

**The Hungarian Helsinki Committee, European Network on Statelessness and  
Institute on Statelessness and Inclusion**

Joint Submission to the Human Rights Council at the  
25th Session of the Universal Periodic Review

**Hungary**

1. The Hungarian Helsinki Committee, European Network on Statelessness and Institute on Statelessness and Inclusion make this submission to the Universal Periodic Review (UPR) in relation to statelessness, access to nationality and human rights in Hungary.
2. The [Hungarian Helsinki Committee](#) (HHC) is a leading human rights organisation in Hungary focusing on various areas such as detention, access to justice, the rule of law, anti-discrimination, asylum, statelessness and nationality. As an implementing partner of the UNHCR, the HHC is present at all places in Hungary and has assisted several thousands of foreigners in need of international protection in recent years, including stateless persons. *The HHC has also gained outstanding international reputation as an expert organisation in various fields of law.* It works closely together with state authorities, the UNHCR and the judiciary. It has published two reports on the issue of statelessness in Hungary, in 2010 and 2014 respectively.<sup>1</sup>
3. The [European Network on Statelessness](#) (ENS) is a civil society alliance of NGOs, lawyers, academics and other independent experts committed to addressing statelessness in Europe, Based in London, it currently has 100 members (including 55 organisations) in over 30 European countries. ENS organises its work around three pillars – namely, law & policy, communications and capacity-building. The Network provides expert advice and support to a range of stakeholders, including governments.
4. The [Institute on Statelessness and Inclusion](#) (the Institute) is an independent non-profit organisation dedicated to promoting an integrated, human rights based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. Its work combines research, education, and advocacy, and it provides expertise to civil society, academia, the UN and governments.
5. This joint submission focuses on the issue of statelessness and access to nationality in Hungary, which has presented a significant challenge to the full enjoyment of human rights in the country for many years. It draws on the multiple years of research, advocacy, awareness raising, litigation and direct support related experience both in Hungary and internationally, of the submitting organisations.

**Universal Periodic Review of Hungary under the First Cycle**

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<sup>1</sup> Gábor Gyulai, *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*, Hungarian Helsinki Committee, December 2010, p. 52, available at <http://www.refworld.org/docid/4d6d26972.html>. Gábor Gyulai, *Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary*, Hungarian Helsinki Committee, January 2014, pp. 16-17, available at <http://www.refworld.org/docid/5310640b4.html>.

6. Hungary was first subject to the Universal Periodic Review at Session 18 of the First Cycle in July 2011. At this review, Ecuador recommended that Hungary “Recognize and guarantee the human rights of all foreigners, independent and regardless of their migratory status.”<sup>2</sup> Hungary did not accept this recommendation and replied that “The basic guarantee of the respect of the human rights of foreigners is in the Constitution of Hungary that requires respect of human rights of all persons regardless of their nationality” and that “Hungary is one of those few Member States of the European Union that provides protection in the form of a separate, autonomous legal status for [] stateless persons . . . —with this setting an example for other countries.”<sup>3</sup> As this submission reveals, while in many aspects Hungary is a model in its prevention of statelessness and protection of stateless people, there are still important shortcomings, the details of which are presented below.
7. The following recommendations, also relevant to the human rights of stateless persons were accepted by Hungary:
- 94.31. Establish and implement a comprehensive integration strategy for an early-stage integration of migrants, refugees and asylum-seekers (Poland);
  - 94.40. Adopt measures to combat discrimination and promote equal economic and social opportunities for disadvantaged and marginalized individuals and groups (Islamic Republic of Iran);
  - 94.41. Intensify efforts to combat all forms of discrimination to make effective the equality of opportunities and treatment among all inhabitants in its territory, with particular care and attention to women and children who are in the situation of more vulnerability... (Argentina);
  - 94.101. Continue the implementation of the measures to effectively protect minorities (Chile);
  - 94.103. Persevere in its policy of promotion and protection of the rights of minorities and vulnerable persons (Morocco);
  - 94.112. Improve the living conditions of asylum-seekers (Islamic Republic of Iran);
  - 94.113. Step up efforts directed towards the improvement of conditions and treatments of asylum-seekers and refugees (Belarus).
8. The following recommendation was examined by Hungary:
- 95.25. Reduce to the minimum possible administrative detention of migrants, asylum-seekers and refugees, and only use it in exceptional cases (Mexico);

### **Hungary’s International Legal Obligations**

<sup>2</sup> UN General Assembly, *Report of the Working Group on the Universal Periodic Review: Hungary*, A/HRC/18/17, 11 July 2011, Para 95.28.

