

**Nationality: Romani;
Citizenship: European**

By Maylis de Verneuil

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Author biography

Maylis de Verneuil is a French-trained attorney who has been working for the past ten years on humanitarian missions. She recently received her PhD in Human Rights from Scuola Superiore Sant'Anna (Pisa) with a thesis entitled "Statelessness of Romani Individuals in the Western Balkans: Negligence or Discrimination?"

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Abstract

Among the approximate ten million stateless people worldwide, UNHCR estimates that more than 680,000 live in (geographical) Europe.¹ In the Western Balkans, the majority of stateless people are members of the Romani community, mainly as a consequence of discrimination.² Since the Roma, who are the largest minority in Europe with about twelve million people, constitute a non-territorial trans-border minority, some proposals have been expressed to confer them a status of 'stateless nation'. In the current context of developments concerning the meaning and content of EU citizenship, it has even been proposed that this Romani nationality be included within the European Union system and confer EU citizenship, without being necessarily attached to the nationality of a member state. If this idea may appear fanciful and unrealistic for the time being, it has the merit to raise interesting questions concerning the EU's role and powers to end statelessness.

¹ See UNHCR website <www.unhcr.org/pages/4e12db4a6.html> accessed 1st March 2016. See also the Institute on Statelessness and Inclusion (ISI), *The World's Stateless*, Oisterwijk, Netherlands, December 2014, p95

² See notably Julija Sardelic, 'Romani Minorities and Uneven Citizenship Access in the Post-Yugoslav Space', in *Ethnopolitics*, Vol. 14, No. 2, 2015

1. Introduction

Researching statelessness necessarily implies analysing, comparing and questioning various types of nationality/citizenship law. In Western European countries, the model of the 'Nation-State', where the concept of 'nation' as a cultural and ethnic entity coincides with the concept of 'state' as a political and geopolitical entity within the same borders, prevails. In contrast, the Western Balkan countries³ (WBC) are often 'multinational states', where some 'nations' or 'national minorities' may have special ties with a neighbouring state. In the best-case scenario, individuals belonging to national minorities have dual citizenship.⁴ Things get more complicated when we consider cases of 'transnational' or 'trans-border' minorities.⁵ Some Romani individuals are in this situation, with the consequence among others of not having a clear legal status, and in the worst case, no access to citizenship. Being in a situation of statelessness or at risk of being stateless, they are deprived of basic rights such as access to education, health and social services, labour market, free movement, participation in political life, etc.

Although truly reliable statistics on stateless people as well as on Roma are very difficult to obtain, within the European Union (EU), the United Nations High Commissioner for Human Rights (UNHCR) estimates that there are around 400,000 stateless people,⁶ mainly as a consequence of the dissolution of the Soviet Union (Latvia and Estonia) but also resulting from migration. In the successor states of the former Yugoslavia, there are about 17,000 stateless people, mainly belonging to Romani communities.⁷ Slovenia and Croatia have already joined the EU and the other WBC are potential candidates and were promised the prospect of joining when they are ready.⁸ That is why stateless individuals, undocumented citizens and legally invisible people from these countries are all potential future EU citizens, and it is in the EU's best interest to foster the search for statelessness reduction, including in the WBC. Taking the example of Europe's Roma, who consider themselves as a nation but do not have a national homeland, this short-paper intends to examine the evolution of the concept of EU citizenship in order to determine whether stateless individuals could access it without necessarily being nationals of an EU member state (MS).

2. The 'Romani nation': a stateless nation?

Since they left northern India around the 10th century, the Romani people have never built any homeland, nor claimed a territory.⁹ Yet, centuries of persecution, slavery and the experience of the Romani Holocaust during the Second World War have contributed to the emergence of a feeling of nationhood.¹⁰ What some authors call 'Romani nationalism' is however fragmented: throughout

³ 'Western Balkans', according to the European Union, refers to the former Yugoslavia successor states (Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Slovenia) plus Albania. Nevertheless, the phrase chosen can vary from one international organisation to another: OSCE speaks about the 'Balkans' while UNHCR and CoE generally use 'South-Eastern Europe countries'.

