29 The Constitutional Court's Decision on the Compatibility of the Hungarian Statelessness Determination Procedure with International Law

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29.1 Factual Background and the Petition[1]

The case was brought before the Constitutional Court (hereinafter: Court or CC) in September 2014 by a petition from a judge of the Metropolitan Administrative and Labour Law Court (Budapest)[2] in a proceeding for the review of an administrative decision of the Office of Immigration and Nationality (hereinafter: OIN), which had rejected the plaintiff's application to be recognized as stateless person.

The plaintiff in the judicial review process, who had been born in Somalia to a Nigerian mother and a Somali father, arrived in Hungary in 2002 as an illegal migrant. In September 2010, he initiated his first statelessness determination procedure (hereinafter: SDP) under Act No. II of 2007 on the Entry and Stay of Third-Country Nationals (hereinafter: TCN Act).[3] At that time he possessed a 'certificate for temporary stay' (*ideiglenes tartózkodásra jogosító igazolás*), issued pursuant to Article 30(1) lit. h) of the TCN Act, which entitled

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1 The presentation of the factual background is largely based on the unofficial translation of Dec. No. 6/2015 (II.25.) of the Constitutional Court, prepared by UNHCR Regional Representation in Budapest, www.refworld.org/docid/5542301a4.html (last accessed on 1 August 2015).

2 It was based on Art. 25(1) of Act No. CLI of 2011 on the Constitutional Court (hereinafter: CC Act) which stipulates that '[i]f a judge, in the course of adjudication of a case in progress, is bound to apply a legal act that he/she perceives to be contrary to the Fundamental Law, or which has already been declared to be contrary to the Fundamental Law by the Constitutional Court, the judge shall suspend the judicial proceedings and, in accordance with Art. 24(2) lit. b) of the Fundamental Law, submit a petition for declaring that the legal act or a provision thereof is contrary to the Fundamental Law, and/or the exclusion of the application of the legal act contrary to the Fundamental Law.'

3 Chapter VIII of the TCN Act governs the statelessness determination procedure, coupled with more detailed implementing rules set forth in Chapter VIII of Governmental Decree No. 114/2007 (V.24.). Available via the National Database of Legislation (only in Hungarian) at www.njt.hu. For more on the Hungarian SDP, see T. Molnár, 'Statelessness Determination Procedure in Hungary' 4 *Asiel & Migrantenrecht* (2013), pp. 271-277; J. Tóth, 'Hungary', In D. Vanheule (ed.), *International Encyclopaedia of Laws: Migration Law*. Alphen aan den Rijn, Kluwer Law International, 2012, 183-192

him to stay temporarily in Hungary pending his return procedure due to the illegal entry and stay (its validity expired on 1 October 2010). The competent authority for conducting SDP in Hungary, the OIN rejected the plaintiff's application in November 2010 on two grounds. First, the applicant was not able to prove his real identity due to credibility issues, thus it could not be conclusively proven or substantiated that the person was not considered as a national by any State under the operation of its laws. Secondly, determining his statelessness was *ex lege* precluded because of the absence of his lawful stay in Hungary, which was a precondition according to Article 76(1) of the TCN Act.[4] After the refusal, the applicant appealed the administrative decision before the then Metropolitan Court, which recognised the plaintiff as stateless in its judgment delivered in February 2012. Then the OIN asked the second instance judicial review of the judgment overturning the administrative decision from the Metropolitan Appeal Court. The latter accepted the appeal of the immigration authority and changed the judgment of the court of first instance, withdrawing the plaintiff's stateless status. Against this judgment the plaintiff sought extraordinary judicial review before the court of last instance, the Curia (Supreme Court of Hungary). In its final judgment delivered in December 2013, the Curia upheld the judgment of the Metropolitan Appeal Court, arguing that it did not violate the law. Moreover, it stated that there was no need for initiating a procedure before the Constitutional Court, since 'Article 78 of the TCN Act contained an explicit reference to the fact that the Statelessness Convention had been incorporated into domestic law at the proper place.'[5] While the proceedings were ongoing before the Curia, the plaintiff started a new statelessness determination procedure in December 2012, in possession of a new 'certificate for temporary stay', which was issued to him under different legal basis (Art. 30(1) lit. i) of the TCN Act). Given that his case before the Curia was pending at the time of the second application for statelessness determination, he was entitled to this kind of *titre de séjour* under the above provision of the TCN Act until the end of the extraordinary review procedure before the Curia. In other words, at the time of the subsequent application, the plaintiff was in possession of another type of 'certificate for temporary stay.' He thus claimed that in this way he satisfied the requirement of lawful stay. However, the OIN rejected again his second application, finding that although he substantiated the lack of any nationality in accordance with Article 79(1) of the TCN Act, he was subject to a valid return decision at the time of submitting his repeat application. Therefore he did not satisfy the requirement of lawful stay in Hungary as set out in Article 76(1) of the TCN Act and the second application was rejected as well.

