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The need to eradicate statelessness of children

Committee Opinion[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Boriss CILEVIČS, Latvia, Socialist Group

A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights congratulates the rapporteur of the Committee on Migration, Refugees and Displaced Persons, Mr Manlio Di Stefano, on his comprehensive report, and supports by and large the proposed draft resolution. The committee points out that it has dealt with a similar issue in its report on "Access to nationality and the effective implementation of the European Convention on Nationality".[2]

2. The committee proposes some amendments to further strengthen the draft resolution regarding some legal aspects and to put more emphasis on avoiding statelessness of newborn children, by granting them automatically the nationality of the State where they are born, and by strengthening procedures for birth registration.

B. Proposed amendments

Amendment A (to 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 B (to the draft resolution)

In 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."*

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1. Reference to committee: Doc. 13710, Reference 4123 of 20 April 2015. Reporting committee: Committee on Migration, Refugees and Displaced Persons, see Doc. 13985. Opinion approved by the committee on 28 January 2016.
2. Doc. 13438, see also Assembly Resolution 1989 (2014) and Recommendation 2042 (2014).

Amendment C (to the draft resolution)

At the end of paragraph 8, add the following words: “and do not function in cases where parents who have a nationality cannot pass on their nationality to their children.”

Amendment D (to the draft resolution)

At the end of paragraph 11.3.1, delete the words “in adulthood”.

C. Explanatory memorandum by Mr Cilevičs, rapporteur for opinion

1. I can only congratulate Mr Di Stefano on his report, which rightly pinpoints the existing phenomenon of statelessness in Europe and the importance for children of respecting their right to a nationality. This report analyses the roots of statelessness and propose avenues on how to avoid statelessness of children.

2. As I was rapporteur on a similar subject in the Committee on Legal Affairs and Human Rights (see above), I should like, however, to propose a few amendments to the draft resolution, with a view to completing them mainly with regard to some legal aspects.

1. Amendment A (to the draft resolution)

Explanatory note

This amendment aims to refer to the previous work of the Assembly, and in particular its Resolution 1989 (2014), as well as to the “right to a nationality”, enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

2. Amendment B (to the draft resolution)

Explanatory note

This amendment aims to recall the general *acquis* of the Council of Europe related to promoting the avoidance statelessness, add a reference to Committee of Ministers Recommendation CM/Rec(2009)13 and change the order of the conventions mentioned in this paragraph, by mentioning the 1997 Convention on Nationality (which covers more widely statelessness) before the 2006 Convention on Avoidance of Statelessness in relation to State Succession.

3. Amendment C (to the draft resolution)

Explanatory note

This amendment aims to clarify why the member States mentioned in paragraph 8 of the draft resolution have only conditional safeguards against statelessness (see paragraph 12 of the explanatory memorandum).

4. Amendment D (to the draft resolution)

Explanatory note

This amendment aims at point out that exclusion and discrimination should be prevented at any time, not only in adulthood.