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Country context (optional)

Please use this field to provide any relevant contextual or background information about the country's law, policy, and practice, or the stateless population, to help contextualise the information in the survey (optional question).

Montenegro acquired EU Member State candidate status on 17 December 2010. At that time, the EU set seven benchmarks as conditions to open the accession negotiations, including the resolution of the legal status for refugees from the former Yugoslavia and the closure of the Konik camps accommodating Roma and Egyptian (RE) refugees from Kosovo. As of July 2021, after nearly 11 years of accession negotiations, all the 33 chapters of the accession process have been opened, of which 3 are provisionally closed. Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom, and Security).

Roma and Egyptian communities are at greatest risk of statelessness in Montenegro. Many Roma and Egyptians originate from Kosovo and migrated to Montenegro between 1960 and 1980. The phased separation of Montenegro from the Socialist Federal Republic of Yugoslavia (SFRY) and, later, from the State Union Serbia and Montenegro, together with changes in nationality legislation, have made it very challenging for some Roma and Egyptians, who were born outside Montenegro, to prove an entitlement to Montenegrin nationality. This problem has been inherited by their children. As a result, they continue to face a variety of challenges. Moreover, Roma and Egyptian communities are the most marginalised groups in Montenegro and face continuous discrimination on all levels. The main obstacle to overall progress is deeply rooted antigypsyism in Montenegrin society, a form of racism towards Roma that was recognised in the Strategy of Social Inclusion of Roma and Egyptians 2021-2025 for the first time in history. Still, a lack of awareness of the importance of civil registration in the Roma and Egyptian communities shows that continuous efforts are needed to strengthen this. Lack of information, illiteracy and language barriers also indicate that the members of this community need support through the civil registration procedures.

Legislative steps have been taken and political commitments made in Montenegro in recent years to find solutions to address statelessness.

The Law on Montenegrin Nationality is in line with the principles of the European Convention on Nationality (i.e.: avoidance of statelessness; preventing arbitrary deprivation of nationality; prevention of discrimination; the right to nationality), as well as Recommendations of the Council of Europe on the Prevention and Reduction of Statelessness, the General Declaration of Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention Relating to the Status of Stateless Persons, and the Convention on the Reduction of Statelessness.

Acquisition of Montenegrin nationality by origin ("jus sanguinis" principle) is the primary means to acquire Montenegrin nationality in the law. Acquisition of Montenegrin nationality by birth on the territory of Montenegro ("jus soli" principle) is an alternative way of acquiring Montenegrin nationality where at least one parent is a Montenegrin national, and the child is not a national of another country.

Article 7 of the Law on Montenegrin Nationality contains a safeguard to prevent statelessness for children born or found in Montenegro. According to that Article, a child born or found on the territory of Montenegro acquires Montenegrin nationality if both parents are unknown or of unknown nationality or are stateless persons or if the child remains stateless. However, as per available information, this Article is rarely implemented.

Although the Law on Montenegrin Nationality foresees a possibility for a stateless person to acquire nationality of Montenegro (Article 14 of the Law) if they meet certain conditions, a person needs to be officially granted statelessness status first, to initiate a procedure under this article. Until 2018 Montenegro had no procedure for the determination of statelessness, and no one could refer to this Article of the Law.

The adoption of the new Law on Foreign Nationals in February 2018 represented a major positive development in the area of statelessness through the introduction of a statelessness determination procedure (SDP). In November 2018, Montenegro adopted the Rulebook to the Law to determine, in more detail, how to operationalise the procedure, the content of the request for determining the status of a stateless person, the content of the request for issuing a travel document for a stateless person, as well as the appearance and content of the travel document for a stateless person. The SDP provides a legal channel for those who are unable to establish any link with any country to acquire statelessness status. Although adoption of the SDP is a major positive development, there are many gaps in the procedure that need to be corrected, including different practices in its implementation, procedural guarantees during the procedure, and the access to basic rights to those granted statelessness status. However, despite these shortcomings, 9 cases have been granted statelessness status through the procedure, with 18 more applications pending at the end of July 2021.

Although birth registration issues were largely addressed in 2015, through amendments to the Law on Non-Contentious Proceedings, to introduce a judicial procedure for birth registration of children born outside of the healthcare system, effective birth registration of children abandoned by their mothers or whose mothers do not possess identity documents still remains an issue of concern. In October 2019, the Ministry of the Interior (MoI) and the Ministry of Labour and Social Welfare (MLSW), developed a new birth registration practice that foresees a role for municipal centres for social care, in line with the principle of the best interests of the child. The legal basis for the role of municipal centres for social care to take over the role of undocumented/missing mother is found in the Family Law of Montenegro. Since its establishment, UNHCR observed the implementation of the new practice in 7 out of 24 municipalities, warranting further efforts to ensure its implementation in all municipalities.

Having in mind the strong cross-border dimension of the risk of statelessness in Montenegro, in 2011 Montenegro and Kosovo signed an Agreement on the Late Registration of Internally Displaced Persons from Kosovo Residing in Montenegro in the Birth and National Registry of the Republic of Kosovo. As a result, mobile teams from Kosovo's Ministry of Interior started to visit Montenegro with the support of UNHCR and OSCE Montenegro. Since 2014, when the visits started, the Kosovo MoI mobile team conducted more than 20 visits to Montenegro through which some 1,380 people were supported to acquire essential documents from Kosovo or Montenegro. Having in mind the ad hoc nature of this work, Montenegro is working closely with Kosovo authorities to further strengthen services provided in the Consulate of Kosovo in Montenegro. In addition, the situation of children whose one parent has Serbian documents and the other Kosovar, is complicated due to mutual non-recognition of documents between Serbia and Kosovo.

A smaller group of persons is facing problems with obtaining identity documents from Serbia. These are people who never had any identity document, although they have birth and citizenship certificates of Serbia. The Ministry of the Interior of Serbia, through the Embassy of Serbia in Montenegro, requests from these persons come to Serbia and register residence in some municipality in Serbia, in order to enable the Police of Serbia to determine their identity, as a precondition for the issuing of their first identity document of Serbia. UNHCR works closely with the Embassy of Serbia in Montenegro to find a solution for these cases.

In October 2019, at UNHCR's High Level Segment on Statelessness, Montenegro pledged to strengthen its capacities for the effective implementation of the SDP, secure access to basic rights for stateless persons, and further strengthen its birth registration procedure. The Montenegrin pledges, if implemented, should lead to the resolution of the legal status of all persons at risk of statelessness by 2023.

International and Regional Instruments

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB.1.a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes. Montenegro is Party to the 1954 Statelessness Convention.	UN Treaty Collection UNTC
IOB.1.b		If yes, when was ratification/accession?		When it became a UN State in 2006, Montenegro succeeded to all UN treaties ratified by its preceding countries as of 3 June 2006, including the 1954 Convention relating to the Status of Stateless Persons.	UN Treaty Collection UNTC
IOB.1.c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	No.	UN Treaty Collection UNTC
IOB.1.d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	Yes. Article 9 of the 2007 Constitution of Montenegro stipulates that the ratified international treaties and generally accepted rules of international law take precedence over national legislation and apply directly, regardless of whether there is national legislation that regulates otherwise.	Article 9, 2007 Constitution of Montenegro: https://www.skupstina.me/me/ustav-crne-gore [CNR]
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes. Montenegro is Party to the 1961 Statelessness Convention.	UN Treaty Collection UNTC
IOB.2.b		If yes, when was ratification/accession?		The Parliament of Montenegro passed the Law on Ratification of the Convention on the Reduction of Statelessness in October 2013.	Law on Ratification of the Convention on the Reduction of Statelessness (https://www.gov.me/en/documents/364f9393-5c0b-4ab7-a525-1e7c1dc74a32), Official Gazette of Montenegro - International Agreements, No. 8/2013
IOB.2.c		Are there reservations in place? Please list them.	As above	No.	UN Treaty Collection UNTC
IOB.2.d		Does the Convention have direct effect?	As above	Yes. Article 9 of the 2007 Constitution of Montenegro stipulates that the ratified international treaties and generally accepted rules of international law take precedence over national legislation and apply directly, regardless of whether there is national legislation that regulates otherwise.	Article 9, 2007 Constitution of Montenegro: https://www.skupstina.me/me/ustav-crne-gore [CNR]
IOB.3.a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	Yes. In March 2010, the Parliament of Montenegro passed the Law on Ratification of the European Convention on Nationality. It made a reservation whereby it reserves the right not to apply Article 16 of the Convention, given that Montenegro is restrictive of dual nationality.	Law on Ratification of the European Convention on Nationality (https://www.gov.me/en/documents/c78771ae-c5f6-4c03-a60b-7d81e3a80f71), Official Gazette of Montenegro - International Agreements, No. 2/2010
IOB.3.b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	In December 2003, the State Union of Serbia and Montenegro ratified the European Convention on Human Rights and its 14 protocols. After gaining independence, Montenegro sent a Declaration of Succession to the Council of Europe in July 2006 in relation to all conventions to which the State Union of Serbia and Montenegro was a signatory or contracting party. Montenegro became a member of the Council of Europe on 11 May 2007. There are no reservations to this Convention.	Law on Ratification of the European Convention on Human Rights and Accompanying Protocols (https://www.paragraf.rs/propisi/zakon-ratifikaciji-evropske-konvencije-ljudska-prava-osnovne-slobode.html), Official Gazette of Serbia and Montenegro - International Agreements, No. 9/2003
IOB.3.c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	In 2007, Montenegro joined the Council of Europe and on 11 May 2007 signed the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession, which was eventually ratified by the Parliament of Montenegro on 2 March 2010, together with the 1997 European Convention on Nationality. There are no reservations to this Convention.	Law on Ratification of the CoE Convention on the avoidance of statelessness (https://www.gov.me/en/documents/54939b12-6ed9-4a89-aafe-57755ea928e4), Official Gazette of Montenegro - International Agreements, No. 2/2010 of 16.3.2010