4 Art. 76(1): 'Proceedings aimed at the establishment of the statelessness shall be instituted upon an application submitted to the alien policing authority by an applicant lawfully staying in the territory of Hungary, which may be submitted by the person seeking recognition as a stateless person (hereinafter referred to as the 'applicant') orally or in writing.'

5 Dec. No. 6/2015 (II.25.) AB, Para. 5.

In the judicial review process, the judge of the Metropolitan Administrative and Labour Court, in its petition of 22 September 2014, requested the Constitutional Court to declare the 'lawfully staying' criterion in the TCN Act as *unconstitutional*, on account of violating provisions relating to the *assurance of harmony between Hungarian law and international law* (Art. Q(2)) and the *prohibition of discrimination* (Art. XV(2)) of the Fundamental Law; and to *exclude the application of this precondition in general as well as in the individual case at hand*. According to the petition, the 'stateless person' definition in Article 1(1) of the 1954 New York Convention on the Status of Stateless Persons[6] does not refer to 'lawful stay' in the territory of a Contracting Party so as to recognize a person as stateless. In its assessment, the requirement of 'lawful stay' was in contravention of the 1954 Statelessness Convention, and as a consequence, of the clause in the Fundamental Law requiring the conformity of domestic law with international law. Further to that, it was claimed that the decision of a State determining someone's statelessness is purely declarative and not constitutive in effect. Put it differently, such a decision merely establishes the fact of being stateless, but it does not create is. As a result, a person having no nationality whatsoever will be a stateless person, independently of the lawful or unlawful entry or stay in the territory of a Contracting Party. Given that the absence of travel documents is a common concomitant of statelessness, the expression 'lawfully staying' in the TCN Act effectively deprives people who are stateless under the 1954 Statelessness Convention of the possibility of having their application for statelessness determination examined on the merits in Hungary. It thus introduces unjustified discrimination between stateless persons having valid travel documents and fulfilling the conditions for legal stay, and those stateless not possessing travel documents.

It is worth nothing that both the Office of UN High Commissioner for Refugees (UNHCR) and a leading Hungarian NGO dealing with statelessness, the Hungarian Helsinki Committee (also on behalf of the European Network on Statelessness[7]) presented their views as *amicus curiae* in detailed submissions before the Constitutional Court.[8]

6 *Convention relating to the Status of Stateless Persons of 28 September 1954*, UNTS No. 5158, Vol. 360, p. 117. The convention was promulgated in Hungary by Act No. II of 2002.

7 For more see www.statelessness.eu.

8 These documents are available on the webpage of the Constitutional Court at http://public.mkab.hu/dev/dontesek.nsf/0/28DDC0E14E5BC80BC1257D7100259A90?OpenDocument (last accessed on 1 August 2015); for similar arguments see also G. Gyulai, *Statelessness in Hungary. The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*, Budapest, Hungarian Helsinki Committee, 2010, pp. 6, 8, 16-19, http://helsinki. hu/wp-content/uploads/Statelessness_in_Hungary_2010.pdf – last accessed on 1 August 2015.