⁴ Aleksandar Pavković, *The Fragmentation of Yugoslavia: Nationalism in a multinational state*, St Martin's Press, New York, 1997 and Aleksandar Pavković, *The Fragmentation of Yugoslavia: Nationalism and War in the Balkans*, MacMillan, 2010

⁵ Some authors like Stefan Wolff speak of 'minority with no compact territory', or even 'non-state people'. See Stefan Wolff, 'The relationships between states and non-state peoples: a comparative view of the Kurds in Iraq', in Gareth Stansfield & Robert Lowe (eds), *Kurdish Policy Imperative*, Chatham House, 2010

⁶ UNHCR, Global Trends 2012: Persons under UNHCR's statelessness mandate, Table 7 <www.unhcr.org/globaltrends/2012GlobalTrends_0913.zip> accessed 1st March 2016

⁷ UNHCR Global Appeal 2015, South Eastern Europe, p2 <www.unhcr.org/5461e60d14a.html> accessed 1st March 2016

⁸ See the European Commission website 'Neighbourhood Policy and Enlargement Negotiations' <http://ec.europa.eu/enlargement/countries/check-current-status/index_en.htm> accessed 1st March 2016

⁹ Jean-Pierre Liégeois, *Roms en Europe*, Council of Europe, 2007, p15

¹⁰ Genocide crimes perpetrated by the Germans and their Axis allies against the Roma are called *Porajmos* or *Samudaripen*. An estimated 220,000 to 500,000 Roma were killed (at least one quarter of the Romani population in Europe at the time). See more in Ian Hancock, 'True Romanies and the Holocaust: A Re-evaluation and an overview', in *The Historiography of the Holocaust*, Palgrave Macmillan, 2005, pp 383–396

history, Romani communities dispersed across the European continent, adapting themselves to the local language, religion and customs, with the consequence of losing homogeneity.¹¹ In the context of increasing EU integration, disappearance of borders within the Schengen area, and MS' concessions on sovereignty, Romani activists have started demanding the recognition of a special status for the Roma.

The first concrete illustration of Romani nationalism was the idea of establishing a Romani country (pre-baptised *Romanestan*) on an empty piece of land, following somewhat the Zionist model.¹² After 1945, this idea faded away to the benefit of the new principle of *Amaro Romano drom* (i.e. 'our Romani way'). This meant "our State is everywhere where there are Roma, because Romanestan is in our hearts".¹³ Therefore, political awareness and the concept of a Romani Nation progressively emerged among Romani elites, based on the common roots of the Romani people, their shared historical experiences and perspectives, and the commonality of culture, language, and social standing.¹⁴ The first world Romani congress took place in London in 1971 and established an executive body, the International Romani Union (IRU), in charge of negotiating Romani issues on the international scene.¹⁵ Symbolically, the Romani flag and anthem were adopted during this first congress.¹⁶ Efforts at standardizing the literary Romani language started, and in 1993 it was recognised by the Council of Europe Parliamentary Assembly as a non-territorial minority's language, protected by the 1992 European Charter for Regional and Minority Languages.¹⁷ A 'Declaration of a Roma Nation' was adopted in 2000 during Fifth Romani World Congress held in Prague,¹⁸ shaping the claim for a non-territorial national recognition, asserting that Roma wanted to be officially and internationally recognized as a single Romani non-territorial nation.¹⁹

Since then, the creation of a specific transnational European minority status has been debated.²⁰ The concept has some merit. Indeed, within the supranational frame of the EU, and through the creation of a Romani nationality, there is the potential to combat discrimination and improve Roma's social integration.²¹ This would notably have the advantage that all the Romani people could obtain this special status and could offer new inroads to overcoming the problem of MS' refusal to naturalize them, and therefore reduce statelessness among Roma. The first step of officially recognising stateless

¹¹ See Ian Hancock, 'The East European roots of Romani nationalism', in *Nationalities Papers: The Journal of Nationalism and Ethnicity*, volume 19, Issue 3, 1991

