

Conference “Forgotten Europeans”

In the framework of Conference on the Future of Europe

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Boriss Cilevičs,

Chair of the PACE Committee on Legal Affairs and Human Rights

Ladies and Gentlemen,

Why should EU take up the issue of statelessness in the Baltics?

I was a witness and to some extent a participant, as a civil society activist, of the citizenship-related debates in the late 80s and early 90s. This is why I would like to clarify some stereotypes connected with this issue.

1. The “restored citizenship” concept is now presented as the only possible solution unequivocally predetermined by international law. But this is not the case. Until the fall of 1991 this concept was a marginal idea proposed by the so-called Citizens’ committees which were considered marginal and even extreme organizations. Both Latvian and Estonian Popular Fronts strongly and publicly opposed it and offered more inclusive, albeit rather vague, approach.

2. In 1990, pre-election programmes of the both leading pro-independence Fronts offered deliberately loose wording with regard to citizenship. However, as an activist of the 1990 election campaign, I well remember the then campaign guidelines and official promises. Therefore, it is natural that the U-turn of the newly independent Latvia and Estonia was

perceived by an absolute majority of the affected voters as an apparent deception and the breach of the pre-elections promises.

3. This inconsistency is further demonstrated by the content of the bilateral treaties signed by Latvia and Estonia with Russia in January 1991. The right to freely choose Russian or Latvian/Estonian citizenship was included in the text. Even if the treaty with Latvia was never ratified by the Russian parliament, it was duly and immediately ratified by the Latvian Saeima and, therefore, clearly reflected the official position at that moment.

4. Despite numerous statements by the Latvian and Estonian authorities, experts in international law did not say that the “restored citizenship” is prescribed by international law. Most of experts said that international law offered no clear recipe.

5. In fact, international community agreed to the “restored citizenship” merely out of security considerations. The 50-50 ethnic composition was seen as a threat of violent conflicts similar to those erupted after the dissolution of Yugoslavia and USSR. To call spade a spade, democracy was sacrificed for the sake of stability.

6. The acceptance by the international community was based on the presumption that the “exclusive citizenship” phenomenon will be temporary and disappear very soon. One of the experts who visited Latvia in early 90s told me many years later: “Even in a nightmare couldn’t I imagine that 25 years will pass, and hundreds of thousands of stateless people will be still present in the Baltics”

7. Therefore, the “restored citizenship” concept was:

- politically motivated and aimed at ensuring convenient majority for “titular groups”
- accepted out of security, not democracy nor human rights considerations
- presumed to be a short-term solution expected to disappear in some 5 years, when the independence of the Baltic states has been consolidated

8. When a majority acquires broader rights, it is usually inclined to preserve and consolidate its domination, rather than empower a disenfranchised minority. A number of essential laws adopted under these circumstances disregarded the interests of minorities. Universal franchise may undermine the domination of leading parties. This is why the Baltic states were quite reluctant to implement effective policies of promoting integration. So far, the pressure from international organizations was apparently ineffective.

9. Status of non-citizens remains a key issue. In Latvia, under domestic law, non-citizens are excluded from the definition of a stateless person, although they meet the definition under international law. They are considered as a separate legal category who enjoy a broad set of rights well beyond the minimum prescribed by the Convention relating to the Status of Stateless Persons but are still subject to a number of restrictions in respect of political rights, employment, and ownership. Estonia’s approach is more flexible. Its national law avoids calling non-citizens stateless, but Estonia does not actively object when others do.

10. What can international community do under these circumstances? With regard to citizenship, international

standards are much less far-reaching than with regard to other basic human rights. International instruments and particularly monitoring methods are still rather weak, not supported with specific mechanisms of individual complaints or sanctions. The case-law of international courts offers some interpretations of basic principles, but mainly deals with some specific aspects of statelessness prevention, is not consistent, and so far does not suggest clear guidelines for dealing with the “Baltic type” of statelessness.

11. Today, 30 years later, one has good reasons to conclude that “non-citizenship” is not only a problem of the non-citizens themselves. It is a problem of the quality of Baltic democracy. Democracy not for everybody creates a precedent - if non-citizens can be ignored and excluded, why not also other groups? Mass statelessness undermines loyalty and trust between the state and its residents.

12. Therefore, the Baltic statelessness is a problem of the EU, its legitimacy and effectiveness. After the accession, it was successfully imported to the “old” Europe. Now “old democracies” and EU institutions cannot any longer limit themselves to the position of just mentors or advisers. They themselves become direct victims of this democratic deficit. Therefore, EU must take up the issue and find a solution.

13. In particular, the EU should reconsider extension of the concept of “European citizenship” beyond its current interpretation as merely a citizenship of some member state.

Thank you.