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LATVIA LEAGUE OF STATELESS PERSONS: WHY IT IS NECESSARY AND WHAT IT WANTS

It is of extreme importance to discuss such urgent issues as citizenship in Latvia taking into consideration opinions and feelings of all parties concerned. Generally, just non-citizens' views, emotions and evaluations in respect of the current situation in Latvia are very poorly reflected. It has become nearly conventional to presume that these people are burdened with collective guilt - regardless of the possible absence of any individual guilt, they are perceived as rather a kind of "movable property" than a negotiation partner. As a matter of fact, non-citizens' right-holding is frequently put in question "by default".

We believe that the main task we face in today's Latvia is to elaborate a constructive, pragmatic, peaceful and democratic solutions of our common urgent problems. It is necessary to emphasize that in no way is Russia authorized to speak on behalf of all present non-citizens. Those who are conscious of their belonging to Russia have obtained its citizenship (about 25,000 by June 1994), and Russia has both the right and obligation to represent and to protect them. Still, most of non-citizens (estimated total number about 800,000) did not acquire Russia citizenship despite it can be done by registration before February 1995. Over 90 per cent of non-citizens registered in the Register of residents of Latvia declared their willingness to become citizens of Latvia. So, we have to, and we ought to, cope with our problems by our own, and the only possibility of a really democratic nature is a dialogue between current Latvia authorities and non-citizens based upon internationally admitted human rights provisions.

The crucial point in this regard is whether Latvia implements fully democratic policies in respect to non-citizens. It seems reasonable to point out several aspects of the problem under consideration.

1. Legal aspect

In May 1990 Latvia formally regained its independence, and in September 1991 it was recognized worldwide. But by July 1994, after more than four years, Latvia still has remained the only European post-Communist state that failed to solve the problem of the legal status of its residents. One third of de facto permanent residents of Latvia have neither citizenship nor residence permits nor any other judicial basis for their living in Latvia. At the same time, Latvian lawmakers failed to adopt a single regulation which would declare the stay of non-citizens in Latvia illegal.

As a matter of fact, not the question of naturalization principles but just the problem of legal status of non-citizens is a key one. Not only representatives of political parties, but also state officials often use such terms as 'colonists', 'occupants', 'migrants' etc. in order to denote legal status of non-citizens. However, this is rather a propagandistic usage of judicial notions which is apparently meant to make both citizens and non-citizens accustomed to these implied definitions. It is necessary to stress that from the legal point of view all definitions mentioned above are legally baseless. Latvian lawmakers never adopted legislative provisions that would permit to determine the status of non-citizens in such a way. As a particular case, no state can declare itself colonized,

for it is a prerogative of the relevant UN bodies¹. Non-citizens *de jure* are neither colonists nor immigrants. They have never left their country for any other one. They were born in Latvia or entered in full compliance with the legislation which was *de facto* valid at that moment. Just this is the crucial distinction between Latvia non-citizens and immigrants who are completely aware of all the rules of the game in advance.

Moreover, in 1990 all residents of Latvia took part in the parliamentary elections. Exactly the parliament elected in such a way declared restoration of independence and was later recognized internationally. And exactly this parliament later deprived of political rights one-third of its own electors, while at the same time its members kept their mandates. More than doubtful step was it from the purely judicial point of view.

2. Human rights

Latvia has no violent clashes nor bloodshed. The question of "gross and systematic human rights violations in Latvia" raised by Russia at the level of UN in Autumn 1992 was far from being correct. But the statement that no human rights violations have ever been discovered in Latvia is not correct either.

The adopted legislation concerning citizenship issue is at least questionable from the point of view of human rights. For example, well-known human rights expert Asbjorn Eide wrote: "The denial of initial citizenship to substantial parts of the resident population is, in my opinion, likely to generate serious human rights problems... It would undoubtedly be most in conformity with modern human rights and practice if all persons, who under the law preceding new or restored independence had become lawful residents of the territory, were given the option to become automatic (initial) citizens of the new (restored) state"². In cases of "annexations when have lasted for a long period... the human beings who have entered may have had no reasons to believe this that was a temporary and illegal occupation, and it would be unacceptable in regard to most of them to deprive them of the option of citizenship"³.

Besides, Latvia (unlike Estonia) is a state party of the Convention on the Reduction of Statelessness. Of course, this Convention is rather vague, and commitments defined by this instrument are not clear enough. Nevertheless, it should be pointed out that no attempts to prevent appearance of large-scale statelessness took place. In other words, the adopted citizens/non-citizens division is hardly in accordance with the Convention mentioned above, as well as Declaration of the Rights of the Child and a series of some other international instruments. "According to Art.1 of the Convention Latvia "shall grant its nationality to a person born on its territory who would otherwise be stateless". Nationality shall be granted at birth, by operation of law, or upon an application which may not be rejected. Thus, children of stateless persons... who did not acquire any nationality, have a right to be granted Latvian nationality... On the basis of this provision a considerable part of permanent residents, and in particular the younger generation, has the right to become Latvian nationals"⁴.

