DEVELOPMENTS IN INTERNATIONAL LAW

The Sudita Keita Versus Hungary Ruling of the ECtHR and the Right to Private Life of Stateless Persons

A Long Saga Comes to an End*

*Tamás Molnár***

Abstract

In the case of Sudita Keita v Hungary, the ECtHR handed down a key judgment relating to statelessness. In the ruling of 12 May 2020, the ECtHR unanimously found that Hungary's failure to ensure stability of residence for the stateless applicant for roughly 15 years amounted to a violation of his right to respect for private and family life (Article 8 ECHR). This ruling follows in the footsteps of an earlier and similar Strasbourg judgment (Hoti v Croatia), and substantiates the jurisprudential line which provides protection to stateless individuals with unsettled status using the forcefield of Article 8 ECHR. The Sudita Keita case before the ECtHR was the final chapter in a long-lasting saga that had commenced before domestic authorities and courts in Hungary, at various instances, also with the involvement of the Constitutional Court.

Keywords: EctHR, stateless persons, right to private and family life, positive obligations of States, 1954 Convention relating to the Status of Stateless Persons.

1. Introduction

On 12 May 2020, the ECtHR [Fourth Section] delivered a judgment relating to statelessness in the case of *Sudita Keita*.[1] In the ruling, in respect of which request

* The views expressed in this article are solely those of the author and its content does not necessarily represent the views or the position of the EU Agency for Fundamental Rights.

** Tamás Molnár: legal research officer, EU Agency for Fundamental Rights, Vienna; visiting lecturer of international (migration) law, Corvinus University of Budapest.

1 *Sudita Keita v Hungary*, No. 42321/15, 12 May 2020. For other case notes analysing the judgment (upon which the present analysis also draws), *see* Patrícia Cabral, '*Sudita Keita v Hungary* – European Court of Human Rights Decision on the Right to Private Life of Stateless Persons', *Statelessness & Citizenship Review*, Vol. 2, Issue 2, 2020, pp. 324-330; and 'Sudita Keita c. Hungría, de 12 de mayo: apatridia y regularización de situación administrativa', *Revista XDS*, Junio de 2020 (No. 12) [Fundación Cepaim], pp. 57-58.

for referral to the Grand Chamber has not been made and has thus become final on 12 August 2020, the ECtHR unanimously found that Hungary's failure to ensure stability of residence for the stateless applicant, Mr Sudita Keita, for roughly 15 years amounted to a violation of Article 8 ECHR, namely his right to respect for private and family life. This ruling follows in the footsteps of an earlier and similar Strasbourg case, the landmark judgment delivered in *Hoti*,[2] and substantiates the jurisprudential line started with the latter, which provides protection to stateless individuals with unsettled status using the forcefield of Article 8 ECHR.

In the case at hand, the litigation before the ECtHR was the final chapter in a long-lasting saga that had commenced before domestic authorities and courts in Hungary, at various instances, also with the involvement of the Constitutional Court (on the intricate procedural history, *see* the Section below).

2. Factual Background and Procedural History – A Long and Tortuous Journey in Brief

The applicant, who was born in Somalia in 1985 to a Nigerian mother and a Somali father, arrived in Hungary in 2002 as a migrant in an irregular situation, without any valid travel documents. Mr Keita soon after applied for asylum, which was rejected by the asylum authority (the then Office of Immigration and Nationality), as was his appeal against the negative asylum decision.[3] As a result, he was then issued an expulsion order in April 2003, which was suspended "until the preconditions for the measure were fulfilled".[4]

Between April 2003 and July 2006, the applicant had no regular legal status in Hungary as his removal was pending; he was without access to health care or employment; nor could he exercise the right to marry since he was unable to produce the documents required under Hungarian law.[5] The Embassy of Nigeria in Budapest refused to recognize him as a Nigerian national and the Hungarian authorities were unable to return him to Somalia due to the ongoing civil war. Owing to these circumstances, later in 2006, he was granted a tolerated status called 'exile' (*befogadott*) under the Hungarian aliens law, with a humanitarian residence permit valid for two years, which entitled him to basic healthcare and employment.[6]

2 *Hoti v Croatia*, No. 63311/14, 26 April 2018. Earlier ECtHR rulings relating to the right to respect for private life in cases of stateless individuals include *e.g. Karassev and Family v Finland*, No. 31414/96, 12 January 1999 and *Kurić and others v Slovenia (GC)*, No. 26828/06, 26 June 2012.

