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## **Problems and prospects for reducing statelessness in the Republic of Kazakhstan**

The article discusses the problematic issues of legal regulation and statelessness reducing practice in the Republic of Kazakhstan. Statelessness reduction is considered as a political, economic, and legal process that is important for the legal state, in which universal standards in the citizenship sphere are implemented. The research purpose is a comprehensive analysis, theory and practice synthesis of reducing statelessness in Kazakhstan, as well as identifying the problems of reducing statelessness legal regulation and developing ways to solve them. The research is carried out by general scientific and special legal methods, theoretical provisions and legal norms analysis and generalization. The statelessness reduction is considered as a political phenomenon with a legal form. On the comparative legal method basis, the main trends in the development in “reduction of statelessness” institution at the present time are revealed. The main result of the research is the provision on the need to improve legal measures aimed at reducing statelessness in Kazakhstan legislation. To conclude, it is proposed to supplement the family law legal norms, legislation on citizenship and by-laws that determine the stateless person legal status.

*Keywords:* Kazakhstan, stateless, statelessness, legal status, legislation, statelessness reduction, citizenship acquisition.

### *Introduction*

The statelessness research is relevant at the present time, as this phenomenon is becoming more common and has serious consequences for people in this situation. Statelessness occurs when a person is deprived of his or her nationality and, consequently, his or her fundamental rights and the guarantees that are associated with it. Statelessness affects on millions people around the world. They are deprived to education, health care, employment and other basic services access. These individuals are vulnerable to discrimination and violence, as they often do not have the law protection and may be excluded from the state support system. The statelessness research helps to determine this problem scale and identify the causes that lead to statelessness. This can be due to various factors such as conflicts, xenophobia, citizenship improper regulation, and even problems with citizenship registration systems. It was important to explore effective ways to address the problem and protect the stateless person’s rights. Statelessness research can be useful for governments, non-governmental organizations, and activists to develop more inclusive policies, laws, and programs that provide protection and support to stateless people. In addition, these studies can help to raise awareness the problem and draw the international community attention the need to address it. Thus, the statelessness research is relevant and important for understanding the problem scale, developing effective solutions and protecting the rights and people dignity in a statelessness situation.

Citizenship has a great importance and benefit to a person. It provides the citizen with certain rights and privileges, as well as responsibilities to the state. One of the main citizenship benefits is the individual rights and freedoms protection. Citizens have the right to expression freedom, residence place choice, participation in elections and influence on the country political life. They also enjoy the fullest extent of state protection and justice if their rights are violated. Citizenship provides access to social guarantees and privileges. Citizens have the opportunity to receive government benefits, medical care, education and other social benefits. They may also participate in Social Security and the pension system. In addition, citizenship opens doors to various opportunities. Citizens are entitled to a foreign passport, making it easier to travel and work abroad. They can also participate in various international cooperation programs and receive support from their state.

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However, it should be remembered that citizenship also carries with it certain responsibilities. Citizens must comply with the laws of the country, pay taxes, and perform military or alternative service, if required by law. They must also participate in the political and social life of the country, respecting its values and norms. Thus, citizenship is an integral part of a person's personal and social identity and provides a number of legal and social benefits. It helps a person feel protected and connected to a certain state.

Lack of citizenship and lack of nationality and statehood recognition, carries with it a number of serious disadvantages. Firstly, a stateless person is deprived many rights that citizens at any state usually enjoy. He generally has limited rights to protection from his state, including access to justice, health care and education. This makes stateless people vulnerable to various forms of human rights violations. Secondly, lack of nationality limits the freedom of movement of stateless people. They may face barriers when trying to cross a border or obtain a visa in another country. Without a passport or another form of identification, they cannot legally travel or work, which creates additional difficulties for their livelihood. A third disadvantage is that stateless people are often denied access to basic social services such as social security and unemployment assistance. This can lead to poverty and social exclusion. In addition, stateless persons may be vulnerable to exploitation and illegal employment, as it is difficult for them to take advantage of the rights provided by law. Finally, stateless status is often accompanied by psychological discomfort and a feeling of not belonging. Lack of connection to a particular people or state can cause loss feelings and identification difficulties. This can have a negative impact on the mental well-being of the stateless person. In general, stateless status has serious negative consequences that limit the rights, freedoms and people opportunities, as well as causing discomfort and social exclusion. This is a problem that requires attention and international efforts to solve it and protect the stateless people rights.

