

The Concept of Dual Citizenship in Lithuania. A Study in Equality



INTRODUCTION

Multiple citizenship is an important element of international law. Regulating and policing the acquisition, retention, loss, reinstatement or certification of citizenship are inseparable attributes of a sovereign state. States, attitudes towards this issue vary. Each country, in accordance with its internal regulations, may freely decide on the consequences of acquisition or holding another citizenship by its citizens. However, various international treaties contain provisions concerning citizenship, multiple citizenship and statelessness, directly affecting national law.

On 27 April 2009, the President of Poland referred the Citizenship Act adopted three weeks earlier by the *Sejm* to the Constitutional Tribunal. The head of the State challenged the constitutionality of the Act. A year earlier a similar act, the Law on Citizenship No. X-1709 adopted by the Lithuanian Parliament (*Seimas*) had been vetoed by the President of the Lithuania. Both bills aimed to regulate the simultaneous holding of a passport of another state by their citizens.

The two Presidents had different reasons to refuse signing the bill. The Polish President, in his motion to the Constitutional Tribunal (Kp 5/09), questioned the compliance of Art. 30 of the said Act with Art. 137 of the Constitution. He was concerned with the extension of the powers of *wojewoda* (district administration) in conferring citizenship on foreigners¹. However, he did not object to holding possession of dual citizenship *de jure*

¹ http://www.prezydent.pl/download/gfx/prezydent/pl/defaultaktualnosci/218/5/1/ustawa_o_obywatelstwie_polskim_tk_rtf.rtf.





versus holding it *de facto* as many had held so far. The Lithuanian President vetoed the amendment of the Citizenship Law without a referral to the Constitutional Tribunal. The Lithuanian Parliament took into account the veto and rejected the amendment.

Unlike the Polish Act, the Lithuanian Law on Citizenship has undergone numerous substantial changes and was the subject of many judgments of the Constitutional Court (Court). The problem fell against the backdrop of statutory regulations effective until 2006, which, contrary to the provisions of the Lithuanian Constitution and international agreements, made the right to another citizenship conditional on ethnic origin. Lithuania adopted a law unambiguously discriminating against every fifth citizen of Lithuania, directed in particular against Polish and Russian minorities. It should be noted that legal writings in the Lithuanian language concerning dual citizenship are very few, which is surprising, considering the importance of the subject.

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INTERNATIONAL LEGAL FRAMEWORK FOR DUAL CITIZENSHIP

Regulating citizenship issues in international law has a long tradition. The Hague Convention of 1930² was the first international treaty providing a legal framework for citizenship.

Legal writings know two ways of obtaining dual citizenship³: emigration and immigration. One can agree with such classification as, in the EU, there is an acquisition or holding of dual citizenship by national minorities. They cannot be included in neither of the above classes. They make a separate group which, due to territorial changes, acquired⁴ citizenship of a new country but was able to keep the citizenship of its ethnic state, or acquire it later (for example, citizens of Moldavia acquiring Romanian

² Convention on Certain Questions Relating to the Conflict of Nationality Laws and Protocol on the Case of Statelessness, signed in Hague on 12 April 1930, Journal of Laws of 1937, No. 47, item 361.

³ A. Bodnar, *Obywatelstwo wielopoziomowe*, Wydawnictwo Sejmowe, Warsaw 2008, p. 59.

⁴ In most cases this was an automatic process, e.g. in Lithuania, and in other countries. In Latvia, this is still an unsolved issue.



citizenship on a wider scale⁵, or the latest amendment of the Hungarian Citizenship Law allowing all ethnic Hungarians to apply for citizenship without residency).

There are three principles of international law that limit the powers of states in regulating citizenship: prohibition of discrimination by reference to gender, religion, race, color or national or ethnic origin, prohibition of statelessness and states' obligation to take actions aimed at counteracting statelessness and prohibition of arbitrary deprivation of citizenship⁶.

2.1. Universal Conventions

Art. 15 of the Universal Declaration of Human Rights⁷ (the UDHR) of 1948 guarantees everyone the right to a nationality. Thus this right has been included in the list of fundamental human rights. It right covers positive claims against a state (including the right to change a nationality) and obligates states to abandon any actions aiming at arbitrary deprivation of nationality. Thus nationality has become the "right to have rights"⁸.

The Convention on the Nationality of Married Women dated 20 October 1957⁹, referring to the provision of the UDHR, guarantees married women the right to nationality and bans their deprivation of that right. It results from Art. 3 saying that a married woman may retain her original nationality. So far, the Convention has only been ratified by 74 countries¹⁰, including Poland¹¹.

The UDHR was confirmed in the Declaration of the Rights of the Child¹² of 1959, which guarantees to each child the right to nationality from birth (Art. 3). However, this Declaration is not binding international law. It was

⁵ Out of 4.1 million Moldavians 650 thousand people applied for a Romanian passport, see: T. Bielecki, *Rumunia przyspiesza rozdawanie swych paszportów mieszkańcom Mołdawii*, *Gazeta Wyborcza*, 18 April 2009.

⁶ A. Bodnar, *op. cit.*, p. 51.

⁷ Universal Declaration of Human Rights (resolution of the General Assembly of the UN 217 A (III) adopted and proclaimed on 10 December 1948), http://www.mdk.czest.pl/pliki/radam_pr_czlowieka.doc.

⁸ Nationality and Statelessness – A Handbook for Parliamentarians, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?reldoc=y&docid=49c8d5872>.

⁹ Convention on the Nationality of Married Women, 309 U.N.T.S. 65, entered into force on 11 August 1958, <http://www.unhcr.org/refworld/topi-c,459d17822,459d17a32,3ae6b3708,0.html>.

¹⁰ Poland ratified the Convention on 3 July 1959. Lithuania which is not a party to the Convention.

¹¹ Convention on the Nationality of Married Women, open for signature in New York on 20 February 1957, *Journal of Laws* of 1959, No. 56, item 334.

¹² Declaration of the Rights of the Child, resolution of the UN General Assembly 1386 (XIV), adopted on 20 November 1959, <http://www2.ohchr.org/english/law/crc.htm>.



the International Covenant on Civil and Political Rights that ensured in Art. 24 sec. 3 the right to a nationality to every child¹³. This right was confirmed in the Convention on the Rights of the Child adopted by the UN General Assembly in 1989, which provides for a child's right to acquire a nationality¹⁴. Poland became a party to the Convention on 7 June 1991¹⁵, whereas Lithuania ratified it on 3 July 1995¹⁶.

2.2. Regional Conventions

2.2.1. Dual citizenship in the Council of Europe

2.2.1.1. Historical outline

The Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality¹⁷ (Convention of Multiple Nationality) of 1963 assumed that it is unfavorable and inadvisable to hold multiple citizenship and that this status should be avoided. According to Art. 1 of the Convention, persons who acquire of their own will the nationality of another country should lose their former nationality. However, the Convention provides for the possibility of holding another nationality if that the nationality was acquired automatically, or if a state recognized dual nationality. Neither Lithuania nor Poland are parties to the Convention¹⁸.

The works of the Parliamentary Assembly (PACE)¹⁹ resulted in the First Protocol Amending the Convention of Multiple Nationality of 1977²⁰. It provided for the right of persons having more than one nationality to

¹³ International Covenant on Civil and Political Rights open for signature in New York on 19 December 1966, Journal of Laws of 1977, No. 38, item 167.

¹⁴ Art. 7 of the Convention on the Rights of the Child adopted by the UN General Assembly in 1989, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

¹⁵ Convention on the Rights of the Child adopted by the UN General Assembly on 20 November 1989, Journal of Laws of 1991, No. 120, item 526.

¹⁶ The Law on the Ratification of the UN Convention on the Rights of the Child by the RL of 3 July 1995, No. I-983, Valstybes Zinios of 21 July 1995, No. 60–1501.

¹⁷ Convention of the Council of Europe No. 043 dated 6 May 1963 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, <http://conventions.coe.int/Treaty/en/Treaties/Word/043.doc>.

¹⁸ The Convention was signed by 15 states of which only 13 decided to ratify it. It should be noted that all states except for Denmark and Norway made declarations or reservations.

¹⁹ As early as in 1968, i.e. less than five years after the above Convention had come into force, the Parliamentary Assembly, in its Recommendation 519 (1968) on the nationality of married women pointed out to the problems of women who married a citizen of another country. In 1977 the Committee of Ministers of the Council of Europe adopted two resolutions. Resolution (77) 12 encouraged states to adopt more liberal legal solutions with respect to spouses of different nationalities. In the case of Resolution (77) 13, the Committee suggested the introduction of such provisions which would make it possible for children born in transnational marriages to acquire their parents' nationality.

²⁰ Protocol amending the Convention of the Council of Europe No. 095 dated 24 November 1977 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, <http://conventions.coe.int/Treaty/en/Treaties/Word/095.doc>.



a simplified procedure for the renunciation of the nationality of a state of which they are not residents²¹. The Amendment was ratified by eight states only. Another of PACE's recommendation, dated 30 June 1988, No. 1081²² was reflected in the Second Protocol²³. The amendment to the Convention of Multiple Nationality of 1993 provides for the possibility of retaining a passport in three cases: by the second generation of migrants; spouses in transnational marriages and their children.²⁴ It should be emphasized that this amendment generated even less interest. Out of three countries which ratified the proposed changes, France denounced the amended Convention in 2008 and since March 2009 was not a party to the Second Protocol.