29.2 Majority Decision

In its *Decision No. 6/2015 (II.25.) AB*, published on 25 February 2015,[9] the Constitutional Court first assessed, in a quite unnecessary manner, certain interrelations between refugees and stateless persons. It then started the in-depth examination of the core issues by taking a closer look at the definition of 'stateless person' in Article 1(1) of the Statelessness Convention, and it concluded that neither this definition, nor the exclusion clause in Article 1(2) allows for further exceptions or derogations. In addition to that, Article 38 of the New York Convention does not permit to make reservations to Article 1, and accordingly Hungary did not make such a reservation when acceded to the convention. The Constitutional Court also acknowledged that that while certain specific rights of stateless persons under the 1954 Convention are dependent on the lawfulness of their presence in the Contracting State concerned, some others (e.g. acquisition of movable or immovable property – Article 13; access to courts – Art. 16) apply to all stateless persons irrespective of this precondition. This distinction, in the Court's view, does not weaken but strengthen the linguistic interpretation of Article 1 of the Convention as the wording makes it clear that the drafters consciously set additional conditions in some cases, while they saw no reason to do so in other cases.[10] Consequently, the Constitutional Court agreed with the referring judge that the requirement of 'lawful stay' in Article 76(1) of the TCN Act unduly narrows down the meaning of Article 1 of the 1954 Statelessness Convention. In this context reference was made to the Explanatory Memorandum of the TCN Act, in which the legislator made it clear that the underlying objective of inserting the 'lawful stay' requirement in the procedural framework was to prevent abuses and *mala fide* applications, with the sole purpose of temporary impeding expulsion and removal. It is thus a built-in filter in the national procedure in order that SDP does not create a pull-factor for illegal migrants. Finally, the CC concluded that the 'lawfully staying' requirement is indeed a substantive one in nature, and not just procedural as argued by the OIN, therefore its objective was to narrow the personal scope (*ratione personae*) of the TCN Act. Furthermore, it went on adding that the mere fact that Article 78 of the TCN Act and its Explanatory Memorandum contain reference to the 1954 Statelessness Convention does not necessarily imply that the legislator has indeed fully complied with the obligations stemming from the convention.[11] This statement is of significance since previously the Curia, having acted as the third and final instance court in the particular case in question, did not find it nec-

9 Official Gazette of Hungary (*Magyar Közlöny*) No. 22/2015 of 25 February 2015, pp. 1717-1730, http://kozlony.magyarorszag.hu/dokumentumok/32d4c8b5bf3f3856ff889a41950da894d9d1142a/megtekintes (last accessed on 1 August 2015).

10 Dec. No. 6/2015 (II.25.) AB, Para. 21.

11 Dec. No. 6/2015 (II.25.) AB, Para. 28.

essary to turn to the Constitutional Court invoking specifically this, hereby dismissed, argument.

In the light of the above reasoning, the Constitutional Court found that the precondition of 'lawfully staying' set out in Article 76(1) of the TCN Act *violates Hungary's international obligations* undertaken in the 1954 Statelessness Convention by unduly narrowing the interpretation of Article 1 of that Convention. As a consequence, it is also in *breach of the Fundamental Law, notably Article Q(2)* calling for full harmony between Hungarian law and the undertaken international obligations, and *Article B(1)*, which enshrines the principle of rule of law. Having established the breach of Article Q(2) of the Fundamental Law, the Court did not assess the constitutionality of the contested legal provision in the light of Article XV(2) as requested by the judge in the petition.

In the operative part of the decision, the Constitutional Court annulled the world 'lawfully' *pro futuro*, with the legal effect of 30 September 2015, in order to grant sufficient time for the legislator to make the necessary amendments in the legislation (for the purposes of legal certainty). In the Court's assessment, the annulment necessitates an overall review of the TCN Act, in particular in relation to identity papers and travel documents issued to stateless persons pursuant to Articles 27 and 28 of the 1954 Convention as well as some sectorial legislations regulating the rights accorded to stateless persons, notably which are made conditional on lawful stay in the same convention.

On the other hand, though, the CC rejected the judge's request to declare a general prohibition of application of the contested provision and in the individual case at hand, in the interest of legal certainty. At the same time, the Constitutional Court stressed that neither Article 1(1) of the 1954 Convention, nor the provisions of Article 76(1) of the TCN Act remaining in force after the annulment will legitimise the illegal entry and stay of foreigners in the territory of Hungary. All what the provisions remaining in force mean is that, if so requested by a foreigner, the statelessness determination procedure may not be refused in the absence of lawful stay.[12]

29.3 Dissenting Opinions

It is a decision reached only with slight majority, which represents a fragile compromise amongst the members of the Court. Several dissenting opinions have been formulated by the judges either disagreeing with the annulment of the phrase in question and considering the provision under review as constitutional; or arguing that the simple annulment, without the declaration of the prohibition of application of the quashed provision in the individual case, was not enough to afford individual constitutional protection. The legal issues raised

12 Dec. No. 6/2015 (II.25.) AB, Para. 31.

in the parallel statement of reasons[13] and dissenting opinions[14] can be thus grouped in two categories.

