

Minority protection and linguistic rights in Lithuania

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Abstract

This paper presents the Lithuanian legislative framework with regard to linguistic rights and minority protection. First the article gives a general overview on minorities in Lithuania, then the focus is moved to the legal framework of the country as it stands today and finally, the article seeks to illustrate the impact which Lithuania's accession to the European Union had on the status of its minorities and on the linguistic policy its government leads. In the end of the article I will shortly sum up and analyse the current situation.

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1. Introduction

1.1 General Information

Lithuania joined the European Union with nine other new member states on 1st May 2004. It's the largest (territory: 65301 km², population: 3.496.000) among the three Baltic countries which (re)gained their independence in 1991 as a consequence of the events which led to the collapse of the Soviet Union.

Lithuania had a significant role in the region's history in the Middle Ages and later on in union with Poland. After the third division of Poland (in 1795) major part of the modern Lithuania fell under the rule of the Russian empire. The independent state was established after the First World War in 1918. The *Molotov-Ribbentrop pact* between Soviet Union and Nazi Germany on August 1939 earmarked Lithuania to the USSR. Consequently, the Soviet troops occupied Lithuania in 1940. During WWII Lithuania experienced as well the German occupation. In 1989 the Parliament declared Lithuania sovereign and later in 1990 independent. After violent incidents in Vilnius and failed coup d'état in Russia, Soviet Union recognized Lithuania's independency in September 1991. The last Soviet occupation troops left Lithuania in 1993. Lithuania became member of UN and OSCE in 1991 and in 1995 the formal accession negotiations with EU were underway. Lithuania joined NATO on March 2004.

Lithuania shares border with Russia (Kaliningrad) and Poland in the west, Belarus in the south and Latvia in the north. Its economy has been developing rapidly GDP being higher than the average with in the new EU member states.

In terms of demography, Lithuania is relatively homogeneous country. According the last census in April 2001, more than 83.4% of the populations are Lithuanians, 6.7% Poles, 6.3%

Russians. Other minorities in the country are marginal (Byelorussians 1.7%, Ukrainians 1.2%, Jews 0.2%, Germans 0.3%, Roma 0.1%, Tartars 0.1%).¹

1.2 National minorities

Lithuanian legislation doesn't contain definition of minority and hence the Council of Europe's Framework Convention for Protection of National Minorities which Lithuania ratified on March 2000 (FCNM) applies to all different ethnic groups on its territory. Lithuania has few minorities that it considers autochthons. The most important evolution regarding the size and character of the minorities can be traced to the contemporary history. During the period of Soviet rule Lithuania attracted interstate immigration due to its higher standard of living compared with several other Soviet states.

Russians

After the Second World War number of Russians² - as well as other nationalities from the Soviet Union- arrived and settled to Lithuania. Today, the number of the Russian minority dwelling in Lithuania is considerably smaller than in Latvia or Estonia.³ Russian minority is on the state level not concentrated into a specific area even though 90% of the members of the Russian community in Lithuania are living in the urban areas.⁴

Poles

Due to historical reasons, most of the members of the Polish minority live in the capital Vilnius or in the surrounding regions. During the Soviet occupation the number of the Polish minority diminished. The reason for this was the fact that Poland within the Soviet block enjoyed more rights than Lithuania appealing therefore ethnic Poles to immigrate.⁵

Jews

The Jews have lived in Lithuania since the 14th century forming once a significant group in the country. The capital Vilnius was known as a "Lithuania's Jerusalem" due to its large Jewish community. In course of WWII, the majority of the Lithuanian Jews fell victims to the Holocaust. The remaining community shrank considerably after the restoration of the independence as a result of Jewish immigration to Israel and to the US.⁶

Germans

The number of German minority living in Lithuania has been relatively modest. After WWII the size of the German minority shrank considerably. Today, there are between 5000-8000 ethnic Germans living in Lithuania –less than 0.3% of the total population of the country. There are some 23 officially registered German minority associations.