According to information provided by the UN refugee agency, the total number of stateless persons in the Central Asian region on December 2021 is 56,800 people. According to UNHCR Central Asia, as of June 2022, 49230 people are stateless, including 7558 persons in Kazakhstan, 482 persons in Kyrgyzstan, 31829 persons in Uzbekistan, 4463 persons in Turkmenistan, and 4898 persons in Tajikistan who are stateless [1]. Most of these persons are former citizens of the Soviet Union who have not yet formalized their relations with any state.

There are two categories of stateless persons. These are documented and undocumented stateless persons. These are terms that refer to people who are within the certain country territory, but do not have the country citizenship. Documented stateless persons are people who are in the country legally and possess some document confirming their legal status. They may be holders of a residence permit, temporary residence permit or other document issued by the host country. Undocumented stateless persons, on another hand, are in the country illegally and do not have any documents confirming their legal status or right to stay. These people may enter the country illegally, violating immigration laws, or their status in the country may expire or be revoked, leaving them unable to legalize themselves.

Child statelessness stands out as a separate problem. Child statelessness is a situation where a child is stateless or unable to establish his or her nationality. This phenomenon arises for various reasons, such as incomplete documentation of childbirth, migration, conflicts and wars, bureaucratic obstacles, or improper application of legislation. The child statelessness problem remains relevant, and its solution requires concerted efforts on the part of States, international organizations and civil society. It is important that children receive the necessary documentation, access to education and health care, and protection from discrimination and violence.

The research relevance to solve the problem that only the citizenship of one state is recognized in the Kazakh legislation. At the same time, the practice of determining the person status that does not have another country citizenship is at the formation stage. Kazakh citizenship determines the person status who is in political and legal ties with the state [2]. The problem is the requirement of proof that the stateless person is not any other country citizen. The law and its derivatives do not define the procedure for determining the countries from which it is required to confirm that the person has no legal connection with them. For example, a stateless person must prove by providing answers to inquiries that he is not other countries citizen, the circle of them is not specified.

The main research purpose to understand and analyze the problem associated with the lack of citizenship status in some people. Research on statelessness aims to elucidate the causes and this phenomenon consequences and to develop practical recommendations to enhance the protection of the stateless persons rights and social integration. They also help society and the international community to better understand the magnitude and nature of the statelessness problem in order to develop effective ways to address it. Studies may

address statelessness aspects such as its legal regulation, the obtaining and losing citizenship processes, the social and stateless citizens economic situation, as well as problems related to discrimination and violation of these people rights. Ultimately, the statelessness research goal is to create a more just and inclusive society where everyone has the right to citizenship and their rights protection.

The research objectives are the issues aimed at achieving the research goal:

- Legislation analysis containing provisions on citizenship and statelessness.
- The legal norms comparison contained in the legislation with the by-laws.
- Inconsistencies identification between the national law legal norms relating to stateless persons and universal international standards and UNHCR recommendations.
- Proposals development aimed at harmonizing legal relations in the reducing the stateless persons number field.

Gaps are identified in the modern law theory, current law and law enforcement practice. These gaps are caused by conflicts in the law theory, gaps in different levels legal norms and low legal culture of persons entering into legal relations connected to statelessness. Deficiencies in the undocumented statelessness elimination are due to the lack of such persons registration, that is, they are essentially invisible to the authorities. This aspect does not allow us to deal with this problem effectively. At the same time, at present, a fairly large number of people do not have citizenship. At least that's about ten million people worldwide [3]. Stateless persons without registration and documents, as a rule, are deprived at basic rights and, accordingly, are not included in the state support sphere.

#### *Methodology and research methods*

To achieve objectivity, completeness and comprehensiveness of the research results, the general scientific and special methods cognition set was used. Their use is conditioned by a systematic approach, thanks to which the reducing statelessness problems are considered in their theoretical unity and systemic interconnection.

