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(Final version)

The need to eradicate statelessness of children

Contents	Page
A. Draft Resolution	2

A. Draft Resolution

1. The Parliamentary Assembly refers to the Council of Europe's conventional acquis related to statelessness, in particular its 2006 Convention on Avoidance of Statelessness in relation to State Succession (CETS No. 200), which builds on the 1997 European Convention on Nationality (ETS No. 166). It also recalls that Article 8 of the European Convention on Human Rights (ETS No. 5) (right to respect for private and family life) has been interpreted to include respect for a nationality in the context of the denial of citizenship or uncertainty of recognition of citizenship.

Amendment 1 **Tabled by the Committee on Legal Affairs and Human Rights**

In the draft resolution, before paragraph 1, insert the following paragraph:

"The Parliamentary Assembly recalls its work on nationality matters, and in particular its Resolution 1989 (2014) on access to nationality and the effective implementation of the European Convention on Nationality and Recommendations 194 (1959) on nationality of children of stateless persons and 1081 (1988) on problems of nationality in mixed marriages. It also underlines that the right to a nationality is enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights."

Amendment 2 **Tabled by the Committee on Legal Affairs and Human Rights**

In the draft resolution, paragraph 1, replace the first sentence with the following sentence: "The Parliamentary Assembly refers to the Council of Europe's acquis related to avoiding statelessness, in particular the 1997 European Convention on Nationality (ETS No. 166), the 2006 Convention on Avoidance of Statelessness in relation to State Succession (CETS No. 200) and Committee of Ministers Recommendation CM/Rec(2009)13 on the nationality of children."

2. The Assembly recalls the relevant United Nations instruments, namely the 1989 Convention on the Rights of the Child, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness which has been ratified by 29 Council of Europe member States.
3. Changes in national borders and displacement of populations following international crises and conflicts are major causes of statelessness. The highest levels of statelessness in Europe's recent history arose as a consequence of the Second World War, then in the aftermath of the break-up of the Soviet Union and Yugoslavia. The current migration crisis, which has seen hundreds of thousands of Syrian and other refugees flee their countries in the hope of a more secure life in Europe, brings a new statelessness challenge which, if not addressed comprehensively, will see a further increase in Europe's stateless population.
4. There are more than ten million stateless people in the world today and every year up to 70 000 children are born into statelessness. There are over 600 000 stateless people in Europe alone. Some migrants and asylum

seekers in Europe are already stateless on arrival, in which case the situation of their children born in exile needs to be provided for all the more urgently. However, the majority of Europe's stateless were born and live in Europe; many of them would not be stateless today if all European countries had comprehensive safeguards against childhood statelessness as required by international law.

5. The failure to ensure that every child enjoys the right to a nationality has serious consequences on children, their families and society as a whole. Statelessness brings problems of discrimination and access to housing, education, health care and employment. It exacerbates the problems faced by people who are already likely to be socially vulnerable. Addressing the question of statelessness at the earliest age should prevent the persistence of such problems and situations of discrimination into adulthood. Moreover, children who have the right to become a citizen can truly belong in and contribute to society.
6. The extensive international legal and regulatory framework related to statelessness and every child's right to a nationality provides a comprehensive safeguard against childhood statelessness. However, despite this solid international legal framework, the national legislation of several European States contains provisions which raise serious concern and may cause or prolong situations of statelessness.
7. The relevant legislation in Cyprus, Norway, Romania and Switzerland contain insufficient or no safeguards against childhood statelessness, in breach of regional and international obligations.
8. Azerbaijan, Croatia, the Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, "the former Yugoslav Republic of Macedonia", Poland and Slovenia have conditional safeguards which do not provide full protection against children's statelessness, as they only function if the child's parents are stateless or of unknown citizenship,
9. In some Council of Europe member States, parents cannot pass on their nationality to their children and in others the safeguard is dependent on residence requirements which do not comply with international norms.
10. In the light of the above, the Assembly urges all Council of Europe member States to take measures to resolve statelessness through law and policy reform and by the effective implementation of existing mechanisms.
11. To this end, the Assembly asks member States to take the following steps to eradicate childhood statelessness:
 - 11.1. with respect to the implementation of international conventions on statelessness, the Assembly:

**Amendment 3
Tabled by the Committee on Legal Affairs
and Human Rights**

In the draft resolution, at the end of paragraph 8, add the following words: "and do not function in circumstances in which parents who have a nationality cannot pass on their nationality to their children."

- 11.1.1. calls on Andorra, Armenia, Azerbaijan, Belgium, Cyprus, Estonia, Georgia, Ireland, Liechtenstein, Lithuania, Monaco, San Marino, Serbia, Slovenia, Spain, Switzerland, Turkey and the United Kingdom to sign and ratify, and calls on Croatia, France, Greece, Italy, Latvia, Luxembourg, Malta, Poland and the Russian Federation to ratify the Council of Europe Convention on Nationality;
- 11.1.2. calls on those States having not yet done so to sign and ratify the Council of Europe Convention on Avoidance of Statelessness in relation to State Succession;
- 11.1.3. urges those States having not yet done so to sign and ratify the United Nations 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- 11.2. with respect to national legislation, it calls on them to:
 - 11.2.1. where appropriate, take measures to resolve statelessness through law and policy reform accompanied by implementing provisions and supervisory mechanisms;
 - 11.2.2. review, with a view to amending if appropriate, law and policy frameworks to bring national law into compliance with the above-mentioned international instruments and standards and, in particular, to ensure that national legislation provides for granting nationality to every child born on their territory who would otherwise be stateless;
 - 11.2.3. introduce or upgrade existing statelessness determination procedures in accordance with the guidelines of the Office of the United Nations High Commissioner for Refugees (UNHCR), in order to ensure that all stateless persons in their territories can be identified, protected and ultimately acquire nationality through facilitated naturalisation;
 - 11.2.4. ensure that the birth of every child born in their territory is registered immediately. In particular, States are urged to ensure that children born into vulnerable communities are registered at birth;
- 11.3. with respect to national policies and practice, it invites them to:
 - 11.3.1. take measures to provide comprehensive protection to ensure that refugee, asylum-seeker and migrant children and the children of refugees, asylum seekers and migrants born on their territories are protected from childhood statelessness, taking into account the best interests of the child and the need to prevent exclusion and discrimination in adulthood;
 - 11.3.2. participate in and support the United Nations Global Action Plan to End Statelessness by 2024 by, inter alia, drafting and implementing national action plans in collaboration with the UNHCR and by financially supporting the Global Action Plan;
 - 11.3.3. work together to promote the prevention and resolution of statelessness, for instance through the use of the United Nations Universal Periodic Review system, by which States may make recommendations to other member States to address situations of statelessness.

Amendment 4
Tabled by the Committee on Legal Affairs
and Human Rights

In the draft resolution, at the end of paragraph 11.3.1, delete the following words: "in adulthood".