Belarusians

Belarusians form one of the largest and oldest minority groups in Lithuania. The number of Belarusians increased after Lithuanians incorporation to the USSR as the Belarusian workers

¹ Statistics of Lithuania, Population by some ethnicities by county and municipality: <<http://www.std.lt/web/main.php>>.

² The Russians can be defined into three categories: The historical Russian minority that settled to Lithuania prior IIWW, Russians who arrived to Lithuania during the Soviet occupation to work on the civil sector and the members of the military units and police forces.

³ As an explanation various aspects can be named: As a part of the Soviet Union, Lithuania was not influenced by the industrialization in the same way like Estonia and Latvia which kept the Russian immigrants flows low.

Lithuania was annexed to Russia over a century later than the other Baltic countries, thus it was exposed to Russian influence and immigration for a shorter period of time. See Van Elsuwege, P. (2004): *Russian-speaking minorities in Estonia and Latvia: Problems of integration at the threshold of the European Union*, ECMI Working Paper 20, <<http://www.ecmi.de>>.

⁴ Statistics Lithuania, Population by some ethnicities by county and municipality: <<http://www.std.lt/web/main.php>>.

⁵ Framework Convention for Protection of National Minorities, State Report, submitted by Latvia 31 October 2001, available at <http://www.coe.int/T/E/Human_Rights/Minorities/>.

⁶ Hollstein, A. *Die Rechtstellung der Minderheiten in der Republik Litauen*. Das Recht der nationalen Minderheiten in Osteuropa, Berlin Verlag, Berlin: 1999, p. 377-388.

immigrated to Lithuania. Belarusian minority is actively promoting and developing its cultural identity in Lithuania.

Roma

The Roma minority in Lithuania composes of some 3000 persons. The negative stereotype of Roma is persisting and the members of the group are often objects to discrimination. The problem regarding integration of the Roma to the Lithuanian society is evident. Several members of the minority are not registered nor do they have permanent job or housing. The level of education is poor and school drop outs common.

Other marginal historical minorities residing Lithuania are the Tartars and Karaites minorities.⁷

The report regarding Lithuania's progress towards accession from the year 2001 states that "the overall situation with regard to the protection of minorities has continued to be satisfactory, and some further progress has been made in implementing integration programmes".⁸ However, the conditions of the Roma minority have remained unsatisfactory. In the Joint Memorandum on social inclusion between Lithuania and the European Commission in December 2003, the social and occupational integration of the Roma was indicated as a key challenge for Lithuanian society.⁹

The Lithuanian government has tried to improve the situation by drafting and implementing special Roma integration programme for the period of 2000-2004.¹⁰ Clearly, there have been problems in meeting the goals. Local Roma organisations have criticized the plan saying that government didn't consult representatives of the Roma community during the programme preparations. Government of Lithuania is supposed to set up a new plan regarding the integration of the Roma minority where special emphasis is given to social issues and access to education.

Lithuania has concluded a number of bilateral treaties with neighboring countries containing provisions on minorities. It's important to note that the treaties do not contain provision regarding the Roma (typical for a dispersed minority without a kin state).

2. Legislative framework

2.1 Constitutional Provisions regarding minorities

The Constitution guarantees equal human rights and fundamental freedoms to all people.¹¹ Moreover, there are some articles within the Constitution touching the status of the minorities.

Article 37 of the Constitution spells out that "Citizens who belong to *ethnic communities* shall have the right to foster their language, culture and customs." The term "ethnic communities" used by the Lithuanian authorities has been criticized being too vague by the advisory committee on the Framework Convention for the Protection of National Minorities (FCNM) in February 2003.¹²

According to the Article 117, persons who don't speak Lithuanian have the right to participate in investigation and court proceedings through provided interpreter.

⁷ Ethnic-confessional groups which arrived to Lithuania from Crimea some 600 years ago.

