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LEGAL INFORMATION CENTRE FOR HUMAN RIGHTS  
ЦЕНТР ИНФОРМАЦИИ ПО ПРАВАМ ЧЕЛОВЕКА

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### **Working session 13 (specifically selected topic): Combating hate crimes and ensuring effective protection against discrimination**

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### **Statelessness, discrimination, and the problem of stateless children in Estonia: a positive example?**

*Statement by the Legal Information Centre for Human Rights (LCHR), Estonia  
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Dear Chair, Excellences, Dear participants,

Recently, the European Parliament in its resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI)) stated the following, *inter alia*: [167] “Condemns the fact that more than 15 million nationals of non-EU countries and 500 000 stateless persons are being discriminated against on account of the refusal to recognise their citizenship”.

This statement must help to make an additional step to resolve the problem of mass statelessness in Estonia. Let us inform on another example of “good practice” in the field, namely, the elimination of childhood statelessness.

In 1991, when Estonia regained its independence, the country’s new political leadership decided to embark upon the restoration of the pre-WWII Estonian Republic (1918-1940). The re-enactment in 1992 of the pre-World War II Citizenship Act (of 1938), excluded the Soviet-era settlers by granting automatic citizenship almost exclusively to those who were citizens in 1940 (before the Soviet takeover) and their descendants. This caused mass statelessness among the almost 40% of the population who were not ethnic Estonian, including their children. The issue has been raised regularly in various opinions and recommendations on Estonia by UN and CoE committees, OSCE institutions and by numerous other international actors.

In spite of that, Estonian policy on citizenship has remained conservative, without major domestic debates after the adaption of Citizenship Act of 1992. The rigorous stance of mainstream political parties that the Citizenship Act and the corresponding policies will not be changed, prevented the liberalization of the Law.

Naturalisation in Estonia began in 1992 and peaked in the 1990s. Regardless of official integration policy, in the 2000s the number of those naturalised was low. Interest in citizenship of Estonia grew again in the period after accession to the European Union in 2004, but only for a short period.

Estonia is not a party to the 1961 Convention on the Reduction of Statelessness or the European Convention on Nationality. To date, Estonian governments have not signed or ratified any of the conventions regarding the reduction of statelessness or the rights and status of stateless persons. The reason offered by Estonian authorities is that, in their assessment, there are no stateless persons in Estonia, just a number of *individuals with undefined citizenship*; therefore, the State have no need to join these conventions. There has been no public discussion on the matter in Estonian media, except in Russian language papers and experts' opinions. The problem was a topic for discussion behind closed doors, for instance within the Presidential Round table on minorities (a quasi-official forum for deliberation) and at special meetings with parliamentarians.

The issue of **childhood statelessness** been raised as an issue in Estonia several times both by domestic and international actors. The issue has been raised regularly in various opinions and recommendations on Estonia by UN and CoE committees and by numerous other international actors until today.

Regrettably, the issue of childhood statelessness was not a matter of priority in domestic debate and in most cases was intertwined with other problems: the general issue of mass statelessness and its political consequences; the problem of valid documents for stateless persons; conditions for naturalisation, including exams and language requirements, and so on.

However, amendment of 1998 to the Citizenship Act, made by international influence, proclaimed that children, born in Estonia after 26 February 1992, whose parents of “undetermined citizenship” have lived in Estonia for at least five years, are eligible, at their parents' request, to gain Estonian citizenship through naturalisation without the precondition of passing the citizenship examinations. It should be noted that a request could only be made until a child is 15 years of age.

International experts criticised this decision as violating Section 1 Art. 2 of the Convention on the Rights of the Child, under which “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction...” Also, Art. 1 of the Convention determines that “[a] child means every human being below the age of eighteen years unless [...] majority is attained earlier”. In Estonia, the person attains majority at 18. As

formulated by Carmen Thiele, “this domestic regulation is not fully in line with the international obligations of Estonia”.<sup>1</sup>

Finally, on 21 January 2015, the *Riigikogu* adopted new amendments to the Citizenship Act, according to which the under-15-year-old children with “undetermined citizenship” who were born in Estonia and whose stateless parents have lived in Estonia for at least five years, will acquire citizenship of Estonia immediately after birth. Parents have the right to refuse such granting of citizenship during the period of one year. Again, the Citizenship act does not provide a right to nationality for children between the ages of 15 and 18. Therefore, such limitation infringe the right of the named category, and is not fully in line both with the international obligations of Estonia expressed in the provision of the UN Convention on the Right of the Child, and with Estonian Law when the person normally attains majority at the age of 18.

These amendments will help to decrease the figure of stateless children, whose number in 2014 was 936, and who was born in Estonia.

Let us also mention that Estonian authorities have violated the rights of the child in this regard for a period of almost 25 years, and that liberal amendments were adopted only after strong international interference, which significance cannot be overestimated.

For more details, see Ending Childhood Statelessness: a Study on Estonia. Working paper 04/15, European Network of Statelessness. ([www.statelessness.eu](http://www.statelessness.eu))

Thank you for your attention.

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<sup>1</sup> Thiele, C. (1999), ‘The Criterion of Citizenship for Minorities: The Example of Estonia’, ECMI Working Paper 5, Flensburg.