¹ Preliminary list of Territories drawn up in 1963 to which the Declaration of the Granting of Independence to Colonial Countries and Peoples Applied. Decolonization: A publication of the UN Department of Special Political Questions, Regional Co-operation, Decolonization and Trusteeship. No.39, April 1990, p.27. See also Territories listed as under Trusteeship or Non-Self-Governing in 1990, *ibid*, p.35.

² Asbjorn Eide. Human Rights Aspects of the Citizenship Issues in Estonia and Latvia. Progress Report. 1992, p.19.

³ Asbjorn Eide, *ibid*.

⁴ Nationality Laws in Former USSR Republics. Regional Bureau for Europe of the UN High Commissioner for Refugees. July 1993, p.44.

However, all versions of the citizenship law ever discussed in Latvia Parliament clearly contradicted this provision. The final version adopted in June 1994, though envisages the possibility for persons born in Latvia apart from annual quotas (unlike those born outside), provides certain demands besides ones permitted by the Convention (i.e. age and residence). What is even more important, an applicant can be refused to be naturalized - even in case he meets all criteria, what obviously violates the abovementioned Convention's requirements.

What should be stressed is that most of human rights instruments imply legal residents of a state as a relevant subject of protection. Since Latvia lacks a definition of the legal status of non-citizens, it is impossible to test whether human rights provisions are violated or not, as it is simply impossible to apply them - because of aforementioned legislative vacuum. Besides, Latvia has ratified the Optional Protocol to the International Covenant on Civil and Political Rights only in May 1994, so, it is expected to be in force not earlier than in Autumn 1994. Latvia has joined to none of any other instruments ensuring the possibility for persons under Latvia jurisdiction to file individual complaints to international organizations. Actually, only consideration of complaints of such kind could answer the question about the real existence of alleged violations in Latvia, but it was impossible for all these years. After all, Latvia lacks any procedures of considering individual complaints at the national level too. The State Minister on Human Rights (the position was established within the framework of the Ministry of Justice in March 1994) has neither authority defined by corresponding regulations nor staff nor funds in order to repair this.

Thus, today none of the procedures of individual applications or complaints set up for human rights observation control is available for the residents of Latvia.

Finally, the salience of current Latvia situation is that state and local officials routinely violate even those rights of non-citizens which are guaranteed by the Latvian legislation. The clearest example of such kind are the activities of the notorious Citizenship and Immigration department⁵. Unfortunately, this case is far from being a single one. The same situation takes place in respect to family re-union and other problems. As a matter of fact, even relatively democratic legal regulations used to be drastically distorted in practice. This fact should not be underestimated, as usually people do not deal with the Constitution or laws, they deal with particular state officials who are to implement these laws. What is of special importance, such systematic violations of Latvian laws would be obviously impossible without a silent consent on the part of the highest authorities.

3. Political aspect

The crucial point in the current situation is that over one third of Latvia residents are deprived of any legal means of political representation. They are unable to protect their interests by legal means. They are isolated from democratic procedures and activities. They even have no impact upon their own destinies. Quite naturally, that no dialogue, no negotiations are possible in these circumstances. Obviously, such a situation is very dangerous from the point of view of internal stability. The international aspect of this problem, in particular, the potential role of Russia, is not less essential.

After the citizenship law has been adopted, hundreds of thousands of people realize they have no real chance to receive LR citizenship they longed for, either in present or in not-too-distant future. At the same time pressure over these people constantly increases. Under these terms, the number of individuals wishing to apply for Russian citizenship, is to be expected to grow - the more so the

⁵ "Helsinki Watch" report "Violations by the Latvian Department of Citizenship and Immigration". October 1993, Vol.5, Issue 19.

period of simple citizenship registration offered by Russia is soon over, and then, to become a Russian citizen one will have to apply for it as any other foreigner. Non-citizens will hastily apply for Russian citizenship not because of their intent to leave for Russia, but, just the opposite, in order to stay in Latvia and make Russia provide protection, as other assistance is unavailable. The proimperialist and nationalist forces in Russia itself will have an excellent pretext for intervening in the situation in Latvia. Besides, the Russian nationalist patriots will be additionally motivated to criticize democrats, for it was Yeltzin's team who recognized independence of Latvia taking no care of securing guarantees of rights of their compatriots left in "new overseas".

On the other hand, there is a serious influence on the public opinion in Russia made by mass emigration from Latvia (up to 100,000 people left Latvia in 1990-1994). The absolute majority of these people depart with moral injuries, and they, either intentionally or not, help create negative attitude to Latvia.

