Declaration on the Legal Status of Applicants for International Protection from Third Countries to the European Union

As a follow up to my post on the 25th Meeting of the GEDIP in Luxembourg I would like to add now the final document containing the **Declaration on the Legal Status of Applicants for International Protection from Third Countries to the European Union,** which Prof. van Loon has very kindly provided.

DECLARATION ON THE LEGAL STATUS OF APPLICANTS FOR INTERNATIONAL PROTECTION FROM THIRD COUNTRIES TO THE EUROPEAN UNION

THE EUROPEAN GROUP FOR PRIVATE INTERNATIONAL LAW

At its Twenty-fifth meeting held in Luxembourg, from 18 to 20 September 2015,

Considering that the current influx of applicants for international protection, among other migrants, from third countries to the European Union and their presence – even of a temporary character – in the Member States gives rise to urgent and important questions concerning their legal status, including in civil law, and requires that special attention be given to the clarification, and consistency across the European Union, of this status;

Recalling that the Area of Freedom, Security and Justice of the European Union covers both policies on border checks, asylum and immigration, and judicial cooperation in civil matters;

Considering that it is crucial that the measures to be taken meet both the immediate and future challenges arising from the influx of migrants from third countries;

Recalling, in particular:

– the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights of the European Union, the United Nations Convention of 20 November 1989 on the Rights of the Child, and the United Nations Convention of 28 July 1951 relating to the Status of Refugees and its Protocol of 31 January 1967, all of which apply across the European Union,

– the Directives of the European Parliament and Council 2011/95/EU, 2013/32 and 2013/33/EU as well as Council Directive 2001/55/EC [1],

– Regulation (EC) 2201/2003 of the Council [2] and the Hague Conventions on the Protection of Children of 19 October 1996[3] and on the Protection of Adults of 13 January 2000 [4] ;

CALLS ON THE INSTITUTIONS OF THE EUROPEAN UNION AND ON THE MEMBER STATES

1. TO ENSURE

Recording and recognition of facts and documents relating to civil status

– a) regarding any national of a third country and any stateless person present on the territory of a Member State of the European Union having presented an application for recognition of refugee status or granting of subsidiary protection status, or having obtained such status, registration as soon as possible – even provisionally – of the important facts relating to their personal status, such as births, marriages and deaths, as well as recognition of these records and documents relating thereto within the European Union;

Exercise of jurisdiction by national authorities to take measures of protection in civil matters

– b) regarding any child, especially when unaccompanied or separated from his or her parents, and any vulnerable adult, seeking or having obtained international protection, the exercise by the authorities of the Member State on whose territory that person is present of their jurisdiction to take measures of protection in civil matters whenever his or her situation so requires;

Refugee status, subsidiary protection status and provisional residence permits

– c) the coordination and mutual recognition, to the extent possible, of decisions on the recognition of refugee status, the granting of subsidiary protection status as well as the granting of provisional residence permits to applicants for international protection.

2. TO TAKE INITIATIVES WITH A VIEW

Promotion of the instruments of private international law relating to personal status

– a) to promoting the universal ratification of instruments of private international law aimed at ensuring legal certainty and mutual recognition of personal status, including the Hague Convention on Protection of Children (1996) [5] .

Common ratification of existing instruments and enhancing their effectiveness

– b) to considering the possibility of signing and ratifying existing instruments at the global level, adopted by the United Nations, its specialized agencies and other intergovernmental organizations, that may contribute to establishing a coherent global legal framework for migration, including of workers and their families, and the possibility of strengthening coordination and cooperation among States needed for the effective implementation of these instruments.

Footnotes

[1] Directives *2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals and stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection (recast),* and *2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).* These directives apply across the European Union with the exception of Denmark, Ireland and the United Kingdom. Ireland and the United Kingdom are nevertheless bound by the preceding versions (2004/83/EC, 2008/85/EC and 2003/9/EC) of these directives. In respect of *Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof,* it is to be noted

that no decision has (yet) been taken by the Council to make the directive applicable by a decision establishing "*the existence of a mass influx of displaced persons*" as foreseen in Article 5.

[2] *Regulation (EC) 2201/2003 of the Council of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) 1347/2000* ("Regulation Brussels II A"). This Regulation applies across the European Union with the exception of Denmark.

[3] *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.* This Convention applies across the European Union (for Italy as of 1 January 2016).

[4] *Convention of 13 January 2000 on the International Protection of Adults*. This Convention is applicable in Austria, Czech Republic, Estonia, Finland, France, Germany, and the United Kingdom (Scotland only), and has been signed by Cyprus, Greece, Ireland, Luxembourg and The Netherlands. Outside of the European Union the Convention is applicable in Switzerland.

[5] Currently this Convention, outside of the European Union, is applicable only in the following States: Albania, Armenia, Australia, Ecuador, Georgia, Monaco, Montenegro, Morocco, Russia, Switzerland, Ukraine and Uruguay. The Convention has been signed by Argentina and the United States