<sup>3</sup> UN General Assembly, *Report of the Working Group on the Universal Periodic Review: Hungary, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/18/17/Add.1, 14 September 2011.

9. Hungary is a state party to both the 1954 Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness (1961). It is also a party to core human rights treaties that have provisions related to statelessness including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). Hungary is also a party to the European Convention on Nationality (1997) and is one of the few states in the world to operate a specific mechanism for the identification and protection of stateless persons.
  
10. Nevertheless, much remains to be done in order to ensure the complete and effective fulfilment of the country's international obligations relevant to statelessness. This submission focuses on some of these gaps in Hungarian law and practice, which result both in increasing the risk of new cases of statelessness in Hungary and in undermining the human rights protection of stateless persons in the country. In particular, this submission looks at:
  - Law and policy gaps related to the right of every child to acquire a nationality and the prevention of statelessness at birth;
  - The lack of basic substantive and procedural safeguards in naturalisation procedures;
  - Restrictions in access to the statelessness determination procedure and the non-provision of temporary status for applicants; and
  - Restrictions in access to socio-economic rights, in particular, the right to employment, housing, health care, and education for recognised stateless persons.

### **Insufficiency in the Prevention of Statelessness at Birth**

11. Hungary has the following international obligations with respect to the prevention of statelessness at birth:
  - Hungary shall ensure that all children born on its territory can exercise their right to a nationality, with particular attention to those children who would otherwise be stateless;<sup>4</sup>
  - Hungary shall provide for its nationality to be automatically acquired by foundlings found on its territory who would otherwise be stateless;<sup>5</sup>
  - Hungary shall provide for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality, either at birth or subsequently, to children who remained stateless, upon application (with the possibility to require maximum five years of habitual residence before submitting the application, no other conditions)<sup>6</sup> and the period in which persons concerned can lodge this application shall not start later than at the age of 18 years and shall not end earlier than at the age of 21 years;<sup>7</sup>

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<sup>4</sup> 1989 Convention on the Rights of the Child, Article 7.

<sup>5</sup> 1997 European Convention on Nationality, Article 6 (1) (b); 1961 Convention on the Reduction of Statelessness, Article 2.

<sup>6</sup> 1997 European Convention on Nationality, Article 2 (6) (b); 1961 Convention on the Reduction of Statelessness, Article 1 (2) (b).

<sup>7</sup> 1961 Convention on the Reduction of Statelessness, Article 1 (2) (a).

- The best interests of the child shall be a primary consideration for Hungarian authorities in dealing with all the matters above.<sup>8</sup>
12. In recent years, Hungary has taken significant steps in order to improve its legal framework concerning the prevention of statelessness at birth. However, Hungarian law does not establish a general safety net against statelessness at birth, according to which any child who would otherwise be stateless would acquire Hungarian nationality at birth. While foundlings automatically acquire Hungarian nationality, safeguards provided by Hungarian law with regard to other children fall short of fully complying with Hungary's international obligations of preventing statelessness at birth.<sup>9</sup>
  13. In order to prevent statelessness at birth, Hungarian law offers acquiring nationality automatically at birth or subsequently by declaration. That is to say, children who are not granted nationality immediately at birth still have a chance to acquire it later by declaration. Declaration is a non-discretionary process, which means that if the conditions are met, the Office of Immigration and Nationality (OIN) has to accept the declaration. If the OIN believes that the factual conditions are not met, it shall issue a motivated decision about the "rejection of accepting a declaration", against which legal remedy can be sought.<sup>10</sup> However, not only are there insufficient safeguards in the acquisition of nationality automatically at birth (detailed below), but the rules and conditions relating to the declaration are also too strict and in breach of obligations under international law.
  14. More specifically, in order to acquire Hungarian nationality by declaration, three conditions must be met. First, the parents must have a domicile<sup>11</sup> when the child is born.<sup>12</sup> This is contrary to the principle under international law, which says that no condition relating to the legal status of the parents or the child should be allowed.<sup>13</sup> Second, the child needs to have 5 years of residence with a domicile,<sup>14</sup> whereas 5 years of habitual residence is sufficient under international law.<sup>15</sup> Under international law, "habitual residence" is a matter of fact, rather than a specific legal status. Third, the children only have until their 19<sup>th</sup> birthday to exercise this right,<sup>16</sup> while international law stipulates that it should be open at least until the 21<sup>st</sup> birthday.<sup>17</sup>

