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Two Preambles in the Czech Constitutional System

Abstract. The preambles are used in the Czech legal system during the last twenty years rather rarely. Nonetheless, constitutions in the Czechoslovak history as in the Czech history are traditionally introduced by the preambles. As the Czech constitutional system inclines to consist of more constitutional legal acts at the supreme level of the interior legal system, we can find two constitutional preambles in the recent Czech constitutional system. Both top constitutional acts—the Constitution and the Charter of Fundamental Rights and Basic Freedoms are preceded by their own preamble. The preambles differ as they are focused on different part of constitutional issues. Despite of this obvious fact they are built-up on some features, which are common to both of them.

The preambles are characterized by a modest form—their purpose is to explain, why the new chapter of the legal development is opened, and to offer us a common starting line. Nonetheless, they also keep to us a freedom of movement in the new legal period. Their main goal is to connect the people, not to divide, if the constitutional act, which is introduced by them, should be an expression of the common national will.

Keywords: preamble, Czech Republic, constitution, Charter of Fundamental Rights and Basic Freedoms, democracy, rule of law, human rights, constitutional values

I. Introduction

During the current discussions in Hungary about the preamble of the possible new constitution, the constitutional solutions of the neighbouring countries are worth a look. The Czech Republic is in quite a special situation, as its constitutional system contains not only one, but two preambles. As will be shown, this quite unusual state is not the result of a reasoned decision of the makers of the constitutional system. Rather, it is a legacy of the constitutional development in the last years of the existence of Czechoslovakia.

The Czech constitutional system is weighed towards constitutional legal acts at the supreme level of the interior legal system. In other words, the Czech constitutional system is *polylegal*.

If the term *constitutionalism* as a legal idea is defined to mean that the government, or the public power, should be legally limited by a supreme legal act—usually called a *constitution*—adopted by the people or with their consent, then it includes the concept that the constitution should regulate at least two main questions: the organisation and limitations of the public or state power and the guarantees as to the position of an individual in a society consisting of others and in relation to the state. Thus, constitutions have an organisational part and a catalogue of human rights.

States tend to regulate those main questions in one legal act. Such a solution is more lucid and understandable to the addressees. That is, the citizens themselves, as possible problems stemming from the need to interpret two or even more equal constitutional acts are avoided.

The situation before the Czech Republic was established did not allow enough time for preparation of a complex constitution for the upcoming new state. Thus, the Czech Republic

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has had three main constitutional acts in an equal legal position since the moment of its declaration. The first is the Charter of Fundamental Rights and Basic Freedoms; the second is the Constitution of the Czech Republic; and the third is Constitutional Act No. 4/1993 Coll., which sets up the rules for the continuity of the former Czechoslovak legal system in the independent Czech Republic.

Two of those constitutional acts are preceded by their own preambles—these are the Charter of Fundamental Rights and Basic Freedoms and the Constitution of the Czech Republic.

II. Historical Roots of *Polylegalism* in the Czech Republic

From the proclamation of the independent Czechoslovak state on October 28, 1918, its constitutional system consisted of more than one constitutional act. At the very early beginning of Czechoslovakia there were two reasons for such a constitutional solution.

First, the constitution of the new state was influenced through its writers and creators by the Austrian constitutional tradition. Especially the Czech political elites of those times had spent all their professional political lives in the Austrian parliamentary system based on the December Constitution of 1867. The Constitution proclaimed on December 21, 1867 consisted of seven constitutional acts. Each branch of state power had not only its own section, but in fact a separate constitutional act. In addition to five organisational constitutional acts there were an act on civil rights and a federalisation act. Thus, this collection of separated acts created the constitution. Such a situation, which continued for 50 years, certainly influenced many Austrian politicians, who did not experience a *polylegal* constitutional solution as something strange and unusual.

Second, there were strong practical reasons for avoiding a single complex constitutional act in autumn 1918. Above all, it should be stressed that the first, interim Czechoslovak constitution was prepared during a two-week period. The drafters' ambitions were not too high; the interim constitution need only define a basic constitutional framework for a relatively short period during which the definitive constitution would be written, adopted and promulgated.

Even though there were strong proclamations about discontinuity with the former legal and state system, in reality the new state used Austrian and Hungarian legal acts to the extent that these did not contradict the declaration of independence of Czechoslovakia. Thus, for example, the Austrian catalogue of civil rights was adopted by the Czechoslovak state for the interim period.