In December 1992 the Committee of Experts on Multiple Nationality²⁵ recommended that a draft be prepared able to be accepted by all members of the Council of Europe. The works started in November 1993 and ended in 1995. The Committee of Ministers approved the act on 14 May 1997²⁶. The European Convention on Nationality was open for signature on 6 November 1997 and it came into force as of 1 March 2000. The Convention was signed by 28 members of the Council of Europe²⁷ and ratified by 19. The number of ratifications may increase as in last year three countries acceded to it (Finland and Norway ten years after the signing, and Bosnia and Herzegovina after less than two years). Poland has not ratified the Convention for over ten years since its signing on 29 April 1999²⁸. Lithuania is one of the countries that has not even signed the Treaty. The Convention raises many controversies, evidenced by the fact that all states except for Island and Portugal attached declarations thereto and nine states made reservations.

²¹ Amended Art. 2 sec. 2 of the Council of Europe's Convention No. 043 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality.

²² Parliamentary Assembly Recommendation 1081 (1988) on problems of nationality in mixed marriages, 30 June 1988, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta88/EREC1081.htm>.

²³ The Protocol encouraged the states to ensure the right to hold a nationality of the other party to spouses of different nationalities and their children.

²⁴ Second Protocol amending the Council of Europe's Convention No. 149 dated 2 February 1993 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, <http://conventions.coe.int/Treaty/en/Treaties/Word/149.doc>.

²⁵ This Committee was later on renamed as the Committee of Experts on Nationality.

²⁶ See more at: <http://conventions.coe.int/Treaty/EN/Reports/Html/166.htm>.

²⁷ <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=166&CM=8&DF=15/11/2009&CL=ENG>.

²⁸ More by W. Czaplinski, *Problematyka obywatelstwa w aktualnych pracach Rady Europy*, http://www.ce.uw.edu.pl/pliki/pw/2-1998_Czaplinski.pdf.



II.2.1.2. European Convention on Nationality

The European Convention on Nationality (ECN) responded to the need for a uniform text consolidating all changes to national and international legal regulations concerning nationality since 1930, i.e. since the Hague Convention²⁹. One of the important objectives of the new Convention was to set uniform legal regulations for nationality. Their lack caused legal uncertainty resulting from the variety of regulations (from very restrictive to very liberal). The new Convention does not replace the Convention on the Reduction of Cases of Multiple Nationality of 1963 and its Protocols as well as other international instruments³⁰.

In its preamble it emphasized the need for taking into account the legitimate interests of a state and of an individual. Thus citizens have become the subject of regulations that affect them directly. Two chapters of the Convention are devoted to multiple nationality: Chapter V (Art. 14 to 17) and Chapter VII (Art. 21 to 22) relating to military obligations in cases of multiple nationality.

On the one hand, the states retained their right to introduce national regulations providing for loss of nationality *ex lege*, or on the state's initiative in the case of citizens who has voluntarily acquired another nationality³¹. On the other hand, they should *ex lege* allow the retention of nationality in the case of children having various nationalities acquired automatically at birth and when a nationality is acquired by marriage. It does not limit states in deciding whether its citizens acquiring or holding a nationality of another state retain or lose this state's nationality, or whether acquisition or retention of nationality is subject to the renunciation or loss of another nationality.

According to Art. 16 of the ECN, it is prohibited to make the renunciation or loss of another nationality a condition for the acquisition or retention of a nationality where such renunciation or loss is not possible or cannot be reasonably required. The Convention also regulates the scope of rights and duties relating to multiple nationality. Persons that hold multiple

²⁹ Nationality and Statelessness – A Handbook for Parliamentarians, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/ opendocpdf.pdf?reldoc=y&docid=49c8d5872>, p. 15.

³⁰ Art. 16 sec. 2 of the European Convention on Nationality, Strasbourg, 6 November 1997 European Treaty Series (ETS) / Série des traités européens (STE) No. 166.

³¹ *Ibidem*, Art. 7 sec. 1a.



nationality have the same rights and duties as other nationals³². However, as a rule, persons having two or more nationality must fulfill military obligations only towards one of these countries³³.

2.2.2. Dual nationality in the European Union

Community law does not regulate the rules of acquisition and loss of nationality of Member States, so the states enjoy full autonomy. The Maastricht Treaty was supplemented with the Declaration no. 2³⁴ on Nationality of a member state. According to this declaration, the question whether an individual has the nationality of a member state shall be settled solely by reference to the national law. Member states may declare who is considered their national.

The Treaty on European Union, taking into account amendments introduced by the Lisbon Treaty³⁵, emphasizes in the preamble the necessity to establish common citizenship for nationals of the European Union (EU). Though uniform passports have been introduced in the EU, the concept of EU citizenship is not the same as in member states. EU citizenship is supplementary and does not replace national citizenship³⁶. The EU citizenship is characterized by many privileges. They include: the right to the free movement and to stay in the territory of other EU states³⁷, to consular and diplomatic assistance, active and passive participation in the elections to the European Parliament and in local elections in the state of residence³⁸, and also to legislative initiative provided for in the Lisbon Treaty³⁹. The EU citizenship is not another citizenship. It is related directly to the citizenship of a member state and expires along with it⁴⁰.

Neither primary nor secondary law gives the EU powers relating to dual nationality⁴¹. However, the European Court of Justice (ECJ) interpreted the

³² *Ibidem*, Art. 17 sec. 1.

³³ *Ibidem*, Art. 21.

³⁴ http://www.hri.org/docs/Maastricht92/mt_final.html.

³⁵ Consolidated version of the Treaty on European Union and the Treaty on the functioning of the European Union, Official Journal C 115 of 9 May 2008.

³⁶ *Ibidem*, Art. 9.

³⁷ *Ibidem*, Art. 21 in conjunction with Art. 22 and 23.

³⁸ *Ibidem*, Art. 20 in conjunction with Art. 22 and 23.

³⁹ *Ibidem*, Art. 11.

⁴⁰ *Ibidem*, Art. 20.

⁴¹ See case C-369/90, *Mario Vicente Micheletti and others v. Delegación del Gobierno en Cantabria of 07 July 1992*, item 10.



EU law where the parties held two or more nationalities at a time. The Court stated that under international law, the terms of acquisition and loss of citizenship are the sole competence of states. In the case C-369/90⁴², the Court noted that it is illegal for one EU member state to adopt regulations limiting the power of another member state to set terms for the acquisition of its citizenship. It was contrary to the primary law, the Court went on, to make the exercise of rights provided for in the Treaty conditional on the fulfillment of additional criteria. In other judgments the ECJ said that interpretation of the Community law must take in to account the different status of citizens holding dual nationality entailing the need for a different treatment⁴³.

The European Parliament, through the Committee on Petitions, has become the addressee of inquiries and complaints of citizens. The Committee emphasizes the lack of the EU competence in the above matters and suggests referring complaints to the ECJ. In petition 214/2005 lodged by Nadya Yasinsky (a Latvian non-citizen) on behalf of the Society of Russian Speakers in Dublin⁴⁴, the Committee noted the issue of the right to free movement within the EU of people without nationality.



THE DEVELOPMENT OF LEGAL REGULATIONS CONCERNING DUAL CITIZENSHIP IN LITHUANIA

Since the beginning the Lithuanian State in 1918 the ban on dual citizenship has been a rule from with minor exceptions of extraordinary nature. In the first years of the sovereign Lithuania its legal grounds were formed by the Interim Constitution and secondary law. On 2 November 1918, the Council of Lithuania adopted the Interim Constitution of Lithuania⁴⁵. This act, however, did not contain regulations relating to citizenship⁴⁶.

⁴² *Mario Vicente Micheletti and others v. Delegación del Gobierno en Cantabria* of 7 July 1992.

⁴³ See e.g. Case 136/78 *Vincent Auer v. France*, case C-369/90 *Mario Vicente Micheletti and others v. Delegación del Gobierno en Cantabria* dated 7 July 1992, case C-336/96 *Robert Gilly v. Directeur des Services Fiscaux du Bas-Rhin* dated 12 May 1998, case C-148/02 (*Carlos Garcia Avello v. Conseil d'État* dated 1 October 2003) and Case C-168/08 (*Laszlo Hadadi (Hadady) v. Csilla Marta Mesko* dated 16 July 2009).

⁴⁴ http://www.europarl.europa.eu/meetdocs/2004_2009/documents/cm/601/601684/601684pl.pdf.

⁴⁵ Provisional Constitution of Lithuania, *Lietuvos Aidas* of 13 November 1918, No. 130 (178).

⁴⁶ However, fundamental rights of a citizen of Lithuania were established, *inter alia*, the principle of equality of all citizens before the law irrespective of



They were regulated by the Provisional Law on Lithuanian Citizenship dated 9 January 1919⁴⁷ and by bilateral international agreements⁴⁸.

Citizenship and dual citizenship were recognized constitutionally only when the new Constitution of Lithuania of 1922 came into force⁴⁹. Article 9 in part II *Lithuanian Citizens and their rights* banned dual citizenship⁵⁰. The prohibition of dual citizenship originated in the Constitution of Lithuania of 1928⁵¹ providing for certain exceptions serving the desire to maintain contacts with Lithuanian citizens who had emigrated across the Atlantic on a mass scale⁵².