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<sup>8</sup> 1989 Convention on the Rights of the Child, Article 3.

<sup>9</sup> Citizenship Act, Section 3 (3) (b). Since 2011, children born to an unknown father and a known mother whose identity is not proved and abandons the child in the hospital after birth are also treated as foundlings and thus automatically acquire Hungarian nationality.

<sup>10</sup> Citizenship Act, Section 5/A.

<sup>11</sup> The legal concept and eligibility for domicile will be discussed in more detail below. In brief, it is far more than a simple determination of where a person lives. Different rules are in force to distinguish three types of residence: domicile, place of stay, and place of accommodation, with gradually decreasing attachment to the place in question. Not all lawfully staying foreigners are permitted to register a domicile.

<sup>12</sup> Citizenship Act, Section 5/A (1) (b).

<sup>13</sup> See European Convention on Nationality (1997), Article 6 (2) (b). See also Convention on the Reduction of Statelessness (1961), Article 1 (2). The Committee on the Rights of the Child has also stated that the lack of a legal status of the parents – including their residence status - is not a relevant reason to withhold nationality to children born on the territory of a country, who would otherwise be stateless.

<sup>14</sup> Citizenship Act, Section 5/A (1) (b).

<sup>15</sup> See European Convention on Nationality (1997), Article 6 (2) (b). See also Convention on the Reduction of Statelessness (1961), Article 1 (2).

<sup>16</sup> Citizenship Act, Section 5/A (1) (a).

<sup>17</sup> Convention on the Reduction of Statelessness (1961), Article 1 (2) (a).

15. Three groups of children are at particular risk:

- children born in Hungary to stateless persons with no domicile;
- children born to parents who are unable to pass on their nationality to their children; and
- children born to beneficiaries of international protection who are unable to pass on their nationality to their children due to impossibility or prohibition to contact the authorities of the country of origin.

#### Children born in Hungary to stateless persons with no domicile

16. Only children born to stateless parents with a domicile obtain Hungarian nationality automatically at birth.<sup>18</sup> However, the concept of domicile is extremely restrictive, which hinders access to nationality. Only some groups of people are eligible for domicile.<sup>19</sup> Third-country nationals with a humanitarian residence permit, including those recognised as stateless persons and beneficiaries of a tolerated status,<sup>20</sup> and third-country nationals holding a non-permanent residence permit on grounds of employment, studies, research, family unity, among others, cannot register a domicile.<sup>21</sup> In comparison, third-country nationals with a permanent resident status<sup>22</sup> and refugees and beneficiaries of subsidiary protection are eligible to register a domicile.<sup>23</sup>
17. As a result, children born to stateless parents who do not have a domicile in Hungary will be born stateless, even if the parents are lawfully and habitually residing in Hungary at the time of the birth. The same happens to children whose stateless parents have a residence permit based on employment or studies, or who hold a tolerated status. The right to a nationality of a child born to stateless parents who have been living in Hungary for several years with a stateless status (and therefore *without* a domicile) is no different from that of another child whose parents have been living in the country for exactly the same period of time, but with a permanent residence permit or refugee status (and therefore *with* a domicile). Consequently, the restrictive and discriminatory use of the domicile concept as a condition for the avoidance of statelessness at birth does not only undermine the overall purpose of avoiding statelessness, but also leads to further discrimination.
18. In addition, this gap is not bridged by the option of subsequent declaration. The first condition under declaration, that the parents must have a domicile when the child is born, makes the option of declaration void for children who did not receive Hungarian nationality at birth because their parents did not have a domicile. If they had a domicile at the birth, the children would automatically have acquired nationality. Therefore, the children whose parents did not have a domicile at the birth will also be automatically excluded from the acquisition of nationality through declaration.

