EXECUTIVE SUMMARY

The Eastern Partnership (EaP) Panel on Migration and Asylum expert meeting on statelessness took place in Budapest on 12-13 December 2013. The meeting was organized jointly by Hungary and Moldova, and brought together experts from the all six Eastern Partnership (EaP) countries as well as from Hungary, Lithuania, the Netherlands, Poland and Sweden. The representatives of academia, civil society and international organizations, as usually, were invited to share their expertise. The subject was of mutual interest, for EaP countries (upon the Soviet union was dissolved) and for the EU equally (in relation to ex-Yugoslavia) on a larger scale, but there are individual cases as well. In terms of numbers, an estimated 600.000 people are stateless in the EU.

The expert meeting was opened by the European Commission (EC) and hosting states, Hungary and Moldova. The first session of the meeting was dedicated to the global overview and theoretical basis of statelessness. The session started with the UNHCR presentation on the state of play of statelessness in global and European context and was followed by the Hungarian Helsinki Committee overview of the emergence of statelessness as a protection issue and statelessness in the EU framework for international protection. The representative of the Tilburg Law School Statelessness Programme outlined statelessness in 2014 and beyond, focusing on the international momentum, opportunities and challenges.

Session II spotlighted national practices of addressing statelessness and began with two presentations by Hungary on legal background and policy developments, as well as on the practical aspects and statistics of the statelessness status determination procedure. Later on Moldova delivered presentations on the policy developments in protection of stateless persons and reduction of statelessness and on the national practices of Moldova. Georgia and Sweden continued with sharing their national practices of addressing statelessness.
Welcome and Opening

Ms. Borbala Szigeti, DG Home Affairs, European Commission, opened the expert meeting welcoming all the participants and organizers. She introduced the agenda of the meeting which is focused on two issues: international legal framework on statelessness and national laws and practices of managing this issue. The complementary approach to statelessness aims on the one hand to prevent and reduce statelessness and on the other to provide autonomous legal status (protection). There is no specific EU legislation on statelessness, though certain rules and regulations applied indirectly from the perspective of rights as well as in terms of reducing/preventing statelessness. Ms. Szigeti also informed on the recent adoption of the Panel working programme for 2014 during the previous Panel meeting in Prague in November 2013 and notified on the extended IOM Ukraine assistance with future meetings preparation.

Ms. Olesa Cotoman, Deputy Head of Policy and Legislation Directorate, Bureau for Migration and Asylum, Moldova, greeted participants on a behalf of the Bureau for Migration and Asylum and thanked Hungary for hosting this meeting. She highlighted the regional problem with great number of people currently lacking citizenship and as a result, being deprived from basic civil rights. Statelessness today has consequences for both individuals and countries. At the same time only few states implement effective mechanisms for identification and management of statelessness, which results in lack of effective legislation and proper implementation mechanisms. This expert meeting gives an opportunity to overview international laws and national practices of managing statelessness. Mr. Tamas Molnar, Head of Unit, Ministry of Interior, Hungary, thanked participants and co-organizers. He reminded that statelessness was also a matter of discussion between the EU and the Eastern Partnership countries during the events organized within the former Söderköping Process and emphasized the diverse format of this meeting which gathers different countries, NGOs, academia and international organizations. Mr. Molnar also underlined the re-emergence of the subject considering the numerous meetings and events on statelessness organized by the UNHCR and the EU. The expert meeting today will elaborate on the theoretical basis of statelessness and will examine national practices with regard to protection aspects.

Session I. Global Overview and Theoretical Basis
Facilitator: Ms. Nato Gagnidze, Director of the Innovation and Reform Centre, Tbilisi