The Constitution of Lithuania of 1938⁵³ in part II *Citizenship* covered the acquisition and loss of Lithuanian citizenship. According to Art. 13 sec. 1, a citizen acquiring foreign citizenship loses the Lithuanian citizenship. This prohibition was not absolute⁵⁴.

With the annexation and incorporation of Lithuania into the Soviet Union the Constitution of 1938 lost its binding force along with other laws. On 7 September 1940 the Presidium of the Supreme Soviet of the SU issued an ordinance “on the acquisition of citizenship by citizens of Lithuanian, Latvian and Estonian SSR”. Section 1 of this ordinance was as follows: “Citizens of Lithuanian, Latvian and Estonian Soviet Socialist Republics have been the citizens of these Republics since the day these

their nationality, religion, social origin, see Art. 22 and 23 of the Provisional Constitution .

⁴⁷ Provisional Law on Lithuanian Citizenship dated 9 January 1919, *Laikinosios Vyriausybės Žinios*, 1919 No. 213. According to this law, *ipso iure* citizens of Lithuania are: permanent residents of Lithuania and their children, who came back from abroad to settle in Lithuania; persons who lived in Lithuania for minimum ten years until 1914 and possessed real property there or a permanent job and persons who acquired citizenship by birth or marriage. The law provided for the possibility of acquisition of citizenship through naturalisation (Art. 1).

⁴⁸ Bilateral agreements concluded in that period included the peace treaty with Russia dated 12 July 1920, agreement with Latvia relating to the rights of citizens dated 9 July 1921 and agreement with the Third Reich on the citizenship of Klaipėda's inhabitants dated 7 July 1939. All three treaties mentioned above stipulated that citizens of those states were entitled to choose only one citizenship.

⁴⁹ Constitution of the Republic of Lithuania of 1 August 1922, *Vyriausybės Žinios* of August 1922, No. 100–799.

⁵⁰ Such provision on citizenship was justified by the fact that: “currently there are many foreigners [in Lithuania] who – some not renouncing Poland, others Russia, would like to enjoy full civil rights in Lithuania, though they do not want to undertake obligations that are imposed on Lithuanian citizens. Thus there is a relevant provision in the Constitution, according to which no one can be a citizen of Lithuania and of another country at the same time”. V. Jankunaite, *Lietuvos Valstybes Konstitucija su paaiskinimais*, Kowno, 1922, p. 25.

⁵¹ Constitution of the Republic of Lithuania, *Vyriausybės Žinios*, 25 May 1928, No. 275–1778.

⁵² Art. 10 of the Constitution stipulated that no one could be at the same time a citizen of Lithuania and another country “however, Lithuanian citizens do not lose their civil rights by becoming citizens of any of American states if they fulfil certain obligations indicated in the law”, Constitution of the Republic of Lithuania of 1928.

⁵³ Constitution of the Republic of Lithuania, *Vyriausybės Žinios* of 1938, No. 608–4271.

⁵⁴ Art. 12 sec. 3 of the Constitution provided for an exception from the prohibition of holding dual citizenship relating to citizens of other countries who were granted Lithuanian citizenship due to their services for Lithuania. Additionally, Art. 13 sec. 2 stipulated that the legislator would specify cases in which a citizen holding foreign citizenship remained a Lithuanian citizen. The Law on Citizenship dated 8 August 1939 replacing the Provisional Law on Lithuanian Citizenship of 1919 introduced the possibility to retain Lithuanian citizenship if a consent of the Minister of the Interior was obtained (Art. 21).



Republics became part of the Soviet Socialist Republics⁵⁵. Consequently, the inhabitants of Lithuania were compulsorily made citizens of the Union of the Soviet Socialist Republics (USSR) and the Lithuanian Soviet Socialist Republic (LSSR).

During the Lithuanian national revival in 1988–1990, the first act concerning citizenship was the Law on Citizenship adopted by the Supreme Soviet of the LSSR on 3 November 1989⁵⁶. It granted the citizenship of the LSSR to the former citizens of the Republic of Lithuania, their children and grandchildren; persons who had domicile in the LSSR, if born there, or if their parents (or one parent) or grandparents (or one grandparent) were born there. In addition, they were required to renounce the citizenship of another state (Art. 1 sec. 1 and 2). Temporary residents were denied citizenship (e.g. soldiers of the Soviet Union⁵⁷).

The Act of the Supreme Council of the Republic of Lithuania of 11 March 1990 on the Reconstruction of the Independent Lithuanian State, which reinstated sovereignty from before 15 June 1940, was key for further development of Lithuanian legislation⁵⁸. On the same day the act on Provisional Fundamental Law of the RL was adopted⁵⁹. It provided the legal framework for the reinstatement of Lithuania⁶⁰. Art. 13 sec. 2 of the Law stated that a citizen of the RL cannot be at the same time a citizen of another country, thus emphasizing the exceptionality of another citizenship⁶¹. For the first time from the reinstatement of sovereignty the Lithuanian, the legislature *expressis verbis* banned dual citizenship on 16 April 1991 by adopting the Law on Amending Art. 18 of the Lithuanian

⁵⁵ On 30 December 1940, the Presidium of the Supreme Soviet of LSSR issued an ordinance on the acquisition of citizenship by citizens of Lithuanian, Latvian and Estonian SSR" specifying that "all persons who on 1 September 1939 had their place of residence in the present Lithuanian SSR (...) regardless of whether at that time these persons held the citizenship of Lithuania or not, shall be considered citizens of the Lithuanian SSR from the day the Lithuanian SSR joined the SSR.

⁵⁶ The Law on Citizenship of the Lithuanian SSR of 3 November 1989, No. XI–3329.

⁵⁷ After Lithuania regained its independence there was a problem of citizenship of soldiers of the USSR stationed on its territory. The Constitutional Court of the RL resolved the issue on 13 April 1994, Valstybes Zinios of 20 April 1994, No. 29–524.

⁵⁸ The Act of the Lithuanian Supreme Council on the Restoration of the Independent Lithuanian State of 11 March 1990 No. I–10, Valstybes Zinios of 31 March 1990, No. 9–222.

⁵⁹ Valstybes Zinios of 31 March 1990, No. 9–224.

⁶⁰ Art. 3 stipulated that legal acts that complied with the Provisional Fundamental Law of the RL remain in force. The Parliament was obliged to review the existing legislative acts from the point of view of their compliance with the fundamental law.

⁶¹ The first changes include a resolution of the Supreme Council dated 19 April 1990 on the application of Art. 7 and 35 of the Law on Citizenship which stipulated that a person acquiring citizenship of another country was deemed to have lost the Lithuanian citizenship (point 1, part 1). In addition, the Act emphasised that it was possible to be a citizen of another country only if the Lithuanian citizenship was granted by way of an exception (point 1, part 3). The provision confirmed the prohibition of dual citizenship (with exceptions) resulting from the Provisional Fundamental Law. Resolution of the Lithuanian Supreme Council On the order of adaptation of the Articles 7 and 35 of the Law on Citizenship of 19 June 1990, No. I–292, Valstybes Zinios of 10 July 1990, No. 19–489.



Law on Citizenship⁶². Another reason for the loss of citizenship was “the acquisition of citizenship of another state” (point 4).

A new Law on Citizenship was adopted on 5 December 1991⁶³. It limited the possibility of holding dual citizenship by citizens of the newly rebuilt sovereign Lithuanian State. The new version of the Law, until the adoption of the Lithuanian Constitution in 1992, provided for the continuity of the citizenship of Lithuania. Citizens of the LR included, among others, persons, and their children and grandchildren, who had held the citizenship of the LR before 15 June 1940⁶⁴. The ban on dual citizenship with few exceptions (Art. 1) was maintained. The acquisition of citizenship of another state led to the loss of Lithuanian one (Art. 19 sec. 2). The law prohibited restoration of citizenship⁶⁵. Art. 16 of the Law⁶⁶ exempted citizens of foreign countries, for special merits to Lithuania, from the criteria of Art. 12.

The Law discriminated on the grounds of national origin. Not all persons who had held the LR citizenship until 15 June 1940 could exercise the right to keep it for an unlimited period of time (Art. 17 of the Act). It applied only to persons of non-Lithuanian origin leaving Lithuania not for their ethnic homeland (who did not repatriate themselves)⁶⁷. The rule remained unchanged until the Constitutional Court’s judgment of November 2006⁶⁸.

⁶² The Law of the Lithuanian Supreme Council on the Supplementing the Article 18 of the Law on Citizenship of 16 April 1991, No. I–1221, Valstybes Zinios of 30 April 1991, No. 12–317.

⁶³ The Law on Citizenship of the RL of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977.

⁶⁴ The legislator wanted to stress the continuity of the Lithuanian state by treating the Soviet annexation and the period of occupation in 1940–1990 as negation of state sovereignty of the RL.

⁶⁵ Lithuanian citizenship could be restored only to a stateless person or a citizen of a state, the legislation of which mandated losing citizenship upon having received the RL citizenship (Art. 22 of the Law on Citizenship of the RL of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977).

⁶⁶ Art. 16 of the Law on Citizenship of the RL of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977.

⁶⁷ Definition of repatriation was set out in the judgement of the Supreme Council of 13 April 1994 On the implementation of the Law on Citizenship (item 2 part 4), No. I–2080. The first statutory definition of “repatriation” appeared in the Law on the Implementation of the Law on Citizenship of 19 October 1995. Art. 1 part 3 of the Law stated that repatriation means leaving for a person’s ethnic homeland or starting to live in the ethnic homeland, No. I–1070, Valstybes Zinios of 4 November 1995, No. 90–2014.