All mentioned above proves the following conclusion: strengthening of "squeezing-out" policy in Latvia fortifies nationalist patriotic and chauvinistic positions in Russia. It should be realized that this statement is already the present and not the prophesy of the future. As many comments indicate, today there is not a single politician in Russia that supports the Baltic authorities. Bearing in mind that Zhirinovskiy and the Communists were persistently fighting the idea of Baltic independence all the time, unlike Yeltzin and Kozyrev who supported the Baltic states, one understands that today Russian President and Foreign Minister have to confess their errors and thereby indirectly admit the correctness of Mr Zhirinovskiy's views, which would surely undermine their reputation among their electorate. The "Baltic factor" has surely affected the results of the 1993 elections in Russia to a certain extent.

We have to beware of the following: the more Russian nationalist patriots and pressure over non-citizens in Latvia are stronger, the higher is probability of discussion, at the official level in Russia, of situation development "by the Grenadian pattern". In 1983 only socialist block condemned the American military invasion protecting Americans in Grenade.

Most of present non-citizens in Latvia do not want Zhirinovskiy to protect them. Nevertheless, they have no possibilities to avoid his claims to represent them, since they are deprived of any other means of representation. Refusing to provide non-citizens with such means, escaping any dialogue with them, Latvia authorities push non-citizens towards Zhirinovskiy, gift him all the trumps.

It is an illusion that elimination of potential "fifth column" in Latvia could guarantee from the restoration of annexation of 1940. Even if there is not a single Russian, the intervention is, nevertheless, quite possible. Therefore, we believe, that the best way how to guarantee Latvia's security is to seek for accord and unity inside Latvia. This problem is closely connected with the forth aspect - last but not least.

4. Moral aspect

The pivotal point is the problem of non-citizens' loyalty. Latvia by now lacks any mass violence, any bloodshed, and this fact is undoubtedly common achievement of both ethnic Latvians and non-Latvians, citizens and non-citizens. As a matter of fact, despite the widely used thesis of the present LR authorities about "malicious attitude of most non-citizens towards the very idea of LR independence", to date non-citizens have given no chance to accuse them of being disloyal to Latvia. At the 1990 Supreme Council elections, the votes of Russian-speakers became decisive in the convincing victory of Latvia Popular Front that raised over two-thirds of votes by only about 50 per cent of ethnic Latvian electors. The similar results were observed at the local elections and at

the referendum on independence held in March 1991. Of course, very many people who voted for LPP then, are not satisfied with the policies of elected political leaders - but they are already unable to affect this situation, as they have been disenfranchised.

Nevertheless, no illegal or violent resistance on the part of non-citizens has been registered - at present there are only two persons prosecuted for anti-state activities. Both of them, Mr A. Rubiks and Mr O. Potreki, are citizens and ethnic Latvians. Therefore to accuse non-citizens of not being loyal to LR is baseless and slanderous.

Many present non-citizens were together with Latvians when Popular Front was being established. They were together on the barricades in January 1991. Actually everybody of them now feels disappointed and betrayed. After the international recognition of Latvia's independence they were told: we do not need your votes anymore, and we do not need you anymore. Deputies from the Popular Front violated their pre-election program which contained quite democratic solutions of all problems, including citizenship "zero option". This process of gradual drift is still going on. Non-citizens still lack clear rules of the game, and they have no idea what they should expect tomorrow.

Many thousands of present stateless persons were born and have spent their lives in Latvia. They are not only Russians, Ukrainians, Jews, but Latvia's Russians, Latvia's Ukrainians, Latvia's Jews. And they have no other homeland but Latvia. Still, they are consistently and persistently alienated and squeezed out from Latvia.

5. Status and rights of non-citizens

Despite indefiniteness of legal status of non-citizens (but, perhaps, just because of this) the number of laws, decrees and instructions restricting non-political rights of non-citizens have been adopted.

a) Employment opportunities. Obviously, any positions in state office, police, of judge in the court, diplomatic and consular service, certain categories of civil service are reserved merely for citizens. What is more substantial, non-citizens cannot work in certain areas of private enterprise: barrister and assistant barrister, notary and assistant notary, private detective activities, armed guard (watchman) as well as director (manager) of an enterprise employing armed guards (watchmen), member of the crew of the commercial aircraft employed by an enterprise registered in Latvia etc. Besides, there are some restrictions established by departmental instructions and resolutions of local governments.

b) Property and possessive rights. Only citizens have the right to possess land, to purchase housing from state and municipal authorities, as well as privatized "cooperative" apartments and apartments in denationalized and restituted houses (in a number of regions). Citizens receive 15 additional privatization certificates (vouchers), but non-citizens not born in Latvia get 5 less than the "basic amount" (generally, this amount equals the number of years of residence in Latvia). Besides, citizens receive 15 additional certificates for each baby born in the period between 1992 and 1996, unlike non-citizens. Non-citizens right to use the land owned by local authorities is restricted by law.