The first concerns the question whether the contested provision constitutes *a violation of the Fundamental Law or is only in conflict with an international treaty* as well as the different legal consequences flowing form each finding. According the *Judge Dienes-Oehm*, supported by *Judge András Zs. Varga*, the subject-matter of the case is not a direct (first degree) violation of the Fundamental Law, but rather the petition of the judge is in fact based on a conflict of a domestic legal norm with an international treaty. In his assessment, a domestic legal provision contrary to an international treaty is not necessarily unconstitutional *per se*, and took the view that the Constitutional Court, instead of annulling the contested provision, should have invited the legislator to take the necessary measures to resolve the conflict within the time-limit.[15] In his dissent, *Judge Béla Pokol* considers that different legal consequences flow from a norm conflict with the Fundamental Law or with an international treaty. He submits that in the first case the legal provision found to be unconstitutional shall be annulled (it is an obligation with no exception), whereas in the second scenario the annulment is only a possibility by virtue of the joint reading of the Fundamental Law and the CC Act.[16] Given that the contested provision and the piece of legislation promulgating the 1954 Statelessness Convention are on the equal footing in the hierarchy of norms, this excludes the possibility for the Constitutional Court to nullify that legal provision and it should have invited the government to resolve the norm conflict.[17] *Judge László Salamon* (seconded by *Judge István Balsai*) combined elements of reasoning from the previous dissents, and first he also took the position in his dissenting opinion that a conflict between a piece of legislation and an international treaty does not result in a violation of Article Q(2) of the Fundamental law, mainly because this constitutional clause only sets out an objective of the State; this is not a normative provision. He then added: the fact that the legal consequences are not the same for norm conflicts with the Fundamental Law and for conflicts between a domestic legal norm and international

13 Formulated by Judge Ágnes Czine.

14 Judges Egon Dienes-Oehm, Barnabás Lenkovics, András Varga Zs, Miklós Lévay, László Kiss, Péter Paczolay, Béla Pokol, László Salamon and István Balsai attached dissenting opinions to the Decision.

15 See the dissenting opinion of Judge Egon Dienes-Oehm, under Paras. 40-50 of the Decision.

16 Pursuant to Art. 24(3) lit. c) of the Fundamental Law 'the Constitutional Court *may*, within its powers set out in paragraph (2) lit. f), annul any legal act or any provision of a legal act which conflicts with an international treaty' (emphasis added – T.M). Then Art. 42 (1)-(2) of the CC Act stipulates: '(1) If the Constitutional Court declares that a legal act is contrary to an international treaty which, according to the Fundamental Law, shall not be in conflict with the legal act promulgating the international treaty, it shall – in whole or in part – annul the legal regulation that is contrary to the international agreement. (2) If the Constitutional Court declares that a legal act is contrary to an international agreement with which, according to the Fundamental Law, the legal act promulgating the international treaty shall not be in conflict, *it shall* – in consideration of the circumstances and by setting a time-limit – invite the Government or the law-maker to take the necessary measures to resolve the conflict within the time-limit set.' (emphasis added – T.M).

17 See the dissenting opinion of Judge Béla Pokol, under Paras. 63-69 of the Decision.

treaties confirms that these scenarios are two different things. He also disagreed with the finding on the violation of Article B(1) of the Fundamental Law (rule of law), since no reasons have been provided for this in the majority decision and the petition of the judge had not referred to this ground either.[18]

The second category relates to the disagreement regarding the *legal effects of the annulment* of the contested provision. *Judge Ágnes Czine*, supporting the reasoning of the majority decision, opined that the person concerned had the possibility to resubmit an application upon the entry into force of the annulment (after 30 September 2015), which is a reasonable solution for his individual case.[19] However, other judges (*Judge Miklós Lévay*, seconded by *Judges László Kiss* and *Péter Paczolay*) claimed that due to the specific nature of the procedure (initiated by a judge) the Constitutional Court should have declared the inapplicability of the contested provision in the individual case (it is not excluded in such a procedure by virtue of the CC Act). It would have afforded 'individual constitutional protection' to the plaintiff having 'particularly important interests', due to the facts and circumstances in the particular case. He pointed out that the person concerned still remains unable to access the statelessness determination procedure, and therefore has to bear the detrimental consequences arising out of it.[20]

29.4 Assessment

Hungary can be considered as a 'champion state' in the field of statelessness for a while. We are parties to all relevant international conventions on the protection of stateless people and the reduction and prevention of statelessness.[21] All this relays a firm foreign policy message, namely it shows to the outside world Hungary's strong commitment to protecting stateless people and preventing its future cases as well as reducing their existing number. Being party to all these international instruments also means that Hungary can no longer modify her internal rules unilaterally. Besides that, Hungary has also improved domestic legislation in order to better implement these international obligations. As an outstanding example, as of 1 July 2007, Hungary established a completely new statelessness determination procedure and we are one of the few countries in the European Union having such a self-standing, comprehensive procedure established by law; with guarantees comparable