⁸ Since 1998, the Commission has issued yearly reports -e.g. regular reports- on progress achieved by Lithuania on its way towards accession. The 2002 Regular Report released on 9 October 2002 provides a comprehensive overview on Lithuania's progress: <http://europa.eu.int/comm/enlargement/report2002/lt_en.pdf>

⁹ Joint memorandum on Social Inclusion of Lithuania:

<http://europa.eu.int/comm/employment_social/soc-prot/soc-incl/lt_jim_en.pdf>.

¹⁰ The Institute of Dispersed Minorities, The Roma Integration programme for 2000-2004: <http://www.tmid.lt/files/roma_integration_programme2000-2004.pdf>.

¹¹ Article 29 of the Constitution: "All people shall be equal before the law, the court, and other State institutions and officers. A person may not have his rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, convictions, or opinions."

¹² Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM), February 2003, Opinion on Lithuania: <http://www.coe.int/T/E/Human_Rights/Minorities/>.

Lithuania has ratified nearly all the major European and international agreements in the field of human rights and minority protection. According to Article 138 of the Lithuanian Constitution, all the international agreements which are ratified by the parliament will be incorporated to the Lithuanian legal system. In case national law collides with an international treaty after its ratification, the latter will be prevailing.

2.2 Major national laws regulating the status of the minorities

Law on national minorities

The rights of the minorities were taken into consideration already within the independence movement before Lithuania regained its sovereignty.¹³ Lithuania adopted a law on national minorities prior to its declaration of independence in 1989 and established Department of Nationalities with a task to assist the country's minorities in several walks of life. The Law on National Minorities guarantees the rights of all minorities prohibiting all kind of discrimination on the grounds on race, ethnicity nationality or language.¹⁴ The law contains provision regarding the right to equal protection, to obtain aid from the state to develop their culture and education, to establish own media, to freedom of religion, to right to establish ethnic cultural organizations and to contact person with same ethnical background abroad, to equal political representation and to right to hold any post in institutions, organizations and enterprises.¹⁵

The status of the members of the Lithuanian minorities who, for various reasons, haven't met the requirements set for obtaining the citizenship is vague. The law stipulates (article 2) that "The state shall provide equal protection for all the citizens of Lithuania, regardless of ethnicity."¹⁶ It's not quite clear if the persons without citizenship enjoy the same protection.

Citizen Law

Unlike two other Baltic states, Lithuania chose clear-cut approach towards the issue of the citizenship granting the citizenship to all persons residing in its territory soon after regaining its sovereignty in 1989.¹⁷ The citizen law was amended in 1991 introducing less liberal regulations.¹⁸ Consequently, it has been argued that some members of the Roma minority, for instance, haven't been able to meet the more demanding preconditions in order to obtain the citizenship.¹⁹

Lithuania has taken measures to restore real property which was nationalized during the communist regime (Law on Restitution of the Citizen's Right to Ownership to the Existing Real Property). The government stresses that the restoration is applied everywhere on the state territory according to the same stipulations regardless of the persons' ethnicity.²⁰

¹³ Hollstain, p. 383-384.

¹⁴ The amended version of the Law on National Minorities: <<http://www.eurac.edu/miris>>

¹⁵ *ibid*, Article 3.

¹⁶ *Ibid*, Article 2.

¹⁷ The Law on Citizenship was adopted in 1989. The so called *zero-option* guarantee citizenship to all persons upon request regardless of their ethnic background or time they had been resident in Lithuanian territory. The law text is available in MIRIS-data base at <<http://www.eurac.edu/miris>>.

¹⁸ According to the amended law on citizenship, person requesting for naturalization must have, i.e., ten years residence in the country and pass an exam on Lithuanian language and Constitution.

¹⁹ In September 2003 Lithuanian authorities stated in the reply to the comments of the Advisory Board on the FCNM that the Human Rights Committee under the Lithuanian parliament will elaborate in near future amendments regarding the citizen law taking into consideration the opinions of the Council of Europe.