IOB.3.d	Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)? Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)	Montenegro is not a Member State of the EU, but the Law on Foreign Nationals fully incorporates the standards set by the Return Directive 2008/115.	Law on Foreign Nationals (https://www.gov.me/en/documents/b60fe0b7-7390-4588-91c4-587612905414)
IOB.3.e	State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child, 1989	Yes. On October 23, 2006, Montenegro submitted a Succession Declaration for a set of United Nations conventions. Therefore, Montenegro has accepted the 1989 Convention on the Rights of the Child and the obligations arising from this international document. There are no reservations to this Convention	UN Treaty Collection Treaty bodies Treaties (ohchr.org)
IOB.3.f	State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights, 1966	Yes. There are no reservations to this Covenant.	UN Treaty Collection Treaty bodies Treaties (ohchr.org) Official Gazette of the SFRY (International Treaties), No. 7/1971
IOB.3.g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights, 1966	Yes. There are no reservations to this Covenant.	UN Treaty Collection Treaty bodies Treaties (ohchr.org) Official Gazette of the SFRY (International Treaties), No. 7/1971
IOB.3.h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women, 1979 CEDAW, Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness	Yes. There are no reservations to this Convention.	UN Treaty Collection Treaty bodies Treaties (ohchr.org)
IOB.3.i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	Yes. There are no reservations to this Convention.	UN Treaty Collection Treaty bodies Treaties (ohchr.org) Official Gazette of Montenegro - International Agreements, No. 9/2008
IOB.3.j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination, 1965	Yes. There are no reservations to this Convention.	UN Treaty Collection Treaty bodies Treaties (ohchr.org)
IOB.3.k	State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990? Please list any relevant reservations.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990	No. Montenegro signed in October 2006 but has not yet acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.	UN Treaty Collection Treaty bodies Treaties (ohchr.org)
IOB.3.l	State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	Convention on the Rights of Persons with Disabilities, 2006	Yes. There are no reservations to this Convention.	UN Treaty Collection Treaty bodies Treaties (ohchr.org) Law on Ratification of the Convention on the Rights of Persons with Disabilities with its Optional Protocol (http://paraplegicari.com/wp-content/uploads/2017/03/Zakon-o-ratifikaciji-Konvencije-UN-o-pravima-OSI-sa-opcionom-protokolom.pdf), Official Gazette of Montenegro - International Agreements, No. 2/2009 of 27.7.2009

Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the State have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p>CEDAW, Gen. Rec. 32 (2014): States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union, Conclusions on Statelessness (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory.</p>	<p>The Ministry of the Interior (Mol) is responsible for keeping records of travel documents issued to persons determined to be stateless under the SDP (including gender, age, place of residence, and other data). So far (February 2022) there were nine people in Montenegro who were granted statelessness status, and 17 applications are pending. Although the Law on Foreign Nationals requires the registration of electronic data, the Mol data on stateless persons is still not electronic but held in a written file.</p> <p>No official records are available for persons at risk of statelessness.</p> <p>In the 2011 Census, it was possible for the respondent to declare they had 'no nationality', but no further information was requested. In the 2011 Census, 4,312 persons declared they were living in the country without any nationality, of that number, 3,471 claimed to have been born in the country. The Mol refuses to accept these Census findings and refers to them as a mistake.</p>	<p>US Department of State, Country Human Rights Report, Montenegro, 2016, page 17: https://me.usembassy.gov/wp-content/uploads/sites/250/2017/03/Izvjestaj-o-ljudskim-pravima-za-Crnu-Goru-za-2016.-godinu-.pdf (CNR)</p> <p>Law on Foreign Nationals 2018, Article 206: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p> <p>Census data https://www.monstat.org/eng/page.php?id=393&pageid=57, https://www.monstat.org/userfiles/file/popis2011/saopstenje/saopstenje.pdf, https://www.portalanalitika.me/clanak/162328--mup-uputio-javni-poziv-za-regulisanje-statusa-apatrida</p>
POP.1.b		Do public authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	The law does not define separate data categories. However, in practice officials use the term "unknown nationality". The Central Population Register uses the term "unknown citizenship", e.g., for foreigners who were granted residence and held some documentation but did not have a passport on the basis of which citizenship could be determined indisputably. The term "undetermined" nationality is not used.	NGO Phiren Amenca
POP.1.c		What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	UNHCR reported a total of 468 persons under its statelessness mandate in Montenegro as of mid-2022. This number is significantly lower than the number of people reported as stateless in the 2011 census, as UNHCR changed its methodology for collecting data on stateless people after several field visits.	UNHCR Refugee Data Finder: https://www.unhcr.org/refugee-statistics/download/?url=6MY4lb
POP.1.d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	In November 2017, jointly with the Mol and the Ministry of Labour & Social Work (MLSW), UNHCR carried out a field verification of all refugees from the Former Yugoslavia with unresolved status issues, including those at potential risk of statelessness. The field exercise covered 2,318 individuals (42% children) in 20 of (at that time) 23 municipalities. The exercise confirmed that documentation problems as a result of the dissolution of the former Yugoslavia remained widespread, particularly among Roma and Egyptian communities. The verification exercise was not published. Based on the results, some 605 persons were identified as at risk of statelessness, of which at least 145 were without birth registration. After targeted follow-up following the verification, as of end July 2021, the number of people identified to be at risk of statelessness was 450.	UNHCR Montenegro
POP.1.e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	No	
POP.1.f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	The data on already identified stateless persons is accurate and reliable. However, it is unclear whether all stateless persons have been identified and how reliable and accurate the data is on the wider affected population. Issues remain with access to birth registration especially for those born outside the health system (in particular in other countries in the region), or whose one or both	NGO Phiren Amenca NGO Civic Alliance

				parents do not have identification documents. This means the risk of statelessness can be passed to the next generation. Although, in theory, affected individuals often have the right to nationality of Montenegro or another State, they cannot register in the birth register in Montenegro or elsewhere, which prevents them from registering in the register of nationals and acquiring other its field activities UNHCR and civil society organisations are continuously identifying new cases of people who could be at risk of statelessness. The forthcoming Census is an opportunity to identify stateless persons/persons at risk of statelessness.	
POP.1.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the State also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above. EASO/EUAA, Practical guide on registration (2021) : States should collect information from applicants for international protection about their nationality(ies) and potential lack of nationality. When registering families, it is important to collect this data for each family member.	According to government officials, since the asylum process was established in Montenegro, a ‘small number of stateless persons’ (i.e. less than 10 people) applied for asylum in the country. Montenegro began submitting data to EUROSTAT in 2017, but the data does not record any asylum applicants as being ‘stateless’, although it records ‘Palestine’ as the country of citizenship for 155 applicants in 2018, 50 in 2019, 10 in 2020, and none in 2021.	Communication in person with the Asylum Director Eurostat: https://ec.europa.eu/eurostat/databrowser/bookmark/20b93571-3cc1-4af1-84b8-f6d8dacc9f52?lang=en
POP.2.a	Stateless in detention data	Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.	UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Improve quantitative and qualitative data on stateless populations. CEDAW, Gen. Rec. 32 (2014) : State parties should gather, analyse and make available sex-disaggregated statistical data and trends. ISI, The World’s Stateless (2014) : States should strengthen measures to count stateless persons on their territory. Equal Rights Trust, Guidelines (2012) : 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. Council of the European Union, Conclusions on Statelessness (2015) : Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.	Under the Law on Foreign Nationals, the police are required to keep electronic records on persons held in immigration detention, but this data is not published and the police does not record or publish data on stateless people held in immigration detention. As per available information, there were sporadic cases of stateless persons/persons at risk of statelessness detained in Montenegro. However, they were released shortly after, with the obligation to report periodically to the police to confirm that they still reside in Montenegro.	Law on Foreign Nationals 2018, Article 206,207,208, page 63,64 (https://www.gov.me/en/documents/b60fe0b7-7390-4588-91c4-587612905414), https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84) (CNR) (ENG translation available) NGO Civic Alliance NGO Phiren Amenca
POP.2.b		Does the State record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	The State does not record and publish figures on people released from immigration detention.	Same as in POP.2.a

Statelessness Determination and Status

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS.1.a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	1954 Convention : Articles 1(1) & 1(2).	Article 2 of the Law on Foreign Nationals defines a stateless person as “a person who is not considered as a national by any State in accordance with its legislation”. The exclusion clauses from the 1954 Convention are not transferred to the Law on Foreign Nationals. However, they can be seen as part of the national legislation as Article 9 of the Constitution of Montenegro foresees supremacy of international treaties in comparison to national legislation, and a possibility for their direct implementation.	Law on Foreign Nationals 2018, Article 2: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available) Constitution of Montenegro 2007, Article 9: https://www.skupstina.me/me/ustav-crne-gore [CNR] (ENG translation available at: http://extwprlegs1.fao.org/docs/pdf/mne136175.pdf)
SDS.2.a	Training	Is there training to inform different public authorities about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee, Conclusion No. 106 (LVII) (2006) : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	Trainings are regularly organised for officials who are in direct contact with stateless persons and who are responsible for implementing the Statelessness Determination Procedure (SDP). The trainings are organised by the Ministry of Interior, in cooperation with UNHCR. The Government has committed in its strategic documents (to providing training for officials on the SDP, prevention of statelessness and birth registration procedures.	Verbal communication with relevant Government Officials Strategy on Migration and Reintegration of Returnees in Montenegro 2021-2025, https://www.gov.me/en/documents/38214cec-7412-498d-9f8e-484e02ee1c78
SDS.2.b		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR, Good Practices Papers – Action 6 (2020) : 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, Geneva Conclusions (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	No.	
SDS.3.a	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated statelessness status (answer Question SDS.3.b. and proceed to Question 4a). 2. There is no dedicated SDP leading to a dedicated statelessness status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their rights (answer Question SDS.3.b. and proceed to Question 10a).	UNHCR, Handbook on Protection (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR, Good Practices Papers – Action 6 (2020) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	There is a dedicated SDP established in the Law on Foreign Nationals 2018 and further detailed in bylaw (Rulebook on the Procedure Initiated upon Request for Statelessness Determination, or the ‘Rulebook’).	Law on Foreign Nationals 2018, Articles 59 & 60: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available) Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available)