¹² In 1934, a Polish 'Gypsy King' of Romanian origins, Jozef Kwiek, asked the League of Nations for some land in Southern Africa (in current Namibia) so that the Gypsies could have their own State there. In the meantime, some similar demands were formulated in India. In 1936, 'King' Janusz Kwiek asked Mussolini for some land in Abyssinia (at that time occupied by Italy). These attempts were unsuccessful and interrupted by the Second World War. See Morgan Garo, *Les Rroms. Une Nation en Devenir?*, Ed. Syllepse, Paris, 2009, pp162-163

¹³ Elena Marushiakova & Vesselin Popov, 'The Roma a Nation without a State? Historical Background and Contemporary Tendencies', in *Differenz und Integration, Segmentation und Komplimentarität*, Mitteilungen des SFB 586, Hamburg, 2004, p77

¹⁴ Nicolae Gheorghe & Andrzej Mirga, 'The Roma in the Twenty-First Century: A Policy Paper', Project on Ethnic Relations, Princeton, New Jersey, 1997

¹⁵ See IRU website <<http://internationalromaniunion.org/about-us/>> accessed 1st March 2016

¹⁶ Nicolae Gheorghe & Jean-Pierre Liegeois, *Roma/Gypsies: A European Minority*, Minority Rights Group Report, Paperback, 1995, p26

¹⁷ See the linguist Marcel Courthiade' proposal for orthographic unification in Marcel Courthiade, *Romani fonetika thaj Lekhipa*, Filân Than, 1984 and Marcel Courthiade, 'Structure dialectale de la langue rromani', in *Interface*, no. 31, 1998

¹⁸ Full text available at: <www.hartford-hwp.com/archives/60/132.html> accessed 1st March 2016

¹⁹ Morag Goodwin, 'The Romani Claim to Non-Territorial Nation Status: Recognition from an International Legal Perspective', in the *Roma Rights Journal*, May 2004, <www.errc.org/article/the-romani-claim-to-non-territorial-nation-status-recognition-from-an-international-legal-perspective/1849> accessed 1st March 2016

²⁰ Xavier Rothea, *France, pays des droits des Roma? Gypsies, Bohémiens, gens du voyage, Tsiganes face aux Pouvoirs Publics depuis le 19ème siècle*, Carobella (Ed.), Lyon, 2003, pp19-20

²¹ Anna Fischer, 'Between Nation and State: Examining the International Romani Unions', Bard College Paper no. 12, 2011, p105

Roma as such in the sense of Article 1 of the 1954 Convention²² would bring the advantages of providing them with the due protection, acknowledging and quantifying the issue, and may foster further research for solutions. While stateless Roma should have access to due rights and protection, as well as to naturalisation procedures in the best case, one could also imagine ways for them to benefit from an alternative legal recognition. Thus, some Romani rights activists call for a recognised Romani stateless nation that would be represented and participate in EU institutions. Yet, this would raise the long debated question of whether or not a nation can exist without a territory. Furthermore, it would raise new questions, such as: what would be the legal link between a Romani national and the state territory where he/she is either a resident or travelling in? How would this Romani stateless nation be reconciled with other potential nationality(ies)? What kind of official representation and political structures within the EU system would this new nationality have? Would stateless Roma living in non-EU countries have access to this Romani nationality? And finally, would this solve the problems associated with statelessness?

For the time being, it remains difficult to foresee the legal recognition of a stateless Romani nation in the near future, since the idea is barely known outside of a disunited Romani elite, and poorly supported in international *fora*. According to Peter Vermeersch, the EU's growing attention to Roma issues as well as international human rights discourse and practice currently offer better protection of Roma's rights than the traditional national citizenship scheme.²³ Damian Tambini also believes that Romani interests are best served by a practice of 'post-national citizenship'.²⁴ Moreover, the formal recognition of a Romani nation solely from a legal perspective will neither be sufficient nor efficient if efforts in favour of Roma's social integration are not implemented in parallel.

To date, the Romani nation's existence seems to raise numerous complicated questions, and consequently remains more symbolic, emotional or utopian than real. Nevertheless, the debate is open. Besides, the progress of EU integration and prospect of EU citizenship development may provide new perspectives for stateless Roma.