c) Private enterprise. Non-citizens who have lived in Latvia less than 21 years are not allowed to take part in establishing joint-stock companies. Membership of non-citizens on the Board of a commercial bank is restricted. Only citizens can receive license to carry out commercial cargo shipment, transportation of passengers by air; hire armed guards. Participation of non-citizens in the privatization of objects owned by local authorities is restricted.

d) Social sphere. Allotment of land for individual housing construction, low interest loans etc. are envisaged for citizens merely; only citizens are registered in line to receive assistance in receiving apartment from State and local authorities in certain terms; old age ('social', not 'labour') pensions of non-citizens are 10% lower than those of citizens. In many districts, according to the resolutions of local authorities, state-owned lodging is allotted to citizens only, including instances when dormitories are liquidated, special (lower) rents and tariffs are only available for citizens, tenancy contracts are renewed with citizens only etc.

e) Free choice of place of residence and free return to Latvia after sojourn abroad is guaranteed only to citizens. The right to self-defense (possession of registered firearms) is allowed only to citizens. Merely citizens can participate in local elections. Certain guarantees against interference into personal life (i.e. inquest, monitoring/shadowing, phonecall interception etc.) are foreseen by law only for citizens.

The list is far from being complete (for more specific data on the issue, including references to corresponding laws, decrees etc. see⁶), but generally it is a good revelation of the main trend: to make the non-citizens life as difficult as possible.

Comparison with the status of aliens in other states is obviously not appropriate, for, as it was mentioned above, non-citizens can't be considered as immigrants.

It is quite clear that constantly growing pressure upon non-citizens aims to make them as if deliberately leave Latvia, thus, providing alteration of ethnic composition of Latvia residents.

6. Possible role of the League of Stateless Persons

We believe, that Latvia League of Stateless (former name Union of Non-citizens) could play a certain positive role in such terms. The main idea was to set up a representative body for those people who are conscious of their belonging to Latvia, do not want to leave Latvia and desire to obtain Latvia citizenship. So, the main idea is to create preconditions for dialogue, for conducting negotiations. It is highly reasonable to hold stateless Latvia residents back from falling to desperation, to suggest a possible democratic and non-violent way of protecting their interests, namely negotiations - perhaps, with certain mediation. The LLSP tries to prevent large-scale applying for Russia citizenship, as in this case non-citizens will inevitably become a kind of hostages in political games of both Russia's and Latvia's extreme politicians. Latvia authorities have a choice: either discuss non-citizens problems with themselves or with Russia.

LLSP states quite unequivocally: it is not going to become a puppet body. LLSP openly disagrees with many decisions taken during last years, and it is not going to conceal this. The body tries to achieve alteration of these decisions, but does its best in order that merely legal and non-violent means would be used in this dispute.

Finally, a couple of words about possible solutions. LLSP believes they should be of compromise kind. For example, it is very important for ethnic Latvians to keep control over political decision-making. Non-citizens, in its turn, are anxious mostly about their economic and social rights. So, the possible outcome of the negotiation process could be safe guarantees of property and social rights actually given for the refusal to claim for immediate reception of political rights. What is going on today is just vice versa: only citizenship provides more or less stability and security, it actually

⁶ Boris Tsilevich, Alexander Ruchkovsky. Difference in Status and Rights between Citizens and Permanent Residents (Non-citizens) of Latvia. Promoting Human Rights and Civil Society in Central and Eastern Europe, Newsletter of International Helsinki Federation for Human Rights. April 1994, p.13-17.

became economic category. This option could be called something like "semi-citizenship", to a certain extent similar to practices of some states having several intermediate stages between "citizens-foreigners" extremes (eg, Great Britain).

In order to organize long-term negotiations and peaceful conflict management, it seems reasonable to draft a project of the body analogous to Nansen's Committee. This organ could take up representation of non-citizens interests in their contacts with Latvia authorities, as well as with other states in consideration of a number of main problems (passports, property rights, dwelling, travel documents, employment etc.).

Generally speaking, there are only three possible variants of situation development in Latvia:

- either ruling political forces bring themselves to set up dialogue with non-citizens, perhaps, inviting authoritative mediators, like CSCE or Council of Europe,
- or international organizations themselves actively intervene in the process, probably, establishing a kind of new Nansen's Committee for representation of stateless persons in Latvia (maybe, in Estonia either),
- or Russia takes up responsibility for Latvia non-citizens, and in this case Russia will have legitimate pretexts to act on its own without consent of international community.

Anyway, the strategy of actions should be determined in a possibly short while, as delay of decision will irreparably lead to aggravation of the situation.

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