		<p>3. There is a dedicated statelessness status but no formal procedure for determining this (answer Question SDS.3.b. and proceed to Question 15a).</p>			
<p>SDS.3.b</p>	<p>Temporary protection for people fleeing war</p>	<p>Does the State offer a temporary form of protection to stateless people and people at risk of statelessness from Ukraine? Please describe any barriers for stateless people or people at risk of statelessness in accessing the territory or receiving protection (e.g. for people who cannot fulfil eligibility requirements in line with the EU Temporary Protection Directive, if applicable).</p>	<p>EU Temporary Protection Directive (2001) EU Council Implementing Decision (2022) establishing the existence of a mass influx of displaced persons from Ukraine & European Commission, Operational guidelines ENS, Briefings on access to protection for stateless people fleeing Ukraine: Everyone fleeing the war in Ukraine should be guaranteed access to the territory. European countries must extend temporary forms of protection to all stateless people and those with undetermined nationality who cannot meet current eligibility requirements, due to their statelessness or documentation status. Lack of documentation should not prevent access to international protection or other forms of protection.</p>	<p>Entry to Montenegro is allowed to persons from Ukraine who do not possess a valid travel document, and who possess: an expired travel document or a copy, a valid internal passport in the form of a booklet or a valid or expired ID card or a copy, birth register certificate for children under 18 or copies.</p> <p>Persons fleeing the war in Ukraine may apply for temporary protection in all branches of the Ministry of Interior throughout the territory of Montenegro. When submitting an application, the person needs to show a passport or a temporary identity card issued by the Embassy of Ukraine in Montenegro, and biometric data is taken (for children under 12, only a photograph is taken). For minors, the original birth register certificate is also required. During the application, the person is informed of their rights and obligations. The National Security Agency and the Police submit an opinion within 30 days as to whether there are potential obstacles to the approval of temporary protection. Once the decision on the approval of temporary protection is made, a document for the person with approved temporary protection is issued.</p> <p>Temporary protection for a period of one year is granted to Ukrainian nationals, stateless persons whose last place of permanent or temporary residence was in Ukraine, and persons who were granted international protection by Ukraine, who cannot return to Ukraine, i.e. the country of their origin, as they were forced to leave due to armed conflicts.</p> <p>According to the Law on International and Temporary Protection of Foreigners (Article 96), a foreigner granted temporary protection shall be entitled to: residence in Montenegro; suitable accommodation, necessary assistance and means of subsistence; healthcare; primary and secondary education; information about rights and duties; work; family reunification; the document; the right to apply for international protection.</p> <p>Before granting temporary protection to an unaccompanied minor, the Center for Social Work issues a guardianship decision and appoints a guardian, in order to properly implement the procedure for issuing a document on approved temporary protection.</p> <p>Approval of temporary protection on the basis of family reunification - the request for approval of protection is submitted by the person who was granted protection or a member of his/her family. The family member is granted temporary protection and a document of approved temporary protection is issued.</p> <p>Persons in the process of approval of protection receive information about their rights and obligations from the officials of the Ministry of Interior, who distribute flyers and posters made</p>	<p>Decision on Granting Temporary Protection to Persons from Ukraine [Montenegro], 10 March 2022, available at: https://www.refworld.org/docid/6231d71a4.html</p> <p>Verbal communication with relevant Government Officials</p> <p>Law on International and Temporary Protection of Foreigners, 29 December 2016, Article 96, available at: https://www.refworld.org/docid/48650f132.html</p>

				<p>with the support of UNHCR and IOM to these persons. Also, the call centre of the Red Cross of Montenegro was activated, a free info line was opened on the number 080 041 041, through which persons fleeing the war in Ukraine can get all relevant information about their rights and obligations. The interview is conducted in Ukrainian and English.</p> <p>Statistics: as of 31 January 2023, 7,935 persons from Ukraine submitted a request for approval of temporary protection (2,707 men and 5,228 women), of which protection was granted for 7,438 persons, while the rest of the requests are in the procedure. Since the beginning of the aggression against Ukraine, the Ministry of Interior has provided accommodation for 114 persons from Ukraine (most of them are accommodated in the Reception Center for Foreigners Seeking International Protection). There are no specific figures for stateless people.</p>	
SDS.4.a	Access to the procedure (Group 1)	Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	<p>UNHCR, Handbook on Protection (2014): States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise.</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is important that examiners develop expertise while ensuring that the procedures are accessible.</p>	The initial examination is carried out by the Ministry of Interior (Moi) Directorate for Foreigners, Migration and Readmission regional units in an applicant’s place of residence. A refusal can be appealed to the central Moi office in Podgorica, and then to the Administrative Court. In practice, the procedure is not implemented consistently by the different regional units and there is a lack of harmonisation of how registration, issuing of certificates, and scheduling interviews take place.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p> <p>Verbal communication with representatives of the Ministry of Internal Affairs</p>
SDS.4.b		Are there clear, accessible instructions on how to make a claim of statelessness?	<p>UNHCR, Handbook on Protection (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	No. There is no information for potential applicants in an accessible language/format to explain how to make a claim of statelessness. The Rulebook prescribes details on the procedure, the application form, and how the procedure should be conducted.	<p>Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available) https://mup.gov.me/biblioteka/direktorat_UUP/zakoni?pagerIndex=2</p>
SDS.4.c		Can submissions be made orally and/or in writing in any language?	<p>ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	Submissions must be made in person, in writing (on the prescribed form), in an official language. The Moi is obliged to provide an interpreter if required in the procedure.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p> <p>Law on Administrative Procedure, Article 9 https://www.paragraf.me/propisi-crnegore/zakon_o_opstem_upravnom_postupku.html</p>
SDS.4.d		Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements.	<p>ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.</p>	<p>Yes. The appearance and content of the application form is prescribed by the Rulebook. The form is relatively simple. The applicant completes the form with the help of the official in charge of receiving the application.</p> <p>Practice has shown that in most municipalities the Ministry of the Interior is putting the application aside until the applicant submits at least a birth certificate. This practice is not in line with the law as there is no such requirement in the Law on Foreign Nationals.</p>	<p>Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available)</p> <p>Verbal communication with representatives of the Ministry of Internal Affairs https://mup.gov.me/biblioteka/direktorat_UUP/zakoni?pagerIndex=2</p>

SDS.4.e		Are competent authorities authorised to initiate SDPs <i>ex officio</i> ?	UNHCR, Good Practices Papers – Action 6 (2020) : It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i> . UNHCR, Handbook on Protection (2014) : Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.	No.	Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available)
SDS.4.f		Are there obligations in law on authorities to consider the application?	UNHCR, Good Practices Papers – Action 6 (2020) : Access to the SDP must be guaranteed.	Yes. Applications must be decided within the legally prescribed period.	Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.4.g		Is there an application fee?	UNHCR, Good Practices Papers – Action 6 (2020) : Access to the SDP must be guaranteed.	The Law on Administrative Fees prescribes a tariff of € 2.00 administrative fee for an application. The administrative fee for the issuance of a travel document for a stateless person is € 25.00.	Law on Administrative Fees, Official Gazette of Montenegro, No. 18/2019: https://www.caa.me/sites/default/files/zakon_o_administrativnim_taksama.pdf (CNR)
SDS.4.h		Is there a lawful stay requirement to access the SDP?	UNHCR, Good Practices Papers – Action 6 (2020) : Access to the procedure needs to be open to anyone regardless of lawful stay or residence. ENS (2013) : There is no basis in the 1954 Convention for requiring lawful stay.	No.	Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.4.i		Is there a time limit on access to the SDP?	UNHCR, Good Practices Papers – Action 6 (2020) : Access to the SDP must be guaranteed and not subject to time limits. ENS (2013) : There is no basis in the 1954 Convention to set time limits for individuals to claim statelessness status.	There is no time limit. However, a person who has applied for international protection or has been granted refugee status or subsidiary protection in Montenegro cannot apply under the SDP.	Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.4.j		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	UNHCR, Good Practices Papers – Action 6 (2020) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	No.	
SDS.5.a	Assessment (Group 1)	Who has the burden of proof in the SDP in law and practice?	UNHCR, Handbook on Protection (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR, Good Practices Papers – Action 6 (2020) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR, Geneva Conclusions (2010) : In statelessness determination procedures, the burden of proof should therefore be shared between the applicant and the authorities responsible for making the determination. Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. ECtHR, Hoti v. Croatia (2018) : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.	In statelessness proceedings, the burden of proof is shared between the applicant and the decision-making body. Individuals must work together to establish relevant facts. The burden passes to the decision maker if the individual can prove that they are not a national on the basis of reasonably available evidence.	Verbal communication with representatives from the Ministry of Internal Affairs
SDS.5.b		What is the standard of proof? Is it the same as in refugee status determination procedures?	UNHCR, Handbook on Protection (2014) : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). UNHCR, Good practices in nationality laws (2018) : The standard of proof should be in keeping with the	The standard of proof is similar to that in the refugee status determination process, given the inherent difficulty of proving statelessness in the probable absence of documented evidence.	Verbal communication with representatives from the Ministry of Internal Affairs