The preparatory works on the new Constitution during 1919 tended toward a complex solution in the form of one constitutional act as much as possible. Nonetheless, some special issues were omitted from the Constitution. The most important and most understandable such element was the issue of national minorities, which were still being negotiated at peace conferences in France when the definitive Czechoslovak constitution was adopted on February 29, 1920. Thus, during the 20 years of the existence of the so-called First Republic its constitutional system was still *polylegal*, although it was not so strongly clustered as the Austrian monarchical ancestor.

After World War II, when Czechoslovakia was liberated from the Nazi occupation the state returned to the pre-war constitution with a plan to prepare a new constitutional document that would offer more contemporary solutions. This goal was fulfilled by the Constitutional National Assembly, which was established by the way of the general election

in spring 1946. The new Constitution was written as a complex document regulating all constitutional issues. It was promulgated on May 9, 1948.

From 1948 to 1989 the Czechoslovak constitutional system was based on a single complex constitutional act. In fact, the Constitution was amended several times by special and independent constitutional acts; nonetheless, all the main important issues that constitute the constitutional field were included in the Constitution.

That situation changed as a result of the events and social and political changes that started on November 17, 1989. The need to adopt a new constitutional framework for human rights in Czechoslovakia was very quickly obvious as a result of the ensuing events. If the issues relating to the organisation of the state powers between a federation and republics could wait, the problem of human rights appeared as more acute.

More or less, human rights had been a crucial topic in Czechoslovak society since the so-called Prague Spring in 1968. When this process was frozen, including the informal social and political movements that requested more civil rights and freedoms, by the intervention of the Warsaw Pact member state armies, the issue of human rights remained partially hidden yet reappeared in certain special moments. One of these moments was in 1975, after the Helsinki summit. This moment led to the civic initiative Charter 77, demanding respect for human rights according as agreed at the Helsinki summit; the Charter criticized the Czechoslovak government for non-implementation into the Czechoslovak legal system of the human rights treaties that Czechoslovakia had signed.

The importance of human rights issues was so evident in the 1980s that even the supreme communist officials reacted to the problem and allowed the possibility of a very liberal solution in this regard as part of a project considering a new constitution, which was carried out from 1986 to 1988. However, this project was never published for the general public before the November 1989 events. For the conservative wing of the communist party, such a possibility was probably too liberal to accept. To tell the truth, as to the question of human rights the proposed solution did not differ too strongly from the human rights catalogues of those times in Western Europe. In fact, the ambition was to prepare a document that would fit with all the international treaties binding Czechoslovakia as a party to the treaties.

Nonetheless, the issue of human rights and their violation was not solved until November 1989. Until then a more radical solution for the situation was needed. The solution needed to be based on the following four main rules:

- Stress on the natural law origin of human rights
- Democracy as a way to define rule over society
- Rule of law as a guarantee of human rights
- Respect for human rights on the international field

These rules became the most significant features of the re-born Czechoslovak constitutionalism, which influenced the forthcoming political and constitutional developments.

At this moment, we can observe the point since which the prevailing concept of *monolegal* constitution had been abandoned for 40 years. In the first half of 1990, decisions were adopted that led to a splitting of the constitutional matter into at least two parts. The opinion that urged solving the issue of human rights separately and as a question of high priority won.

At that time there appeared two factors, which were decisive as to the separate preparation of the future Charter of Fundamental Rights and Basic Freedoms.

First was the *time factor*. It was a common opinion that the issue of a new definition of human rights is too important to postpone. Human rights and a respect for them was one of the crucial topics of the November events, generally called the *Velvet Revolution*.

The second reason to give the highest priority to human rights was the *common support* that this issue had gained across not only politicians, but also the general public. This common support stood in contrast to the problem of the division of powers between the federation on the one side, and the republic on the other. It was absolutely clear that the division of powers under the new, democratic circumstances would need much more time to solve.

Thus, under the natural contemporary circumstances the complex constitutional matter was split into two separate parts—those relating to human rights and to the organisation of the state power at the supreme level.

When the preparation of the future Charter of Fundamental Rights and Basic Freedoms started, the work was planned with intentions as to a symbolic date of adoption for the document. The very first date, which was strongly preferred from the political point of view, without any special consideration of the difficulty of the preparatory work, was November 17, 1990, the 1st anniversary of the Velvet Revolution.

