

## **The First Global Forum on Statelessness**

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### ***Thematic panel: Addressing statelessness through foreign policy***

## **Statelessness in Europe: Causes, perceptions, ways to overcome**

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Ladies and gentlemen,

When it comes to nationality issues, external intervention is not easy. It is broadly recognized that nationality is an institution of internal law designating the legal bond between a person and a State.

On the other hand, the “right to a nationality” is enshrined in several international legal instruments, based on the sound principle that nobody should be left stateless. According to several UN documents, the right to a nationality is a human right.

While the European Convention on Human Rights does not expressly refer to such a right, the European Court of Human Rights has found violations of this convention in several cases concerning rights and freedoms of stateless persons.

The European Convention on Nationality of 1997 (Articles 4 and 6) and the Convention on the Avoidance of Statelessness in relation to State Succession of 2006 should be mentioned, too.

States perceive external intervention with particular reluctance because granting nationality is related to political empowerment and may have impact on elections and party landscape.

How, under these circumstances, can international community influence the situation?

After WW1 the so called Nansen’s committee was established under the auspices of the League of Nations. This committee issued special IDs to stateless people, negotiated resettlement and granting citizenship. Nowadays international organizations do not assume direct responsibility of the kind. Modern instruments and mechanisms rather encourage states to grant their nationality to stateless persons.

Possible methods are different: judgments of international courts on individual cases (where applicable), political conditionality (when the state in question aspires for accession to international organizations – or in the context of development assistance), diplomatic leverages, public campaigns, etc.

In Europe statelessness emerges, as a rule, because of two factors:

- 1) as a result of dissolution of bigger states, when the nationality laws of the new states do not ensure citizenship to all former citizens of these collapsed states (former Yugoslavia, USSR, Czechoslovakia)
- 2) Through immigration, when immigrants, asylum-seekers and refugees lose their previous citizenship and cannot obtain nationality of their new states of residence.

Some practical examples of influence.

## **Roma in Central Eastern Europe**

A flagrant example of depriving of citizenship could be that of the Czech Republic, which made thousands of Roma stateless following the dissolution of Czechoslovakia and the adoption in 1992 of the citizenship law, containing stringent requirements for the acquisition of Czech nationality. As a consequence, 10 000 to 25 000 Roma considered as Slovaks by the Czech Republic and as Czechs by the Slovak Republic, became stateless. The problem was solved in 1999 following amendments to the Czech citizenship law. Basically, this is a success story, the problem was resolved thanks to efforts of civil society and firm position of international community.

Unfortunately, still today many Roma in Europe are stateless. In 2009, estimates in south-eastern Europe indicated that 10 000 stateless Roma lived in Bosnia and Herzegovina, 1 500 in Montenegro, 17 000 in Serbia and 4 000 in Slovenia. There are also stateless Roma in Western Europe. This phenomenon is related to the fact that many Roma have never obtained a birth certificate and have difficulties in obtaining proof of their nationality. Therefore, efforts of international community have produced limited results so far.

## **Meshketian Turks**

The situation of **Meshketian Turks** is another example of how deportations and changes in the State structure may cause statelessness. Meshketian Turks originally inhabited south-west Georgia and were deported in 1944 to Central Asia by the Soviet regime. After violent pogroms in Fergana valley in 1989, most of them were resettled in other Soviet republics. Nowadays they are scattered over several countries, mainly Azerbaijan, the Russian Federation, Kyrgyzstan and Turkey. Some returned to Georgia, which initiated the process of granting them citizenship. However, despite a clearly expressed political will of the Georgian authorities, the process of repatriation and restoration of citizenship remains very slow. In practice, repatriates face administrative obstacles. By August 2013, 1 058 repatriation statuses and only seven citizenships have been granted.

For a number of years the situation of Meshketian Turks living in the Krasnodar region of the Russian Federation gave rise to grave concerns. After the collapse of the Soviet Union, they were not recognized as Russian citizens and remained in a legal limbo, being deprived of basic civil, political, economic and social rights. According to the Moscow Helsinki Group, their number in the Krasnodar region amounted to between 11 000 and 13 000. The problem was largely resolved after the United States decided to grant asylum to the Meskhetians from Krasnodar, which resulted in the resettlement of over 9 000 persons in the United States. Unfortunately, one cannot but admit that the European mechanisms appeared incapable of effectively handling this problem, while the humanitarian action by the US appeared very effective.

## **Persons deprived of Greek citizenship**

A significant number of persons of “non-Greek descent” living in Greece or abroad were deprived of their Greek citizenship on the basis of former Article 19 of the Greek Citizenship Code. As a consequence of this provision, between 1995 and 1998, around 60 000 Greek citizens, including those of ethnic Macedonian or Turkish descent, lost their Greek citizenship. Although the above-mentioned provision has been repealed, the repeal has no retroactive effect and a small number of Muslims living in Western Thrace still remain stateless, pending

lengthy naturalisation procedures. According to UNHCR estimates, 154 persons under the organisation's statelessness mandate were living in Greece in 2012.

### **The “erased” in Slovenia**

The problem of the “erased”, that is stateless persons residing in Slovenia, was dealt with by the European Court of Human Rights in the case of *Kuric and others v. Slovenia*. Although the judgment concerns only a few applicants, it reveals a structural problem affecting many residents of Slovenia. According to the official data from 2002 cited in the judgment, the number of former citizens of the Socialist Federal Republic of Yugoslavia who lost their permanent residence status in February 1992, after an amendment to the Aliens Act became applicable, amounted to 18 305. As of January 2009, 13 426 “erased” persons did not have any regular status in Slovenia. The Council of Europe Committee of Ministers is now supervising the implementation of the *Kuric and others* judgment and has recently noted that the Slovenian Parliament is examining a special law setting up a compensation scheme for the “erased”.

This is a good example how international litigation can help to resolve the problem.

### **The Russian-speaking population in Estonia and Latvia**

Following the collapse of the Soviet Union, a significant number of residents, mainly Russian speakers, became stateless in Estonia and Latvia. Although many were born in these countries and a vast majority of them have a status as legal residents, they are still deprived of political rights, such as the right to vote in national elections (in Latvia – also in municipal elections), the right to occupy certain positions in the public and also private sector, as well as some other rights. In Estonia, they are officially referred to as “persons with undetermined citizenship”. Latvia strongly denies that these persons are stateless. They have been granted a special “non-citizen” status, along with special passports allowing them to travel abroad and benefit from the state's consular protection. Despite the interventions of various international bodies, the situation still remains unresolved. According to the UNHCR, in 2012, Latvia and Estonia had the highest numbers of stateless people in Europe. Statelessness in the Baltic States is gradually decreasing (according to the latest data the number for Latvia was about 260 000 in July 2014 – out of entire population of 2 mln, and for Estonia 90 014 in June 2013 – out of total population of 1 340 000). Despite numerous and persistent recommendations of various international bodies, the law of both Latvia and Estonia still permits the situation when new-born children of non-citizens may be left without any nationality.

This case well illustrates the fact that it is very difficult to achieve any progress when political conditionality is over.

To sum up, the issue of statelessness in Europe should be solved through political action rather than legal changes at international level, since a legal basis has already been established.