The research methodological basis is a scientifically grounded approach to the problem research of citizenship reduction legal regulation, when documenting stateless persons and the prospects for overcoming these problems.

In carrying out the research, private scientific methods were used. Using the sociological method, a social factors set that are outside the law scope is considered. These factors have a great influence on the citizenship legislation implementation by persons who do not have citizenship of any state. Using the comparison method in conjunction with general scientific analogy and generalization methods, the general and specific in the statelessness field were identified. The formal legal method and comparative legal methods were used in the legal norms analysis, international standards and UNHCR recommendations. Based on analysis and generalization, legal regulation shortcomings in family legislation, citizenship legislation and by-laws have been identified. Through the legal hermeneutics method, new approaches to the legal definitions development in the field of reducing statelessness are being developed.

#### *Results*

As the research result, the following was revealed:

Kazakhstan's activities to reduce statelessness are guided by the "Global Action Plan to End Statelessness for 2014–2024." This plan was developed by the UN High Commissioner for Refugees. The activities that are enshrined in this plan act as basic guidelines for all countries of the world [4]. Our country also considers this plan as the main guideline in this matter. UNHCR conducted a study of the provisions of domestic legislation. This study identified five key findings and recommendations related to stateless persons.

1) The current legislation does not fully ensure the implementation of the stateless person legal status. The stateless person definition is not fully established in laws and regulations. The 1954 Convention relating to the Status of Stateless Persons defines a stateless person differently. This is a person who, in accordance with the legislation of the country, is not considered as this state citizen or any other state. The national law on the legal status of foreigners establishes a provision for recognizing stateless persons in the absence of any evidence of another state citizenship. In practice, this provision is not applied literally. UNHCR notes that there has been poor practice in this law use. Official bodies require confirmation that the person has provided evidence that he is not another state citizen. This is contrary to the established provisions in the convention, which provide that a person must not have evidence of another state citizenship. Accordingly, the obligation to provide evidence is assigned to this person, which contradicts the convention meaning [5].

Based on the Law on the Legal Status of Foreigners provisions, a stateless person must not have his belonging evidence to another state citizenship [5]. It should be noted that the requirement to provide evidence of another citizenship absence is enshrined in the Rules for determining the legal status of persons located on the country territory [6]. These rules enshrine the provision that persons located on the territory who are not citizens and do not have proof of their citizenship of another state are recognized as stateless persons. In the second chapter, regulating the procedure for granting stateless status, in paragraph four, the following provisions are established:

- Persons residing without identity documents or with a passport of the 1974 model additionally provide a document confirming their residence in the country. These are, for example: a registration book, an apartment card, an archival certificate-extract from the household book, a diploma, a certificate, a military ID, a certificate from an educational institution, an employment record book, a birth certificate or another document identifying the identity of the applicant and other documents.

- Persons with permanent registration, who have renounced citizenship or foreign state citizenship, additionally submit a document confirming the absence or termination of another state citizenship, issued by the competent authority of the relevant state.

- Persons who do not have permanent registration in the country and have resided in the country for more than five years. These persons additionally provide proof of the absence or termination of another state citizenship. This confirmation must be formalized by the foreign state relevant authorities [6].

The seventh paragraph of these rules stipulates that if it is impossible to consider an application due to the lack of a response from the competent authorities of a foreign state, the consideration is suspended for up to six months. After six months, in the responses absence from the foreign state competent authorities, the decision is made without responding to the request. The following paragraphs of the Rules stipulate that after all the necessary measures have been taken, a reasoned conclusion in any form shall be issued, in which the verification data characterizing the applicant shall be set out in detail, and approved by the head of the Police Department or his deputy, who shall be attached to the registration file. In case of a positive consideration of the application, the applicant is issued an assignment certificate of the stateless person status, which is the basis for issuing a stateless person certificate. In case of establishing the documents inaccuracy, or the inconsistency of the materials submitted, or the provision by the applicant of knowingly false information about himself, the assignment of the stateless person status is refused. The applicant is notified in decision in a written form [6]. These provisions need to be specified and supplemented.