3. The achievement of an EU citizenship beyond the state level?

A common citizenship status for citizens of EU member states was introduced in 1992 with the signing of the Treaty of Maastricht, whose content and implications have been increasing in parallel to MS national citizenship. EU citizenship is part of EU law and has already generated case law, to such an extent that one can wonder if it could provide an alternative solution for the people who face difficulties accessing citizenship of individual MS. Currently, "[e]very national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it."²⁵ The rights of EU citizens are specifically listed in Article 20 of the Treaty on the Functioning of the European Union (TFEU),²⁶ which also suggests that the list is not exhaustive. It includes the right to move and reside freely within the territory of the MS; the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections; the right to enjoy diplomatic and consular protection in a third country and the right to petition the European Parliament, to apply to the European Ombudsman, and to address the EU institutions in any of the Treaty languages. Furthermore, the Preamble of the EU Charter of Fundamental Rights declares that

²² Article 1 (1) of the 1954 Convention "For the purpose of this Convention, the term "stateless person" means a person who is not considered as a national by any State under the operation of its law."

²³ Peter Vermeersch, 'The Romani perspective: experiences and acts of citizenship across Europe' in *The Routledge Handbook of Global Citizenship Studies*, 2014, pp483-4

²⁴ Damian Tambini, 'Post-national citizenship', *Ethnic and Racial Studies*, Volume 24, Issue 2, 2001, pp195-217

²⁵ Article 9 of the Treaty on the European Union (TEU).

²⁶ See the full text of the TFEU at

<<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>> accessed 1st March 2016

“[the Union] places the individual at the heart of its activities, by establishing a citizenship of the Union and by creating an area of freedom, security and justice”.²⁷

One observes that the phrase “[c]itizenship of the Union shall be additional to and not replace national citizenship” may limit its legal development. Officially, one shall not understand EU citizenship as a step towards a European federal State, despite some failed attempts to adopt a constitutional treaty in 2004.²⁸ EU citizenship is supposed to complement national citizenship by transferring ‘additional’ rights. However, according to Kay Hailbronner there is an inherent link between EU citizenship and national citizenship, because the first one has changed the perception of the second one. EU citizenship already implies some political rights and is gradually replacing important elements of the nationality of the MS.²⁹ Moreover, the shaping of an EU citizenship has contributed to enhancing individual rights, with the crucial contribution of the Court of Justice of the European Union (CJEU) jurisprudence that ensures implementation of these rights.

According to the CJEU, “Union citizenship is destined to be the fundamental status of nationals of the Member States”.³⁰ In the context of the *Grzelczyk* case, the Court confirmed the obligation for MS to accord EU citizens who find themselves in the same situation the same treatment, irrespective of their national citizenship. In the *Zhu and Chen* case,³¹ the CJEU stated that EU citizens are fully entitled to reside in another MS.³² In the *Eman and Sevinger* case, the Court ruled that a member state may determine who is entitled to vote and to stand as a candidate in elections to the European Parliament, provided that it observes the principle of equal treatment.³³ More specifically on statelessness, the *Ruiz Zambrano* case gave the CJEU the opportunity to make a breakthrough in the field of rights based on EU citizenship, when Belgium was condemned for having prevented “the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen”. In this case, Belgium had refused right of residence and work permission to third country nationals who were parents of minor children, themselves EU citizens.³⁴ In the *Rottmann* case, the Court established that a situation that would cause the loss of EU citizenship falls, by its nature and its consequences, under EU law, and that MS should have “due regard to community law [when laying down] the conditions for acquisition and loss of nationality”.³⁵ In that same case, the CJEU also affirmed the need to evaluate and balance the proportionality of a decision that would leave the person stateless. In the *Thierry Delvigne* case, the Court stated that there are limits to national legislation depriving individuals of the right to vote in European Parliament election.³⁶ Undoubtedly, the CJEU has played and will continue to play a role in the progress of European integration, including in the shaping of EU citizenship.³⁷ Moreover, with the entry into force of the Treaty of Lisbon in December 2009, the Charter of Fundamental Rights became legally binding on the EU institutions and on national governments. Since the Court no longer hesitates

²⁷ See the full text of the EU Charter of Fundamental Rights at www.europarl.europa.eu/charter/pdf/text_en.pdf accessed 1st March 2016