⁶⁸ Judgement of the Constitutional Court of 13 November 2006 on the constitutionality of legal acts regulating citizenship of 13, No. 45/03–36/04.

**4****THE DEVELOPMENT OF DUAL CITIZENSHIP
IN LITHUANIAN LAW SINCE THE ADOPTION
OF THE CONSTITUTION OF 1992**

The Constitution of the RL adopted on 25 October 1992 in a national referendum⁶⁹ worded the ban on dual citizenship as follows “with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time.”⁷⁰ The President of Lithuania could grant the Lithuanian citizenship by way of an exception (Art. 84 point 21)⁷¹. Art. 29 banned discrimination stipulating that “all persons shall be equal before the law, the court, and other State institutions and officials”. Its paragraph 2 banned discrimination on the basis of nationality: “the rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views” (Art. 29 sec. 2). The interim provisions of the Constitution obliged the legislature to review all existing law for compliance with the newly adopted Constitution⁷². This referred to the Law on Citizenship, amended over ten times since the Constitution came into effect.

Below is a summary of the most important concepts concerning dual citizenship, significant in view of the judgments of the Lithuanian Constitutional Court.

The Law on Amending Art. 18 of the Law on Citizenship⁷³ of 7 December 1993 substantially expanded the circle of persons authorized to hold dual citizenship. The amendment did not relate to the discriminatory element regarding national origin⁷⁴. Less than a week after the legislators introduced

⁶⁹ According to the Constitution, the Provisional Fundamental Law dated 11 March 1990 ceased to be in effect, Valstybes Zinios of 31 March 1990, No. 9–224.

⁷⁰ Art. 12 sec. 2 of the Constitution.

⁷¹ It was confirmed in the Law Amending and Supplementing Law on Citizenship dated 16 July 1993, Valstybes Zinios of 28 July 1993, No. 32–733, which inter alia amended Art. 16 on “Granting of Citizenship by Way of Exception”. Until then, decisions on citizenship were taken by the Presidium of the Supreme Council of the Lithuanian SSR (which did not exist at the time). The term “persons rendering particular services to the RL” was replaced with “persons of merits to Lithuania”. It seems, the aim was to avoid a detailed description of services for which the President would grant citizenship.

⁷² Art. 2 of the Law On the Procedure for Entry into Force of the Constitution of the RL, Valstybes Zinios of 30 November 1992, No. 33–1015.

⁷³ The Law of the RL on Amending the Article 18 of the RL Law on Citizenship, No. I–320, Valstybes Zinios of 18 December 1993, No. 70–1303.

⁷⁴ Before the Law in question came into effect, the right to restore citizenship without having to renounce the citizenship of another state was vested in RL citizens residing in other states, and who left in the period 15 June 1940 to 11 March 1990; the right served also their children who did not have a citizenship



another amendment. In the Law on Supplementing Art. 23 of the Law on Citizenship⁷⁵ of 14 December 1993, it added sec. 3 which stipulated that citizens who acquired citizenship or a passport of another country, have lost the LR citizenship as of the day of acquisition of another citizenship or obtaining a passport⁷⁶Lithuanian citizens did not have to wait long for another amendment as on 3 October 1995 the *Seimas* adopted the Law on Amending and Supplementing the Law on Citizenship⁷⁷. The new wording of Art. 1 expanded the circle of persons considered as Lithuanian citizens⁷⁸ by, among others, persons who until 15 June 1940 had held Lithuanian citizenship and their children, who acquired citizenship of another state, if they and their children had not repatriated themselves from Lithuania. Exercising the right to citizenship provided in Art. 17⁷⁹ they did not have to renounce the citizenship of another country.

On 6 February 1996 the Lithuanian legislature adopted another amendment of Art. 22⁸⁰. Citizenship could be regained by persons who had lost it as a result of acquisition of citizenship of another country⁸¹, under condition that on the day of filing for restoration the applicant had a permanent residence in Lithuania and fulfilled the requirements set out in Art. 12 of the Law on Citizenship (the requirement not to hold another citizenship and obligation to renounce it).

Another amendment, adopted on 2 July 1997⁸², changed Art. 1 sec. 1⁸³, allowing to retain the Lithuanian citizenship and hold citizenship of

of another state though they were born in that state. In the new Art. 18, the right to restore the RL citizenship, without having to renounce the citizenship of another state, was also granted to citizens of Lithuanian origin who before 15 June 1940 resided in another state and who left Lithuania or were displaced in the period from 15 June 1940 to 11 March 1990. This right was also given to persons of non-Lithuanian citizenship (if they did not repatriate themselves from Lithuania). It was retained by their children. Thus discrimination on the basis of ethnic origin lied in that the right of restoration of citizenship was guaranteed only to those persons of non-Lithuanian citizenship who left Lithuania not for their ethnic homeland, or remained in Lithuania.

⁷⁵ The Law on Supplementing the Article 23 of the RL Law on Citizenship, No. I–332, Valstybes Zinios of 22 December 1993, No. 71–1327.

⁷⁶ In a version of 5 December 1991, The Law on Citizenship of the RL of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977).

⁷⁷ The Law of the RL on Amending and Supplementing the RL Law on Citizenship, No. I–1053, Valstybes Zinios of 20 October 1995, No. 86–1940.

⁷⁸ This version stipulated in Art. 1 that Lithuanian citizens were persons who prior to 15 June 1940 had held citizenship of the RL, their children and grandchildren, if they had not acquired citizenship of another state; persons who in the period from 9 January 1919–15 June 1940 had permanently lived in the territory of the today's Lithuania, their children and grandchildren if, at the date on which this Law became effective, they had a permanent residence in the RL and were not citizens of another state; persons who had acquired citizenship of the RL under the Law on Citizenship dated 3 October 1989, as amended; persons who had acquired Lithuanian citizenship under the Law on Citizenship dated 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977.

⁷⁹ The right to retain the citizenship of the RL.

⁸⁰ The Law of the RL on Supplementing Articles 17 and 22 and Amending Article 31 of the Law on Citizenship, No. I–1199, Valstybes Zinios of 21 February 1996, No. 16–415.

⁸¹ The Law of the RL on Citizenship of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977 prohibited restoration of citizenship of the RL to such persons.

⁸² The Law on Amending Articles 1, 17 and 28 of the Law on Citizenship, No. VIII–391, Valstybes Zinios of 16 July 1997, No. 67–1668.

⁸³ The Law of the RL on Amending the Article 1 of the Law on Citizenship dated 3 October 1995, No. I–1053, Valstybes Zinios of 20 October 1995, No. 86–1940.



a foreign country at the same time. It was addressed to persons living outside Lithuania who until 15 June 1940 held the Lithuanian citizenship, and their children and grandchildren, if they did not repatriate themselves from Lithuania.

The Constitution of 1992 generally prohibited dual citizenship except for “special and rare cases”. At that time the Law on Citizenship⁸⁴ banned dual citizenship with certain exceptions, but in the wake of numerous amendments to the Law, the number of entitled to dual citizenship was gradually expanding. Consequently, a group so broadly defined as entitled to dual citizenship could not longer be perceived as an exception. This was contrary to Art. 12 sec. 2 of the Constitution, which was confirmed by the Constitutional Court in 2006⁸⁵.



THE NEW LAW ON CITIZENSHIP IN THE LIGHT OF JUDGMENTS OF THE LITHUANIAN CONSTITUTIONAL COURT

On 17 September 2002 a new Law on Citizenship was adopted⁸⁶. Not only it repeated the existing provisions discriminating against Lithuanian citizens of different nationality, but also failed to comply with the Constitution due to the increase in the number of dual citizenships. It was also amended many times (e.g. on 6 April 2006⁸⁷ and 18 July 2006⁸⁸).

The new Law stipulated in Article 1 sec. 1 that citizens of the Republic of Lithuania included, among others, persons who prior to 15 June 1940 held citizenship of Lithuania and their descendents if they did not repatriate themselves. In accordance with the contemporary wording of the Art. 18, a person loses Lithuanian citizenship if he or she has renounced it, acquired

⁸⁴ The Law of the RL on Citizenship of 5 December 1991, No. I–2072, Valstybes Zinios of 31 December 1991, No. 36–977, as amended after the Constitution of the RL came into force.

⁸⁵ Judgement of the Constitutional Court of 13 November 2006, No. 45/03–36/04.

⁸⁶ The Law of the RL on Citizenship, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4087. Upon its coming into force of the Law, the Law on Citizenship of 5 December 1991, as amended, lost its force. At the beginning of December 2009, the Lithuanian Parliament postponed the date until which the existing Law on Citizenship was to be in force until 1 July 2010.

⁸⁷ The Law of the RL on Amending and Supplementing Articles 12, 18, 20, 26, 28 and 30 of the on Citizenship, No. X–546, Valstybes Zinios of 27 April 2006, No. 46–1645.

⁸⁸ The Law of the RL on Supplementing Article 16 of the Law on Citizenship, No. X–768, Valstybes Zinios of 25 July 2006, No. 81–3186.



citizenship of another state or, in accordance with international agreements ratified by Lithuania. It did not apply to persons who prior to 15 June 1940 held citizenship of the RL and their descendants if those persons did not repatriate themselves and persons of Lithuanian origin whose parents, grandparents or one of the parents or grandparents were Lithuanians, or persons considering themselves as Lithuanians.

