POLISH NATIONALITY AND POLISH CITIZENSHIP: A FORGOTTEN DICHOTOMY

ABSTRACT

Polish citizenship policy is based on *jus sanguinis*, and places special emphasis on descent and cultural belonging. The main debate revolves around the citizenship status of Polish communities abroad. Since the number of permanent immigrants is low, the issue of naturalization or civic participation has not emerged.

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Polish citizenship: An historical perspective

In Polish political culture, citizenship and nationality have traditionally been quite separate notions. From the 15th to the 18th century, Poland was a multicultural state, an official union of two nations and home to many ethnic minorities.[1] During that period, belonging to a political system of the state was not determined by nationality. However, during the Partitions of the Polish-Lithuanian Commonwealth (1772-1918), when individuals of Polish nationality (or identification) became citizens of three different states, the gap between nationality and citizenship became stronger. In 1918, the re-established Polish state again became a multicultural nation, where minorities represented over 30% of Polish citizens, and all inhabitants were granted Polish citizenship regardless of their ethnicity. It was the only time in the post-war history of Poland that *jus soli* was used to identify citizens. From then on, *jus sanguinis* became the central criterion for identifying citizens, thereby reflecting the ties between Polish communities across borders and building a trans-state political network.

It was only after 1945 that the gap between nationality and citizenship closed. The creation of an almost homogenous nation within the new, post-Yalta borders resulted in the massive forced movement of people. At the end of the 1950s Poland was largely home to Poles, and the relatively scarce ethnic minorities were repeatedly "invited" to leave. The citizenship policy of the communist state was highly discretionary and exclusive. The practice of depriving members of select ethnic minorities and emigrants of Polish citizenship depended on the political situation of the country and occurred, in some cases, *en masse* (Górny et al. 2007a: 147-170). Intolerance of dual citizenship was a policy inscribed in many bilateral agreements with other communist states.[2] Such a policy changed only after 1989.

The period of post-communist Poland has been marked by intense debates on the issue of citizenship. Indeed, citizenship has been used as a tool for dealing with the past. Providing Polish citizenship to emigrants who had possessed it in the past and to expelled minorities, and providing targeted Polish communities across the Eastern border with semi-citizen rights: these initiatives were meant to make up for the historical harm caused by forced expatriation from the fatherland. So far these issues have been at the forefront of political debates on Polish citizenship and belonging.

Therefore, while discussing the current approaches to citizenship in Poland, this article will focus on the issue of belonging, which is deemed of primary importance in the context of Polish minorities abroad. The question of immigration and naturalization has never been debated and has never been an important political issue. Consequently, it will be discussed briefly in the second part of this article.

Citizenship policy in Poland

The *Statute on Polish Citizenship of 15 February 1962*, last amended in 2007 provides a legal framework for citizenship policy. Attempts to amend it were made between 1999-2001, but failed due to the disagreement concerning dual citizenship of Polish nationals.[3]

Polish citizenship is based on *jus sanguinis*.[4] It is automatically granted to a child whose mother or father, or both, is a Polish citizen (*Statute on Polish Citizenship*, article 4, points 1 and 2). If the child is born to a mixed couple (i.e. a marriage between a Polish citizen and a foreigner) and the parents choose foreign citizenship for the child, the individual may still claim Polish citizenship before turning 18 (*Statute on Polish Citizenship*, article 6, item 3).The only way to lose Polish citizenship is to renounce it through official channels. A separate procedure of confirmation can be used when a foreign national is

able to prove his or her right to Polish citizenship. It can be used if the applicant's parent was a Polish citizen – of course, this needs to be well-documented. Consequently, Polish citizenship can be hereditary, as it can be passed down through several generations of emigrants.