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<sup>18</sup> Citizenship Act, Section 3 (3) (a). Law Decree 17 of 1982 on Civil Registration, Marriage and Names, Section 9 (7), as inserted by Section 1 (4) of Act XLIX of 2011 and amended by Section 78 (3) of Act XCII of 2011. Note that Section 61 (5) of Act I of 2010 on Civil Registration Procedures contains an identical provision.

<sup>19</sup> Citizenship Act, Section 23 (1). Act LXVI of 1992 on the Registration of Citizens' Personal Data and Residence, Section 4 (1).

<sup>20</sup> See Act II of 2007 on the Entry and Stay of Third-Country Nationals, Sections 29 (1) (a)-(b). 52/A (1).

<sup>21</sup> See *Id.*, Sections 13-29.

<sup>22</sup> Cf. *Id.*, Section 32 (1).

<sup>23</sup> Cf. Act LXXX of 2007 on Asylum, Section 17(1).

### Children born to parents who are unable to pass on their nationality to their children

19. Another gap in Hungarian law which can result in the failure to prevent statelessness at birth arises from the fact that the law does not envisage situations in which parents who have a nationality may not be able to pass it on to their children, particularly when born abroad. This may happen for various reasons including gender discrimination in nationality laws in some countries, which do not allow mothers to pass on their nationality to their child under the same conditions as fathers.<sup>24</sup> In this case, if a child is born to a mother with nationality of one of those countries and if the father is stateless, unknown or unwilling to cooperate, the child will be born stateless in Hungary and no safeguard will apply to her/him.
20. Obtaining nationality through the process of declaration can, in some cases, provide a solution. However, the restrictive application of the concept of domicile is likely to exclude a significant portion of those most in need of the safeguard. As already stated above, parents will only be able to establish a domicile in Hungary if they have already obtained a permanent resident status, subject to strict material conditions, or if they are refugees or beneficiaries of subsidiary protection.

### Children born to beneficiaries of international protection who are unable to pass on their nationality to their children due to impossibility or prohibition to contact the authorities of the country of origin

21. In addition to the situation where the country of origin has legal provisions that do not allow nationals to pass on their nationality to their children under certain circumstances, children born to beneficiaries of international protection in Hungary also face the challenge of being stateless at birth. This is because their parents may have a well-founded reason for not contacting the authorities of their country of origin to establish and register the nationality of their children after birth. For example, such contact may expose them to a risk of persecution or serious harm and even lead to the cancellation of their protection status. Hungary has not taken sufficient consideration of this situation when designing laws to prevent statelessness at birth.
22. This impossibility or prohibition of contact applies to cases in which the transmission of nationality to children born abroad is not automatic; but it can also apply to cases in which it is automatic. In the former scenario, the children will not be able to acquire their parents' nationality, as transmission is subject to conditions that require contact with the authorities of the country of origin. In the latter scenario, while the children will, as a matter of legal principle, acquire their parents' nationality at birth, this would not translate to actual documentation of nationality. Furthermore, it is possible that the competent authorities in the country would question or not recognise the nationality of children born abroad to refugees. This places the child at significant risk of statelessness.
23. Again, declaration is not always a viable solution for this group of children to obtain Hungarian nationality. First, if the parents only have a tolerated status or are still in an asylum procedure, they are not allowed to establish a domicile. Second, it is not guaranteed that even if the parents have a domicile at the time of the birth that the child will continuously have a domicile in Hungary for 5 years, as their subsidiary protection status may cease and the family may be granted tolerated status, not allowing for the establishment of a domicile.