²⁸ See the full text of the Treaty establishing a Constitution for Europe http://europa.eu/eu-law/decision-making/treaties/pdf/treaty_establishing_a_constitution_for_europe/treaty_establishing_a_constitution_for_europe_en.pdf accessed 1st March 2016

²⁹ Kay Hailbronner, ‘Nationality in Public International Law and European Law’, in Rainer Bauböck (ed.), *Acquisition and Loss of Nationality: Policies and Trends in 15 European Countries*, Amsterdam University Press, 2006, p37

³⁰ CJEU, *Grzelczyk v Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve*, C-184/99, 20 September 2001, par. § 31

³¹ CJEU, *Zhu and Chen v Secretary of State for the Home Department*, C-200/02, 19 October 2004

³² See the European Commission report ‘EU citizenship - Dismantling the obstacles to EU citizens’ rights’, 2010 p2 http://ec.europa.eu/justice/citizen/files/com_2010_603_en.pdf accessed 1st March 2016

³³ CJEU, *M. G. Eman and O. B. Sevinger v College van burgemeester en wethouders van Den Haag*, Case C-300/04, 12 September 2006

³⁴ CJEU, *Gerardo Ruiz Zambrano v Office national de l'emploi*, Case C-34/09, 8 March 2011 (para. 45)

³⁵ CJEU, *Rottmann v Freistaat Bayern*, C-135/08, CJEU, 2 March 2010 (para. 39)

³⁶ CJEU, *Thierry Delvigne v Commune de Lesparre Médoc et préfet de la Gironde*, C-650/13, 6 October 2015

³⁷ Laura von Waas, *Addressing the human rights impact of statelessness in the EU's external action*, Policy Department DG External Policies, European Parliament, November 2014, p20

to refer to the EU Charter of Fundamental Rights, there are positive prospects for the protection of individual human rights, and this would probably involve statelessness issues.³⁸

Interestingly, the European Commission has already considered such future developments and funds research projects on EU citizenship. The Rights, Equality and Citizenship Programme 2014-2020 aims at promoting non-discrimination and the rights deriving from Union citizenship.³⁹ Another example is the Involuntary Loss of European Citizenship (ILEC) project that researches the effects of the increasing judicialisation of the grounds of loss of Union citizenship over national legal systems.⁴⁰ In 2013, the European Economic and Social Committee (EESC) released an opinion calling for the extension of EU citizenship to long-term residents as a way to facilitate integration of immigrants and refugees in the EU. This would concern the third-country nationals in Europe, but also the EU's stateless residents who continue to be excluded from both the rights attached to nationality as well as those enjoyed by EU citizens.⁴¹

However, if the concept of EU citizenship seems to develop along the path of increasing guarantees for EU citizens, it is not always the case in practice. In recent years, France, Italy and other EU member states discriminatorily expelled Roma from their national territories, including Romanian and Bulgarian individuals who were therefore EU citizens.⁴² As Claude Cahn notes “[a]pparently, the nascent EU citizenship is still weak, and citizenship of Roma is shown to be of a lesser status than that of other Europeans”.⁴³ Once again, policies to reduce Romani statelessness as well as other Roma's hardship will not have any results if they are not accompanied by strong actions and willingness to combat discrimination.

4. Various proposals to solve the issue of Romani Statelessness within the EU

Jessica Parra presents the idea of allowing individuals to become EU citizens with or without a MS nationality, somewhat similarly to the claims for a stateless Romani nation. Thus, stateless persons could bypass the obstacles to acquiring MS citizenship and accede directly EU citizenship and the benefits attached to it.⁴⁴ Yet, as seen *supra*, EU Citizenship “shall be additional to national citizenship and shall not replace it.” In fact, such a radical measure would constitute more than a simple EU law reform, it would probably transform the whole functioning of EU institutions. Transferring all citizenship prerogatives to the EU supranational level would also imply changing the entire framework, which could go as far as adopting a Constitution and transforming the Union into one European Federal State.⁴⁵ One can never know if this will occur in the future, but taking into account the European crisis context it is rather unlikely to happen within the next decade.