Ms. Inge Sturkenboom, Protection Officer, UNHCR Bureau for Europe, presented an overview of the statelessness in the global and European context, illustrating that statelessness is still a concern today. Statelessness is not only the issue of collapsed countries such as the Soviet Union and the Balkans but also of many other protracted statelessness situations throughout the world. Although the two statelessness Conventions of 1954 and 1961 were designed long time ago, they still provide essential instruments for addressing the problem. The UNHCR plays an important role in implementing projects on technical support with legislation for identification, protection, prevention and reduction of statelessness, as well as providing guidelines and campaigns. Regional tools addressing statelessness incorporate a number of Council of Europe Conventions (1963, 1997, 1999, 2006). Many initiatives exist on the national level in Europe, such as amendments to nationality laws, improving access to civil registration and documentation, facilitating confirmation or acquisition of nationality, developing identification and protection mechanisms. The number of Conventions accessions has increased during last few years. Please, see presentation “Statelessness: The Global Overview and European Context, State of Play”
Mr. Gabor Gyulai, Refugee Programme Coordinator (Hungarian Helsinki Committee), Chair of European Network on Statelessness (ENS), covered in his presentation the emergence of statelessness as a protection issue and statelessness in the EU framework for international protection. Statelessness has been overlooked for many years and the area requiring the most attention is identification and protection. Recent years were featured by high ratification rates, which resulted in the paradigm shift towards statelessness becoming an international protection issue. For a long time protection of stateless persons followed under the umbrella of other protection instruments (refugee protection, complementary forms of protection, national protection), but now statelessness is becoming a protection issue per se. Although there are three generations of countries exercising statelessness-specific protection regime, still many states lack identification and protection instruments for stateless persons. Development of the statelessness-specific determination and protection mechanisms includes five stages: accession, visibility in statistics and academia circles, comprehensive identification, providing a person with a proper status and finding durable solutions. The web portal www.statelessness.eu offers summary of international standards, set of good practices and factors to consider when designing a national system. Please, see presentation “Statelessness – An Emerging Protection Paradigm”

Ms. Laura van Waas dr., Senior Researcher and Manager of the Statelessness Programme, Tilburg Law School, informed on the current state of statelessness, its challenges and opportunities. Statelessness today is a considerable problem with a big impact. As statelessness often concerns access to education, voting, registration, etc. it should be treated as a human rights problem. Migration increases the risk of statelessness, whereas statelessness makes migrants especially vulnerable. If states choose not to operate a separate statelessness determination procedure, the person in questions runs a risk of not falling under any existing legal statuses. Globally, legislative response to statelessness could be divided into the three periods: 1) 1948-1961: developed “Statelessness Law”, 2) 1995-2009: statelessness re-appears on the agenda, 3) 2010-today: statelessness gains momentum. Today Europe stops producing stateless children due to full implementation of safeguards to ensure right to nationality; stateless people can exercise their rights thanks to dedicated statelessness protection frameworks. Currently Europe leads the way in progress towards eradication of statelessness. Please, see presentation “Statelessness in 2014 and Beyond: International Momentum, Opportunities and Challenges”

Session II. National Practices
Facilitator: Mr. Gabor Gyulai, Hungarian Helsinki Committee

Mr. Tamas Molnar, Head of Unit, Ministry of Interior of Hungary, presented legal background and policy developments concerning statelessness based on the example of Hungary. Hungary is one of the EU Member States who actually has and actively implements the statelessness determination procedure. The procedure is relatively new as it is applicable since 1 July 2007 and slightly modified in January 2011. The statelessness determination procedure is an autonomous, self-standing procedure and is not linked to the asylum procedure. The person can submit the application at one of the 7 regional directorates of the Office of Immigration and Nationality orally or in writing. The procedure is free of charge including legal assistance, interpretation and judicial phase. When going through the procedure, the applicant shall prove or be able to substantiate that he/she is stateless. The decision is taken within 2 months and in case of recognition, residence permit is granted for 3 years. Judicial review is available against negative administrative decision. The UNHCR can take part in the proceedings at any stage, attending the hearings and providing administrative assistance. One of the main objectives of the New Migration Strategy is protection of the stateless. Please, see presentation “Overview of the Statelessness Determination Procedure in Hungary”

Ms. Zsofia Huszka, Case worker of the Visa and Residence Unit, Office of Immigration and Nationality, Hungary, provided an overview of practical aspects of the statelessness determination procedure in
Hungary. The statelessness determination procedure incorporates such stages as application submission, preliminary hearing, detailed hearing and decision. After the decision is made the person is either recognized as a stateless person, or receives a refusal or the procedure is terminated. When the person is recognized as stateless he/she is granted a humanitarian residence permit for three years with the possibility of applying for national residence permit after this term and naturalization after 5 years of legal residence. There are two main categories of applicants: legal residents with prolonged residence documents and illegally entered rejected asylum seekers. The applicants are usually willing to cooperate with the state authorities and as a rule do not require assistance of the UNHCR. A number of quality assurance instruments are applied in order to evaluate each case. The Quality Assurance Manual was developed in 2012 in order to provide guidance and understanding of the assurance policy, the statelessness determination process and rating system of the Aliens Policing Directorate. Please, see presentation “The Statelessness Determination Procedure Practice in Hungary”