Acquisition of Polish citizenship through repatriation is a special case of *jus sanguinis*. This measure, introduced in 2000, was one of the gestures made to Polish communities in the former USSR. The scope of the policy was limited to individuals of Polish origin living in Central Asia, especially Kazakhstan. It was thus necessary to provide a working definition of "Polish origin." The *Repatriation Act* of 2000, last amended in 2002, defines in article 5 just what constitutes "Polish origin" of the applicant. The applicant must declare his or her Polish nationality or prove that one of his parents or grand parents or both great-grandparents were of Polish nationality or had Polish citizenship. In the first case, the applicant must prove his or her attachment to Polish culture (especially language skills). In the second, in addition to proof of attachment, the applicant needs to show that one of his or her parents, grandparents or both great-grandparents confirmed their belonging to the Polish nation by exposing their attachment to Polish customs and language. Each repatriate acquires Polish citizenship upon arrival in Poland, and their families can enjoy the fast track reserved for the simplified marriage procedure.

Poland has a naturalization procedure that comprises three distinct sub-processes: conferment, acknowledgement and simplified marriage procedure.

Conferment of Polish citizenship is an administrative procedure in which a foreigner is granted Polish citizenship. To be eligible, the foreigner must have lived in Poland as a long-term permanent resident for at least five years. Since permanent residence status (including EU long-term residence status) can only be applied for after five years of legal stay in Poland, this means, in practice, that most foreigners must wait ten years before they can even apply for citizenship. However, in some cases, the President can grant Polish citizenship without following administrative rules, especially if it serves the interest of Poland. The President can also ask the applicant to renounce his or her previous citizenship; however, such demands have been relatively rare and of a purely discretional nature (Górny et al. 2007a). In the conferment procedure, the children of the applicant are automatically granted Polish citizenship, but if they are over 16, they must give their consent.

Acknowledgement of Polish citizenship is an administrative procedure targeting stateless persons and persons whose nationality is unknown. Such a person must have lived in Poland as a permanent resident for at least five years before applying for citizenship. In this case the procedure remains at the provincial level (*starostwo*).

The simplified marriage procedure significantly shortens the pre-application residence period required for naturalization. A person married to a Polish citizen can apply for Polish citizenship either after three years of marriage and six months of living in Poland as a temporary resident, or after three years and six months of marriage.

The double edge of the *Statute on Polish Citizenship's* sword is thus well reflected in its regulations. The nationalist focus can be read in its generous *jus sanguinis* policy and a long, not entirely clear, road to naturalization. The only relatively easy way for a foreigner to become Polish is through marriage.

The Charter guarantees a form of semi-citizenship that does not extend to crossing the border or settling in Poland but that does ensure a certain number of social rights. It is granted only to persons who do not have Polish citizenship or a permit to settle in Poland, and applies only to citizens of countries of the former USSR…There is no clear indication as to the number of eligible individuals, but it is estimated to be between 200,000 and 400,000.

The Polish Charter

The ethnic dimension of Polish citizenship has been strengthened by the recent introduction of a *Polish Status Law* or, in other words, the Polish Charter. The Charter was discussed in 1999 and 2000, but did not move forward due to a lack of political consensus, especially around the definition of "Polishness" (Górny et al. 2007a). The conservative government raised the issue again and this led to the successful adoption of the *Act of 7 September 2007 on the Polish Charter*. The Charter guarantees a form of semi-citizenship that does not extend to crossing the border or settling in Poland but that does ensure a certain number of social rights.[5] It is granted only to persons who do not have Polish citizenship or a permit to settle in Poland, and applies only to citizens of countries of the former USSR.[6] The applicant must declare that he or she belongs to the "Polish Nation" and prove his attachment to Polish culture and tradition (especially knowledge of Polish language). Moreover, one parent or grandparent (or both great-grandparents) must be of Polish origin or must hold Polish citizenship. Alternately, the applicant must have been an active member of a Polish association or Polish community for the last three years. There is no clear indication as to the number of eligible individuals, but it is estimated to stand between 200,000 and 400,000.

The Charter was one of the hottest topics of political debate in the last ten years. Concerns about repatriation, Polish communities living abroad and national ties have

overshadowed the relatively insignificant themes of immigration and naturalization, which have never been on the political agenda.