3 *Sudita Keita*, paras. 5 and 7.

4 Id. para. 8.

5 Id. para. 9.

6 Id. paras. 10, 12 and 13.

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Once the new legislation establishing the national statelessness determination procedure (SDP) entered into force in July 2007,[7] it seems that the Hungarian authorities failed to inform him of his possibility to apply for stateless status, as required by the aforementioned domestic legislation.[8]

In 2008, the Office of Immigration and Nationality reviewed his situation and withdrew his 'exile' (*befogadott*) status, given that no prohibition of *refoulement* existed at that material time regarding Nigeria.[9] Hence, he was once again left without an entitlement to healthcare, employment and marriage, since he had no recognized status or valid documents. A new expulsion order followed in November 2009 (his appeal against it was of no avail) but his removal was yet again suspended.[10]

In September 2010, the applicant initiated his first statelessness determination procedure under Act II of 2007 on the Entry and Stay of Third-Country Nationals (Third-Country National Act). At that time, he possessed a certificate for temporary stay (*ideiglenes tartózkodásra jogosító igazolás*), issued pursuant to the Third-Country Nationals Act, which entitled him to stay temporarily in Hungary pending his removal (the validity of the certificate would expire on 1 October 2010). The competent authority conducting the SDP, *i.e*. the Office of Immigration and Nationality rejected Mr. Keita's application for stateless status in November 2010 on two grounds.[11] *(i)* First, the applicant was unable to prove his real identity due to credibility issues, thus it could not be conclusively proven or substantiated that he was not considered a national by any State under the operation of its laws. *(ii)* Secondly, determining his statelessness was *ex lege* precluded in the absence of his 'lawful stay' in Hungary (as a result of the withdrawal of his 'exile' status), which was, at that time, a precondition under the Third-Country Nationals Act.[12] The applicant appealed the negative administrative decision before the Budapest-Capital Regional Court, which recognized him as stateless in February 2012. However, the Office of Immigration and Nationality initiated the judicial review of this judgment on his recognition as stateless from the Budapest-Capital Court of Appeal. The latter reversed the first instance ruling; and its judgment was later upheld by the Curia

7 *See* Chapter VIII of Act II of 2007 of the Entry and Stay of Third-Country Nationals, coupled with more detailed implementing rules set forth in Chapter VIII of Governmental Decree No. 114/2007. (V. 24.). Both are available *via* the National Database of Legislation (in Hungarian) at www.njt.hu. For more on the Hungarian SDP, *see* Tamás Molnár, 'Statelessness Determination Procedure in Hungary', *Asiel & Migrantenrecht*, Vol. 4, Issue 5-6, 2013, pp. 271-277; and the 'Statelessness Index' in relation to Hungary (under 'Statelessness Determination and Status'), at https://index.statelessness.eu/country/hungary.

8 *Sudita Keita*, para. 11.

9 Id. para. 14.

10 Id. para. 15.

11 This reconstruction of the proceedings relating to his statelessness determination in Hungary is based on Decision No. 6/2015. (II. 25.) AB, Reasoning [1]-[11].

12 *See* its Section 76(1): "Proceedings aimed at the establishment of the statelessness shall be instituted upon an application submitted to the alien police 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."

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of Hungary in December 2013. The main reason given was that *the applicant did not fulfil the precondition of 'lawful stay' in the country as required by national legislation governing the SDP*.