2) UNHCR's second recommendation, on the stateless persons' legal status, aims to ensure universal access to birth registration. In monitoring family legislation in the area of birth registration, UNHCR and its partners have identified obstacles and a lack of uniform practices in the regions of the country with regard to the births documentation. It has been documented that children born to undocumented parents are not always issued with medical birth certificates. In a small cases number, there is no "mark" in these documents that the information about the mother was provided by the mother in labor [5]. Also, an important aspect is the absence in Article 187 of the Family Code [7] of a legal mechanism for registering the birth of children born to parents who do not have any documents and whose child was born outside a medical institution. In our opinion, this legal gap should be filled by supplementing the provisions of Article 187 of the Family Code.

3) The third recommendation of UNHCR is the desire to strengthen the rights of unknown parents child born. The 1961 Convention defines them as "foundlings", children born to officially recognized stateless persons and children born abroad to residents permanently residing in Kazakhstan. The 1961 Convention establishes the need to grant citizenship to all children born within the country's territory if they would otherwise become stateless. Based on the provisions of this Convention, this legal guarantee should not be combined with any additional conditions, such as the place of residence of the parent. It is recommended to prevent statelessness in cases of renunciation, loss or citizenship deprivation. In these cases, it can be strengthened by the provision that deprivation, withdrawal, loss of citizenship should not lead to statelessness. Such a provision would be even more desirable if the children are affected by a change in the parent's citizenship status [5]. Considering the proposals of the UNHCR on the need to strengthen guarantees to prevent statelessness, it should be noted that Article 14 of the Law on Citizenship establishes the rule that in the event of the child birth on the country territory, stateless persons with permanent residence in the country are a Kazakh citizen [2]. In our opinion, this article needs to be supplemented.

4) UNHCR's fourth recommendation is to modernize the establishing statelessness process in identifying persons who fall within this definition. This is necessary to provide them with rights and protection. At the same time, it is noted that Kazakh legislation allows stateless persons to apply and formalize the stateless

person status. This will give them the right to live and work legally, receive public services and healthcare. Documentation as a stateless person entitles you to citizenship on a general basis. In addition to these provisions, which are in line with the standards of the 1954 Convention, UNHCR stands ready to support Kazakhstan in the practical procedural safeguards implementation, such as the right to an interview, access to legal aid and the right to appeal against negative decisions in accordance with the Code of Administrative Procedure [5]. It should be noted that the additional guarantees and conditions creation aimed at reducing statelessness requires the modernization of legislation and its use practice.

5) UNHCR's fifth recommendation is to facilitate and expedite the stateless persons naturalization in accordance with the 1954 Convention. At the same time, it is noted that a reduction in the residency requirement or a reduction in fees will bring national legislation into full compliance with national legislation in full compliance with international standards [5]. It should be noted that, in accordance with the constitutional provisions and the norms of sectoral legislation, stateless persons are equated with foreigners.

#### *Discussion*

The provisions and conclusions research presented in scientific publications allows us to state that insufficient attention is paid to the reducing statelessness problem in our country. Recently, there have been publications on this problem that touch upon certain aspects of the field under research. For example, Taitorina B.A., Balgimbekova G.U. considered the reducing statelessness problems in Kazakhstan in the integration processes context. Based on the research results, proposals were made aimed at reducing statelessness [8; 41–47]. In her research, Seytaeva Zh.S. examines the causes of the emergence and eradicating statelessness ways. The article discusses the regulatory framework and makes a proposals number for the legislation modernization [9]. The reducing statelessness problems have been addressed in other countries as well. For example, N.G. Tykotskaya in her research considered the legal mechanisms for preventing and reducing statelessness in the Republic of Belarus [10; 30–35]. Plyugina I.V. investigated the status of stateless persons and the reduction of statelessness in Russia through a review and generalization in Russian scientists' scientific publications in this field [11; 111–117]. In general, the problems of reducing statelessness are considered in the context of improving legislation on citizenship. At the same time, the problems of reducing statelessness are considered in scientific publications, mainly through the legislation analysis and the practical proposals development for improving legislation on citizenship and statelessness.

The current version analysis of the Kazakh legislation on citizenship [2] is aimed at identifying the legal regulation shortcomings. The lack of detail in the admission process to citizenship in by-laws can be considered as an obstacle to the reduction of citizenship. These shortcomings have a negative impact on the social relations regulation in the statelessness field. It seems necessary to supplement and modernize by-laws in this area.