As I have stressed, the political will was not supported by any special experience or estimation how difficult it would be not only to prepare, but above all to discuss and adopt such an important constitutional act under democratic rules. During the preparatory work the goal of November 17 appeared unrealistic.

Therefore, an alternative date was found in December 10, 1990, a day celebrated as Human Rights Day. Nonetheless, even on date the preparatory work was not finished. Finally the Charter of Fundamental Rights and Basic Freedoms was adopted and promulgated on January 9, 1991.

III. Preambles in the Czech Legal System

As an initial matter, it should be stated that in the Czech legal system preambles are not generally used. If they are found, then it is in the most important legal acts, which usually found a legal discontinuity. Thus, preambles are rarely used. They serve as an explanatory statement or introduction of the legal act that follows them. Their purpose is to provide an explanation of the legislative motivation, and to set out the historical circumstances and reasons under which the legal act was prepared and adopted. Sometimes the expected results of the legal act are also declared.

In Czech legal theory a preamble is understood as a part of the legal act, but without a normative character. The preamble is thus comprehended as a text containing important rules, which are enacted in detailed form in the text of the legal norm. This way the preamble may help significantly in the process of interpreting the legal act. This purpose might be especially important in the case of legal norms creating elements of legal discontinuity and founding the basis of a new legal order.

IV. The Preamble of the Charter of Fundamental Rights and Basic Freedoms

During the approximately one year period of preparation the text of the Preamble of the draft of the Charter of Fundamental Rights and Basic Freedoms was also considered. There were many factors that played significant roles. Not only the Charter, but also the introductory part had to constitute a compromise that could establish the basis for a new constitutional and legal order in the Czechoslovak Federation. For example, legal and social

values differed slightly in Czech and Slovak society, there were some differences in the view on modern history, different views on the relationship between the federation and republics, etc.

Thus, there was a need to find a compromise based situation, in which the Preamble could be designed as a text connecting both nations, and looking more to the future than trying to judge the recent or distant history.

The final version of the Charter's Preamble was adopted in the following form:

*"The Federal Assembly,
On the basis of the proposals of the Czech National Council and the Slovak National Council, Recognizing the inviolability of the natural rights of man, the rights of citizens, and the sovereignty of the law, Proceeding from the universally-shared values of humanity and from our nations' traditions of democracy and self-government, Mindful of the bitter experience of periods when human rights and fundamental freedoms were suppressed in our homeland, Placing hope in the common endeavours of all free nations to safeguard these rights, Ensuing from the Czech and Slovak nations' right to self-determination, Recalling its share of responsibility towards future generations for the fate of all life on Earth, and Expressing the resolve that the Czech and Slovak Federal Republic should join in dignity the ranks of countries cherishing these values, Has enacted this Charter of Fundamental Rights and Basic Freedoms:..."*

The first aspect of the Preamble's text that is worthy of notice relates to the body that enacted and promulgated the Charter, including the Preamble. It was the Federal Assembly of the Czechoslovakia as the supreme legislative and representative body, with exclusive capacity to adopt constitutional acts. No other body was granted the power to act on a constitutional level. This was an issue especially with respect to the two republics' national councils, which were allowed only to propose or to be consulted over constitutional matters relating to the whole of Czechoslovakia.

It is also very interesting that in the Preamble there is no mention of the people, in whose name the Charter was prepared.

There could be different reasons why the first portion of Preamble is drafted so modestly. Generally the Czechoslovak Federation, since 1968, and Czechoslovakia as unitary state, since 1945, as well, were built up on the theory that the common state is created from the will of two nations, which together create the people of Czechoslovakia. The people then were represented in the National, and later Federal Assembly, which is rather a complex structure, and its proceedings to protect the vital interests of both nations.

Thus, the interests of inner balance led to the choice to list the Federal Assembly as the adopter of the Charter and not to solve the problem of which element should be stressed as a constitutive one.

This way of thinking appeared in the formulation as follows. The remarks on the proposals of both National Councils found in the Preamble show that the Federal Assembly did not force its will upon the two republics or nations, or on their institutional and political representation.

The Preamble's first sentence mentions the proposals of the National Councils. In fact, the preparation of the Charter did not start from two viewpoints, but rather there was one framework project offered as a starting document to both National Councils and they discussed it and prepared their own proposals on its basis. This way, the initiative went out from the whole-nation's representation, gathered in the Federal Assembly.

