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# EUDO CITIZENSHIP OBSERVATORY

## *COUNTRY REPORT: LITHUANIA*

Egidijus Kūris

November 2009  
Revised May 2010



European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Lithuania***

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EUDO Citizenship Observatory  
**Robert Schuman Centre for Advanced Studies**  
in collaboration with  
**Edinburgh University Law School**  
Country Report, RSCAS/EUDO-CIT-CR 2010/29  
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

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Published in Italy  
European University Institute  
Badia Fiesolana  
I – 50014 San Domenico di Fiesole (FI)  
Italy  
[www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/)  
[www.eui.eu](http://www.eui.eu)  
[cadmus.eui.eu](http://cadmus.eui.eu)

Research for the EUDO Citizenship Observatory Country Reports has been jointly supported by the  
European Commission grant agreement JLS/2007/IP/CA/009 EUCITAC and by the British Academy Research Project  
CITMODES (both projects co-directed by the EUI and the University of Edinburgh).

The financial support from these projects is gratefully acknowledged.

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# Lithuania

## Egidijus Kūris

### 1 Introduction

It should be mentioned from the outset that, in the Lithuanian understanding, citizenship (*pilietybė*) is not defined as nationality or ethnicity (*tautybė*). Although the word *pilietybė* may be translated into English both as citizenship and as nationality, the English word citizenship is only translated as *pilietybė*, and the word nationality as *tautybė*, *i.e. ethnicity*, by a typical Lithuanian who has a command of English. In Lithuanian, citizenship is not associated with ethnicity, and the citizenship of Lithuania is not associated with Lithuanian ethnicity. For these reasons, in this report, the term ‘citizenship’ is preferred to the term ‘nationality’.

Such lack of synonymy stems from history. When ethnic Lithuanians were a minority in the huge Lithuanian state (Grand Duchy of Lithuania), the official languages were Ruthenian, Latin and Polish and, in fact, the political elite spoke Polish (*natione polonus, gente lituanus*). Already then, the Lithuanian perception of citizenship was detached from that of ethnicity.

Over time, the ethnic concept of *lietuvis*, *i. e.* Lithuanian, started to include not only ethnic Lithuanians but also many others; for example, the 1863 insurgents against Russian authority and for the restoration of the Polish–Lithuanian Commonwealth used the slogan that ‘the Lithuanian is the one who loves freedom and esteems the Statute’<sup>1</sup> The rebirth of the Lithuanian ethnic consciousness took place not in the joint Polish–Lithuanian Commonwealth (shared and annexed by more powerful neighbours in 1795), but later, at the juncture of the nineteenth and twentieth centuries when the country was administered by Russia. In 1918, the State of Lithuania was restored as a national state, but within new reduced geographical boundaries. It contained significant ethnic minorities (Jewish, Russian, Byelorussian, German, and Polish). Lithuanian historians often emphasise that there was a tradition of ethnic tolerance in interwar Lithuania. Even if one treats such considerations with suspicion as value-based judgments, there is no significant evidence of ethnic intolerance until the occupations of 1940 and 1941. However, there was an unwillingness to grant Lithuanian citizenship to ethnic Poles and Germans (Sinkevičius 2002: 50). The 1939 Law on Citizenship provided for strict rules on naturalisation applicable only to non-Lithuanians, whereas Lithuanians, in order to naturalise, needed only to settle in Lithuania (see below 2.1). In the Soviet era, the difference between the notion of citizenship (albeit a Soviet one) and that of nationality as ethnicity was further emphasised. In passports, for example, an indication of ethnicity was obligatory. Ethnicity also had to be indicated in many other places (*e.g.* in any questionnaire). The restrictions placed by the Soviets on the use of the Lithuanian language and the culture and programme of Russification also stimulated the newly restored independent state’s will to emphasise that its basis and nucleus was an ethnic Lithuanian nation which, by means of its state, secured its continuity and persistence.

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<sup>1</sup> That is the Statute of Lithuania, the major legal act of the Grand Duchy of Lithuania (in the joint Polish–Lithuanian State). The First Statute was adopted in 1529, the Second in 1566, and the Third in 1588. The last of these was in operation until 1840.

However, every occasion was used to underline the fostering of a ‘national concord on the Lithuanian soil’.<sup>2</sup> That is a fostering of concord between the ethnic communities of which Lithuanians are the biggest and the titular. Still, the difference between nationality as citizenship and nationality as ethnicity prevails both in language and in consciousness. These are perceived as non-competing virtues. Interestingly, even today, a Lithuanian citizen, if he or she wishes so, may require that his or her ethnicity be indicated in his or her passport. Most do not do this. In the early 1990s, this provision was included in the Law on Passport because of pressure from two rival and unusually allied political groups. These were the Lithuanian nationalists (*tautininkai*), who elevated ethnicity over most other political values, and Polish political organisations that were defensive about alleged attempts to remove ethnic differences.

