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Cessation Clauses under art. 1C of the Convention Relating to the Status of Refugees

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Introduction (I)

The context of the research - why cessation clauses?

- „Demand“ of the domestic academia (dissertation written in Czech).
- Art 1C: the long-neglected part of the refugee definition?
- Recent development in EU asylum law:
 - **First-time use of TPD Directive in 2022 – what comes after TP?**
 - **Qualification Regulation Proposal (cessation review mechanism).**
- Non-european state practice: how is the Convention applied elsewhere?



Cessation clauses (II)

Art. 1C of the Refugee Convention

Refugee status not conceived as a „**permanent thing**.“

Art. 1C: enumerates situations in which refugee ceases to be protected by Refugee Convention.

Far-reaching consequences for refugees:

- „a trigger of return“
- risk of refoulement
- implications for HR protection - especially private and family life

C. This Convention shall cease to apply to any person falling under the terms of section A if:

- (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (2) Having lost his nationality, he has voluntarily re-acquired it; or
- (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;
Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;
- (6) Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;



Cessation clauses (III)

Research questions

- **How to apply the cessation clauses in light of states' obligations arising from the Convention and HR instruments?**
 - How to assess the change of circumstances in the country of origin under the Convention?
 - Does the framework of the Convention provide for normative „limits“ to cessation and the repatriation consequent to cessation?
 - Can these “limits“ be found within the framework of the universal or regional human rights protection regimes?
 - Is there a point at which the right to family and private life should be given recourse over the mandatory repatriation of individuals? What aspects are to be taken into consideration?



Cessation clauses (IV)

Applicable framework at the universal level of IL

- **1951 Refugee Convention**

- Art. 1 C
- Art. 34
- Chapter III., IV. of the Convention

- **1966 ICCPR**

- Art. 12 (4) (the right of „entry“)
- Art. 17, 23 (private and family life)
- HRC Juriprudence

- **1989 CRC**

- Art. 3 (best interest of the child)

- **1969 VCLT**

- Art. 31 – 33 (interpretational framework).
- **ICJ in Nicaragua vs. Colombia (2016):**
- *„[a]rticles 31 to 33 of the Convention reflect rules of customary international law.“*



Cessation clauses (V)

Regional practice: Europe & Africa

- **EU**

- **QD**, art. 11, 14
- **TPD**
- **Qualification Regulation Proposal**
- **CJEU case-law** (*Abdulla*)
- + other instruments (**LTR Directive**)

- **1950 ECHR**

- Art. 8 (**right to private & family life**)
- **ECHR case-law**

- **1969 OAU Convention**

- Art. 1 (4)
- Art. 2 (5)

- **1986 African Charter**

- Art. 18 (protection of family).
- **CHPR + ACHPR case-law**

- **Practice of providing protection**

- **UNHCR “declarations of cessation”**
- **Group cessations practiques:**
 1. Rwandan refugees (1993, 2013)
 2. Mozambican refugees (1992)
 3. Ethiopian refugees (1999)



Cessation clauses (VI)

Potential challenges

„As a matter of well-established international law and subject to its treaty obligations, a State has the right to control the entry of non-nationals into its territory.“

(*Üner v. the Netherlands*, *Boultif v. Switzerland*, *Gül v. Switzerland*, *El Ghatet vs. Switzerland* and many others..)

❑ Ambitious goal

❑ Width of the research

❑ „Structural instability“ of ECHR case law (T. Spijkerboer, 2009)



Thank you for your attention!