²⁰ According to the ruling of the Lithuanian Constitutional Court on 20 June 1995, the existing real property shall be restored to the citizen of Lithuania, who is "a permanent resident of the Republic of Lithuania". This ruling has importance for the minorities (as well as all the other residents of the country) as the number of Lithuanians who emigrated especially as an outcome of WWII (and their offspring) living abroad is considerable.

3. Linguistic rights and minority media

3.1 Linguistic rights

Article 14 of the constitution provides that the state language shall be Lithuanian. Nevertheless, the law on national minorities stipulates that on the regions densely populated by the minorities, other than Lithuanian language can be used in administration and different offices. The term "densely populated" is vague since it's not defined in the law or by the state authorities. The Advisory Committee on FCNM commented the term in its report on February 2003. Consequently, in Lithuanian reply to the Council of Europe, the Lithuanian government announced that a draft was already prepared to amend the current law stipulating that the public signs and of office and street names may be written in Lithuanian and in minority language in the administrative territory where the minority account no less than 70% of the permanent residents.²¹

There are no provisions in the language law regarding specific minority languages. The Law on the State Language spells out (Article 1) that "the Law shall not regulate unofficial communication of the population and the language of events of religious communities as well as persons, belonging to ethnic communities."²² Furthermore, the text continues that "other laws of the Republic of Lithuania and legal acts adopted by the parliament of the Republic of Lithuania shall guarantee the right of persons, belonging to ethnic communities, to foster their language, culture and customs."²³

The Law on Ethnic minorities spells out that "Lithuania shall guarantee to all ethnic minorities residing in Lithuania the right to freely develop, and shall respect every ethnic minority and language."²⁴

Even though Lithuanian language law stipulates that members of the minority have the right to use their mother tongue when dealing with the public administration, members of the Roma minority are not able to enjoy this right effectively: the functionaries in general don't speak Roma language and consequently Roma, who cannot speak Russian or Lithuanian, are not able to use public translation services.²⁵

Person names, names of companies and organisations "as well as names of goods and services provided in Lithuania, must be in the state language."²⁶

The knowledge of Lithuanian language, following the established categories, is according the Article 6 of the Language Law prerequisite for a post on public domain restricting practically possibilities of several members of the minorities to obtain vacant posts.

In the light of comparatively tolerant minority policy Lithuania's government is leading, country's linguistic regulations appear rather incoherent and strict. Why? The change in the demography during the Soviet occupation posed a problem (thus to a far lesser extent than in other Baltic states) to the principle of historical continuity of the state after the restoration of the independence. The language policy was an instrument to strengthen the national identity protecting Lithuanian language, and on a symbolic level to expunge the Soviet, Slavic domination over Lithuania.²⁷

²¹Comments of the Government of Lithuania on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities (FCNM) in Lithuania, 23 September 2003, available on the site of the Council of Europe at <http://www.coe.int/T/E/Human_Rights/Minorities/>.

²² Law on the State Language: <<http://www.eurac.edu/miris>>.

²³ Ibid.

²⁴ The Law on National Minorities: <<http://www.eurac.edu/miris>>.

²⁵ Open Society Institute 2001, Monitoring the EU accession process: Minority protection: <http://www.eumap.org/reports/2001/minority/sections/lithuania/minority_lithuania.pdf>.

²⁶ Law on State Language, Article 16: <<http://www.eurac.edu/miris>>.

²⁷ Tsilevich, Boris: *Development of the Language Legislation in the Baltic States*, MOST Journal on Multicultural Societies, Vol. 3, No. 2: <<http://www.unesco.org/most/vl3n2tsilevich.htm>>.

To date, Lithuania hasn't signed the European Charter for Regional or Minority Languages.

Identity – names and signs

Lithuanian citizens used to identify their ethnicity in the passport based on both or one of the parents affiliation.²⁸ As the result of the Council of Europe's critical comments, Lithuanian authorities decided to amend the respective laws.²⁹

The Law on Minorities stipulates that the street signs in minority languages can be placed in areas where "numerous" members of the minority reside.