While the proceedings were ongoing before the Curia of Hungary, Mr Keita started a new SDP in December 2012, but this second application was rejected as well. In the judicial review process, the first-instance court (the Budapest-Capital Administrative and Labor Court) requested the Constitutional Court in September 2014 to declare the 'lawful stay' criterion in the Third-Country Nationals Act unconstitutional, for violating provisions relating to the assurance of harmony between Hungarian law and international law [Article Q(2)] and the prohibition of discrimination [Article XV(2)] of the Fundamental Law.[13]

The Constitutional Court accommodated the referring court's request and found, in its *Decision No. 6/2015. (II. 25.) AB*,[14] that *the 'lawful stay' criterion set out in the Third-Country Nationals Act violated Hungary's obligations under the 1954 Statelessness Convention*[15] by unduly narrowing the interpretation of Article 1 of that Convention. As a consequence, this was also found to be in breach of the Fundamental Law, notably Articles Q(2) and B(1), which foresee the assurance of harmony between international law and municipal law and the principle of rule of law, respectively. Hence, the Constitutional Court quashed the 'lawful stay' criterion with legal effect as of 30 September 2015.

In application of the national legislation as adjusted by the foregoing decision of the Constitutional Court, the Budapest-Capital Administrative and Labor Court recognized Mr Keita as a stateless person in October 2015; this decision was then upheld on appeal by the Budapest-Capital Court of Appeal. Once ultimately and irrevocably granted stateless status by virtue of the latter ruling in October 2017, the applicant regained his entitlement to basic healthcare and employment[16] in line with the relevant provisions of the 1954 Statelessness Convention.[17]

3. Arguments of the Parties: the Applicant's and the Government's Position

The *applicant* claimed that the Hungarian authorities' refusal to regularize his status satisfactorily between 2002 and 2017 has gravely prejudiced his human dignity, and more specifically, has resulted in the violation of Article 3 (prohibition of torture and other forms of ill-treatment), Article 5 (right to liberty and security), Article 8 (right to respect for private and family life),[18] Article 13

13 *Sudita Keita*, paras. 18-19; Decision No. 6/2015. (II. 25.) AB, Reasoning [7]-[8], [10].

14 For an analysis of this, *see* Tamás Molnár, 'The Constitutional Court's Decision on the Compatibility of the Hungarian Statelessness Determination Procedure with International Law', *Hungarian Yearbook of International Law and European Law*, Vol. 3, 2015, pp. 593-602.

15 *Convention relating to the Status of Stateless Persons*, New York, 28 September 1954 (360 UNTS 117). The convention was incorporated in the Hungarian legal order by Act II of 2002.

16 He had successfully completed a heavy-machinery operator course back in 2010 with a view to being issued with a work permit. *Sudita Keita*, para. 22.

17 Id. paras. 20-21. *See also* Cabral 2020, p. 326.

18 He has been living together with his Hungarian girlfriend since 2009 in Budapest. Id. para. 22.

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(right to an effective remedy) and Article 14 (prohibition of discrimination) ECHR.[19] Mr Keita also argued that the Hungarian legal framework was incompatible with the international obligations the country had undertaken, notably the 1954 Statelessness Convention, and prevented recognizing him as stateless or otherwise regularizing his situation. In particular, he argued that for 15 years, he had been deprived of the means of providing for himself, had not been able to access healthcare properly, and was unable to marry.[20]

The *government*, on the other hand, submitted that the applicant's situation had already been resolved due to the afore-mentioned decision of the Constitutional Court and the ensuing judicial proceedings leading to his recognition as a stateless person. The government added that even before these legal developments, the difficulties encountered by the applicant had not represented a "disproportionate burden from the perspective of Article 8" ECHR, hence, they did not amount to a violation of his right to private life protected therein. As the Hungarian submission stressed, the right to private life under Article 8 ECHR cannot, at any rate, be construed as requiring a Contracting Party to grant stateless status to an individual. Finally, it was also submitted that the Hungarian authorities had applied the relevant legislation correctly at all stages of the various procedures.[21]

4. Preliminary Issues

The ECtHR noted that the application was neither manifestly ill-founded, nor inadmissible on any other ground under Article 35 ECHR (*e.g.* the domestic remedies have been duly exhausted as Section 2 above illustrates), hence it was declared admissible.