			<p>humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence.</p> <p>ECtHR, Hoti v. Croatia (2018): If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p>		
SDS.5.c	<p>What measures are in place to guarantee substantive equality for women, children and other groups (e.g. disabled people, older people, LGBTQI people, etc.) at risk of discrimination in the SDP?</p> <p>In particular, what measures are in place to ensure respect for the best interests of the child in the procedure (burden of proof, guardianship, child-friendly procedures, etc.)?</p>	<p>UNHCR, Handbook on Protection (2014): Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children and persons with disabilities may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of pursuing the best interests of the child. Additional safeguards for child claimants include priority processing of their claims, appropriately trained professionals and a greater share of the burden of proof by the State.</p> <p>CEDAW, Gen. Rec. 32 (2014): Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women.</p> <p>CRC: Articles 2, 3, 7 and 8</p> <p>CRPD: Article 18</p> <p>UNHCR, Best Interests Procedure Guidelines (2021)</p> <p>UNHCR, Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement (2021)</p> <p>Global Compact for Safe, Orderly and Regular Migration: Objective 7</p> <p>UN Women, Gender-responsive implementation of the Global Compact (2021): States should put in place measures to regularise the status of migrants leading to permanent residence, with specific attention to migrant women and girls who are stateless.</p> <p>European Parliament, Resolution on LGBTIQ rights in the EU (2021): Calls on Commission and Member States to overcome discrimination against rainbow persons and families.</p>	<p>The procedure takes into account the interests of minors and unaccompanied minors, on which the Ministry of the Interior obtains the opinion of the competent centre for social work. Also, in accordance with the Law on Prohibition of Discrimination, any form of discrimination is prohibited, on any grounds.</p>	<p>Law on Administrative Procedure, Article 8, https://www.paragraf.me/propisi-crnegore/zakon_o_opstem_upravnom_postupku.html</p> <p>Law on Prohibition of Discrimination, https://www.paragraf.me/propisi-crnegore/zakon-o-zabrani-diskriminacije.html</p>	
SDS.5.d	<p>Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?</p>	<p>ENS (2013): Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.</p>	<p>No. However, the Ministry of Interior has committed to working in cooperation with UNHCR to develop guidance for case workers in 2022.</p>	<p>UNHCR Montenegro</p>	
SDS.5.e	<p>Is there any evidence of significant errors in decision-making?</p>		<p>There are no errors that have been recorded in the processing of applications to determine the status of stateless persons, and no cases have been overturned by the courts to date.</p>	<p>Verbal communication with representatives from the Ministry of Internal Affairs</p> <p>NGO Phiren Amenca</p>	

SDS.6.a	Procedural safeguards (Group 1)	Is free legal aid available during the procedure?	UNHCR, Handbook on Protection (2014) : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.	No. State-funded free legal aid only covers judicial procedures not administrative procedures. However, free legal assistance is provided by CSOs.	Law on Free Legal Aid, Official Gazette of Montenegro, No. 20/2011 http://www.podaci.net/_gCGO/zakoni/Zakon_o_besplatnoj_pravnoj_pomoci/wlssxf.html
SDS.6.b		Is an interview always offered (unless granting without interview)?	UNHCR, Handbook on Protection (2014) : The right to an individual interview [is] essential.	Yes. An interview should be conducted no later than 15 days from the date of application. However, so far practice showed that most branch offices of the Ministry of the Interior do not respect this provision of the Rulebook.	Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Article 15, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available) NGO Civic Alliance
SDS.6.c		Is free interpreting offered for statelessness determination interviews?	UNHCR, Handbook on Protection (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation.	If the person in the proceedings does not understand the language in official use in Montenegro, the state is obliged to provide an interpreter so they can participate in the proceedings in a language they have indicated they understand.	Law on Administrative Procedure, Article 9 https://www.paragraf.me/propisi-crnogore/zakon_o_opstem_upravnom_postupku.html
SDS.6.d		Are there quality assurance audits of the SDP?	UNHCR, Good Practices Papers – Action 6 (2020) : Quality assurance audits of SDPs are considered good practice.	No.	Verbal communication with representatives of the Ministry of Internal Affairs
SDS.6.e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	UNHCR, Handbook on Protection (2014) : States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.	By law, the MoI may obtain documents or other evidence from UNHCR to assist with deciding on an application. However, this possibility has not been used in the procedures initiated so far. The MoI shares information on applicants and persons granted statelessness status with UNHCR on request. It is unclear whether UNHCR may participate in SDP interviews in practice.	Rulebook on the Procedure Initiated upon Request for Statelessness Determination, Article 16, Official Gazette of Montenegro no. 72/2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=5c2f72924 (CNR) (ENG translation available) Verbal communication with representatives of the Ministry of Internal Affairs
SDS.6.f		Are decisions (refusals and grants) given in writing with reasons?	UNHCR, Handbook on Protection (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Yes. This is also an obligation prescribed by the proper conduct of administrative proceedings.	Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.6.g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	UNHCR, Handbook on Protection (2014) : It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months.	Yes. By law, the request should be decided within six months. However, as these are extremely complex procedures, the deadlines for deciding can be longer, with the aim of properly determining the facts and conducting the evidentiary procedure. The extension of the procedure beyond the legal deadline creates additional uncertainty for people who initiated the procedure as they have no access to any rights during the procedure, except the right to reside in Montenegro. However, the practice has shown that in most municipalities the Ministry of the Interior is putting the application aside until the applicant submits at least a birth certificate. This practice is not in line with the law as there is no such requirement in the Law on Foreign Nationals.	Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available) Verbal communication with representatives of the Ministry of Internal Affairs

SDS.6.h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	<p>UNHCR, Good Practices Papers – Action 6 (2020): Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants.</p> <p>EASO/EUAA, Practical guide on registration (2021): The country or countries of former habitual residence should be recorded in applications for international protection to facilitate follow-up and referral to a dedicated statelessness determination procedure. Statelessness determination should be carried out only by a competent decision-making authority at an appropriate point in time following the final assessment of an asylum claim.</p> <p>ENS (2013): Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.</p>	The Law on Foreign Nationals stipulates that an application may not be submitted by someone who has applied for international protection or has been granted refugee status or subsidiary protection in Montenegro. In accordance with the previous, if a person in Montenegro is denied an asylum application, and there are elements that indicate that they are a stateless person, it should not be an obstacle to determining statelessness, but there is no referral mechanism in practice.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p> <p>Verbal communication with representatives of the Ministry of Internal Affairs</p>
SDS.7.a	Protection during SDP (Group 1)	Does the applicant have automatic legal admission while their claim for statelessness status is assessed or is there a risk of expulsion?	<p>UNHCR, Handbook on Protection (2014): An individual awaiting a decision is entitled, at a minimum, to all rights based on presence and being ‘lawfully in’ the territory (including identity documents, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that applicants for statelessness status receive the same treatment as asylum-seekers.</p> <p>ENS (2013): States should refrain from expelling or removing an individual pending the outcome of the determination process.</p>	Yes, a person is considered to be legally residing in Montenegro while their application for statelessness status is pending. Until the decision becomes final, they cannot be expelled from Montenegro.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>
SDS.7.b		Do applicants for statelessness status have permission to work and access to assistance to meet their basic needs?	<p>UNHCR, Handbook on Protection (2014): Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.</p>	No. An applicant for statelessness status does not have the right to work nor access to assistance to meet their basic needs as legislation on socio-economic rights does not grant these rights to statelessness status applicants.	<p>Healthcare law, https://www.gov.me/en/documents/d99ce2cc-1d8a-4876-b9f7-a900f8937196</p> <p>Law on Social and Child Protection, https://www.gov.me/en/documents/14d18f91-2891-4ec8-a67c-6f978907a53e</p> <p>Labour Law, https://www.gov.me/en/documents/39fd6499-9069-48d0-a5ce-ecb04f1797ec</p> <p>Draft law on compulsory health insurance, https://www.gov.me/en/documents/a8dda00d-3abe-4c09-b810-32be79ced7fb</p>
SDS.7.c		Do applicants for statelessness status face a risk of detention?	<p>UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Detention is 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.</p>	No. An applicant is considered to be legally staying whilst their application is pending.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>
SDS.8.a	Appeals (Group 1)	Is there an automatic right of appeal?	<p>UNHCR, Handbook on Protection (2014): An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.</p>	Yes. There is a possibility for an appeal to the central MoI, as second instance body. An administrative dispute can be initiated before the Administrative Court, as the third instance body.	<p>Law on Foreign Nationals 2018, Article 59: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>

SDS.8.b		Is legal aid available for appeals?	UNHCR, Handbook on Protection (2014) : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : Applicants should have access to legal counsel both at first instance and on appeal.	Free legal aid is available for judicial procedures (i.e., third instance at the Administrative Court). Free legal assistance may be provided by CSOs during the first and second instance procedure.	Law on Free Legal Aid, Official Gazette of Montenegro, No. 20/2011 http://www.podaci.net/_gCGO/zakoni/Zakon_o_besplatnoj_pravnoj_pomoci/wlssxf.html
SDS.8.c		Is there a fee for the appeal application?	UNHCR, Handbook on Protection (2014) : An effective right to appeal against a negative first instance decision is an essential safeguard.	Yes. There is an administrative fee of € 4.00 for appeals. However, the law also prescribes the conditions for exemption from paying the administrative fee, which may apply to some stateless persons.	Law on Administrative Fees, Official Gazette of Montenegro, No. 18/2019: https://www.caa.me/sites/default/files/zakon_o_administrativnim_taksama.pdf (CNR)
SDS.9.a	Statelessness status (Group 1)	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements, admissibility criteria, grounds for refusal or other steps required to access protection.	UNHCR, Handbook on Protection (2014) : The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.	No. The Ministry shall issue a travel document to a person recognised as stateless <i>upon their request</i> (Art.59). A stateless person may reside in Montenegro on the basis of a travel document for a stateless person or a temporary residence permit (Art. 60). A person recognised as stateless under the SDP <i>may</i> be issued a temporary residence permit but only if they meet the conditions established for acquiring a residence permit (Art. 43). These include: - sufficient funds to support themselves - accommodation - health insurance - valid foreign travel document or identity card (with at least 3 months validity beyond period of stay granted) - no entry ban or criminal conviction of longer than 6 months imprisonment They must also evidence residence in Montenegro for at least three years prior to the SDP application and that they intend to continue their stay in Montenegro (Art. 60).	Law on Foreign Nationals 2018, Articles 59, 60 & 43: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.9.b		How long is initial status granted for and is it renewable?	UNHCR, Handbook on Protection (2014) : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	Both a travel document for a stateless person and a temporary residence permit for a stateless person are issued with a validity of up to one year and can be renewed.	Law on Foreign Nationals 2018, Articles 59, 60 & 43: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.9.c		Is a travel document issued to people recognised as stateless?	1954 Convention : Article 28.	A stateless person is issued a travel document for a stateless person on the form prescribed by the Rulebook on conducting the procedure upon the request for determining that the applicant is a stateless person. However, in practice there were situations in the past, prior to 2018, when the Ministry of Interior was unable to issue a travel document to persons granted statelessness status more than a year ago, thus preventing them from regulating their legal residence in the country and enjoying rights guaranteed by the law.	https://mup.gov.me/biblioteka/direktorat_UUP/zakoni?pagerIndex=2 Rulebook on conducting the procedure upon the request for determining that the applicant is a stateless person Verbal communication with representatives of the Ministry of Internal Affairs
SDS.9.d		Do people recognised as stateless have a right to family reunification?	UNHCR, Handbook on Protection (2014) : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunification of those with recognised statelessness status in their territory with their spouses and dependents.	No, not unless they have been granted a temporary or permanent residence permit. If a stateless person holds a temporary residence permit, immediate family members shall be granted a temporary residence permit. Immediate family is considered to be spouses, minor children born in or out of wedlock, stepchildren and adopted children until they turn 18, parents or adoptive parents of minor children. Another relative may also be considered an immediate family member if there are distinct, personal or humanitarian reasons for family reunification in Montenegro. Temporary residence permits for family reunification are issued for up to one year, or until expiry of the temporary residence permit of the person with whom the reunification is requested.	Law on Foreign Nationals 2018, Article 44: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)