The role of both National Councils is stressed later in the Preamble, where it is mentioned and confirmed that the Charter and its contents fully respect the right of both nations to self-determination. Therefore, the drafting itself had to fit to this key national right.

The narrow approach of the first parts of the Preamble was used throughout the text. The authors of the Preamble did not try to solve anything beyond explaining the importance of the following Charter for the future through its subject, human rights.

First, the Federal Assembly stressed the need for a new attitude about human rights, such that Charter should open a new chapter in the constitutional and legal system in Czechoslovakia. As a result of the Charter's adoption, human rights should be understood in their natural law character—not granted by a state, but just recognized by the state power, which should respect them. Thus, human rights should create a boundary that cannot be trespassed by the state (or any individual).

The Preamble also stressed the fact that the complex system of legal limitations and guarantees, called the *rule of law*, is one of the institutional protections of human rights. In other words, the Federal Assembly declared the will to respect the *rule of law* in the interests of human rights. Here we can see the connection of a *material and formal rule of law*. The procedures are not values in themselves, but should serve another, supreme goal.

It was very important at the very early 1990s, after 40 years of authoritarian regime in Czechoslovakia that the Federal Assembly did not try to “invent” human rights. To the contrary, the Charter should be anchored in the wider context. The Federal Assembly even declared its belief that human rights have a common source, the universally shared values of humanity. Thus, in the conviction of the Federal Assembly human rights exist in wider context and are common to all people around the world.

This declared belief also reflected the fact that the international as well as the regional human right treaties and pacts served as important inspirations. This way, the new Charter was absolutely compatible from the beginning with all the international human rights documents that Czechoslovakia had newly adopted. It was very important for the entry or in some cases re-entry of Czechoslovakia into the family of democratic states respecting human rights, and into international organisations like the Council of Europe.

Further, we can see a combination of the rule of law and the way the Czechoslovak conception of human rights is anchored in general human values. The Federal Assembly expressed a strong belief that human rights as an idea can be protected in the wider context only by the common effort of the democratic states respecting human dignity. Here, the Czechoslovak experience of 40 years under an authoritarian regime controlling a significant part of Europe is expressed. The isolated effort to reach democratisation and respect for human rights failed not only in Czechoslovakia but in other socialistic states as well. Therefore, the Preamble stresses the interest in cooperation in the international arena with other free nations on human rights protection.

From the historical point of view, in the Preamble there is only a modest commemoration of the periods in which human rights flourished or were violated. The expression does not aspire to be a judgement of recent or distant history. The authors of the Preamble only recalled two historical facts. One was the bright years for human rights during the years of democracy, not only in pre-war Czechoslovakia, but also during the years before World War I. The other was a commemoration of the years when human rights were broken in Czechoslovakia.

Thus, we can see that this part of the Preamble creates a starting point for discussions for those interested, but does not aspire to instruct how the discussion should continue further.

We can see some kind of reflection on recent history and a perspective of the future in the belief that Czechoslovakia can join the family of states and nations that respect the values of human rights, democracy and the rule of law. We can also understand this proclamation as a persuasion that a state can exist in dignity only if it respects those values. From a certain point of view, it's a kind of judgement on the last decades in Czechoslovakia. Nonetheless, that kind of opinion can hardly be confirmed.

The Preamble's aspects that can, from the current point of view, be understood as environmental or "green" are also very interesting. Of course, this aspect of state activity and social responsibility was very important in the days of preparing and adopting of the Charter. Environmental protests were a motivating power of the social and political changes in northwestern Bohemia. It should be said that those protests started in October 1989, even before the student demonstrations in Prague, and were of a huge scale and independent of them at the beginning. Later, in the second half of November, they both were connected together into a united and coordinated movement.

That is why the environmental aspect of human rights is expressed in the Preamble of the Charter so conspicuously. Nonetheless, the words about responsibility for the future of life on Earth also can and should be understood from a different point of view. We should not forget that the Charter was being prepared at the end of two super-powers' arms race, which focused on nuclear weapons. This experience of nuclear threat is another ideological source of the stress on responsibility for the whole planet.

In the end, it could be said that the Charter's Preamble marks a milestone initiating a new era. With the Charter new legal values were established and a new approach of the state to human rights began. Since then one of the state's most important tasks is to protect human rights.