Despite the multiple legal bases and rights violations relied on by the applicant, the ECtHR, being the "master of the characterization to be given in law to the facts of the case,"[22] considered that the complaint was to be examined under *Article 8 ECHR alone*.[23] In this context, the ECtHR emphasized that, contrary to the Hungarian government's argument, the principal question *was not* whether Mr Keita should have been *granted stateless status*, but rather whether "the Hungarian authorities [...] provided an effective and accessible procedure or the combination of procedures enabling the applicant" to *regularize his status*, "allowing him to lead a normal private life in Hungary".[24] This formulation echoed the main question in *Hoti*.[25]

19 Id. para. 24.
20 Id. paras. 26-27.
21 Id. paras. 28-30.
22 *See Radomilja and others v Croatia (GC)*, Nos. 37685/10 and 22768/12, 20 March 2018, paras. 114 and 126.
23 *Sudita Keita*, para. 24.
24 Id. paras. 32, 36.
25 *See* the similarities with *Hoti*, para. 124.

5. Assessment and Findings of the ECtHR

First, the ECtHR recalled extensively the *general principles* flowing from *Hoti*. It reiterated that Article 8 ECHR protects the right to establish and develop interpersonal relationships and can also embrace aspects of a person's social identity, therefore, the social ties between the person and the community in which they live constitute a part of the concept of private life. At the same time, the ECtHR confirmed that the ECHR does not guarantee to non-nationals, including stateless persons, the right to enter or reside in a particular country, since under international law States have the right, subject to their undertaken international obligations, to control the entry, stay and expulsion of non-nationals.[26]

The ECtHR also confirmed that the ECHR cannot be interpreted either as guaranteeing the right to a particular type of residence permit, nor is the ECtHR empowered to decide which legal status should be granted. Yet, the national authorities must offer a solution which allows for the individual concerned to exercise their right to private and family life without obstacles.[27] In certain cases, Article 8 ECHR

> "may involve a positive obligation to ensure an effective enjoyment of the applicant's private and/or family life [which] may be read as imposing on States an obligation to provide an effective and accessible means of protecting [this] right."[28]

Duly protecting private life also requires an accessible domestic remedy, which allows competent authorities to deal with the substance of the complaint under the ECHR and to grant appropriate relief.[29]

When *applying these principles* to the particular case at hand, the ECtHR noted that Mr Keita had been living in Hungary since 2002, where he had established social ties (a long-term relationship with his partner) and successfully completed vocational training, and he did not have a recognized status in any other country, therefore he has undoubtedly enjoyed private life in Hungary. The uncertainty of his legal status in the country for about 15 years, resulting in long periods without access to healthcare and employment, had adverse repercussions on his private life.[30]

The ECtHR underlined that another important element of the case was the applicant's *statelessness*. In this respect, the ECtHR recalled that after the introduction of the SDP in Hungarian law (July 2007), the authorities failed to inform Mr Keita about the possibility to apply for stateless status, despite strong

26 *Sudita Keita*, para. 31, citing *Hoti*, para. 119 (and the quoted case-law therein).
27 Id. citing *Hoti*, para. 121.
28 Id. citing *Hoti*, paras. 122-123.
29 Id. citing *Hoti*, para. 123.
30 Id. citing *Hoti*, para. 126.

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indications to his lack of any nationality, in particular after the Embassy of Nigeria in Hungary had refused to recognize him as a Nigerian national.[31]

Finally, the ECtHR emphasized that up until the decision of the Constitutional Court (February 2015) removing the 'lawful stay' requirement from the national legislation governing SDP, the requirements under Hungarian law made it *practically impossible for him to be recognized as a stateless person* and "perpetuated a situation of uncertainty".[32] This was in contravention with the principles of the 1954 Statelessness Convention, which, in essence, stipulates that stateless persons should not be imposed requirements that they are unable to fulfil by virtue of their status (Article 6).[33] In addition to the applicant's hardships stemming from the subsequently quashed, unconstitutional pre-condition of 'lawful stay', it took almost two years for the domestic courts to reach a final decision on Mr. Keita's case and ultimately grant him stateless status.