In the discussions course on the statelessness reduction in our country, various factors influencing this process are considered. Accession possibility issues to the conventions on the statelessness reduction are being discussed. For example, on September 30, 2022, the Commissioner for Human Rights, the Government of the Republic, the UN Refugee Agency and UNHCR discussed the possibility of improving the situation in reducing statelessness. Participants discussed progress and challenges in eradicating statelessness. The significance, consequences and Kazakhstan's accession various aspects in the 1954 Convention and the 1961 Convention were considered [12]. These conventions are recognized as basic universal international instruments aimed at eliminating statelessness. In 2023, on May 30, a round table was held in Almaty, which was attended by representatives of our country, Kyrgyzstan, Uzbekistan, Tajikistan, Turkmenistan and international experts from the UN. The round table addressed issues related to the problems of identifying, reducing and preventing statelessness [13].

Discussions about the need to attract various means aimed at eliminating the statelessness phenomenon lead to the importance of the need to accede to the conventions on the statelessness elimination. Public opinion is being formed on the need for our country to accede to the 1954 Convention relating to the Stateless Persons Status and the 1961 Convention on the Statelessness Reduction. Ratification of these conventions provisions is intended to improve the stateless persons' situation. Accession to these conventions would reaffirm our country's commitment to the goals and objectives of the Global Action Plan for the Statelessness Elimination [4]. At the same time, the international norms entire range in the statelessness field, together with standards in the human rights field, should be used.

The 1954 Convention is dedicated to establishing minimum standards for the stateless persons treatment by the state. These include the right to education, employment, housing and other opportunities. An im-

portant aspect of this convention is the provision of guarantees to stateless persons for the issuance of travel and identity documents. The provisions of the 1961 Convention establish the international framework for ensuring and realizing the right of everyone to a nationality. On the basis of the provisions of this Convention, all countries should modernize their legislation in prevention terms [4]. On the basis of the research, it is worth noting the progressive development of ideas on reducing statelessness. This requires the formation of a legal culture of the entire society in the field of understanding citizenship as a set of rights, duties and responsibilities in the public legal relations field.

Continuation of scientific research aimed at improving legislation should create conditions for reducing the number of stateless persons. It is important to continue to take measures to improve the legal culture of citizens in order to form an understanding of citizenship as a legal relationship in which a person is in a continuous relationship with the state. At the same time, not only the legal nature of this relationship is of great importance, but also the political component of citizenship, which determines the existence of the state in the form of a republic. In this case, the role and significance of stateless persons requires further research and development. In the course of scientific discussions, attention should be paid to the legal status of stateless persons and foreigners residing in the country or staying in it temporarily. This is necessary to determine the legal nature of their relationship to their place of residence or location.

### Conclusions

Thus, based on the research, in order to create conditions for reducing statelessness, we consider it appropriate to propose the following:

- It seems necessary to modernize the Rules for Determining the Persons Legal Status Staying in the Country [6]. In our opinion, the procedure for sending inquiries and letters to the other states competent authorities should be regulated. Detail the procedure for considering these bodies responses and the procedure for making a decision on granting the stateless person status in the absence of a response from the foreign state competent authorities.

- Article 187 of the Family Code should be supplemented with provisions guaranteeing the registration and documentation of a newborn child in the event of his or her birth outside a medical organization. The medical birth certificate must be issued by the responsible medical professional according to the mother. This is an employee of the organization where the mother applied after childbirth. These provisions are intended to provide additional guarantees for the registration and documentation of births.

- It is proposed that Article 20 of the Law on Citizenship should be supplemented with a provision stating that “renunciation of Kazakh citizenship is not allowed if the person applying for renunciation becomes a stateless person”. This will create additional conditions for reducing statelessness.

- The provisions of Article 22 of the Law on Citizenship should be supplemented with guarantees that in the process of changing the citizenship of a child under the age of 14, in the event of a change in the citizenship of the parents, his citizenship should not change, if the child may become a stateless person.