**Ms. Isabelle Mihoubi-Astor,** EU High Level Advisor to the Bureau for Migration and Asylum, Moldova, reported on the protection of stateless persons and reduction of statelessness in Moldova. The Unit on Statelessness Status Determination is a part of the Refugee Directorate of the Bureau for Migration and Asylum. The Law on Legal Status of Foreigners has been amended, and already existing legislation is revised in order to identify the best solutions applicable for Moldova. The legislative provisions incorporated include no requirement for legal presence to access procedure and also the principle of non-refoulement, granting of temporary legal residence to all applicants, and ex officio procedure. Internal challenges for the Bureau include applications used as a tool to acquire another citizenships and insufficient level of understanding of the issue by other ministries and organizations. As for the external challenges faced, mainly the situation in Transnistria and the start of the judiciary Appeal process in November was mentioned. As a result, more institutional linkages are needed between determination procedure of statelessness and naturalization procedures. Moldova is committed to the reduction of statelessness and could be named a model for the region and beyond. Please, see presentation “The Protection of Stateless Persons in the Republic of Moldova: A Model for the Region and Beyond”

**Ms. Olesa Cotoman,** Deputy Head of Policy and Legislation Directorate, Bureau for Migration and Asylum, Moldova, added on the practical aspects of the recognition procedure of the status of stateless person in Moldova. Moldova has ratified European Convention on Nationality, CoE Convention on the Avoidance of Statelessness in rotation to State Succession and UN Conventions of 1954 and 1961. Every applicant has the right to an individual interview that has to take place within 15 days following the application date. A certificate confirming the status throughout the examination of the application is issued to the applicant. Public documents issued by other authorities of other states are accepted by the competent authority for foreigners as evidentiary facts. The first instance decision is issued within a period of 6 months with possible extension, but no more than 12 months in total. When the person is recognized as stateless he/she has a number of rights, including rights to permanent residence, identity document, travel document, employment, and access social integration programmes. 271 requests were received during 2013 with 91 positive decision made. Please, see presentation “Recognition Procedure of the Status of Stateless Person in the Republic of Moldova”

**Ms. Ia Biganishvili,** Project Manager, Public Service Development Agency, Georgia, delivered a presentation on national practices of Georgia in terms of managing statelessness. The collapse of the Soviet Union, problems with undocumented people and gaps in Georgian legislation cause appearance of statelessness in the country. Submission of application for the status determination procedure can be made by applicants who have reached the age of 18 years. Both lawfully and illegally residing alien on the territory of Georgia have the right to submit the application. A status seeker who resides unlawfully during the administrative proceeding of the status determination shall have his/her stay considered as valid, and the seeker should not be expelled during this period. The
grounds for refusal of granting a status include Georgian citizenship or other citizenship, submission of incorrect information, situation when the identification of the person is not possible, etc. Stateless persons generally have the same rights as aliens, while they are equal with citizens of Georgia in some rights (like pension, military obligation, high education and etc.) Adoption of the new organic law on Citizenship of Georgia is planned for the nearest future. Please, see presentation “Practice of Georgia Regarding Statelessness”

Mr. Erik Reho, International Specialist, Swedish Migration Board, presented Sweden’s citizenship law and considerations on the issue of statelessness in relation to the current preparations for a new citizenship law. Sweden does not have a statelessness determination procedure, but has recently advanced in citizenship issues. The Citizenship Act of 2001 allows dual citizenship and pays special attention to stateless minors. General naturalization requirements include proven identity and good standing. Automatic cessation of citizenship is applied for Swedes living abroad in second and third generations. Children are never relieved of citizenship automatically. The new Law on Citizenship provides for extended opportunities for citizenship for children and young people and possibilities to obtain Swedish citizenship faster for those who show good command of the Swedish language. Possible suggestions considering statelessness are to lower residency requirements for stateless children who are born stateless, to lower residency requirements for stateless children in general, to make a possibility to register stateless children up until the age of 18, to accede to CoE Convention on the Avoidance of Statelessness. Please, see presentation “Citizenship in Sweden”

Closure of the Expert Meeting

Mr. Erik Reho, International Specialist, Swedish Migration Board, thanked everyone for organization and participation in the expert meeting. He also reiterated the activities of the Panel and the partners involved in the coordination: the EC, SMB and IOM Ukraine, organizing two Panel meetings and two expert workshops per year.

Ms. Olesea Cotoman, Deputy Head of Policy and Legislation Directorate, Bureau for Migration and Asylum, Moldova, expressed gratitude to everyone for coming to the meeting and sharing the knowledge and experience in statelessness. She also stressed that right attitude towards addressing statelessness is not about simply granting a status, but about finding durable solution, which would benefit an individual and state.

Mr. Tamas Molnar, Head of Unit, Ministry of Interior, Hungary, thanked everyone for active participation in the expert meeting making it a great forum for exchange of ideas. He expressed his hopes for the knowledge to be brought home and shared with relevant people, as well as reminded that all the materials will be uploaded though the Panel web portal.