Overall, the *combined effect of the above elements* led the ECtHR to conclude that Hungary had failed to comply with

> "its positive obligation to provide an effective and accessible procedure or a combination of procedures enabling the applicant to have the issue of this status in Hungary determined with due regard to his private-life interests."[34]

Besides finding the violation of Article 8 ECHR, the ECtHR awarded Mr Keita as just satisfaction under Article 41 ECHR 8,000 EUR in non-pecuniary damage (plus taxes) and a reasonable sum covering his costs and expenses.

6. Commentary

To provide insight into the general context, in Europe, there are at least 600,000 stateless people and new cases continue to emerge.[35] Council of Europe member countries undertook obligations to protect stateless persons and uphold their rights as well as to prevent and reduce statelessness in universal and regional conventions they have signed up to.[36]

Sudita Keita follows a new strand of ECtHR case-law relating to statelessness, which started with *Hoti*. Even though stateless individuals have appeared before

31 Id. para. 38.
32 Cabral 2020, p. 328.
33 Id. para. 39; citing *Hoti*, para. 137.
34 Id. paras. 41-42.
35 Viewpoint of 9 June 2008 of the Council of Europe Commissioner for Human Rights, No one should have to be stateless in today's Europe, at www.coe.int/t/commissioner/viewpoints/080609_EN.asp. *See also* The Rights of Stateless Persons must be Protected' – Statement by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, at the 4th Council of Europe Conference on Nationality 'Concepts of Nationality in the Globalised World, CommDH/Speech (2010) 13, 17 December 2010 at https://wcd.coe.int/ViewDoc.jsp?id=1722017.
36 *See* these conventions in footnote 53.

the ECtHR also in the past (*see e.g.* the *Slivenko*,[37] *Genovese*,[38] *Kurić*, and *Kim*[39] rulings), "their statelessness was at best framed as an additional source of vulnerability, but not as a central issue of their claims."[40] Conversely, both in *Hoti* and *Sudita Keita*, the applicants' statelessness played a crucial role in the legal reasoning the ECtHR put forward.

As a preliminary remark about framing the alleged rights violations in the context of the Convention, it is worth noting that the ECtHR placed the complaint within the perimeters of *Article 8 ECHR solely*. Other alleged rights violations under further invoked ECHR provisions have not been examined, departing from the applicant's characterization under the ECHR, which Cabral considered regrettable.[41] In my view, this was most likely a strategic move by the ECtHR, as proceeding this way was easier for it to follow the line taken in *Hoti* and to situate the case at hand closely within its already established jurisprudence started with the aforementioned leading case.

As regards the nature and content of the *positive obligations* national authorities owe towards (stateless) individuals by virtue of *Article 8 ECHR*, the ECtHR restated the principles set forth earlier in *Hoti*. The elements of this four-pronged 'test' can be summarized as follows: *(i)* assessing the applicant's social ties with the country concerned; *(ii)* establishing that the uncertainty of legal status had adverse repercussions on the applicant' private life; *(iii)* examining whether there was an effective possibility to regularize the person's legal status; and *(iv)* whether any requirement had been imposed that the applicant was unable to fulfil by virtue of their status.[42]

Also, *Sudita Keita* is a good example for regional human rights courts such as the ECtHR engaging with the key international convention on the protection of stateless persons, namely the 1954 Statelessness Convention. As part of the relevant legal framework applicable to the case, the ECtHR enumerated a number of provisions from the 1954 Convention, such as the definition of 'stateless person' [Article 1(1)], the definition of the term 'in the same circumstances' (Article 6), personal status (Article 12), administrative assistance (Article 25), as well as facilitated naturalization of stateless persons (Article 32); then it integrated some of these principles stemming therefrom in its analysis,[43] although the majority of the above provisions have not been unpacked in the subsequent legal reasoning.