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<sup>24</sup> For the list of countries, see UNHCR, Revised Background Note on Gender Equality, Nationality Laws and Statelessness, 8 March 2013, available at <http://www.refworld.org/docid/4f59bdd92.html>.

## Lack of Most Basic Safeguards and Transparency in the Naturalisation Procedures

24. Under its international obligations, Hungary shall as far as possible facilitate the assimilation and naturalisation of stateless persons. In particular, it shall make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.<sup>25</sup>
25. The possibility of naturalisation does not offer a solution to the inadequacies of the provisions intended to prevent of statelessness at birth (addressed above). However, stateless persons and persons born in Hungary can apply for naturalisation after continuously residing in Hungary with a domicile for a minimum of 3 years, which is a favourable treatment as compared to the general rule, requiring a minimum of 8 years of residence with a domicile.<sup>26</sup> Nevertheless, naturalisation procedures set very difficult material conditions and lack even the most basic fair procedure safeguards. There are no clear thresholds for the material conditions set by the law (livelihood and accommodation). Rejected applicants have no right to be informed about the reasons of the rejection, nor are they entitled to appeal the decision.<sup>27</sup> Furthermore, the domicile requirement disadvantages stateless persons, as their statelessness status does not make them eligible for domicile. There is also a general lack of detailed statistical data from the government concerning the access to Hungarian nationality through naturalisation, of beneficiaries of international protection and stateless persons. As a result, due to lack of transparency or any judicial scrutiny, decisions on naturalisation are often taken in a questionable manner, rejecting candidates who apparently fulfil all conditions, with a specific negative impact on refugees and other beneficiaries of international protection, who have been rarely able to successfully naturalise in Hungary.<sup>28</sup>

## Restrictions on Access to the Statelessness Determination Procedure and Lack of Temporary Status for Applicants

26. Under UNHCR's interpretation of the 1954 Convention Relating to the Status of Stateless Persons, everyone must have access to statelessness determination procedures in Hungary, as there is no basis in the Convention for a "lawful stay" requirement.<sup>29</sup>

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<sup>25</sup> 1954 Convention Relating to the Status of Stateless Persons, Article 32.

<sup>26</sup> Citizenship Act, Section 4 (2) (e).

<sup>27</sup> Citizenship Act, Section 6 (2); Government Decree 125/1993 (IX.22.) on the implementation of Act LV of 1993 on the Hungarian Citizenship, Sections 4 (2) and 12 (1). Upon accession, Hungary made reservations with regard to the relevant Articles 11 and 12 of the European Convention on Nationality (1997).

<sup>28</sup> See relevant statistics and a demonstrative case study in Gábor Gyulai, *Nationality Unknown? An Overview of the Safeguards and Gaps Related to the Prevention of Statelessness at Birth in Hungary*, Hungarian Helsinki Committee, January 2014, pp. 16-17, available at <http://www.refworld.org/docid/5310640b4.html>.

<sup>29</sup> See UNHCR, *Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons* (2014), para. 69, available at <http://www.refworld.org/docid/53b676aa4.html>; UNHCR, *Guidelines on Statelessness No. 2: Procedures for Determining Whether an Individual Is a Stateless Person* (2012), para. 17, available at <http://www.refworld.org/docid/4f7dafb52.html>; European Network on Statelessness, *Statelessness Determination and the Protection of Status of Stateless Persons* (2013), Section III.1, available at <http://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20determination%20and%20the%20protection%20status%20of%20stateless%20persons%20ENG.pdf>.