SDS.9.e	On what grounds (if any) may residence status granted to stateless people be revoked?	UNHCR, Handbook on Protection (2014) : If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954 Convention. This may justify the cancellation of a residence permit on the basis of statelessness, although proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account.	A temporary residence permit for a stateless person may cease to be valid under the conditions prescribed by the Law on Foreign Nationals (Art. 65). These include: <ul style="list-style-type: none"> - expiry of the validity period - if reasons for the permit cease to exist - if the person stays outside Montenegro for more than 30 days (with some exceptions) - grounds for an entry ban are determined (Art. 8) There is a right to appeal the decision to cease a temporary residence permit to the central MoI (within 8 days).	Law on Foreign Nationals 2018, Article 65 & Article 8: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
SDS.9.f	Do people granted statelessness status have permission to work?	1954 Convention : Article 17 UNHCR, Handbook on Protection (2014) : The right to work must accompany a residence permit.	There are some restrictions on the right to work for stateless persons in Montenegro. A person holding a temporary residence permit for a stateless person can work if they also hold a work permit/work registration certificate. The right to work for stateless persons holding only a stateless person's travel document is unclear in the law. Barriers to employment are experienced in practice.	Law on Foreign Nationals 2018, Article 66: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available) NGO Civic Alliance Verbal communication with representatives of the Ministry of Internal Affairs
SDS.9.g	Do people granted statelessness status have access to primary, secondary, and higher education?	1954 Convention : Article 22	Children recognised as stateless have access to primary education , which is obligatory for all children aged 6-15 years (for 9yrs). However, if a child does not have a birth certificate, they will not be issued a school certificate. Stateless persons holding a temporary or permanent residence permit have the same access to secondary and higher education as Montenegrin nationals in practice, although they are not explicitly mentioned in the regulations.	General Law on Education, Official Gazette of Montenegro, No. 45/2010, 40/2011, 45/2011, 36/2013, 39/2013, 44/2013, 47/2017, https://www.gov.me/en/documents/dd95d56d-8479-45ce-92b2-50e24027d9da Law on Higher Education, Official Gazette of Montenegro, No. 44/2014, 52/2014, 47/2015, 40/2016, 42/2017, 71/2017, 55/2018, 3/2019, 17/2019, 47/2019, 72/2019, 74/2020 https://www.gov.me/en/documents/9b4f57fd-9bae-465a-953a-0430da131af1
SDS.9.h	Do people granted statelessness status have access to social security and healthcare?	1954 Convention : Articles 23 & 24 UNHCR, Handbook on Protection (2014) : The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.	Yes. Stateless persons holding a temporary or permanent residence permit have access to social security, health insurance and urgent medical assistance, although they may encounter bureaucratic difficulties and may be requested to bear the costs of emergency medical care. Stateless people who hold a travel document but not a residence permit are, in theory, entitled to social security or healthcare, but in practice face significant difficulties in accessing it.	Law on Social and Child Protection, Official Gazette of Montenegro, Nos. 27/13, 01/15, 42/15, 47/15, 56/16, 66/16, 01/17, 31/17, 42/17, 50/17, https://www.gov.me/en/documents/14d18f91-2891-4ec8-a67c-6f978907a53e Law on Health Care, Official Gazette of the Republic of Montenegro, Nos. 39/04 & 14/10 https://www.gov.me/en/documents/d99ce2cc-1d8a-4876-b9f7-a900f8937196 Law on Health Insurance, Official Gazette of Montenegro, No. 06/16 Draft law on compulsory health insurance, https://www.gov.me/en/documents/a8dda00d-3abe-4c09-b810-32be79ced7fb
SDS.9.i	Are stateless people allowed to vote in local and/or national elections? If yes, are there any additional requirements for stateless people to vote (e.g. permanent residence, identification documents, etc.)? [Section complete, proceed to DET]	1954 Convention : Article 7, States shall accord to stateless persons at least the same treatment as is accorded to foreign nationals.	No. The Constitution of Montenegro stipulates that the right to vote and be elected is reserved to Montenegrin nationals aged 18 and over who have resided for at least two years in Montenegro.	Constitution of Montenegro 2007, Article 45: https://www.skupstina.me/me/ustav-crne-gore [CNR] (ENG translation available at: http://extwprlegs1.fao.org/docs/pdf/mne136175.pdf)

Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Immigration detention	Please provide a brief overview of whether immigration detention powers are provided for in law and applied in practice, and whether alternatives to detention are considered. Please provide the legal source(s) and, if available, refer to other publications and sources of information about the law, policy, and practice on immigration detention.	<p>ICCPR: Article 9 ECHR: Article 5 EU Return Directive: Article 15 UNHCR, Handbook on Protection (2014): Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. HRC, Report of the Special Rapporteur (2012): The obligation to always consider alternatives before resorting to detention should be established by law. International Detention Coalition (2015): 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.</p>	<p>Powers and grounds to detain and deprive a foreign national of their liberty, restrict their freedom of movement, enforce return, as well as decision-making, conditions, and rights in the ‘reception centre for foreign nationals’ are provided for in the Law on Foreign Nationals (Arts. 124-138).</p> <p>Art. 125 establishes grounds for ‘accommodating foreign nationals in the reception centre’ to ensure enforcement of a removal decision, particularly if there is a risk that the obligation to leave Montenegro will be evaded or the individual prevents enforcement of the removal and return.</p> <p>Art. 126 establishes alternatives to detention including depositing travel documents, financial bonds, requiring stay at a particular address, and reporting to the police.</p> <p>The Rulebook sets out detailed rules on conditions, rights, and obligations of detainees in the ‘reception centre for foreigners’.</p>	<p>Law on Foreign Nationals 2018, Arts. 124-138: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p> <p>Rulebook on rules of stay and house rules in the reception centre for foreigners 2019, Official Gazette of Montenegro, No. 061/17: https://www.gov.me/en/documents/f91a8c27-5e22-4554-ac5d-a4884ac92fc6</p>
DET.1.b		Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.	<p>ICCPR: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment (Article 7). ECtHR, Auad v. Bulgaria (2011): In cases of detention with a view to deportation, lack of clarity as to the destination country could hamper effective control of the authorities’ diligence in handling the deportation. EU Return Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	<p>Yes.</p> <p>The Law states that a foreign national may be forcibly removed to (i) their country of origin, (ii) the country from which they came to Montenegro, or (iii) to another country they consent to and where they shall be accepted.</p>	<p>Law on Foreign Nationals 2018, Art. 114: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>
DET.1.c		Is there a clear obligation on authorities to release a person when there is no reasonable prospect of removal?	<p>EU Return Directive: When it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified and the person concerned shall be released immediately. UN Working Group on Arbitrary Detention (2018): When the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary. ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009)</p>	<p>Yes.</p>	<p>Law on Foreign Nationals 2018, Art. 124: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>
DET.2.a	Identification of statelessness	Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p>ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. CMW, General comment No. 5 (2021): States should avoid detaining migrants who have specific needs, which includes stateless persons. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance</p>	<p>No. There is no procedure for identifying statelessness in the decision to detain and it is not possible to refer a person to the SDP from detention.</p>	<p>Law on Foreign Nationals 2018: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)</p>

			and protection are unavailable due to their status. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Equal Rights Trust, Guidelines (2012) : 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. ICJ, Migration and International Human Rights Law (2014) : The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.		
DET.2.b		Is there a definition of vulnerability in law? If yes, does it explicitly include statelessness? If not, please note whether statelessness is considered to be a factor increasing vulnerability.	PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021) : Statelessness should be explicitly included in the definition of vulnerability. Vulnerability should always be determined and assessed on an individual basis.	The Law on Foreign Nationals sets out that in the context of ensuring return, particular attention shall be paid to minors, unaccompanied minors, persons with special needs, persons with disabilities, elderly persons, pregnant women, single parents with minor children, and persons exposed to torture, rape or other severe forms of psychological, physical or sexual violence. Statelessness is not mentioned as a specific factor increasing vulnerability.	Law on Foreign Nationals 2018, Article 138: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available)
DET.2.c		Are individual vulnerability assessments carried out before a decision to detain (or soon after)?	ENS, Protecting Stateless Persons From Arbitrary Detention (2015) : Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Return Directive : Article 16(3) EU Return Handbook (2017) : Attention should be paid to the specific situation of stateless persons. Council of the European Union, Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons (2013) : European entities should assess the situation of LGBTI persons in detention. PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021) : There should be a clear legal obligation to screen and assess individuals' vulnerability before a decision to detain is taken and before individuals are placed into situations of deprivation or restriction of liberty.	No.	Verbal communication with representatives of the Ministry of Internal Affairs
DET.2.d		Are stateless people detained in practice?	As above.	No, not according to the Ministry of Internal Affairs.	Verbal communication with representatives of the Ministry of Internal Affairs
DET.3.a	Procedural safeguards	Are there adequate procedural safeguards in place for individuals in immigration detention (e.g. maximum period of detention, automatic release at the end, decisions in writing, regular periodic reviews, judicial oversight, legal aid, etc.)?	ICCPR : Article 9(4) ECHR : Article 5(4) EU Return Directive : Articles 12, 13 and 15(5) HRC, Report of the Working Group on Arbitrary Detention (2010) : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released. CMW, General comment No. 5 (2021) : States parties are obligated to adopt legislative and other measures, allocate adequate resources, and provide relevant training to comply with the CMW. There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which	There is a right of appeal to the Administrative Court against the decision to deprive someone of their liberty (Art. 124). There is also a right to appeal the decision (within 5 days) to apply alternatives to detention (Art. 126), or to detain someone in the 'reception centre' (Art. 127). Free legal aid is available to exercise the right of appeal. There is a time limit (Art. 127-128) of six months on detention in the 'reception centre', which may last only as long as required to enforce removal. The limit may be extended for another 12 months if the detainee refuses to cooperate or delays obtaining necessary documents from another country, bringing the maximum time limit for detention to 18 months. A complaint can	Law on Foreign Nationals 2018, Articles 124-131: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4edb84 (CNR) (ENG translation available) Law on Foreign Nationals 2018, Article 133