37 *Slivenko v Latvia (GC)*, No. 48321/99, 9 October 2003.
38 *Genovese v Malta*, No. 53124/09, 11 January 2012.
39 *Kim v Russia*, No. 44260/13, 17 July 2014.
40 Katja Swider, 'Hoti v Croatia: European Court of Human Rights Landmark Decision on Statelessness', *Citizenship & Statelessness Review*, Vol. 1, Issue 1, 2019, footnote 3; quoting Caia Vlieks, 'Geen (recht op) nationaliteit: De relevantie van artikel 8 EVRM bij de beperking van staatloosheid in Europa', *Nederlands Tijdschrift voor de Mensenrechten*, Vol. 43, Issue 3, 2018, p. 375.
41 Cabral 2020, p. 326.
42 *Sudita Keita*, paras. 33-34, 36, 39.
43 *See also* Cabral 2020, p. 328.

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In this regard, the *ECtHR gave a remarkable, even progressive interpretation to Article 6* of the 1954 Statelessness Convention. This provision is basically an interpretative one explaining the meaning of the term 'in the same circumstances', which is used throughout the treaty in the context of establishing different levels of protection for 'standards of treatment' enjoyed by identified stateless individuals.[44] Put differently, this provision aims to clarify certain conditions of the enjoyment by stateless persons of various *substantive rights* set out in the 1954 Convention when the corresponding comparator is 'aliens in the same circumstances', and excludes those requirements that stateless individuals are unable to fulfil due to their status (*e.g.* producing evidence of nationality[45]). As such, Article 6 defining the term 'same circumstances' gives precisions to and carves out an exception from the equal treatment obligation between 'aliens' and 'stateless persons', thereby refining the scope of application of certain substantive rights to the latter group. However, the way the ECtHR referred to it went beyond this literal meaning. The ECtHR infused this provision with an additional meaning, making use of it as a *procedural rule*, which prohibits certain requirements imposed in national statelessness determination procedures, such as 'lawful stay,' in respect of those who *seek the recognition* of their stateless status. The ECtHR contended that the former precondition of 'lawful stay' to initiate an SDP in Hungary was contrary to this obligation stemming from the 1954 Convention.[46] Such an interpretation seemingly goes beyond the ordinary meaning of the terms and the grammatical interpretation of Article 6 and expands its horizon, apparently relying on the object and purpose of the 1954 Convention, as set out in particular in its preamble and the Final Act of the diplomatic conference adopting it.[47] The ECtHR thus opted for a more teleological interpretation of the provision,[48] which is not alien to its jurisprudence. The same line of argumentation was also applied in *Hoti*, word for word, without the ECtHR having elucidated the reasons behind the expansion of the protective power of Article 6 of the 1954 Convention to such scenarios.

Finally, Cabral also notes[49] that the ECtHR made, in passing, an unfortunate reference to *de facto* statelessness when asserting that the refusal by the Embassy

44 For an overview of the three different levels of protection offered to stateless people under the 1954 Convention, *see e.g.* Tamás Molnár, 'Remembering the Forgotten: International Legal Regime Protecting the Stateless Persons – Stocktaking and New Tendencies', *US-China Law Review*, Vol. 11, Issue 7, 2014, pp. 832-833.

45 Nehemiah Robinson, *Convention relating to the Status of Stateless Persons: Its History and Interpretation. A Commentary*, Institute of Jewish Affairs, New York 1955; reprinted by UNHCR, Division of International Protection, 1997, p. 19.

46 This confirms that eliminating such an obstacle is not only a domestic constitutional law requirement, but also a pre-requisite of international law (although the former has been deduced also from international obligations).

47 United Nations Conference on the Status of Stateless Persons, held at New York from 13-23 September 1954, Final Act and Convention Relating to the Status of Stateless Persons, E/CONF. 17/5/Rev. 1, at https://undocs.org/pdf?symbol=en/E/CONF.17/5/REV.1.

48 These interpretative methods are, at least partially as concerns the teleological method, codified in Article 31 of the 1969 VCLT.