27. For many years in Hungary, only lawfully staying persons could initiate a statelessness determination procedure, rendering the process almost meaningless, as stateless persons typically have no or extremely limited access to personal documents and most stateless people in need of international protection may face insurmountable difficulties to fulfil the very strict material conditions for a lawful entry and stay in Hungary. However, the Hungarian Constitutional Court, in a decision in February 2015, held that the “lawful stay” requirement in the statelessness determination procedure is unconstitutional. This is a positive development in the protection of stateless persons, which brings the Hungarian procedure into compliance with international standards on this issue. The requirement is scheduled to lose effect on 30 September 2015.<sup>30</sup>
28. While the above positive development is a step in the right direction, it exposes another gap in the law and policy framework, which if not addressed, would undermine the rights of stateless persons. Prior to the Constitutional Court decision, all stateless persons without a legal status were excluded from protection. However, after this judgment takes effect, persons lacking a legal status will be eligible to apply to be recognised as stateless but may in the process be vulnerable to detention, destitution and expulsion. In order to avoid this situation, all applicants under the procedure should be granted temporary legal status, in compliance with the guidance provided in the UNHCR Handbook on Protection of Stateless Persons. At a minimum, the status must guarantee identity papers, the right to self-employment, freedom of movement, and protection against expulsion. UNHCR also recommends that applicants receive the same standards of treatment as asylum-seekers whose claims are being considered. In addition, the status must reflect applicable human rights, such as the protection against arbitrary detention and assistance to meet basic needs. In particular, allowing applicants to engage in wage-earning employment, even on a limited basis, is beneficial to Hungary as it may reduce pressure on resources and contribute to the dignity and self-sufficiency of the applicants.<sup>31</sup>

### **Restrictions on Access to the Labour Market and other Socio-Economic Rights of Recognised Stateless Persons**

29. Under its international obligations, Hungary shall accord to stateless persons the right to employment, housing, health care, and public education as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.<sup>32</sup> These obligations under the 1954 Statelessness Convention are further strengthened and shaped by Hungary’s obligations under the International Covenant on Economic, Social and Cultural Rights.
30. Recognised stateless persons have only limited access to the labour market, which imposes a substantial obstacle to the successful employment and integration of stateless persons. Stateless persons must obtain a work permit prior to their employment, but the procedures and conditions to receive such permits are particularly burdensome. First, a work permit can only be issued to stateless persons if there is no

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<sup>30</sup> See <http://www.statelessness.eu/blog/hungarian-constitutional-court-declares-lawful-stay-requirement-statelessness-determination>.

<sup>31</sup> See UNHCR, *Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons* (2014), paras. 144-146, available at <http://www.refworld.org/docid/53b676aa4.html>.

<sup>32</sup> 1954 Convention Relating to the Status of Stateless Persons, Articles 17-24.

suitable Hungarian or EEA-citizen applicant for the same post.<sup>33</sup> Moreover, the validity of a work permit cannot exceed the validity of the residence permit, which is now three years at first issuance, but has to be renewed on a yearly basis once the first three years have expired.<sup>34</sup>

31. While three years is already an improvement from the previous one-year validity at first issuance,<sup>35</sup> the differentiation between the validity periods of three years at first issuance and one year upon renewal under the current law does not make any logical sense. It is true that after three years, stateless persons can apply for permanent residence. However, in order to do so, they need to fulfil a number of difficult material conditions. Given the limited validity of the humanitarian residence permit and the usual procedural delays of at least several months, most employers refrain from this lengthy and cumbersome procedure applying for work permits for recognised stateless persons (or other foreigners with a similar type of residence permit).<sup>36</sup>
32. Problems related to work permits are exacerbated by the importance of the concept of 'domicile' within the Hungarian system, and the restrictions stateless people face in being eligible for domicile. As discussed above, this has a clear impact on the right to a nationality of the otherwise stateless children of stateless parents in Hungary. It has a further impact on their enjoyment of socio-economic rights. The lack of protection that ensues, undermines the potential of Hungary's statelessness determination procedure to serve as a framework through which vulnerable stateless persons can access and enjoy their human rights. For example, stateless persons are excluded from public health care services (such as pre-natal and maternity care) because they are ineligible to apply for a domicile.<sup>37</sup>
33. The Hungarian law and policy framework does not provide any accommodation arrangements or housing allowances for stateless persons, whereas refugees and beneficiaries of subsidiary protection and those granted any other non-EU-harmonised protection status (tolerated stay, victims of trafficking, etc.) are entitled to such assistance.<sup>38</sup>
34. With respect to health care, stateless persons are also discriminated against compared to other beneficiaries of international protection. For the reasons explained above, they usually lack access to gainful employment that would allow them to become eligible for general public health insurance included in social security services or to pay for private health care insurance or services. Without employment, they can only benefit from basic public health care services, the scope of which is very limited.<sup>39</sup>