Regarding to the form and content of the Charter's Preamble, it should be stressed its modest attitude towards the issues addressed. This form of the Preamble allows a start to a new era with an open future. The authors do not aspire to judge or declare an end to recent history or enact their judgement on the supreme constitutional act in a binding form. Thus, the Preamble can serve as a common starting point for the entire society, more connecting than dividing.

V. The Preamble of the Constitution of the Czech Republic

During the 18 months after the adoption of the Charter of Fundamental Rights and Basic Freedoms, discussions and drafting to accomplish a re-organisation of the federation continued. As I mentioned above, this process started and ran simultaneously with the Charter's preparation. In fact, the federal reform in post-1989 Czechoslovakia took place for more than 30 months.

A certain breaking point appeared in June 5 and 6, 1992, when general elections were held. The winning parties in both republics very quickly agreed with each other that they could not find a mutual solution for the future existence of the federation and agreed further that the federation should be dissolved.

The process of dissolution started almost immediately, on June 17, 1992, when the Declaration of Independence of the Slovak nation, which was understood as a proclamation starting the process of secession from the federation, was adopted by the Slovak parliament.

The Constitution of the Slovak Republic was adopted and proclaimed on September 1, 1992. This constitutional act still respected the sovereignty of the federation as a temporal solution, just as long as necessary to dissolve the common state.

On the Czech side the situation did not go forward so rapidly. Only in the middle of August did serious work on the new constitution start. It should be said that some projects were prepared during the 1990–1991, but they were being prepared for a republic as a member state of a federation. Thus, the projects had to be re-discussed, because some proposed solutions were not applicable and some issues were not solved at all—they would have been regulated by the federal constitution. We can say that intensive work on the new Czech constitution started at the moment when the work on the Slovak constitution was being finished.

There were no doubts that the new Constitution would be introduced by a preamble. As all of the Constitution was being prepared by a government expert commission, the text of the Preamble was prepared by that group of experts as well. Nonetheless, the former Czechoslovak president, and the main and probably only possible candidate with a real chance to be elected to the office of the Czech president, Václav Havel, played a significant role in the process of preparation. His notices and proposals to change the syntax of the Preamble to make it simpler and more readable were very useful. Thus, he influenced (not only) the Preamble in significant form.

The final version of the Constitution's Preamble was adopted in the following form:

“We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, at this time of the reconstitution of an independent Czech State, true to all the sound traditions of the ancient statehood of the Lands of the Crown of Bohemia as well as of Czechoslovak statehood, resolute to build, protect and develop the Czech Republic in the spirit of the inalienable values of human dignity and freedom as the home of free citizens who are aware of their obligations towards others and of their responsibility to the community, as a free and democratic State founded on respect for human rights and on principles of civil society, as a member of the family of European and World democracies, resolute to protect and develop their natural, cultural, material and spiritual heritage, resolute to take heed to all the well-proven tenets of law-abiding state, have adopted this Constitution of the Czech Republic through our freely elected representatives.”

The first significant feature of the Constitution's Preamble is the civic base upon which the new state is declared. As is stressed, the Constitution of the future independent Czech Republic is adopted by the representatives of the citizens of the republic. This is not an oxymoron. When the Czechoslovak federation was being dissolved, there were generally no special problems of defining the rules governing who would be a citizen of which republic. During the existence of the federation there existed two citizenships—citizenship in the federation, which was important in relations outside and citizenship in one of the two republics. The republic citizenship was not really important for everyday life inside the federation. Nonetheless, for purposes of the existence of the republic inside the federation it was important on the level of constitutional ideas, because the citizens of the republic created together the Czech or Slovak political nation. The rules under which the republic citizenship of each Czechoslovak citizen was added to the previously uniform Czechoslovak citizenship, which was turned into Czechoslovak federal citizenship, had been prepared and applied since 1969. Thus, at the end of 1992 it was generally clear who is and would be a citizen of which republic. Thus, the Preamble could also declare that it is a result of the will of the Czech Republic's citizens.

When the new Constitution came into force, at the same moment the original citizenship in the republic in the federation turned into citizenship in the independent state. We can see here since that moment the existence of an independent *political* nation as well, which also includes the members of all national minorities living in the Czech Republic. But no member of the Czech ethnic nation without citizenship, for example living abroad, was included in the political nation.

In fact the Preamble establishes a *limited* form or model of the political nation. The new state is created by the will of *the citizens living in the territory of the Czech Republic*. We can see this important fact in the formulation recalling the historical parts of the Czech Republic, which are *Bohemia, Moravia* and *Silesia*.