Immigrants in Poland

Until 1989, immigration to Poland was negligible and naturalization procedures were rare. In the 1990s, Poland became a transit country for migrants and was also supposed to become a destination country. However, for almost two decades after the fall of communism, Poland's unstable economy and restrictive immigration policy discouraged major immigration flows. This especially concerned those immigrants who wished to settle in Poland and to obtain Polish citizenship. Even accession to the EU in 2004 did not change the situation in any meaningful way.

According to data published by the Ministry of Interior (Górny et al. 2007b), there were 84,729 foreigners in Poland – only 0.2% of the population – on September 1, 2004. Most of the permits issued are very recent and only for temporary stay. Only 38% of foreigners hold a settlement permit (this requires a longer period of residence in Poland). The number of naturalizations is also quite low – in 2006 the number of naturalized foreigners reached 989. This was a significant decrease compared to 2005 (2,866) and 2004 (1,937). However, the preliminary data for 2007 indicate a new increase to 2,500 naturalizations. Consequently, the number of immigrants or the number of Polish citizens of foreign origin, for whom citizenship policy is an important element of integration policy, is still quite limited. Interestingly, among the foreigners registered by the Ministry of Interior, almost 5% were born in Poland but do not hold Polish citizenship.

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Citizenship and integration

The Ukrainians and the Vietnamese are the major immigrant groups who have settled and formed a core community in Poland. Their precise numbers are unknown, as these groups comprise not only permanent residents, but also temporary migrants, visitors and those who have overstayed their visa.

As noted elsewhere, the few permanent immigrants are mostly concerned with socio-economic survival and do-it-yourself integration (Grzymała-Kazłowska and Weinar 2006). They do not participate *en masse* in the political life of Poland, regardless of their citizenship. The organizational structure of these groups is weak and still in its very initial phase of development. They do not receive substantial support from the state.

In a recent study, Agata Górny et al. (2007b) compared the integration strategies of Ukrainians and Vietnamese in Poland. The study showed that for both groups, the issue of Polish citizenship was not very important, not even in the context of integration. The Vietnamese seem to be more attached to their home country and culture, and they treat Polish citizenship in a rather instrumental way – they often do not even apply for naturalization. For Ukrainians, integration is more important and they seem to be slightly more interested in Polish citizenship. In both cases, the lack of interest in naturalization can be explained by a reluctance to lose their primary citizenship (Vietnamese and Ukrainian law requires citizens to relinquish it upon naturalization in another state) and by the fact that the provisions of a settlement permit provide an array of economic and social rights. Apparently, political rights are not of concern to immigrants in Poland at this stage. This thesis has been also confirmed by Krystyna Iglicka, who describes in detail the weak organizational tissue of immigration in Poland and argues that the visible lack of political engagement of migrants is related to their small numbers and relatively new history of settlement (Iglicka 2005).

There are many ethnic minority organizations in Poland – Ukrainian, German, Byelorussian, and Armenian. However, these organizations rarely include immigrants, as most were established by national minorities, who have a different legal status – they are *de facto* Polish citizens with no recent immigration history. Their status is defined in the *Act on national and ethnic minorities and regional language* of 2005. According to this Act, a national or ethnic minority is defined as *a group of Polish citizens* that is numerically smaller than the rest of the Polish population, that is significantly different from other Polish citizens in terms of language, culture and tradition, that strives to preserve its culture and language, and whose *ancestors lived in the present territory of Poland for at least 100 years*. Obviously, no migrant community qualifies for special treatment under this Act. Migrants thus establish their associations without state support. The Socio-cultural Association of Vietnamese in Poland was created by the elite of this migrant group – some 200-300 individuals who came to Poland as students during the communist era and stayed. Ukrainians apparently belong to several well-established

societies, foundations and NGOs; however, all of them were established by members of national minorities and, as argued by Iglicka (2005: 21), it is impossible to provide data on the participation of recent immigrants in these organizations. When considering the anecdotal evidence, it seems that there is a deep gap between old national minorities and new immigrants, and that these groups hardly ever cooperate on an organizational level.