On 6 April 2006, the Law Amending and Supplementing Articles 12, 18, 20, 26, 28 and 30 of the Law on Citizenship⁸⁹ was adopted. Introducing the restoration of citizenship where it did not require renouncement of a second citizenship⁹⁰, it paved the way for dual citizenship as a rule and not an exception.

The Law of 18 July 2006 amended Art. 16 of the Law on Citizenship⁹¹ by adding that: “The citizenship of the RL may also be granted by way of exception without the application of conditions for the granting of citizenship provided for in Article 12 of this Law if this is related to public interest or propagation of the RL’s name”. In consequence, a citizenship could be granted to a person holding citizenship of another state irrespective of whether such person rendered special services to the Republic of Lithuania, was actually connected with Lithuania or has integrated into its society. Therefore, the regulation unjustifiably expanded the circle of the holders of foreign citizenship who could be granted Lithuanian citizenship without fulfilling the general requirements of Art. 12 of the Law on Citizenship, including the obligation to renounce citizenship of another state.

A judgment of the Constitutional Court of 13 November 2006⁹², which as to its substance repeated a decision of 30 December 2003⁹³, caused political and legal uproar. On over 70 pages, the Court reminded that, according to Article 12 of the Constitution, a person may be a Lithuanian

⁸⁹ The Law of the RL on Amending and Supplementing Articles 12, 18, 20, 26, 28 and 30 of the on Citizenship, No. X–546, Valstybes zinios of 27 April 2006, No. 46–1645.

⁹⁰ Art. 20 of the Act “Restoration of citizenship of the RL” stipulated in sec. 2 that: A person who has lost the Lithuanian citizenship prior to this Act’s coming into force, and also a person who has lost Lithuanian citizenship under sec. 1, 3, 4 of Art. 18 of this Act (...), may have the Lithuanian citizenship restored at the request of such person without the obligation to apply conditions specified in Art. 12 hereof if this person fulfils the conditions of Art. 1 sec. 1 point 1, 2 or 3. The RL Law on Amending and Supplementing Articles 12, 18, 20, 26, 28 and 30 of the Law on Citizenship, No. X-546, Valstybes Zinios of 27 April 2006, No. 46–1645.

⁹¹ The Law of the RL on Supplementing Article 16 of the Law on Citizenship, No. X–768, Valstybes Zinios of 25 July 2006, No. 81–3186.

⁹² Judgement of the Constitutional Court of the RL of 13 November 2006, No. 45/03–36/04, op. cit.

⁹³ Judgement of the Constitutional Court of 30 December 2003 on the compliance of the decree of the President of the RL of 11 April 2003 No. 40 On the granting of citizenship of the RL by way of exception with the Constitution of the RL and sec. 1 Art. 16 of the Law of the RL on Citizenship. This judgement was a decisive argument in the impeachment procedure of the Lithuanian President Rolandas Paksas. The Court said that the President illegally granted the Lithuanian citizenship to the owner of “Avia Baltika”, a citizen of Russian Federation, Jurij Boris, breaching both the Constitution and the Law on Citizenship.



citizen and at the same time a citizen of another state only in individual cases specified by law⁹⁴. Such instances are an exception and cannot become a universal practice⁹⁵. Laws effective before the judgment, allowing persons who until the occupation (15 June 1940) had held Lithuanian citizenship, their descendents and persons of Lithuanian origin, to apply for citizenship of Lithuania without the obligation to renounce the citizenship of another state, were declared contrary to the Constitution and could be no longer applied.

The Court reassessed the statutory groups of citizens of nationality other than Lithuanian into two groups. Those who repatriated themselves could not be citizens of the RL and citizens of another state. Then, persons who had held Lithuanian citizenship prior to 15 June 1940 and were of Polish origin (Polish minority) could hold dual citizenship only if they settled, for instance, in the USA, but not in Poland.

The Court emphasized that the Lithuanian citizenship is an expression of legal attachment of a person to the nation as a state community. The Lithuanian nation is a state community which unites all citizens irrespective of their ethnic origin. It is composed both of the nation (Lithuanians) and national minorities. All citizens, irrespective of their ethnic origin, are equal. No one can be discriminated against or favored on the basis of their nationality or ethnic origin. Upon a thorough analysis of the term "Nation"⁹⁶, the Court found that the provision does not comply with the constitutional ban on discrimination on the basis of national origin (Art. 29 of the Constitution) and with the principle of the rule of law⁹⁷.

The Court, guided by the principle of the acquired rights, held that Lithuanian citizens who had had citizenship of another state before the judgment of the Constitutional Court, could retain it without the obligation to renounce the RL citizenship or its loss⁹⁸. However, the Court did not adjudicate on the rights of those who were excluded from applying

⁹⁴ Art. 12 section 2 of the 1992 Constitution read: "With the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state".

⁹⁵ See item 10 of the judgement of the Constitutional Court of the RL dated 13 November 2006, No. 45/03–36/04, op. cit.

⁹⁶ For more on the "Lithuanian Nation", "Nation" and the "Nation of Lithuanians" see the Judgement of the Constitutional Court of the RL on the Compliance of the Provisions of Legal Acts Regulating the Citizenship Relations with the Constitution of the RL of 13 November 2006, No. 45/03–36/04.

⁹⁷ Judgement of the Constitutional Court of the RL of 13 November 2006, No. 45/03–36/04, op.cit., section III 54. The Court did not elaborate more on the discriminatory nature of the statutory provisions.

⁹⁸ See section 48.9 and 69 of the judgement of the Constitutional Court of the RL of 13 November 2006, No. 45/03–36/04, op. cit.



for Lithuanian citizenship and at the same time able to retain their existing citizenship. Thus, again, the Court discriminated in favor of those who had taken advantage of the unconstitutional Law.

There is no doubt that the above provisions were unambiguously directed against Polish and Russian minorities living in Lithuania. In consequence, one in five citizens of Lithuania has become a second-class citizen.

6

THE LAW ON CITIZENSHIP NOW

In adjusting to the judgment of the Constitutional Court of the RL of 2006⁹⁹, the legislature prepared an amendment of the Law on Citizenship¹⁰⁰. The Bill was vetoed by the Lithuanian President on 11 July 2008. As of 31 December 2009 the Law on Citizenship of 19 March 2009¹⁰¹ is in force. The needed legislative solutions are still subject of a heated debate in the Parliament.

6.1. Forms of acquisition and loss of the citizenship of Lithuania

6.1.1. Acquisition of citizenship

The Law on Citizenship¹⁰² specifies who is *ex lege* a citizen of Lithuania¹⁰³ and which persons have the right to retain the Lithuanian citizenship indefinitely¹⁰⁴. Applications to maintain the Lithuanian citizenship are to be submitted to the Immigration Service, the Minister of the Interior or to

⁹⁹ Like many laws in Lithuania, this law is also provisional, effective until 1 January 2010. In the Law on Amending the Article 3 of the Law on Citizenship, Valstybes Zinios of 12 December 2009, No. 147–6551) this deadline was postponed until 1 July 2010.

¹⁰⁰ Law of the RL on Amending the Law on Citizenship of 30 June 2008, No. X–1653 (President's veto of 11 July 2008).

¹⁰¹ On 19 March 2009 the Law of the RL on Citizenship amended Art. 15 on taking an oath by citizens, No. XI–205, Valstybes Zinios of 4 April 2009, No. 38–1444.

¹⁰² Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended, edition in effect as at 31 December 2009.

¹⁰³ According to Art. 1, this applies to: persons who prior to 15 June 1940 held Lithuanian citizenship (and their descendents), if they are not citizens of another state; persons who in the period from 9 January 1919 to 15 June 1940 resided permanently in the RL within its current territory (their descendents), if at the time of the Law on Citizenship being in force (3 November 1989) they resided permanently and still reside in Lithuania and are not citizens of another state; persons of Lithuanian origin if they are not citizens of another state (Lithuanian parents, grandparents, a parent or a grandparent and persons considering themselves Lithuanian); persons who acquired the Lithuanian citizenship on the basis of the Law in effect prior to the adoption of its new version.

¹⁰⁴ The right to citizenship of the Republic of Lithuania shall be indefinitely retained by persons who prior to 15 June 1940 held Lithuanian citizenship and their descendents living in other countries; persons of Lithuanian descent who are residing in other states. Such persons should renounce the citizenship of another state, except for: the deportees, political prisoners, and their descendents; persons who held the citizenship of the Republic of Lithuania before 15 June 1940 and left to reside in other states during the occupation of 15 June 1940–11 March 1990 (and their descendents).



consular authorities (depending on the category of persons)¹⁰⁵. Decisions on the retention of the Lithuanian citizenship are made by the Minister of the Interior or the Immigration Service¹⁰⁶.

The Law specifies the conditions and procedure for granting a citizenship¹⁰⁷. Request are submitted to a Immigration Service and passed on to the Office of the President of the RL, then to the Citizenship Commission with the President of the RL¹⁰⁸, and afterwards to the President of the RL, who, taking a final decision, issues a relevant decree¹⁰⁹. Subsequently the decree is passed to the Office of the President of the RL which gives out its extract to the interested party. The latter submits an application to take the oath of allegiance to the RL. It is being sent to a the Immigration Service or a consular post. The oath is taken at the Ministry of the Interior or a consular office¹¹⁰. An application from a person holding a citizenship of another state should be accompanied with a written promise to renounce it if granted the RL citizenship¹¹¹. Granting citizenship is conditional on passing an examination in the Lithuanian language and in the basic provisions of the Lithuanian Constitution. Detailed provisions are set out in relevant ordinances¹¹².