According the Law on Ethnic Minorities (Article 6), "historical and cultural monuments of ethnic minorities shall be considered part of the cultural heritage of Lithuania and shall be protected by the state."

3.2 Radio, television and print media

Broadcasting in minority language is not restricted in Lithuanian legislation. Thus, the Language Law demands (Article 13) that all the audiovisual programmes must be shown in state language or with Lithuanian subtitles. According to the Law on National radio and TV, "A variety of topics and genres must be ensured in the programmes of LRT and the broadcasts must be oriented towards the various strata of society and people of different ages, various nationalities and convictions."³⁰

Both Lithuanian radio and television send programmes on daily bases in Russian, Polish and less frequently in Ukrainian and Belarusian language. As a consequence of moderate critics from the side of the Council of Europe, Lithuanian government has planned to start to broadcast minority programmes as well during the prime time. Moreover, government authorities have proclaimed to improve the quality of the programmes in general.

Some private local radio and television transmit programmes in minority language in urban areas. Besides, an access to the cable television guarantees for some minorities – depending on the language in question - a vast number of programmes from abroad.

Newspapers and publications

The Article 2 of the Law on Minorities lies down the right to have newspapers, other publications and information in one's own language. There are several newspapers and publications published in major minority languages as the scope of minority literature is modest. In spite of the existing regulations, the Roma media is practically non-existing.

4. Education and minorities

According the Constitution (Article 45) national minorities in Lithuania have right to education in their own language. The state is obliged to provide the financial means for the minority education (i.e. by providing the textbooks in minority language). The parents can decide to which pre-school and elementary school they send their children based on the language of instruction. However, in non-Lithuanian school-institutions Lithuanian-language and literature must be taught in Lithuanian. Before the new Law on Education was adopted on June 2003, the Lithuanian government heard the opinions of the representatives of the minority groups on the draft law.

Preschool and elementary school

Law on Education stipulates that "populous and compact communities of ethnic minorities" in Lithuania have the right to state financed preschool and elementary school facilities.³¹ Additionally, some private and Sunday schools have been established for the minorities.

²⁸ Article 8, "Every citizen, upon obtaining a passport, shall be free to identify his ethnicity on the basis of the nationality of his parents or of one of his parents."

²⁹ Comments of the Government of Lithuania on the Opinion of the Advisory Committee.

³⁰ Law on National Radio and Television, Article 4: <<http://www.eurac.edu/miris>>.

³¹ The law on Education: <<http://www.eurac.edu/miris>>.

Secondary school

There are both public and private schools providing secondary education. The high school graduates from minority schools have an option to sit their matriculation exam in the language of the instruction.

Tertiary education

The Article 10 of Law on Higher Education (adopted on March 2000) stipulates that the language of the higher education is basically Lithuanian.³² Nevertheless, the amended Law on Ethnic minorities (Article 2) contains provision for "groups, faculties and departments at institutions of higher learning to train teachers and other specialists needed by ethnic minorities."

5. Political representation of the minorities

5.1 Parliament and local councils

Lithuania has three political parties based on ethnicity.³³ There are no legal regulations guaranteeing representation of the minorities in the national parliament or in the local councils. The political parties representing minorities have lost some of their mandates in the last local elections (the current amount of the seats is around 4%).

5.2 Institutions dealing with minority protection

Ombudsmen

The office for the Ombudsman in Lithuania consists of three ombudsmen. None of the three ombudsmen is being precisely vested with the task of monitoring complains regarding the rights of the minorities.³⁴ The Lithuanian government announced in its reply to the advisory board on the FCNM in September 2003 that it will enhance the minorities' possibilities to issue a claim by extending the powers of the Equal Opportunities Ombudsman to "investigate complaints regarding discrimination on the grounds of ethnicity or belonging to national minority."³⁵

Department of National Minorities and Lithuanians Living Abroad

The special department for the minorities was established on the grounds of the Law on National minorities in 1989. The office's task is to monitor government's policy over the minorities and support minorities by implementing programmes aimed at improving the conditions of the minorities. Department of National Minorities is as well responsible for allocating granted funds to minority organisations.