18 See the dissenting opinion of Judge László Salamon, under Paras. 72-81 of the Decision.

19 See the parallel statement of reasons by Judge Ágnes Czine, under Para. 38. of the Decision.

20 See the dissenting opinion of Judge Miklós Lévay, under Paras. 55-57 and 59 of the Decision.

21 These multilateral instruments are, on the universal level, the 1954 New York Convention on the Status of Stateless Persons, the 1957 UN Convention on the Nationality of Married Women, and the 1961 UN Convention on the Reduction of Statelessness (they are available at http://treaties.un.org); then on the regional level, the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession (these can be consulted at http://conventions.coe.int).

to the refugee status determination procedure, fulfilling the specific needs of this group. The Hungarian statelessness determination procedure has been in the international spotlight in recent years, mainly due to the sophisticated and in many aspects protection-oriented legal regime it established. It has often been referred to as one of the exemplary practices in a global context as well as Hungary has received different delegations for study visits from various countries to study our SDP model and experiences gained. Only one element in the system was heavily criticized by UNHCR and migration-related NGOs since the creation of this specific procedure[22] (and lately by the Council of Europe High Commissioner for Human Rights),[23] namely the 'lawfully staying' requirement as a precondition to apply for stateless status. This requirement was unique in an international comparison: none of the other functioning protection mechanisms set forth such a prerequisite.[24] This limitation explained principally the relatively low number of applications. Since the entry into force of the SDP (1 July 2007), the number of applicants has varied between 10-50 per year, with around 210 applications altogether until the end of 2014.[25] The UNHCR and the Hungarian Helsinki Committee have been continuously advocating against this legislative restriction, and this Decision finally put an end to nearly eight years of advocacy struggle. As Gyulai put it, '[t]he Hungarian Constitutional Court's judgment represents an important milestone in [the] long journey to improve the conditions of stateless migrants in Europe and beyond […]. [I]t will hopefully be easier to look at the Hungarian procedural model as a genuinely positive example in all its aspects. Also, countries considering the introduction of a statelessness-specific determination and protection mechanism will be further discouraged to introduce such unreasonable restrictions.'[26]

I concur with his views. From the point of view of fulfilling international law obligations in good faith, which is part and parcel of one of the most fundamental general principle in international law, *pacta sunt servanda*, the conclusion reached by the majority Court was the only acceptable and accurate one. The decision also showcases the clash between, on the one hand, the international law friendly members of the Court, open to the

22 See their written submissions mentioned *above* n. 7.

23 *Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Hungary, from 1 to 4 July 2014*, CommDH(2014)21, Strasbourg, 16 December 2014, Paras. 180-181, https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH(2014)21&Language=lanEnglish – last accessed on 1 August 2015.

24 France, Georgia, Italy (the judicial procedure), Latvia, Mexico, Moldova, the Philippines, Slovakia, Spain, Turkey and the United Kingdom do not require applicants for stateless status to be lawfully present in the country's territory (G. Gyulai, *Statelessness Determination and the Protection Status of Stateless Persons*, European Network on Statelessness, 2013, p. 14 www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20determination%20and%20the%20protection%20status%20of%20stateless%20persons%20ENG.pdf – last accessed on 1 August 2015).

25 Source: OIN statistics (www.bevandorlas.hu).

26 G. Gyulai, *Hungarian Constitutional Court declares that lawful stay requirement in statelessness determination breaches international law*, European Network on Statelessness blog entry, 2 March 2015, www.statelessness.eu/blog/hungarian-constitutional-court-declares-lawful-stay-requirement-statelessness-determination#sthash.w9CSOdTf.dpuf – last accessed on 1 August 2015.

requirements originating from international law and putting greater emphasis on the proper implementation of our undertaken international obligations; and, on the other hand, the judges protecting State sovereignty and trying to restrict the impact of international law on the domestic legal realm. Luckily, and in my opinion, wisely, the former group has prevailed, albeit just narrowly. It is remarkable that amidst such heated debates within the bench, the majority of judges, in a quite progressive manner, could even rely on international soft law norms, especially UNHCR guidelines. It was spelled out that '[w]hile the [UNHCR] Guidelines belong to the so-called non-binding international instruments, it is nevertheless indisputable that the UNHCR is the most authentic entity to interpret international legal questions and practice related to the Statelessness Convention'[27] The decision contains references to the former UNHCR Statelessness Guidelines No. 2 and took into account the guidance and interpretation given therein.[28]

