PC.SHDM.DEL/30/13
19 July 2013

ENGLISH
Original: RUSSIAN

Delegation of the Russian Federation

STATEMENT BY THE DELEGATION OF THE RUSSIAN FEDERATION AT THE SUPPLEMENTARY HUMAN DIMENSION MEETING ON THE RULE OF LAW IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

12 July 2013

Session II: Effective national and international instruments to protect human rights and prevent human rights violations: best practices, current challenges and solutions

Mr. Chairperson,
Ladies and gentlemen,

Many international and regional organizations focus particularly on safeguarding the rights of children. The modern-day threats and challenges to the life, security, health and moral development of children are becoming increasingly menacing. It is our common task to strengthen the system for protecting the rights of children.

In this context, it is extremely important for international instruments for protecting the rights of children to be used effectively. We are referring in particular to the United Nations Declaration on the Rights of the Child (1959), the United Nations Convention on the Rights of the Child (1989), the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the European Convention on Human Rights (Articles 3, 5, 9, 18, 19 and 37) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007). Many regional organizations traditionally devote particular attention to this topic and develop mechanisms for protecting the rights of children. Unfortunately, despite the commitments, not all States have acceded to the Convention on the Rights of the Child.

One of the most significant rights that should be guaranteed to a child at birth is the right to citizenship. The legislation and the practice of applying the law in the overwhelming majority of countries in the OSCE region are aimed at granting children citizenship by birth. This is also connected with the obligations of governments not to take any steps that could lead to statelessness.

Nevertheless, in a number of European Union countries, a solution has still not been found to the issue of automatically granting citizenship to children of so-called

"non-citizens", that is, permanent residents of a country, many of whom were themselves born in that country, who are not citizens of a third country.

In this regard it is noteworthy that in one of the Baltic States recent legislative initiatives concerning the position of national minorities, in particular the citizenship law, have not solved the problem of granting automatic citizenship to children in this category of permanent residents. Thus, in the new version of the law, the procedure has been retained of granting citizenship to children of "non-citizens", through registration by the decision of a "competent institution" determined by the Cabinet of Ministers (Article 7). The absence in that Article of the principle of automatism in the granting of citizenship as well as the fact that the granting of citizenship depends on the fulfilment of a number of conditions is not in line with the OSCE commitments that participating States will "take measures… not to increase statelessness" (Helsinki Summit 1992).

We wish to emphasize that this is a chronic problem. In this regard, many international organizations have unambiguously expressed their support for the automatic granting of citizenship to children of "non-citizens". As far as the OSCE is concerned, its High Commissioner on National Minorities (HCNM) Max van der Stoel wrote letters to ministers for foreign affairs on 6 April and 10 December 1993, recommending to governments that children of "non-citizens" be granted "citizenship automatically in accordance with international standards". In the Ljublana Guidelines, the HCNM Knut Vollebaek noted that "domestic legislation should avoid causing situations in which children might be stateless at birth".

Twenty years have passed, and the situation regarding the children of "non-citizens" has not changed. Only the procedure for parents to make an application in this regard has been simplified. But *de jure* the very same competent institution has the right to refuse to grant citizenship to a child of "non-citizens". That is, a mechanism of self-perpetuating statelessness was created at some time and is still operating to this day.

For this very reason, Nils Muižnieks, Council of Europe Commissioner for Human Rights, has made the issue of the inclusion of automatic granting of citizenship to children of "non-citizens" in the legislation of those two Baltic States a priority.

We should also like to point out in the context of the rule of law that the legislation of the States mentioned divides people into two categories, "stateless" persons and "non-citizens". In other words, "non-citizens" are a specific category of persons who do not have citizenship but who are nevertheless not stateless persons in terms of the legislation of these States. For this reason, they do not come under the protection and authority of the relevant international conventions. What is more, children born after the collapse of the Soviet Union whose parents are "non-citizens" are included in the category of "non-citizens". Moreover, they come under the jurisdiction of the law on the status of citizens of the former USSR, although children born after 1991 can have no connection with the citizenship of a non-existent State. This is legal nonsense.

All these problems need to be resolved as soon as possible. We believe that the OSCE, and particularly its institutions, the High Commissioner on National Minorities and the Office for Democratic Institutions and Human Rights, should pay particular attention to this issue.