Conclusions

Polish citizenship policy focuses on the questions of nationhood and ethnic ties. The main concern is in accommodating the needs and expectations of Polish communities living abroad, especially through *jus sanguinis*, repatriation, and semi-citizenship. The concepts of Polishness and Polish origin have become central to these policies. Their definition serves to define the boundaries of an ethnic Pole – the emphasis is mainly put on descent and cultural literacy. Such an ideology translates into nationalist practice and policy, where the question of naturalization and integration of immigrants is neglected. It can be explained, on the one hand, by the marginal importance of immigration in Poland, and by the lack of pressure of settled migrants to obtain citizenship, on the other. The most important migrant groups in Poland have mainly socio-economic interests, and they largely ignore civic or political participation.

For the moment, the numbers and the character of immigration to Poland do not allow for a well-grounded and meaningful analysis of naturalized immigrants, let alone a serious study of the impact of naturalization policies on social cohesion. However, with Poland becoming an increasingly attractive destination for potential immigrants, this situation is likely to change.

References

Poland. 2007b. *Act of 7 September 2007 on the Polish Charter. Dziennik Ustaw* 180, item 1280.

Poland. 2007a. *Statute on Polish Citizenship of 15 February 1962. Dziennik Ustaw* 120, item 818. Last amended in 2007.

Poland. 2002. *Repatriation Act of 9 November 2000* (OJL of December 5, 2000). *Dziennik Ustaw* 127, item 1090. Last amended in 2002.

Górny, A., A. Grzymała-Kazłowska, E. Kępińska, A. Fihel, and A. Piekut. 2007b. "Od zbiorowo ci do społeczno ci: rola migrantów osiedle czych w tworzeniu si społeczno ci imigranckich w Polsce." *Migration Series Working Paper* 27, 85. Retrived from <www.migracje.uw.edu.pl/obm/pix/027_85.pdf>.

Górny, A., A. Grzymała-Kazłowska, P. Koryś, and A. Weinar. 2007a. "Selective Tolerance? Regulations, Practices and Discussions Regarding Dual Citizenship in Poland." In *Dual Citizenship in Europe: From Nationhood to Societal Integration.* Edited by T. Faist. Aldershot, Burlington: Ashgate, p. 147-170.

Grzymała-Kazłowska, A., and A. Weinar. 2006. "The Polish Approach to Integration." *Canadian Diversity/Diversité canadienne* 5, 1 (Winter). Ottawa: Metropolis.

Iglicka, K. 2005. "Active Civic Participation of Immigrants in Poland." Country Report prepared for the European research project POLITIS. Oldenburg. <www.uni-oldenburg.de/politis-europe>.

Kepinska, E. 2007. *Recent Trends in International Migration.* The 2007 SOPEMI Report for Poland.

Notes

[1] The Union of Lithuania and Poland lasted over 300 years. The vast territory was home to Ukrainians, Jews, Byelorussians, Germans, Czechs and several other smaller ethnic groups.

[2] Such agreements made it officially impossible for an individual to hold citizenship of two states. It was particularly discriminatory towards women, who were obliged to renounce their original citizenship upon marriage with a foreigner and move to another country.

[3] Dual citizenship of Poles and people of Polish origin is not recognized, but is, in practice, tolerated (Górny et al. 2007a).

[4] The only cases where Polish citizenship can be granted by *jus soli*, are the following: to a child found on Polish territory, whose parents are unknown; or to a child born to stateless parents.

[5] To obtain a national visa, free of charge; to work without a work permit; to run a business; to enrol in any school or univeristy program with the same conditions as Polish citizens; to benefit from the health care system in case of emergencies; to benefit from a 37% discount on certain train tickets to obtain free entry to state museums.

[6] Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kirgizstan, Lithuania, Latvia, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.