³⁸ See for example CJEU joined cases C-411/10 and C-493/10, *N. S. v Secretary of State for the Home Department and M. E. and Others v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*, 21 December 2011

³⁹ See the Rights, Equality and Citizenship Programme's website

<http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm> accessed 1st March 2016

⁴⁰ See ILEC website <www.ilecproject.eu/The%20Project> accessed 1st March 2016

⁴¹ See the European Network on Statelessness at <www.statelessness.eu/blog/eu-citizenship-stateless-people#sthash.UZKiFi3E.dpuf> accessed 1st March 2016

⁴² See notably Owen Parker, ‘Roma and the Politics of EU Citizenship in France: Everyday Security and Resistance’, in *Journal of Common Market Studies*, Volume 50, Issue 3, May 2012, pp 475–491

⁴³ Claude Cahn, ‘Minorities, Citizenship and Statelessness in Europe’, *European Journal of Migration and Law*, 14, 2012, pp314-316

⁴⁴ Jessica Parra, ‘Stateless Roma in the European Union: Reconciling the Doctrine of Sovereignty Concerning Nationality Laws with International Agreements to Reduce and Avoid Statelessness’, in *Fordham International Law Journal*, Volume 34, Issue 6, 2011, pp1685-1687

⁴⁵ See the National Platform EU Research and Information Centre's paper ‘What the EU Constitution does – A 14-point critical summary’, Dublin, March 2005 <www.europarl.europa.eu/inddem/docs/papers/14%20point%20summary.pdf> accessed 1st March 2016

Another proposal is to adopt a specific EU Directive on stateless Roma. In 2004, the EU Network of Experts in Fundamental Rights called on the European institutions to develop a binding legal instrument for MS in the area of Roma integration, or in other words a Roma Integration Directive.⁴⁶ Indeed, the experts considered that the scope of the Directive 2000/43/EC ('Racial Equality Directive')⁴⁷ was too limited for the needs of the Roma and that [t]heir exclusion from a number of public services and essential social goods is the result of their precarious administrative situation, their statelessness and, worst of all, the total lack of administrative documents attesting their legal status".⁴⁸ A directive on stateless Roma could be adopted on the ground of Article 2 of TEU "[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail." It also says further that the Union "shall combat social exclusion and discrimination, and shall promote social justice and protection". Such a specific directive would require MS to provide access to documentation for Roma who do not have proof of their possession of a nationality. Parra argues that such a directive would have the advantages of neither asking MS to recognize a nation within their nation, nor requiring an improbable restructuring of the political nature of EU citizenship. She also points out that a directive dedicated to the sole issue of statelessness would be more productive than a general directive on numerous Roma issues or Roma 'integration'.⁴⁹

In April 2011, the EU Council adopted conclusions establishing the EU Framework for National Roma Integration strategies, aiming at closing the gap between Roma and non-Roma in access to education, employment, healthcare and housing. Although MS have to provide annual reports to the European Parliament and Council for assessment of progress made until 2020, this non-binding mechanism certainly does not have the same impact and direct effect as a Directive.

Other proposals have been raised to solve the issue of impeded access to EU citizenship. The European Roma Rights Centre (ERRC) legal director Adam Weiss is convinced of the beneficial powers of strategic litigation, not only in front of the CJEU, but also before the European Court of Human Rights (ECtHR). Indeed, all MS as well as all WBC adhered to the European Convention of Human Rights (ECHR) and by doing so accepted the ECtHR's supranational jurisdiction. Weiss notably gives the example of some Roma who left Yugoslavia for Italy in the 1990s and became stateless because they could not secure residence permits at the time, and therefore could not naturalise. According to him, the case could be brought to court, arguing that there is a breach of Article 8 ECHR. Indeed, in *Genovese v Malta*,⁵⁰ the ECtHR stated that "even in the absence of family life, the denial of citizenship may raise an issue under Article 8 because of its impact on the private life of an individual, which concept is wide enough to embrace aspects of a person's social identity".⁵¹ Progress in solving Romani statelessness may therefore come from the slow but sure development of national as well as supranational jurisprudence.