			<p>precludes re-detention. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. UNHCR, Detention Guidelines (2012): To guard against arbitrariness, maximum periods of detention should be set in national law. UNHCR, Handbook on Protection (2014): Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. UNGA, Body of Principles (1988): Anyone who is arrested shall be informed at the time of the reason for his arrest. Equal Rights Trust, Guidelines (2012): Stateless detainees shall receive their order of detention in writing and in a language they understand. 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. Detention should always be for the shortest time possible. International Commission of Jurists, Migration and International Human Rights Law: A Practitioners' Guide (2014): The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it. ECtHR, Kim v. Russia (2014): The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p>	<p>be lodged to the Administrative Court against the decision to extend the detention.</p> <p>A detainee may address the ombudsperson (Art. 131) if they believe they have been subject to torture, or other cruel, inhuman or degrading treatment or punishment by staff or other detainees.</p> <p>There are no periodic reviews of detention.</p> <p>A foreign national shall be promptly released from the 'reception centre' if:</p> <p>1) the reasons for the accommodation in the 'reception centre' as per Article 125 paragraph 1 of the Law no longer exist (the police shall restrict the freedom of movement for a foreign national for whom it is not possible to be removed forcibly or whose return may not be ensured by the enforcement of milder measures, by accommodating such a foreign national in the reception centre for foreign nationals, and particularly if there is a risk that the obligation to leave Montenegro will be evaded or if the foreign national prevents the enforcement of forced removal and return.)</p> <p>2) it is reasonably expected that it shall not be possible to forcibly remove the foreign national within the deadlines defined in the Law.</p> <p>The police shall submit to the Ministry the case files on the accommodation of a foreign national in the Reception centre, not later than ten days prior to the expiry of three months from the date of accommodation of the foreign national in the Reception centre.</p> <p>Within ten days from the date of receipt of the case files referred to in paragraph 2 of this Article, the Ministry shall decide under the decision on release of the foreign national from the reception centre.</p> <p>In the event of release referred to in paragraph 1 of this Article, the foreign national who was accommodated in the Reception centre for the total duration of 18 months may be accommodated in the Reception centre again, if due to the changed circumstances it can be reasonably expected that he or she will be able to be forcibly removed, and the reasons as per Article 125 paragraph 1 of the Law exist.</p>	
DET.3.b	Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<p>Equal Rights Trust, Guidelines (2012): Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>According to the Rulebook on rules of stay in the 'reception centre', on arrival, police officers 'shall familiarise [the detainee] with accommodation, rules of stay, and house rules, as well as prescribed measures for securing return', as well as be provided during their stay with contact with family and diplomatic representatives of country of origin (Art. 16).</p> <p>In practice, detainees are informed about their rights.</p>	<p>Rulebook on rules of stay and house rules in the reception centre for foreigners 2019, Official Gazette of Montenegro, No. 061/17: https://www.gov.me/en/documents/f91a8c27-5e22-4554-ac5d-a4884ac92fc6</p>	
DET.3.c	Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	<p>Equal Rights Trust, Guidelines (2012): The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS, Protecting Stateless Persons From Arbitrary Detention (2015): The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.</p>	<p>No.</p>	<p>Verbal communication with representatives of the Ministry of Internal Affairs</p>	

DET.4.a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their statelessness status) and protected from re-detention?	<p>1954 Convention: Article 27</p> <p>UNHCR, Handbook on Protection (2014): Being undocumented cannot be used as a general justification for detention.</p> <p>CMW, General comment No. 5 (2021): There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Detaining stateless persons when there is no real prospect of removal would render the detention arbitrary, and the detained stateless person must therefore be immediately released.</p> <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	No.	Verbal communication with representatives of the Ministry of Internal Affairs
DET.4.b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?	<p>CJEU, Kadzoev, C-357/09 PPU (2009): After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p>Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	Upon release from detention, an individual has no residence status and their rights are not regulated by law.	Verbal communication with representatives of the Ministry of Internal Affairs
DET.5.a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	<p>UNHCR, Handbook on Protection (2014): Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p> <p>UNCRC, MKAH v Switzerland, no 95/2019 (2021): The State in which a stateless child applies for international protection has an obligation under Article 7 CRC to consider whether, if the child was returned to another country, their right to a nationality would be fulfilled (as well as other rights under the CRC).</p>	<p>All readmission agreements concluded between Montenegro and the EU and other countries reference stateless persons, in addition to nationals of the contracting parties and third country nationals. The agreement between Montenegro and the EU explicitly permits readmission of stateless persons. The definition used in the agreement is not in line with the 1954 Convention definition of a stateless person ("Stateless person" shall mean any person who does not hold a nationality').</p> <p>There is no consideration of the child's right to a nationality, and their enjoyment of other fundamental rights in the country of return, before a decision to return a child is made, according to Article 7 CRC within Montenegrin normative and practical framework.</p>	<p>Agreement between the European Community and the Republic of Montenegro on the readmission of persons residing without authorisation, Article 1(f): https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A22007A1219%2802%29</p> <p>Verbal communication with relevant Government Officials</p>
DET.5.b		Are you aware of cases of stateless people being returned under such agreements?		There were no such cases in practice.	Verbal communication with representatives of the Ministry of Internal Affairs

Prevention and Reduction

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS.1.a	Naturalisation	In what timeframe do stateless people who are residing on the territory acquire the right to apply for naturalisation, and how does this compare to others with a foreign nationality?	1954 Convention : Article 32 UNHCR, Good Practices Papers – Action 6 (2020) : It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. CoE Committee of Ministers, Recommendation No. R (99) 18 (1999) : Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. ENS (2013) : The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.	An adult stateless person may apply to acquire Montenegrin nationality after 10 years 'lawful and uninterrupted residence' prior to the application. This is the same timeframe as for others with a foreign nationality. However, the applicable bylaws do not consider residence based on statelessness status as 'lawful and uninterrupted residence' for the purposes of naturalisation. A stateless person must hold a permanent residence permit for 10 years in order to acquire Montenegrin nationality.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 8 & 14: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.1.b		Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from naturalising? If yes, please describe.	CoE Committee of Ministers, Recommendation No. R (99) 18 (1999) : States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.	Yes. An applicant for naturalisation must not have been sentenced in Montenegro or elsewhere to a prison term of more than one year and there should be no legal obstacles relating to public order or national security.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 8 & 14: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.1.c		Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements for naturalisation? Please describe the requirements and cost of the procedure for stateless adults and children, and any direct or indirect barriers to naturalisation caused by discriminatory laws, policies, or practices.	1954 Convention : Article 32 UNHCR, Good Practices Papers – Action 6 (2020) : It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. CoE Committee of Ministers, Recommendation No. R (99) 18 (1999) : Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness (2021) : States should remove or amend discriminatory legal provisions, rules, policies, or practices that directly or indirectly act as barriers to naturalisation.	Yes. Stateless persons are exempt from two of the conditions required for admission to Montenegrin: guaranteed accommodation and income, and Montenegrin language requirements. There is a fee of 100 EUR for an application for naturalisation. If family members apply together (spouse and unemployed children), only one fee should be paid. There is a fee exemption for unemployed persons, persons with disabilities, and persons in receipt of social security. There are no direct or indirect barriers to naturalisation caused by discriminatory laws, policies, or practices.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 8 & 14: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search Law on Administrative Fees, Official Gazette of Montenegro, No. 18/2019: https://www.caa.me/sites/default/files/zakon_o_administrativnim_taksama.pdf (CNR) Verbal communication with relevant Government Officials
PRS.2.a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to acquire nationality? [If yes, continue to PRS2b. If no, proceed to PRS2i]	1961 Convention : Article 1 ECN : Article 2 CRC : Article 7 Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. HRC, CCPR General comment No. 17 (1989) : States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. European Parliament resolution (2018) : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.	Yes. A child born or found on the territory of Montenegro of unknown parentage or whose parents are of unknown nationality or have no nationality or if a child stays without nationality shall acquire Montenegrin nationality. However, it is unknown how often this provision has been used in practice and if any child has acquired nationality of Montenegro based on this Article.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.2.b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	UNHCR, Guidelines on Statelessness No. 4 (2012) : The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.	The Law is drafted in such a way as to be automatic. It is unclear whether a procedure is required to be initiated in practice.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search

			ENS, No Child Should Be Stateless (2015) : The 1961 Convention and the European Convention on Nationality oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.		
PRS.2.c		Are parents provided with information about their child's nationality rights and relevant procedures, including where the child would otherwise be stateless or has undetermined nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : Contracting States are obliged to provide detailed information to parents of children who would otherwise be stateless or of undetermined nationality about the possibility of acquiring the nationality, how to apply and about the conditions which must be fulfilled. If the child concerned can acquire the nationality of a parent immediately after birth, States that opt to not grant nationality to children in these circumstances must assist parents in initiating the relevant procedure with the authorities of their State or States of nationality.	No.	Verbal communication with representatives of the Ministry of Internal Affairs
PRS.2.d		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : The test is not an inquiry into whether a child's parents are stateless. ENS, No Child Should Be Stateless (2015) : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.	No.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.2.e		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	UNHCR, Guidelines on Statelessness No. 4 (2012) : A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State's nationality laws. The burden of proof must be shared between the claimant and the authorities, but in the case of children the State assumes a greater share of the burden of proof. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	Parents are required to provide evidence that the child does not have and cannot acquire a nationality of the parents and other countries in which the parents may have lived. This evidence is also requested from these countries ex officio through the Ministry of Foreign Affairs.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search Verbal communication with representatives of the Ministry of Internal Affairs
PRS.2.f		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	1961 Convention : Article 1(2) UNHCR, Guidelines on Statelessness No. 4 (2012) : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. CRC : Articles 3 & 7 Committee on the Rights of the Child, Concluding observations on the Netherlands (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. ECN : Article 6(2)(b)	No.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search