6.1.2 The loss of the Lithuanian citizenship

According to Art. 18 of the Law on Citizenship, it is lost by renunciation, by acquisition of the citizenship of another state (except a state with

¹⁰⁵ Art. 22 sec. 1 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Žinios of 2 October 2002, No. 95–4187, as amended.

¹⁰⁶ *Ibidem*, Art. 24 sec. 4.

¹⁰⁷ Under Art. 12 of citizenship may be granted to a person who meets the following conditions: has passed the exam in the official language; has had the right of permanent residence and has been residing in Lithuania for the last ten years; has a legal source of support; has passed the examination in the basic provisions of the Constitution; is a stateless person or is a citizen of a state under the laws of which citizenship would be lost upon acquiring the citizenship of the Republic of Lithuania, or notifies in writing of his or her decision to renounce the citizenship of another state upon being granted the citizenship of the Republic of Lithuania.

¹⁰⁸ Art. 23 sec. 4 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Žinios of 2 October 2002, No. 95–4187, as amended.

¹⁰⁹ The new President of Lithuania, Dalia Grybauskaitė, decided to talk personally to persons applying for Lithuanian citizenship. By doing it she intended to verify their language fluency and hear the motives for applying for this citizenship. “The President met persons applying for Lithuanian citizenship” dated 16 November 2009, available at: <http://www.lrp.lt>.

¹¹⁰ Description of the procedure: Migration Annual 2008, <http://www.migracija.lt>.

¹¹¹ Art. 22 sec. 2 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Žinios of 2 October 2002, No. 95–4187, as amended.

¹¹² The Resolution of the Lithuanian Government on examinations and issuance of certificates after passing the examination in the state language and in the basic provisions of the Lithuanian Constitution, Žin., No. 2003, No. 123–5617, 2004, No. 167–6133.



which the RL has signed an agreement on dual citizenship¹¹³) and on the basis of other international agreements¹¹⁴. The same article stipulates that a person who, without a relevant permit of the Lithuanian Government, is in the military service or in the employ of a non-EU state loses the Lithuanian citizenship¹¹⁵. A person may also lose the citizenship if, upon the receipt of a relevant permit, is in the military service or works within the state service of another state in a way that is detrimental to the interests of the RL¹¹⁶. Decisions are taken by the Minister of the Interior or by an authorized institution¹¹⁷.

Upon acquisition of citizenship of another state, a citizen is obliged to submit a written notification thereof within 30 days¹¹⁸. It is passed on to the Immigration Department where the director of the Department prepares a relevant order (*isakymas*). The decision is declaratory¹¹⁹ as the loss of the citizenship takes effect on a date of acquisition of the citizenship of another state¹²⁰.

The number of persons who have lost the citizenship of Lithuania due to the acquisition of another citizenship has been increasing gradually over the years: from 386 persons in 2004, up to 485 persons in 2006 and 647 in 2008¹²¹.

Another way of losing citizenship is by nullification of a decision by a court¹²². If a person has acquired the Lithuanian citizenship by

¹¹³ Art. 18 sec. of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.

¹¹⁴ As of today Lithuania has not entered into such an international agreement with any state.

¹¹⁵ To find out about the procedure for obtaining a relevant permit for the military service or employment in the state service of a non-EU state see: Ordinance of the Government of the RL On the approval of the order of examination of applications of Lithuanian citizens for a permit to be granted for the military service or employment in the state service of a non-EU state of 26 September 2007, No. 1049, Zin., 2007, No. 106–4336, as amended.

¹¹⁶ Art. 18 sec. 1 point 3 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.

¹¹⁷ *Ibidem*, Art. 24 sec. 2.

¹¹⁸ The information should be relayed to the Immigration Office, diplomatic or consular post of the RL. Art. 21 sec. 4 of the Law on Citizenship dated 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.

¹¹⁹ The order contains an expression „konstatuojū“, i.e. “I declare that the following persons have lost the citizenship of the RL (...)”. For instance, see: Ordinance of the Director of the Migration Office on the Lose of the Citizenship of the Republic of Lithuania (Migracijos departamento prie Lietuvos Respublikos Vidaus reikalų ministerijos direktoriaus Isakymas Del Lietuvos Respublikos pilietybes netekimo) of 7 December 2006, No. 3K–158, Valstybes Zinios of 12 December 2006, No. 135–5139. (However, in Art. 24 sec. 2 of the Law on Citizenship it is expressly stipulated that “(...) the Minister of the Interior or an institution authorised by the Minister takes a decision on the loss of the citizenship of the RL in cases specified in Art. 18 sec. 1 point 2 or 4”. Thus the loss of citizenship is effective from the date of acquisition of the citizenship of another state and the Director’s order is declaratory.

¹²⁰ Art. 21 sec. 3 of the Law on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended. In case of loss of the Lithuanian citizenship as a result of the military service or employment in the state service of another state without the permit of the Lithuanian Government, the relevant information must be notified to the institution authorised by the Ministry of Foreign Affairs of the RL or directly to the Migration Department, which pass it on to the regional administrative court for Vilnius, whose decision on taking away citizenship is published in a supplement to the official journal *Informaciniai pranesimai*. Art. 22 sec. 11 of the Law on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.

¹²¹ Data from: Migration Yearbook 2008, <http://www.migracija.lt>.

¹²² Art. 21 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.



naturalization or application and relevant criteria are fulfilled¹²³, the court declares the decree invalid.

6.2. Dual citizenship

6.2.1. Dual citizenship for children – acquired or granted?

The current Law¹²⁴ provides for circumstances in which a citizen may hold citizenship of another state. It applies to those who acquired citizenship by birth in a state respecting *ius soli* and to mixed marriages¹²⁵.

In case of children born of mixed marriages, there is a kind of “conspiracy” against parents at the consular posts and Lithuanian institutions. The conclusion arrived at as a result of numerous interviews with applicants who are not being informed of the rights of their newly born child and it seems they are misled on purpose. These allegations were confirmed by conversations held with Lithuanian consulate staff in various EU states. We were told, for example, that, a child who acquires double citizenship, must renounce one of the citizenships at the age of 18. However, Lithuanian law does not provide for such restrictions.

Parents who wish to obtain authorization to travel to Lithuania in order to submit an application for a passport must sign a declaration along with an application submitted in a consulate¹²⁶. The declaration informs a parent that the child, whose both parents are Lithuanian citizens or one of the parents is a Lithuanian citizen, may be (but doesn't have to) granted the Lithuanian citizenship. Moreover, it states that one of the parents may apply for the Lithuanian citizenship and passport for the child. Thus, parents are given a hint that the issuance of travel authorization to a child does not guarantee citizenship, as such decision must be taken by the Immigration Department at the Ministry of the Interior or by a district Immigration Office¹²⁷. At the request of the RL's institutions, parents must sign a document stating that the child has not been granted or has not

¹²³ These criteria include: forging documents and fraud, non-renunciation of citizenship of another state, aggression, genocide, crimes against humanity, war crimes or crimes against the RL stated by a court.

¹²⁴ Law of the RL on Citizenship of 12 September 2002, No. IX–1078, as amended, Valstybes Zinios, 2002, No. 95–4087.

¹²⁵ Pursuant to Art. 9: “If the parents of a child hold citizenship of different states and one of them is a citizen of Lithuania, the child shall be a citizen of the RL regardless of whether he was born in Lithuania or beyond its borders”.

¹²⁶ The content of the declaration results from the Ordinance of the Minister of Foreign Affairs on the approval of regulations of issuance and perfection of documents for a person's return travel documents dated 18 June 2008 and a relevant amendment of the Ordinance dated 30 January 2009 of 30 January 2009, No. V–15.

¹²⁷ This provision results from Art. 25 of the Law of the RL on Citizenship of 17 September 2002, No. IX–1078, Valstybes Zinios of 2 October 2002, No. 95–4187, as amended.



acquired citizenship of any another state. The parent must sign a declaration, which might be confusing. It may also imply that citizenship for their newborn is subject to the discretion of a civil servant. By emphasizing the possibility of submitting a certificate of citizenship of another state, it is suggested that holding a double citizenship is unlawful for a child.

The said declaration and Art. 25 of the Law, providing for a constitutive decision on the acquisition of citizenship by a child, are in conflict with Art. 12 of the Constitution. According to Art. 12 the RL citizenship is acquired by birth. It is not the act of good will of a civil servant. This procedure is in violation of the Law on Citizenship itself which stipulates that a child born of a mixed marriage, where one of the parents is a Lithuanian citizen, acquires citizenship irrespective of a place of birth (Art. 9 sec. 1 in conjunction with Art. 1 sec. 2 point).