It is also worth briefly commenting the Court's statement that notwithstanding the unconstitutionality of excluding unlawfully staying persons from the statelessness determination procedure, the 1954 Convention does not stipulate that the act of unlawful entry or stay shall automatically be considered lawful. This highlights one of the greatest gaps in the 1954 Convention, namely the lack of a 'non-penalisation for irregular entry' provision, similar to Article 31 of the 1951 Refugee Convention.[29]

Finally, the call of the Constitutional Court for reviewing the TCN Act in relation to Articles 27 and 28 (identity and travel documents issued for the stateless) of the 1954 Statelessness Convention is not easy to comprehend. Identity papers and travel documents are *per definitionem* issued to those people who have first been identified by the State concerned as stateless. In case of Hungary, identification is governed by the statelessness determination procedure, so legally speaking someone lacking nationality is not 'officially' a stateless person until the competent authority (the OIN) formally recognizes so. Further to that, granting a certain legal status to a foreigner shall also be accompanied by the right to stay on the territory. In case of SDP, if the application for stateless status is successful (i.e. the stateless status is given to a foreigner), the person will be granted a residence permit issued on humanitarian ground, valid for three years and renewable with one year at a time.[30] It flows from the above that an ID card and/or a travel document under the 1954 Convention are by definition issued to lawfully staying stateless persons in Hungary. In this respect, the distinction between illegally or lawfully staying applicants is not relevant, since only recognized stateless persons, who are by definition legally staying, are entitled to those identity/travel documents. Nonetheless, reviewing and amending the relevant

27 Dec. No. 6/2015 (II.25) AB, Para. 18.

28 It was replaced by the *Handbook on Protection of Stateless Persons*, published by UNHCR in June 2014, www.refworld.org/docid/53b676aa4.html – last accessed on 1 August 2015.

29 Gyulai, 2015.

30 Art. 29(1) lit. a) and (2) lit. a) of the TCN Act.

sectorial pieces of legislations (relating to social security, employment, social benefits and assistance, child care, education, access to justice etc.)[31] is indeed necessary to reflect on the distinction between the so-called 'stateless status seekers' and recognized stateless (by analogy with the distinction between asylum seekers and refugees). The legal distinction between the 'stateless status seekers' and recognized stateless persons is a consequence of the annulment of the 'lawfully staying' requirement in the procedural framework. Given that illegal migrants will also be entitled to launch the SDP, it is important to provide them with a certain status, with limited rights and entitlements, for the duration of the proceedings, like in case of asylum procedures for asylum-seekers while their protection claim is assessed.

One can only expect that until the entry into effect of the annulment of the contested provision (30 September 2015), the legislator will take this responsibility seriously and make the necessary legislative modifications so as to comply with this constitutional imperative. Be it as it may, once this deadline expires, *all persons* having no nationality will be able to apply for the recognition of their stateless status, *irrespective* of their illegal or lawful stay in Hungary, even if their status during the procedure will not be regulated by law due to the omission of the legislator. At least, their access to the procedure will in any case be guaranteed, which is a further step to enhance rule of law and respect human rights. With the help of the Constitutional Court, a long-standing obstacle was removed from the otherwise exemplary and progressive statelessness determination procedure, and Hungary will most likely to continue to be considered as a reliable and model-like country when it comes to honouring its statelessness-related international obligations and the effective protection of the highly vulnerable category of persons called "stateless" as proclaimed in the National Migration Strategy (2014-2020).[32]

31 For an overview of the substantial rights of stateless people granted by different laws in Hungary, see T. Molnár, 'A hontalan személyek jogállásáról szóló 1954. évi New York-i Egyezmény és a magyar jog viszonya: illeszkedés vagy súrlódások?' in G. Kajtár and G. Kardos (szerk.), *Nemzetközi jog és európai jog: új metszéspontok. Tanulmányok Valki László 70. születésnapjára*, Budapest, Saxum/ELTE-ÁJK, 2011, pp. 153-178.

32 Government Dec. No. 1968/2013. (X.4.), Annex, Chapter I – Basic principles, point 3; with further references in Chaps. V and VI.