- It is necessary to strengthen organizational measures to increase the stateless persons awareness about their rights in the citizenship field. In our opinion, the obligation to provide the fullest possible information on the exercise of rights and obligations to persons in respect of whom the procedure for determining the alleged stateless person legal status is being carried out or will be carried out. This obligation should be enshrined in the Rules for determining the persons legal status who are in the territory of Kazakhstan and who are not a citizen of the republic and do not have proof of belonging to another state citizenship.

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## Қазақстан Республикасында азаматтығы жоқтықты азайту мәселелері мен перспективалары

Мақалада Қазақстан Республикасында азаматтығы жоқтықты азайту тәжірибесі мен құқықтық реттеудің маңызды мәселелері қарастырылған. Азаматтығы жоқтықтың азаюы азаматтық саласындағы халықаралық стандарттар имплементацияланатын құқықтық мемлекет қалыптастыру үшін маңызды мәнге ие, яғни саяси, экономикалық, құқықтық үрдіс ретінде зерттелген. Қазақстан Республикасының құқықтық нормаларында және халықаралық стандарттарда бекітілген азаматтығы жоқтықты азайтудың ерекшеліктеріне талдау жүргізілді. Зерттеудің мақсаты — Қазақстанда азаматтығы жоқтықты азайтудың теориясы мен тәжірибесін кешенді талдау арқылы, азаматтығы жоқтықты азайтуды құқықтық реттеу мәселелерін анықтау және оларды шешу жолдарын әзірлеу. Зерттеу жалпы ғылыми және арнайы құқықтық әдістер арқылы, теориялық ережелер мен құқықтық нормаларды талдау және жалпылау, яғни оларды жүзеге асыру тәжірибесін қолдану арқылы іске асырылады. Азаматтығы жоқтықтың азаюы құқықтық нысаны бар саяси құбылыс ретінде қарастырылады. Салыстырмалы-құқықтық әдіс негізінде қазіргі уақытта «азаматтығы жоқтықты азайту» институтының негізгі даму тенденциялары анықталды. Зерттеудің негізгі нәтижесі қазақстандық заңнамада азаматтығы жоқтықты азайтуға бағытталған құқықтық шараларды жетілдіру қажеттілігі туралы ереже болып табылады. Қорытынды ретінде «Қазақстан Республикасының азаматтығы туралы» Заңның, «Неке (ерлі-зайыптылық) және отбасы туралы» кодекстің құқықтық нормаларын және Қазақстан Республикасында азаматтығы жоқ адамның құқықтық мәртебесін айқындайтын Заңға тәуелді актілерді толықтыру ұсынылады.

*Кілт сөздер:* Қазақстан, апатрид, азаматтығы жоқтық, құқықтық мәртебе, заңнама, азаматтығы жоқтықты азайту, азаматтық алу.

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## Проблемы и перспективы сокращения безгражданства в Республике Казахстан

В статье рассмотрены проблемные вопросы правовой регламентации и практики сокращения безгражданства в Республике Казахстан. Сокращение безгражданства изучено как политический, экономический, правовой процесс, имеющий важное значение для формирования правового государства, в котором имплементируются международные стандарты в сфере гражданства. Проведен анализ особенностей сокращения безгражданства, закрепленных в правовых нормах Республики Казахстан и международных стандартах. Цель исследования — комплексный анализ теории и практики сокращения безгражданства в Казахстане, выявление проблем правовой регламентации сокращения безгражданства и выработка путей их решения. Исследование осуществлялось посредством общенаучных и

специально-правовых методов, использованы анализ и обобщение теоретических положений и правовых норм, практика их реализации. Сокращение безгражданства рассмотрено как политическое явление, имеющее правовую форму. На основе сравнительно-правового метода выявлены основные тенденции развития института «сокращения безгражданства» в настоящее время. Основным результатом исследования является положение о необходимости совершенствования правовых мер, направленных на сокращение безгражданства в казахстанском законодательстве. В качестве выводов предложено дополнение правовых норм Закона «О гражданстве», «Кодекса о браке (супружестве) и семье» и подзаконных актов, определяющих правовой статус лица без гражданства в Республике Казахстан.

*Ключевые слова:* Казахстан, апатрид, безгражданство, правовой статус, законодательство, сокращение безгражданства, приобретение гражданства.

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