community-who-are-not-registered-in-birth-registry-book-and-do-not-possess-personal-documents/482-technical-group-formed-for-the-purpose-of-providing-assistance-to-members-of-roma-community-who-are-not-registered-in-birth-registry-book-and-do-not-possess-personal-documents
PRS	6	b		Are there sections of the population believed to be unregistered? Please provide details and source of information.		Yes, members of Roma national minority.	Praxis practice/casework - see reports in PRS 4b.

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		There are no statelessness related judgements.	Legal database: www.propisi.net
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		/	
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. 	Two cycles of training seminars for judges and judicial associates were held in 2013-2014 on the implementation of the new provision of the Law on Non-Contentious Procedure, organized by UNHCR and Praxis. The training covered only risk of statelessness.	<p>Praxis, 26 May 2014, Completed Second Cycle of Seminars for Judges and Judicial Associates about Implementation of the Law on Non-Contentious Procedure: http://praxis.rs/index.php/en/education-training/item/766-completed-second-cycle-of-seminars-for-judges-and-judicial-associates-about-implementation-of-the-law-on-non-contentious-procedure</p> <p>Praxis, 29 March 2013, Seminar for Judges and Judicial Associates Held in Nis on the Implementation of the Law on Non-Contentious Procedure – Determination of Time and Place of Birth: http://praxis.rs/index.php/en/education-training/item/550-seminar-for-judges-and-judicial-associates-held-in-nis-on-the-implementation-of-the-law-on-non-contentious-procedure-%E2%80%93-determination-of-time-and-place-of-birth</p>
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: as above 	Since 2014, the Ministry of State Administration and Local Self-Government, the Ombudsperson and UNHCR Serbia, have held a series of training sessions for police officers, registrars,	Office for Human and Minority Rights, First Report on Implementation of Action Plan for the Realization of Rights of National Minorities, pp. 8-9:

						deputy registrars and staff of the social welfare centers, on registration in the register of births and issuing documents to persons who are not registered and who do not have identity documents.	http://www.ljud-skaprava.gov.rs/sites/default/files/dokument_file/report_no.1-2017.pdf
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Applicants are to have access to legal counsel. • UNHCR (Good Practices Paper 6): Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK. 	Praxis provides free legal aid, information and counselling to persons at risk of statelessness. Free legal aid encompasses representation in various administrative and court procedures related to birth and subsequent birth registration, determination of and admission into the citizenship.	Praxis: www.praxis.org.rs
LIT	4	a	Literature	Is there domestic legal academic literature on statelessness? If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.		Very limited academic literature on statelessness.	Less than ten scholarly articles. There is one significant author in this field (Vida Cok, with three articles on statelessness) and there is also one article by Mirko Živković, from Faculty of Law, University of Niš.