49 Cabral 2020, p. 328.

of Nigeria in Hungary to recognize Mr. Keita as a Nigerian national rendered the applicant '*de facto* stateless'. While I agree with her analysis on why this is a dangerous move towards some disputed and grey zones of international law,[50] I assume that the ECtHR deliberately avoided discussing issues of the declaratory nature of the recognition of statelessness and other matters of legal dogmatics around the 'stateless person' definition under international law.[51] The ECtHR may well have wanted to avoid going into the intricacies of the statelessness determination procedure and the legal effects attached to it, since its aim was not to dwell upon these modalities of a procedural nature and the actual "impossibility for [Mr Keita] to obtain stateless status as such", as already stressed earlier in the judgment. Instead of taking steps in this direction, the legal reasoning stuck to core issues directly linked to Article 8 ECHR, where both substantive law and the ECtHR's purview are the steadiest.

7. Conclusion

It is without a doubt that *Sudita Keita reinforces the protection of stateless individuals in the European legal space*, acknowledging anew statelessness as a relevant, self-standing factor, as well as clearly demonstrating the power of individual petitions under the ECHR to successfully bring unresolved, dragged out cases involving stateless persons to the ECtHR. I fully concur with Cabral who correctly pointed out that "the Court is well positioned to develop regional case-law on the fundamental rights of stateless persons [...] and provide stateless persons with access to the protection afforded by the 1954 Convention."[52] The right to respect for private and family life under Article 8 ECHR is the principal entry point to argue such claims before the ECtHR, which has again shown openness to rely on relevant instruments of international law other than the ECHR.[53] As a result, the new case-law marked by the tandem of *Hoti* and *Sudita Keita* rulings is capable of promoting a human-rights driven interpretation of the (quite dated) international treaty that is the cornerstone of the protection of the

50 On de facto statelessness, *consider e.g.* Alison Harvey, 'Statelessness: the 'de facto' statelessness debate', *Journal of Immigration, Asylum and Nationality Law*, Vol. 24, Issue 3, 2010, pp. 257-264; and Hugh Massey, *UNHCR and de facto statelessness*, LPPR/2010/01 (April 2010), at www.refworld.org/docid/4bbf387d2.html.

51 For a (*quasi*-)authentic detailed explanation, *see* Office of the United Nations High Commissioner for Refugees, *Handbook on Protection of Stateless Persons*, UNHCR, Geneva, June 2014, Part One.

52 Cabral 2020, p. 330.

53 In other statelessness-related cases, the ECtHR not only relied on the 1954 Statelessness Convention, but also referred to the 1961 Convention on the Reduction of Statelessness; the 1997 European Convention on Nationality; and the 2006 Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, alongside some materials of the UN International Law Commission, UNHCR as well as other international and regional bodies. *See e.g. Ramadan v Malta*, No. 76136/12, 21 June 2016; and *Kurić and others v Slovenia (GC)*.

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stateless.[54] This integrated and 'joined-up'[55] approach to human rights, also mobilizing the 1954 Convention is a promising sign of a move towards a more harmonized and inclusive human rights adjudication at the European level, equally helping solidify other areas of international law and strengthening the overall fabric of the legal edifice called 'international legal order'.

Zooming in on the level of the *rights-holders*, *i.e*. the stateless individuals, the ruling displays the power of international law, enforced *via* regional human rights adjudication, to provide at least some – partial – just satisfaction for long-lasting rights denials and violations affecting one of the most vulnerable groups, who often remain 'invisible' and out of sight of official proceedings. Mr Keita is only one of the hundred-something stateless persons who have currently been living in Hungary.[56] For those stateless who have suffered for many years living in a similar legal limbo, on the margins of the society, there now exists a well-established set of judge-made European human rights standards and principles, together with the option of enforcing them before the ECtHR, which can offer effective remedies for such grave interferences with their private life. Time will tell how many of them will step on the same path to seek justice in Strasbourg.

54 Similar to what the UNHCR has been doing in the past decade, in particular in its 2014 Handbook of Protection of Stateless Persons.

55 For this term, *see* the EU Fundamental Rights Agency's toolkit entitled 'Joining up fundamental rights', at https://fra.europa.eu/en/joinedup/home.

56 For the data on stateless population in Hungary, *see*https://index.statelessness.eu/country/hungary, under 'Statelessness Population Data' (last updated: March 2021).