PRS.2.g		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	Committee on the Rights of the Child, Concluding observations on Czech Republic (2011) : The outcome of an application 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. ENS, No Child Should Be Stateless (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.2.h		What are the age limits and fees (if any) for making an application for nationality for a stateless person born on the territory?	1961 Convention : Article 1(2) UNHCR, Guidelines on Statelessness No. 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. Where Contracting States grant nationality to individuals who would otherwise be stateless upon application, they are encouraged to accept such applications free of charge. ENS, No Child Should Be Stateless (2015) : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.	The law specifies 'a child' so this is interpreted as a person under the age of 18. There is a fee of 100 EUR for an application for naturalisation. If family members apply together (spouse and unemployed children), only one fee should be paid. There is a fee exemption for unemployed persons, persons with disabilities, and persons in receipt of social security.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search Law on Administrative Fees, Official Gazette of Montenegro, No. 18/2019, Tariff Number 11, Article 17 https://www.caa.me/sites/default/files/zakon_o_administrativnim_taksama.pdf (CNR)
PRS.2.i		Are there specific provisions to protect the right to a nationality of children born to refugees?	UNHCR, Guidelines on Statelessness No. 4 (2012) : 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.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.3.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	1961 Convention : Article 2 ECN : Article 6(1)(b)	Yes.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.3.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	No, but through analogy with other provisions in the Law, it can be concluded that the age limit is 18 years old.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.3.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR, Guidelines on Statelessness No. 4 (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	No. The law states that nationality cannot be withdrawn if it would lead to statelessness. Nationality acquired by foundlings may only be lost if it is detected prior to the child reaching the age of 18 that both parents are foreign nationals or that a child has acquired the nationality of a foreign State on any ground.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 7: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.4.a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	1961 Convention : Article 5 ENS, No Child Should Be Stateless (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No. A child may renounce Montenegrin nationality upon adoption if they do not remain stateless and if both adoptive parents consent and are nationals of a foreign State. A child over 14 must give their consent. If a person who renounced Montenegrin nationality does not acquire a foreign nationality within one year the renunciation can be cancelled upon request (within three months).	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 22: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search

PRS.4.b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	ECN: Article 6(4)(d) Committee on the Rights of the Child, Concluding Observations on Switzerland (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Yes. Montenegrin nationality by origin shall be acquired by an adopted child in the case of a full adoption, if one of the adoptive parents is a Montenegrin national and the child does not have citizenship of the other adopter. The law does not specify an age limit but 'child' is usually understood to be under 18.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Article 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.5.a	Ius sanguinis	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless?	1961 Convention: Article 4 UNHCR, Guidelines on Statelessness No. 4 (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	Yes. If only one parent is a national, the child born abroad acquires Montenegrin citizenship only if the other parent is unknown, of unknown citizenship, or stateless, or if the child would otherwise be stateless, or if before turning 23 they request registration as a Montenegrin citizen and don't hold their other parent's citizenship.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 5 & 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.5.b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	ECTHR, Genovese v. Malta (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW, Gen. Rec. 32 (2014) : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 4	No, there are no discriminatory conditions in law. The right of same-sex parents to confer nationality to their children is not regulated by law in Montenegro and no information is available on practice.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 5 & 6: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.6.a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the migration or residence status, sexual and/or gender identity of their parents?	CRC: Article 7 ICCPR: Article 24(2) CoE, Recommendation CM/Rec(2009)13 (2009) : Member states should 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 the parents are unknown. UNHCR, Guidelines on Statelessness No. 4 (2012) : Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 7 UN Sustainable Development Goal 16.9 European Parliament, Resolution on LGBTIQ rights in the EU (2021) : Calls on States to overcome discrimination against rainbow persons and families. UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021) : All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.	The law provides that if the child is born in the hospital, they will be registered immediately. If the child is born outside of the medical institution, the Law on non-litigation procedure can be applied. The procedure to register the child's birth should be applied even when the parents are undocumented. However, in practice, there are sometimes bureaucratic difficulties in registering the child's birth if the parents are undocumented and they are not receiving support or advice from an NGO. Many families assisted by NGO Phiren Amenca did not register their children because they thought they required documents to register the child's birth, the hospitals had not provided evidence of the birth to the mother, and/or the health institutions had not forwarded information about the child's birth to the competent directorate in the Ministry of the Interior. UNHCR has developed a procedure to enable the registration of all children whose parents do not have a settled legal status in Montenegro, but it is not smoothly implemented in practice and some children are still not registered. NGO Phiren Amenca has identified at least 10 children in two local Roma communities who are not registered. Only parents of the opposite sex can register children. Montenegro still has not incorporated in its normative framework provisions that ensure that all children are registered immediately upon birth regardless of the sexual and/or gender identity of their parents.	Law on Civil Registries, Official Gazette of Montenegro, No. 41/2010, 40/2011, 55/2016, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4e81e4 (CNR) (ENG translation available) NGO Phiren Amenca Verbal communication with relevant Government Officials

PRS.6.b	Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	HRC, Resolution A/HRC/RES/20/4 (2012) : Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members. Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.	Upon registration, all children are issued with birth certificates.	Law on Civil Registries, Official Gazette of Montenegro, No. 41/2010, 40/2011, 55/2016, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4e81e4 (CNR) (ENG translation available)
PRS.6.c	Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.)	CRC : Articles 3 & 7	The birth certificate contains a field for the child's nationality, but, in practice, parents must initiate registration of the child's nationality in the nationality registry, after birth registration is completed. Sometimes the child is recorded as having the nationality of another state if parents believe the child to have acquired their nationality or if civil registry officials attribute another nationality to the child based on their parents' nationality.	Rulebook on the detailed content and manner of keeping records on submitted applications for entry in the registry registers
PRS.6.d	If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines, competent authority, and whether the child's best interests are taken into consideration.	CRC : Articles 3 & 7 1961 Convention : Articles 1 & 4 UNHCR, Guidelines on Statelessness No. 4 (2012) : States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years. HRC, CCPR General comment No. 17 (1989) : States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. UNHCR, Best Interests Procedure Guidelines (2021) HRC, D.Z. v. Netherlands (2021)	If the child's nationality is not determined upon registration in the birth register, the registration should be conducted in line with the provisions of the Law on Montenegrin Citizenship, before the Ministry of the Interior. However, there have been no such cases in practice and there is no guidance available. To determine the child's nationality later, a procedure will be implemented in accordance with the Rulebook on the Procedure Initiated upon Request for Statelessness Determination. During this procedure, the Ministry will determine whether the child is truly stateless or still has the nationality of another country, i.e. has the right to obtain the nationality of another country. Bearing in mind the best interests of the child, if it is determined that the child is stateless, a formal basis is acquired for the application of Article 7 of the Law on Montenegrin Nationality and the granting of Montenegrin nationality to that child.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search Verbal communication with relevant Government Officials
PRS.6.e	Are there credible reports to suggest that, in practice, children are prevented from registering their birth (or their birth certificate issued abroad is not recognised) because of parents' migration or residence status, sexual and/or gender identity, because they were born as a result of a surrogacy agreement, or other reasons (please specify)?	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed. Global Compact for Safe, Orderly and Regular Migration : States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration. Global Compact on Refugees : States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents. European Parliament Resolution (2018) : Calls on Member States to take immediate corrective measures to stop discriminatory birth registration. European Parliament, Resolution on LGBTIQ rights in the EU (2021) : Emphasises the importance of the	Yes. There are a number of reports from civil society highlighting specific barriers to registration faced by Roma and Egyptian children. We are not aware of any credible reports according to which children born to surrogacy would be prevented from registering.	roma-belong.pdf (statelessness.eu) http://phirenamenca.me/?content=docs&mod=publics&tip=single&id=303 Verbal communication with relevant Government Officials

			<p>recognition of birth certificates in all EU Member States regardless of the sex of the parents.</p> <p>UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021): All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.</p> <p>Court of Justice of the European Union, V.M.A. v Bulgaria, Case C-490/20 (2021): Domestic authorities of an EU Member State are required to issue a birth certificate and identity documents to a child who is a national of that state and was born in another EU Member State, including when the birth certificate contains two parents of the same sex.</p>		
PRS.6.f	Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)? If not, is there a clear firewall to prohibit the sharing of information by other entities with immigration authorities?	<p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC and Joint General Comment No. 3 (2017) CMW and No. 22 (2017) CRC: Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children's personal data, in particular biometric data, should only be used for child protection purposes.</p> <p>CoE, ECRI General Policy Recommendation No. 16(2016): States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.</p>	<p>There is no general firewall to prohibit sharing of information between government authorities. Information on birth registrations is exchanged between the health institution or the parents and the Ministry of Interior. Data from the birth register may be used in accordance with the law or on the basis of the written consent of the person to whom they refer. Data from the registry offices may be used by the Ministry of Interior to link data from the registry of registers and data from other records, as well as to perform other tasks within its competence. State bodies, local government bodies and other bodies and organisations may use data from the birth register to perform activities within their competence, if they are authorised by law to use such data. Data from the birth register may be used for statistical, scientific, research and other purposes, in accordance with the law governing the protection of personal data.</p>	<p>Law on Civil Registries, Official Gazette of Montenegro, No. 41/2010, 40/2011, 55/2016, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4e81e4 (CNR) (ENG translation available)</p>	
PRS.6.g	Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	<p>Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration.</p> <p>HRC, Resolution A/HRC/RES/20/4 (2012): Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.</p>	<p>Yes. The birth must be registered within three days. The birth of a stillborn child must be reported within 24 hours. If, due to a non-working day, the birth cannot be registered within the specified deadlines, it shall be submitted on the first following working day. Late birth registration is possible in law and practice.</p>	<p>Law on Civil Registries, Official Gazette of Montenegro, No. 41/2010, 40/2011, 55/2016, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4e81e4 (CNR) (ENG translation available)</p> <p>Law on Non-Contentious Proceedings, Official Gazette of Montenegro 27/2006, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=555203a14 (CNR) (ENG translation available)</p>	
PRS.6.h	Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	<p>Yes. After 30 days, an MoI official determines through a procedure to establish the facts related to the birth if there are grounds for subsequent registration and may decide to accept the application for subsequent registration on force majeure or other similar grounds. There is a fee and documents must be provided, including identity documents and proof of birth from the hospital. In the case of a child born outside a health institution (or where subsequent birth registration has been refused), a non-contentious court procedure may be initiated to determine the relevant facts about the time and place of birth, parents and other relevant data. The procedure can be initiated by a person whose time and place of birth is determined, a person who has a direct legal interest, a guardianship authority, and for a child born outside a health institution, it could be another person who reported the birth of the child. If it is suspected the individual concerned resided in a</p>	<p>Law on Civil Registries, Official Gazette of Montenegro, No. 41/2010, 40/2011, 55/2016, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=60a4e81e4 (CNR) (ENG translation available)</p> <p>Law on Non-Contentious Proceedings, Official Gazette of Montenegro 27/2006, https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=555203a14 (CNR) (ENG translation available)</p>	