In a consular post or an immigration office, one can learn that the right to dual citizenship is granted to a child only if it has already been given a passport of another state. According to the official interpretation, if a child who has obtained the decision on the citizenship of the RL, receives a passport of another state as a second document, then Art. 18 sec. 1(1) of the Law on Citizenship will apply, resulting in an automatic loss of citizenship due to “acquisition of citizenship of another state”. Such interpretation is based on an erroneous assumptions and is contrary to the objective of the exception made for dual citizenship. One of the purposes of holding dual citizenship by children of mixed marriages was to encourage emigrants to return to their homeland. In the case of children where one of the parents is, for instance, a Polish citizen, the child acquires the Polish citizenship by birth¹²⁸. A passport only confirms the Polish citizenship but does not grant it. The Lithuanian civil servants misinform, which is evidenced by fact that only in the Consular Department of the Polish Embassy in Vilnius in 2007 and 2008, in four cases, parents decided to give up the Polish citizenship for their children¹²⁹.

6.2.2. Other cases of dual citizenship

The right to dual citizenship is also vested in RL citizens, who were displaced, or were political prisoners between 15 June 1940 to 11 March 1990

¹²⁸ Art. 6 sec. 1 of the Act on Polish Citizenship dated 15 February 1962, Journal of Laws of 2000, No. 28, item 353, as amended.

¹²⁹ *Ibidem*, Art. 6 sec. 1 of the Act.



(Art. 17 sec. 3). They are deemed to have acquired citizenship of another state if their native country was not able to provide relevant legal and institutional assistance to them. This privilege does not apply to the new economic emigrants who left the country voluntarily after it had recovered independence in 1990, and who acquired a citizenship of another state by their own volition.

The statutory (and constitutional¹³⁰) construction of granting citizenship by the president, by way of exception, with the right to retain previous citizenship, is different than the regular granting of citizenship. Here, the President, by way of exception, grants citizenship to the citizens of foreign states or stateless persons for special merits to Lithuania. Additionally, such persons must be integrated into the Lithuanian society. The Law specified that the merits to Lithuania are activities of a person who “has made a substantial contribution to the strengthening of statehood of the Republic of Lithuania, to increasing its strength and promoting its authority in the international community”¹³¹. The lack of definition of the integration into the Lithuanian society has far-reaching consequences. Observers dubbed the present situation a bizarre parade¹³². According to D. Žalimas, a lawyer, the Constitutional Court should take a stance on that issue¹³³.



THE BILL OF 2008

Two years after the Constitutional Court’s judgment on dual citizenship, on 30 June 2008, the Lithuanian Seimas passed an amendment of the Law on Citizenship¹³⁴. In Art. 17 sec. 4 it provided “persons of Lithuanian origin permanently residing in states with which the RL has a common state

¹³⁰ Art. 84 point 21 of the 1992 Constitution.

¹³¹ Art. 16 sec. 1 of the Law of the RL on Citizenship Persons who have renounced the Lithuanian citizenship cannot benefit from this right (Art. 16 sec. 4 of the Law).

¹³² Granting citizenship by way of exception provoked many controversies. Recently, the Lithuanian President Dalia Grybauskaitė declined to grant citizenship to an American ice dancer, K.L. Copely dancing with her Lithuanian partner Deividas Stagniuna for the skater did not meet the criteria of the “integration with the Lithuanian society”. See: <http://klaipeda.diena.lt>.

¹³³ *Kriterijus pilietybei gauti*, T. Cyvas, *Balsas.lt* Savaite of 16-22 November 2009, No. 39 (45).

¹³⁴ The Bill on Amending the Law of the RL on Citizenship, No. X-1653, President’s veto of 11 July 2008.



border¹³⁵ have the right to retain a passport of a foreign state and the Lithuanian passport". Additionally, Art. 18 sec. 2 stipulated that persons who "acquired citizenship of a member state of the EU or NATO" do not lose the citizenship of the RL.

The President vetoed the bill on the grounds of violating the Constitution which was an attempt to overcome the restrictive judgment of the Constitutional Court on the ground of offering too many instances of dual citizenship. In the bill, the right to dual citizenship could be given in seven categories: holders of the citizenship of the EU and NATO member states; political prisoners and refugees and their descendants (for Lithuanians who, as a result of displacement find themselves in the territory of the today's Kazakhstan, or Russia); those who during the Soviet occupation (1940-1990) left Lithuania and their descendants (most relevant for today's citizens of Australia, the USA and Germany); members of Lithuanian communities traditionally located in adjacent countries (Belarus, Poland and Kaliningrad Oblast); persons to whom the citizenship of the RL may be granted by way of exception by the President of the RL; children of a Lithuanian citizen (whether born in Lithuania or abroad); Lithuanians residing in a state with which Lithuania has an agreement on dual citizenship (so far Lithuania has not entered into any such agreement).

The President's decision to send the bill back to the Parliament was criticized not only by parliamentarians but also by the Lithuanian diaspora. It flamed a debate between the supporters of the broadly understood notion of dual citizenship and of the presidential veto¹³⁶. The former argued that without dual citizenship Lithuanians whose vital interests are in other states will lose their relation with their homeland. Such slogans, reputedly aiming to unify Lithuanians¹³⁷, mixed with emotional nationalist elements, became a bargaining chip for many politicians¹³⁸ and a guarantee of popular support¹³⁹. Supporters of the concept of dual citizenship strengthened by the Constitutional Court and by the president's

¹³⁵ No one has been able to specify this notion. See: D. Zalimas, article of 23 April 2009 <http://www.delfi.lt/news/ringas/lit/article.php?id=21812066>.

¹³⁶ See e.g.: *Dviguba pilietybe: rasizmas arba restitucija in integrum*, Algimantas Sindeikis, Veidas of 30 August 2007, No. 35; D. Zalimas, article of 23 April 2009, <http://www.delfi.lt/news/ringas/lit/article.php?id=21812066>.

¹³⁷ "The Nation of Lithuanians" was brought up in a judgement of 13 November 2006, *op. cit.*

¹³⁸ Narusiene: *Dviguba pilietybe- politinis klausimas*, article of 6 April 2009 http://www.alfa.lt/straipsnis/10267329/?Narusiene.dviguba.pilietybe..politinis.klausimas=2009-04-06_11-29. The most critical of the presidential veto were not only the traditionally populist parties (Labour Party, Order and Justice) but also numerous representatives of the conservative Homeland Union.

¹³⁹ Lithuanians society decidedly supports the idea of broad meaning of dual citizenship – according to the polls of September 2009, with 72.3% supporting it and only 10% against, <http://kauno.diena.lt/naujienos/lietuva/apklausa-dviguba-pilietybe-turetu-buti-iteisinta-237549>.



veto invoke the principle of superiority of the Constitution (Art. 28) and the finality of the Constitutional Court's judgments¹⁴⁰. Appealing to the political conscience of citizens, they ask rhetorically: "Is the Lithuanian citizenship still a value?"¹⁴¹. Some authors emphasize that dual citizenship also means dual obligation. According to Prof. A. Vaisvila, a full acceptance of dual citizenship amounts to legalization of discrimination against Lithuanian citizens residing in Lithuania, in favor of those residing abroad¹⁴². In some academic circles citizenship has become something of a sacrum¹⁴³.

On 15 July 2008, *Seimas* supported the President's veto and rejected the bill, narrowing the circle of beneficiaries of dual citizenship¹⁴⁴.

The supporters of the *status quo* claim that in fact no amendments to the Law on Citizenship are needed and the current scope of beneficiaries is sufficient.



ALTERNATIVE PROPOSALS FOR DUAL CITIZENSHIP

8.1. The referendum

The Constitution was adopted in a referendum on 25 October 1992¹⁴⁵. Its Article 12 allows to change the provisions on citizenship only in a referendum by majority of votes and 50% turnout.

Having vetoed the Law of 2008, president Valdas Adamkus called for a referendum. It was to be held during the presidential elections in June 2009. In his speech Adamkus talked about "the inherent right to the

¹⁴⁰ For example, Dainius Žalimas in his article asks a rhetoric question: Should citizens be guided by the Constitution of the RL? , <http://www.delfi.lt/archive/print.php?id=18565147>.

¹⁴¹ D. Žalimas, article of 17 September 2008, <http://www.delfi.lt/archive/print.php?id=18565147>.

¹⁴² In his opinion Lithuanian citizens living in Lithuania should pay taxes to maintain and develop the Lithuanian state whereas Lithuanian citizens living in other countries should only enjoy the privileges of citizenship. A. Vaisvila, *Dviguba pilietybe- ne tik dvigubos teises*, Jurisprudencija. Mokslo darbai, 2008, No. 7(109); 7–13, p. 10.

¹⁴³ D. Žalimas claims that "if citizenship means the relationship of fidelity towards the state, then the aspiration for voluntary acquisition of the citizenship of another state cannot be reconciled with it. The desire to acquire citizenship of another state in order to gain material benefits or other conveniences should be regarded as non-civic. Therefore, it should not be surprising that voluntary acquisition of the citizenship of another state is treated as the renunciation of the Lithuanian citizenship". See: D. Žalimas, *Intricacies of aspirations for dual citizenship*, <http://www.delfi.lt/archive/print.php?id=18565147>.

¹⁴⁴ See: *Dviguba pilietybe- vaikams*, article of 16 July 2008, BNS (<http://kauno.diena.lt/dieNo.astis/lietuva/dviguba-pilietybe-vaikams-104858>).

¹⁴⁵ Art. 148 of the Constitution.



citizenship of the RL”, which should be granted irrespective of residence. The then Prime Minister G. Kirkilas supported that solution, however, his successor, A. Kubilius was for “a new wise law” without changing the Constitution and a referendum¹⁴⁶. The collapse of the referendum was also caused by negative attitude of the general public towards the governing coalition.