⁴⁶ See the 'Report on the Situation of Fundamental Rights in the European Union for 2003' at

<http://ec.europa.eu/justice/fundamental-rights/files/cfr_cdf_synthesisrep2003_en.pdf> accessed 1st March 2016

⁴⁷ Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, 29 June 2000

<<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>> accessed 1st March 2016

⁴⁸ See more on the ERRC's website <www.errc.org/article/eu-experts-recommend-directive-on-roma-integration-european-union-network-of-experts-in-fundamental-rights-calls-for-roma-integration-directive/1921> accessed 1st March 2016

⁴⁹ Jessica Parra, 'Stateless Roma in the European Union: Reconciling the Doctrine of Sovereignty Concerning Nationality Laws with International Agreements to Reduce and Avoid Statelessness', in *Fordham International Law Journal*, Volume 34, Issue 6, 2011, pp1688-1692

⁵⁰ ECtHR, *Genovese v. Malta*, Applications no. 53124/09, 11 January 2012 (para.33)

⁵¹ See the European Network on Statelessness at:

<www.statelessness.eu/blog/thoughts-strategic-litigation-can-eu-law-prevent-and-reduce-roma-statelessness-europe> accessed 1st March 2016

5. Conclusion

As predicted by Hannah Arendt, the nation-state that was originally the guarantor of universal human rights has been weakened by transnationalism and globalization.⁵² It seems that within the EU, state sovereignty in the field of citizenship is gradually losing ground. Nevertheless, EU citizenship is still far from taking over member states' citizenship. Interestingly, René de Groot points out that the on-going changes consist more in the development of a European law on citizenship than in the replacement of national citizenship by EU citizenship.⁵³ Currently, EU citizens enjoy two levels of citizenship, with the supranational one developing in the sense of the enlargement of the set of fundamental rights guaranteed within the EU system. If one day access to citizenship officially figures among these EU guaranteed rights, one may hope that every individual in a situation of statelessness within the EU's internal borders may finally obtain a legal existence.

There are some positive signs indicating growing awareness and concern about statelessness in Europe. For instance, in December 2015, during the EU Justice and Home Affairs (JHA) Council, the ministers adopted some conclusions on statelessness⁵⁴ and evoked the need for an EU Directive on statelessness determination procedures.⁵⁵ They also invited the Commission to launch a platform for exchanges of good practices among MS in order to reduce the number of stateless people and strengthen their protection.⁵⁶ Nevertheless, reduction of statelessness will not happen if not supported by stronger and more efficient EU and MS anti-discrimination policies, targeting in priority migrant communities. Given that states themselves have little incentive to reduce statelessness of Roma or any other discriminated minority, the EU as well as civil society should assume a greater role and influence the states to implement the international legal obligations they adhered to regarding statelessness and discrimination.⁵⁷ In parallel, the WBC are endeavouring to comply with EU standards and rules, notably in the fields of statelessness reduction and integration of Roma. This is probably the best moment – with the best momentum – for the EU to take strong actions in solving statelessness issues that would have an impact on Europe overall.

⁵² Hannah Arendt, *The Origins of Totalitarianism*, Harcourt, New York, 1968

⁵³ Gerard-René de Groot, 'Towards A European Nationality Law', *Electronic Journal of Comparative Law*, vol. 8.3 (October 2004), <www.ejcl.org/83/art83-4.html> accessed 1st March 2016, pp27-30

⁵⁴ See the Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness <www.consilium.europa.eu/en/press/press-releases/2015/12/04-council-adopts-conclusions-on-statelessness> accessed 1st March 2016

⁵⁵ So far, only eight MS have implemented this 1954 Convention obligation, namely Belgium, France, Hungary, Italy, Latvia, Slovakia, Spain and United Kingdom. See Gábor Gyulai, *Stateless Determination and the Protection Status of Stateless Persons*, European Network on Statelessness, 2013

⁵⁶ See the European Migration Network's website <http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/index_en.htm> accessed 1st March 2016

⁵⁷ See Nermin Allam, 'Stateless Roma in Europe: a Case Study of European Migration, Citizenship and Identity Policies', Victoria Biennial Conference Series, April 2010, p14