Thus, the mention of the historical countries is not just a manifestation of some regional political movements that existed in 1992 especially in Moravia that demand consideration of Moravian identity. It also has a constitutional sense, as was described above.

It should be stressed that the enumeration of the historical countries does not mean any territorial demands. This is especially so in the case of Silesia—the great majority of this historical region is now situated in Poland. The Preamble addresses only the regions inside the borders of the Czech Republic.

This emphasis has strong importance in a further part of the Preamble, which refers to the statehood of the Lands of the Crown of Bohemia. This sentence also means only a reference to the long tradition and one of the paramount phases of Czech statehood, not any territorial demands and requests.

Why the authors of the Preamble refer to statehood in the later middle ages, and not to more ancient roots is not entirely clear. They probably wanted to stress the form of the Czech state in one of its most extended phases.

The reference to the Czechoslovak statehood that declares the continuity of the state ideas and a close mental connection of the Czech nation with the Czechoslovak state is also very important.

Generally it can be said that we can see in this part of the Preamble a reference to the best traditions of Czech statehood in the middle ages and in modern times. The stress on the continuity of statehood is also very important, as the Preamble also mentions statehood in its “hidden” form, as in the times of the existence of Czechoslovakia.

The Preamble of the Constitution talks about the issue of human rights in relatively modest terms. There are two possible reasons of such an approach.

The first can result from the fact that the Constitution should not have involved a catalogue of human rights. The Constitution should solve mainly the issues bound to problems of the structure of the supreme state bodies, division and distribution of the powers among them and the system of checks and balances.

The other reason is that the existing Czechoslovak Charter of Fundamental Rights and Basic Freedoms should have been recognized as a part of the *polylegal* constitution of the new state. Thus, its Preamble was also taken into the new legal and constitutional system, and the issue of human rights could be understood in a certain sense as redundant in the Constitution’s Preamble.

Nonetheless this topic was not omitted and the orientation of the new state as to respect for human rights and the rule of law was declared in a form that is not different from the formulation and approach described in the Charter’s Preamble.

Similarly, as in the Charter’s Preamble the Constitution’s Preamble also mention the desire to belong to the wider family of democratic states respecting human rights. Only membership in this group of states can create conditions that are friendly to democracy,

human rights and the rule of law. Thus, the belief that a small state is not able to protect these values itself was clearly declared. Here we can also see some foundations of the Czech aspiration to enter into the European Union, as well as other international human rights and security organisations. This part of the Preamble also legitimates the Czech effort to support dissidents in different countries, which is a priority of the current Czech foreign policy.

A very special task of the state is declared in its responsibility for all kinds of manifestations of the heritage created by the Czech society and country. One of the main problems of the former regime was a lack of required respect or effort to protect all aspects of the national heritage. Thus, this point appeared as one of the most important demands during the Velvet Revolution. And later it was still an issue during the process of reconstitution of the independent Czech Republic.

Also, the Constitution's Preamble can be judged as a modest document in its formulations and aspirations. Its content does not open any special controversies, as the document is written to open a new chapter of Czech statehood and constitutionalism, but not to explain all the reasons and the previous history. The Preamble also remains a space for open future interpretation—with the exception of some very special values like democracy and respect for human rights, freedom and the rule of law, which are the crucial values of contemporary Czech constitutionalism. Also, the Constitution's Preamble may serve as a common starting point for the entire society, more connecting than dividing.

VI. Conclusion

What I wanted to show is that the authors of both of the current binding constitutional Preambles followed the concept of drafting in a modest form, more to connect than to divide. Such an approach to the problem of the Preamble is, in my opinion, the ideal one. The more complex the text is, the more dangers of discontent it contains. Such a danger should not be underestimated by the authors of the constitutional project. According to the theory of constitutionalism, the constitution as a basic law should be a document of the common will of the people. The more groups and interest it covers, the better and more stable the new constitutional system is and will be in the future. The stability of the constitution is one of its basic values. The constitution, including its preamble, should serve as a common anchor for the times, which are not always friendly. The constitution should not be in a position of ballast or deadwood, which would stir up desires to cut off some of its parts. Sometimes it is better not to mention a controversial topic in favour of general success.

Thus, the purpose of the preambles is to explain why a new chapter of legal development is opened, and to offer us a common starting line. Nonetheless, they should keep for us a freedom of movement in the new legal period as well.