8.2. Proposal of the amendment of Art. 32 of the Constitution

In April 2007, Egidijus Sileikis, professor of law, and the then Ambassador of the RL in the United Kingdom, Vygaudas Usackas announced that they found a “constitutional key to retain dual citizenship”¹⁴⁷. They recommended reforming Art. 32 of the Constitution to expand the circle of persons entitled to dual citizenship. The following section 2 would be added to the existing Art. 32¹⁴⁸: “a person who has acquired Lithuanian citizenship by birth cannot lose it against his will”. The amendment, according to the promoters, would allow the Constitutional Court to take a “fresh look” on its earlier judgments¹⁴⁹. Upon the introduction of the constitutional amendment, they went on, no law could restrict the right to citizenship acquired by birth, which would additionally strengthen the relation between a person and the state. In the Usackas opinion: “there are no grounds to relate the citizenship of a person with that person’s degree of integration in the international community. (...) In the global context we are a small nation and we cannot allow ourselves to disown our citizens”¹⁵⁰.

The proposal faced strong criticism, particularly from the academia. Experts emphasized that it would not comply with Art. 148 sec. 2, Art. 5 sec. 2 of the Constitution and with the constitutional principle of the rule of law¹⁵¹.

¹⁴⁶ Indre Bungardaite, 11 August 2008, <http://www.balsas.lt>.

¹⁴⁷ 19 April 2007, <http://www.balsas.lt/print/85855>.

¹⁴⁸ Art. 32 of the Constitution of 1992: “A Citizen may freely move and choose a place of residence in Lithuania, freely leave Lithuania. These rights cannot be restricted otherwise than by way of a law if this is necessary for the protection of state security, people’s health and for the exercise of justice. A Citizen cannot be prohibited from returning to Lithuania. Any Lithuanian may commence living in Lithuania”.

¹⁴⁹ 19 April 2007, <http://www.balsas.lt/print/85855>.

¹⁵⁰ *Ibidem*.

¹⁵¹ Jurisprudencija. Mokslo darbai 2008, No. 3(105); pp. 16–26, 25.



8.3. The Lithuanian's Card

A working group appointed by the former president Adamkus, to prepare a new version of the Law on Citizenship, decided that the best solution would be the introduction of a Lithuanian's card¹⁵². In the opinion of President's advisers, granting the card to emigrants would compensate for the restrictive provisions of the Constitution. The card would guarantee to its holder all rights vested in Lithuanian citizens, except for political rights, including settling down, conducting economic activity, studying, work and social benefits. In the opinion of emigrants, the card would be a "void institution without the right to vote"¹⁵³. Interesting enough, it was a copy of the Pole's card¹⁵⁴. This debate is particularly surprising in light of the political storm concerning the Pole's card. The latter has been continuously criticized for over two years, and its holders are being accused of disloyalty towards the Lithuanian State. The tension in the *Seimas* indicates that the human rights so deeply rooted in the international law are still debatable at best in Lithuania¹⁵⁵. One might point to the motions to deprive parliamentarians representing the Polish minority of their mandate as well as a secret meeting of the parliamentary committee for foreign affairs considering a prohibition to hold public offices by the holders of the Pole's card¹⁵⁶.



THE PROSPECTS

In recent years the debate on dual citizenship has been particularly heated in Lithuania. There were more than a dozen amendments and new versions of the Law on Citizenship. They sought to expand the title to hold two passports. Unfortunately, in doing so, the state also discriminated

¹⁵² See: T. Andrzejewski, *Karta Litwina*, Tygodnik Wileńszczyzna 2009, 12–18 February.

¹⁵³ *Pilietybes gimdymo kancios*, A. Lapinskas, article of 17 November 2009, <http://www.lietuviams.com>. However, this wish of the Lithuanian diaspora with respect to political rights is a little surprising—last elections did not give rise to much enthusiasm among Lithuanians living abroad—out of approx. half a million Lithuanians living abroad only several per cent voted (approx. 12 thousand). Data of the Central Polling Station, <http://www.vrk.lt>. See also: S. Gudavicius, *Lietuvio korta kelia itarimu*, article of 10 February 2009, <http://kauno.diena.lt>.

¹⁵⁴ See: *Karta...*, *Nasza Gazeta*, 12–18 February 2009.

¹⁵⁵ In July 2009 the Russian non-governmental organisation Frontas proposed to give similar card to their compatriots abroad which enhanced the anxiety of the Lithuanian authorities about the internal state security.

¹⁵⁶ J. Haszczyński, *Karta Polaka, czyli wilczy bilet*, *Rzeczpospolita*, 17 October 2009.



against national minorities (nearly one in five citizens). However, the Constitutional Court found the discriminating provisions unconstitutional. It emphasized the equal status of all citizens irrespective of their nationality or ethnic origin.

The Court had to take a stance on the compliance of the Law on Citizenship with the Constitution. Each time it declared the Parliament to be in breach of the fundamental act. It effectively limited the legislative proclivity to “promote” dual citizenship. In its interpretation of Art. 12 of the Constitution, dual citizenship is an exception from the rule and should be limited. The Court was of the position that only amending Constitution could pave the way for a “universal” dual citizenship.

By not signing the latest amendment, the President of Lithuania destroyed the chance to solve the problem of those who emigrated for economic reasons and acquired citizenship of another state, of which over 10%¹⁵⁷ migrated during the last 20 years. It is surprising that Lithuania conceals the legal ways of maintaining relationship with the country. Citizens in mixed marriages should be informed of the right of their children to retain dual citizenship. Statistic confirms the negative effects of the lack of information. The Register of Inhabitants at the Ministry of the Interior¹⁵⁸ lists only 728 children with dual citizenship. Considering that over 10% of all marriages are mixed¹⁵⁹, the above data do not reflect the seriousness of the situation. A small country whose citizens emigrate on a grand scale cannot afford such restrictive. Misleading its own citizens is further evidenced by data from the Department of Citizenship and Repatriation of the Polish Ministry of the Interior and Administration and the Polish Consulate in Vilnius¹⁶⁰: in 2007 parents in mixed marriages chose foreign citizenship for their children in three cases (Lithuanian). This year only six such cases were noted worldwide. It raises a question, why parents would intentionally give up having a second citizenship for their child if they knew that it had right to it?

In 2004–2008 nearly 2400 persons lost Lithuanian citizenship due to the acquisition of another citizenship, and 1139 persons renounced

¹⁵⁷ Z. Martinaitis, D. Zvalionyte, *Emigracija is Lietuvos: ka zinome, ko nezinome ir ka turime zinoti?*, Politologija 2008, No. 07/3.

In 2008 alone, 17 thousand citizens emigrated from Lithuania. Data of the Department for Immigration of the Government of the RL, <http://stat.gov.pl>.

¹⁵⁸ Register of Inhabitants of the RL, Certificate on statistical data of 18 September 2009 No. (29)9R.

¹⁵⁹ More: http://www.oeaw.ac.at/vid/empse/download/empse08_03_1.pdf.

¹⁶⁰ Data obtained from the Department for Citizenship and Repatriation of the Polish Ministry of the Interior and Administration and Polish Consulate in Vilnius at authors' request.



Lithuanian citizenship¹⁶¹. In 2008 alone there were as many as 926 such persons. At the same time, only 240 persons acquired the Lithuanian citizenship¹⁶². There is a significant number of persons who were *de facto* forced to give up Lithuanian citizenship in favor of foreign citizenship for not having submitted a document confirming the renouncement of the previous citizenship¹⁶³. It is a stunning number, considering that as a result of a such restrictive policy one in thirty five citizens born in 2008¹⁶⁴ lost citizenship. By comparison in Poland, a country with nearly 12 times as many inhabitants, 270 persons renounced Polish citizenship in 2009. Thus, approximately 11 000 people per year would have had to renounce the Polish citizenship to match the “return” of its Northern neighbor.

In view of the very restrictive position held by Constitutional Court, there is a risk that if emigrants or parents in mixed marriages exercised the right of their children on a larger scale, the Court could find it unconstitutional as an excessive diversion from the exception. It can only be hoped that one day the majority of citizens will change the current policy in a constitutional referendum if given a chance. For the time being the prospects for a reasonable solution are dim.

¹⁶¹ In 2004–2008 the total of 4392 persons lost Lithuanian citizenship for various reasons, *Migration Yearbook 2008*, Department of Immigration of the Ministry of the Interior, Vilnius 2009.

¹⁶² In 2004–2008 the total of 2122 persons acquired the Lithuanian citizenship, though there was a significant downward tendency with 610 persons in 2004 down to 370 persons in 2007, *Migration Yearbook 2008*, Department of Immigration of the Ministry of the Interior, Vilnius 2009.

¹⁶³ Persons who lost their Lithuanian citizenship after they had lawfully chosen it, while residing in a foreign state until 31 December 2003 and failed to apply for confirming the Lithuanian citizenship, *Migration Yearbook 2008*, Department of Immigration at the Ministry of the Interior, Vilnius 2009, table No. 10.3.

¹⁶⁴ In 2008 35 thousand children were born in Lithuania and in the same year 926 persons lost their citizenship. Data of the Department for Immigration of the Government of the RL, <http://stat.gov.pl>.