

Dear Colleagues,

With reference to the public consultation entitled „Debate on the future of Home Affairs policies: An open and safe Europe – what next?“, launched by the European Commission, please find below a contribution from the Institute of International Studies, Corvinus University of Budapest:

Putting statelessness on the EU JHA agenda should be a priority!

- Europe is one of the regions being affected by statelessness, with around 640.000 stateless individuals living on the continent (estimates by the Council of Europe Commissioners for Human Rights), many of them in the territory of the European Union.
- The European Union has already started promoting the protection of the stateless and the prevention/reduction of statelessness internally on the political level (European Parliament seminar on statelessness in 2007; EP resolution on fundamental rights in 2009; informal SCIFA meeting in May 2011 dealing with this issue) as well as in her external relations: at the September 2012 UN High Level Rule of Law Meeting in New York the EU pledged that all Member States not yet parties to the 1954 and 1961 Statelessness Conventions would now ratify these international instruments and the Union would develop a framework for raising issues of statelessness with third countries by 2014. To put international commitments into practice, the last expert meeting of the Eastern Partnership Panel on Migration and Asylum (December 2013, Budapest) was devoted to the implementation of international obligations on statelessness.
- So far EU law referred to statelessness largely in an indirect manner and EU legislation only lays down a limited number of specific rules for the stateless (right to visa free travel, mutual recognition of their travel documents, social security systems coordination, limitations on their detention). However, since 1 December 2009, Article 67(2) TFEU makes explicit reference to stateless persons, stipulating that “[f]or the purpose of ... Title [V], stateless persons shall be treated as third-country nationals.” This, combined with Article 352 TFEU, could give a legal basis for the EU to adopt common European rules on the protection of the non-refugee stateless people.
- In terms of practical cooperation, the EU should support Member States’, NGOs’ and other stakeholders’ efforts in various ways. In order to ensure foreseeable and sustainable financing in this domain, it is of utmost importance that activities related to statelessness be eligible for EU funding, so that Member States, NGOs and other stakeholders (e.g. UNHCR) could be in a position to carry out such projects financed by EU resources. The new Regulation establishing the Asylum and Migration Fund for the multiannual period of 2014-2020 clearly refers to stateless people as beneficiaries of this financial instrument (Article 2 lit. c)), therefore activities aiming at addressing and improving their situation can be covered by the allocations of the new European Fund.

- To sum up, the EU should at least better represent the issue of the protection of stateless persons and the reduction/prevention of statelessness on the international plane, among others by disseminating the practical experiences gained from the statelessness determination procedures operated by some of the Member States as well as mainstreaming it in various EU policies (non-discrimination, human rights, gender, external relations). Besides that, the EU should build up a protection regime for the stateless on the Union level (e.g. common minimum standards for the national statelessness determination procedures), recognising that improvements and harmonisation are indispensable in order to provide an area of freedom security and justice for this highly vulnerable group of human beings. Furthermore, in the long run, conferring directly EU citizenship to long-term resident stateless persons should also be considered (the legal basis for that could be Article 25 TFEU in conjunction with Article 352 TFEU).

Best regards,

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