## Recommendations

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<sup>33</sup> Decree 8/1999 (XI. 10.) of the Ministry of Social and Family Affairs on the Employment of Foreigners in Hungary, Section 3 (1)-(2).

<sup>34</sup> Act CXXXV of 2010 on the Amendment of Certain Acts Related to Migration, Section 41.

<sup>35</sup> Aliens Act, Section 29 (2) (a)-(b).

<sup>36</sup> In general, see Gábor Gyulai, *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*, Hungarian Helsinki Committee, December 2010, p. 32, available at <http://www.refworld.org/docid/4d6d26972.html>.

<sup>37</sup> Act CLIV of 1997 on Health, Section 142 (3).

<sup>38</sup> Id. at pp. 31-32.

<sup>39</sup> Act CLIV of 1997 on Health, Section 142 (2)-(3).

35. The co-submitting organisations note that despite some positive steps taken by Hungary in recent years to improve its legal framework concerning the prevention of statelessness and the protection of stateless persons, there are still important shortcomings in the legislative framework and the practice of authorities.
36. The Human Rights Council has stated that “[t]he second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review”.<sup>40</sup> Hungary has not accepted, or has accepted but failed to adequately address various relevant recommendations under the first cycle. The recommendations below, build on previous state recommendations but also introduce new recommendations related to protecting the human rights of stateless persons and the right to acquire a nationality for all persons in Hungary:
- I. The domicile condition should be eliminated in order to bring Hungary’s law in full compliance with Article 7 of the Convention on the Rights of the Child, by ensuring that all children born in Hungary, who would otherwise be stateless, acquire Hungarian nationality automatically at birth.
  - II. The conditions related to the acquisition of Hungarian nationality by declaration should be modified to comply with international law. The requirement of the parents having a domicile at the time of the birth and the requirement of the child living in the country with a domicile for 5 years should both be eliminated. Furthermore, the acquisition of Hungarian nationality through declaration should be permissible at least until the 21<sup>st</sup> (instead of the 19<sup>th</sup>) birthday of the applicant, but ideally, with no age limit prescribed.
  - III. Statistics related to the application of the declaration provision should be maintained and published. This statistical information should include disaggregated data on the number of claims submitted, as well as the number of positive and negative decisions.
  - IV. Transparency in naturalisation procedures should be increased. Grounds for rejection must be clearly stated. Statistics about the naturalisation claims of refugees, beneficiaries of subsidiary protection and tolerated status, as well as stateless persons should be published. This statistical information should include data about the number of claims, as well as the number of positive and native decisions, disaggregated according to the nationality and legal status of the applicant.
  - V. The Hungarian government should comply with the Constitutional Court’s ruling on the unconstitutionality of the “lawful stay” requirement for applicants of stateless status. Hungary should provide unhindered access to the statelessness determination procedure and create a specific temporary status for applicants, in line with the relevant recommendations in the UNHCR Handbook.

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<sup>40</sup> Human Rights Council, *Resolution 16/21: Review of the work and functioning of the Human Rights Council*, UN Doc. A/HRC/RES/16/21, April 2011, Annex 1, Para 6.

- VI. Recognised stateless persons should have unrestricted access to the labour market, including the possibility to be employed without a work permit (similarly to recognised refugees).
- VII. The validity of the residence permit after the first three years should be extended (if conditions are fulfilled) to further three-year periods instead of to be renewed every year.
- VIII. Recognised stateless persons should have at least the same favourable treatment as other beneficiaries of international protection in all aspects of their enjoyment of socio-economic rights, especially housing, health care, education and integration support. Stateless persons should automatically establish domicile, similarly to refugees.