All the Lithuanian minorities are represented in the *Council of National Communities*. Council's most important tasks are "to analyze acts of law regulating the condition of national communities and minorities, make proposals on minority issues, as well as to strengthen relations with Lithuanian communities in foreign countries."³⁶

³² The law on Higher Education: <<http://www.eurac.edu/miris>>.

³³ The Union of the Russians in Lithuania, The Alliance of Lithuanian Citizens (supported by the ethnic Russians) and the Election Action of Lithuanian Poles.

³⁴ "The Ombudsmen shall investigate citizens' complaints concerning abuse of official position or bureaucracy of the following officials: employees of the institutions of State government and administration, employees of local government Councils and their departments, or the authorized persons whose duties embrace the performance of organisational, managerial or administrative functions." Artic.1, Law on the Seimas (Parliament) Ombudsmen, adopted in January 1994.

³⁵ Comments of the Government of Lithuania on the Opinion of the Advisory Committee on the Implementation for the Protection of National minorities in Lithuania, 23 September 2003, available on the site of the Council of Europe at http://www.coe.int/T/E/Human_Rights/Minorities/.

³⁶ Chairman of the Lithuanian Council on National Minorities, Mr Gediminas Dalinkevicius, in the interview by the Baltic Times, 26 May 2003.

6. Conclusions

Lithuania's approach towards its minorities and their linguistic rights is by and large considered to be tolerant and respectful -especially when compared with other Baltic countries' approach towards the Russian minority. The fact that Lithuania's Russian minority is substantially smaller than in the other Baltic countries makes the issue of the minority protection in Lithuania less acute than it is in today in Estonia or Latvia. Lithuania's decision to grant citizenship to all the residents of its territory in 1989 defused the potential tensions and provided for the political stability of the country.

It's interesting to note that the Lithuanian parliament passed bill aimed at protecting the national minorities as early as 1989, before fundamental European instruments (like the FCNM) existed.

Lithuania's accessions to the EU meant, however, an evident and considerable shift in minority protection providing minorities with solid legal instruments to safe-guard and enjoy their rights.³⁷ The international treaties which have been ratified by the Lithuanian parliament provide the minorities with means, when necessary, to challenge domestic rulings and seek for a remedy beyond the state borders.

Not only the implementation of the *acquis communautaire* had an impact on the Lithuanian policy, but as well other international or intergovernmental organisations obliged Lithuanian government to tackle the issue of minority protection. For instance, Lithuania's annual national integration plan to NATO contained provisions dealing with "good neighbourly relations" and protection of national minorities and their integration into Lithuanian society.³⁸

As in many other new (and old) EU member states, the question of the Roma minority needs to be tackled fast. As a part of the accession preparations, Lithuania drafted and implemented a special Roma programme. The assessing of the programme revealed several problems and shortcomings, nevertheless, steps have been taken in order to improve and develop the rights and living condition of the Roma.

Lithuania shares mutual problems with other new member countries in implementing various EU regulations. Limited financial funds force country to prioritize its allocations: matters like public health care, universal education and current poor infrastructure make sure that the question of minority protection is not going to be the only issue which demands government's attention.

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<<http://www.eurac.edu/miris>>

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³⁷ The expectations for general improvements in the living conditions as members of the Lithuanian society in the EU perhaps accommodate minorities' aspiration for more collective rights. The amount of EU funding Lithuania enjoys per capita is one of the highest among the member states.

³⁸ Ministry for Foreign affairs, news 10.1.2002 : Government approves Lithuania's annual national programme (NATO): 2002-2003, <http://www.urm.lt/full_e.php>