				foreign State, the court will suspend the procedure until it obtains the necessary information from the competent authorities of that State, in accordance with the rules on international legal assistance. The court must hear at least two adult witnesses in the procedure for determining place and time of birth. A medical examination to determine age may be requested. The decision determining the time and place of birth contains: name and surname of the person, sex, day, month, year and hour of birth, place of birth, as well as data on parents, if known. An appeal may be lodged against this decision, within 15 days. The proposer is released from the obligation to pay a fee, and legal costs are paid by the court.	
PRS.7.a	Reducing <i>in situ</i> statelessness	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7	There is no comprehensive government programme to promote civil registration. There have been occasional campaigns led by specific State bodies or institutions in the past.	Verbal communication with representatives of the Ministry of Internal Affairs
PRS.7.b		Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information.	1961 Convention: Article 9 UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 4 HRC, Recommendations of the Forum on Minority Issues (2019): States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	Yes, the risk of statelessness primarily affects Roma and Egyptian communities in Montenegro, especially those who came to Montenegro from Kosovo during the conflict in the 1990s and their descendants.	https://crd.org/wp-content/uploads/2018/02/The-Wall-of-Anti-Gypsyism-%E2%80%93-Roma-in-Montenegro-Mne.pdf https://www.unicef.org/montenegro/media/8271/file/MNE-media-MNEpublication409.pdf
PRS.7.c		Has the State implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	1961 Convention UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Actions 1 & 8 UNHCR, Good Practices Paper - Action 1 (2022): States generally address and resolve situations of statelessness through law and policy reform enabling stateless persons to acquire nationality automatically by operation of law, through a simple registration process, or through naturalisation. Non-automatic procedures are generally a less effective way to resolve statelessness because they require the person concerned to take certain steps to acquire nationality.	Yes. In the last 5-10 years Montenegro has initiated several legislative changes to improve legal and administrative procedures to reduce the risk of statelessness through improved access to civil registration and protect the rights of stateless persons through the introduction of a Statelessness Determination Procedure. It has also improved cooperation with neighbouring countries (primarily Serbia and Kosovo) to facilitate civil registration. In 2019-21, as follow-up from the Poznan Declaration, Montenegro joined other Western Balkan countries in committing to ensuring universal civil registration and ending Roma statelessness. In 2017, in collaboration with UNHCR, the Government conducted a field verification exercise to map persons at risk of statelessness, understand their needs and problems and work to address these. A new field verification was planned for autumn 2022 but it has not yet taken place. Under UNHCR's global #IBelong campaign to eliminate statelessness by 2024, Montenegro pledged in October 2019 to: - continue the implementation of simplified procedures for obtaining identification documents both at the national level and in cooperation with the countries of origin of persons affected by this issue; - ensure effective birth registration of children abandoned by their mothers, or whose mothers do not have identification documents; - strengthen the procedure for determining the status of stateless persons and harmonise legislation to secure unhindered access to rights for persons granted statelessness status; - exchange experiences in the field of statelessness prevention with other countries in the region.	Ministry of Interior Work Report for 2014, https://www.gov.me/en/documents/a4b2398d-d95e-448b-a934-11653e86451a Regional Cooperation Council, Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process, 5 July 2019: https://www.rcc.int/docs/464/declaration-of-western-balkans-partners-on-roma-integration-within-the-eu-enlargement-process Regional Cooperation Council, Conclusions of the second ministerial meeting on Roma integration, 30 June 2021: https://www.rcc.int/romaintegration2020/news/360/conclusions-of-the-second-ministerial-meeting-on-roma-integration UNHCR Montenegro UNHCR, Results of the High-Level Segment on Statelessness, 2019: https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/

PRS.8.a	Deprivation of nationality	Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).	<p>1961 Convention: Article 8 & 9 ECN: Article 7(3) UDHR: Article 15(2) Principles on Deprivation of Nationality and the Draft Commentary: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 & 6 HRC, Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23 UNHCR Guidelines on Statelessness No.5 (2020): the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification). ILEC Guidelines (2015): Deprivation of nationality must have a firm legal basis, should not be interpreted extensively or applied by analogy and deprivation-provisions must be predictable.</p>	No. In all cases, there is a safeguard to prevent deprivation, loss, or renunciation of Montenegrin nationality resulting in statelessness.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.8.b		Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, decision in writing with reasoning, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p>1961 Convention: Article 8(4) ECN: Articles 10 to 13 Principles on Deprivation of Nationality: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation. ILEC Guidelines (2015): The consequences of a decision to deprive somebody of his nationality must be assessed against the principle of proportionality. Adequate procedural safeguards are essential. Decisions should only take effect when the (judicial) decision cannot be challenged anymore.</p>	The Ministry of Interior is the competent authority for deprivation of nationality. Deprivation under Article 24 takes effect automatically upon the facts/circumstances coming into place. The competent authority is required to notify and allow the individual concerned to make a declaration on the facts, but a decree may be made without a declaration if they do not submit a written declaration within the specified timeframe. Interested persons may declare themselves by giving a statement. There are specified time limits in the law, legal aid is available, and the individual has a right to initiate proceedings before the Administrative Court.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search
PRS.8.c		Are provisions on deprivation of nationality applied in practice? Have they been applied even where it results in (risk of) statelessness? If available, please provide any sources of data or information on cases that resulted in statelessness.		Yes, provisions on deprivation are applied in practice. As per the Law on Montenegrin Nationality and practice, a person cannot be deprived of Montenegrin nationality if that would render them stateless and unless they submit guarantees of acquiring another nationality.	NGO Civic Alliance NGO Phiren Amenca
PRS.8.d		Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	<p>1961 Convention: Article 7 ECN: Articles 7 and 8</p>	Yes. The person must hold a foreign nationality or have proof they will be granted it. If the person does not present proof they will or have acquired the other nationality within two years, the procedure for renunciation is suspended. If a person who renounced Montenegrin nationality does not acquire the foreign nationality within a year, the Ministry of Interior shall invalidate the decree on their request, which can be lodged within three months of expiry of the year. There are also safeguards to prevent a child from being rendered stateless due to a parent's renunciation of Montenegrin nationality.	Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search

PRS.8.e		Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice.	<p>Principles on Deprivation of Nationality Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards.</p> <p>UNHCR Guidelines on Statelessness No.5 (2020): Laws that permit deprivation of nationality on the grounds of terrorism should be publicly available and precise enough to enable individuals to understand the scope of impermissible conduct.</p>	<p>Yes. Any adult national of Montenegro, who also holds a foreign nationality, shall be deprived of Montenegrin nationality, if they:</p> <ul style="list-style-type: none"> - are irrevocably sentenced for a criminal offence against humanity or other interests protected by the International Law; - are irrevocably sentenced for planning, organising, financing or any other manner of assisting or committing terrorist acts or providing shelter to organisers, perpetrators or participants in terrorist activities; - are a member of an organisation with activities aimed against the security and defence of Montenegro; - are in the voluntary service of the military forces of a foreign state; - their attitude is seriously harmful to the interests of Montenegro. <p>The Ministry of Interior is obliged to initiate proceedings ex officio if it becomes aware of these facts.</p> <p>Provisions on deprivation of nationality are applied in practice.</p>	<p>Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search</p> <p>NGO Phiren Amenca</p>
PRS.8.f		Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice.	<p>ICCPR: Article 26</p> <p>1961 Convention: Article 9</p> <p>ECN: Article 5</p> <p>Principles on Deprivation of Nationality: Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals.</p>	<p>Yes. Provisions on deprivation apply only to dual nationals.</p>	<p>Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search</p>
PRS.8.g		Are there safeguards to prevent derivative loss of nationality (i.e., loss of nationality on the basis that a parent or a spouse has been deprived of that nationality)? Please describe the potential impact of deprivation on children and spouses.	<p>CRC: Articles 2(2), 7 and 8</p> <p>CEDAW: Article 9(1)</p> <p>Principles on Deprivation of Nationality: States must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Principle 9.7). The derivative loss of nationality is prohibited (Principle 9.8).</p>	<p>Yes, in all cases there are safeguards in the law to prevent derivative loss of nationality.</p>	<p>Law on Montenegrin Citizenship, Official Gazette of the Republic of Montenegro, No. 13/08 from 26.02.2008, 40/10 from 22.07.2010, 28/11, 46/11, 20/14/54/16, Articles 19-25: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=47e117082&page=search</p>

Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Please list the most relevant judgments relating to statelessness and include links to the cases (where available).		There are no available data related to the relevant judgments	
RES.2.a	Free legal assistance	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	UNHCR, Handbook on Protection (2014) : Applicants must have access to legal counsel.	UNHCR, NGO Civic Alliance, NGO Phiren amenca	https://www.unhcr.org/montenegro.html https://gamn.org/?lang=en http://phirenamenca.me/
RES.3.a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		There is no domestic academic literature on statelessness available	Not available