When one tries to characterise the current citizenship situation in Lithuania, he or she will find that, in many respects, it resembles the citizenship situation in other Central and Eastern European states, especially the restored states such as Latvia and Estonia. Equally, as these countries share the same historical experience, Lithuanian citizenship policy and citizenship law is based on the principal attitude that five decades of Soviet occupation (which, in its beginning, was interrupted by three years of German occupation) did not discontinue the legal existence of the Republic of Lithuania. The Baltic states, as legal entities, did not vanish into nothingness just because they were forcibly annexed by the Soviet Union. The underlying idea on which the development of Lithuania’s national legal system is based is that in 1990 Lithuania did not declare its independence by ‘separating’ from the Soviet Union but rather restored it. Even if some analysts consider this continuity of statehood a fiction, Lithuanian politicians and lawyers believe that the weight of this legal fiction cannot be counterbalanced by any set of legal arguments. The only argument which opposes this belief is that of the long length of Soviet rule in Lithuania. However, this fact itself arises from aggression against, occupation of and forceful annexation of an independent state, *i.e.* from gross violations of international law which have been acknowledged by the offender. Therefore, this argument is rejected by Lithuanians as illegitimate.

In the opinion of Lithuanian politicians and lawyers, the principle of legally uninterrupted statehood justifies restoration—in the areas where (and to the extent to which) long-lasting Soviet occupation did not make it impossible and/or inappropriate—of such political, legal, and social statuses, institutional arrangements, and relations whose natural development was interrupted by an alien force. This maxim is applied to the continuity of political and religious organisations and NGOs, restitution of nationalised property, as well as in many other areas of which citizenship is not the least. Moreover, in this context, citizenship should probably be mentioned in the first instance for two reasons. First, states do not exist without citizens. Thus, it is believed that the legal continuity of the Republic of Lithuania presupposes the continuity of its citizenship, and *vice versa* (Petrauskas 1997: 101–102; 1998: 34–29; Žalimas 2005: 117). Second, the reinstating of the citizenship of the Republic of Lithuania as of a continuous institution preceded the restoration of the country’s independence in 1990<sup>3</sup> as the first Law on Citizenship of the post-Soviet era was already adopted in 1989. This was less than four months before the restoration of independence and thus it may not even be called post-Soviet. It was an instrument which was important, not only for consolidation of the restored independence, but also for the restoration itself. Such instruments were also used by Latvia and Estonia.

<sup>2</sup> The phrase is used in the Preamble to the 1992 Constitution.

<sup>3</sup> The wide international recognition of the restoration of Lithuania’s independence came only in August–September 1991, after the abortive coup in Moscow.

Despite some similarities, there are significant peculiarities which distinguish the current citizenship situation in Lithuania from that of many other Central and Eastern European states, and even from Latvia and Estonia.

First, Lithuania chose the so-called ‘zero option’ according to which Lithuanian citizenship could be granted to all persons who, on the day of coming into force of the law, were legal permanent residents of Lithuania,<sup>4</sup> irrespective of the grounds on which such their residence rested.

Second, the 1989 Law started a two-year time-period during which every permanent legal resident could decide whether or not to acquire Lithuanian citizenship. Thus, the community of citizens was established not ‘from above’ by means of the centralised granting of citizenship to residents but ‘from below’ by means of the free decisions of individuals.

Third, Lithuania’s territory in 1990 was not the same as it had been in 1939 when Stalin and Hitler agreed to share Poland and the Baltic states. Lithuania’s frontiers shifted, and not in one direction (and not in the same ways as Latvia’s or Estonia’s both of which lost some parts of their territories to Russia). In 1990, Lithuania was in possession of Klaipėda Region and its historical capital Vilnius along with a part of Vilnius Region. These territorial changes raised additional questions, especially concerning the citizenship of the indigenous population of Eastern Lithuania. However, the sharpness of these questions was mitigated by the zero option.

Fourth, following the tradition from pre-occupation Lithuania, but even more to avoid competing loyalties, maintaining another state’s citizenship alongside Lithuanian citizenship was not tolerated from the adoption of the first Law on Citizenship. The prohibition of multiple citizenship was and is interpreted as formally prohibiting Lithuanian citizens from simultaneously possessing another citizenship. There is also a prohibition on foreign citizens simultaneously having Lithuanian citizenship alongside their own. This is not interpreted as a refusal to recognise a foreign citizenship which the Lithuanian citizen may also have. This, in the thinking of Lithuanian lawyers, does not allow for a ‘don’t ask, don’t tell’ position. This principle, with a small exception, found its way into the 1992 Constitution and later laws. However, the Soviet era has left the country without many thousands of former citizens who were deported to faraway regions of the USSR or who, mostly at the end of the Second World War, emigrated to the West and who (and/or their descendants), after the restoration of independent statehood, expressed an intention to restore their previously held Lithuanian citizenship. Under the Constitution, this would have been easy for them if they opted to renounce their current citizenship but many were not willing to do so. Moreover, after the restoration of independence, Lithuania underwent a tremendous wave of emigration. Since many of the emigrants have acquired the citizenship of the states where they resided, their organisations started to campaign for the legalisation of multiple citizenship. To meet these demands, the legislature formulated certain statutory provisions in an ambiguous way. Preconditions were created for a practice of recognising multiple citizenship. Such persons (and/or their descendants) were able to obtain new Lithuanian passports without renouncing the citizenship of another state which they acquired after leaving Lithuania. The legislature openly deviated from the constitutional principle when, in the new Law on Citizenship, it enabled most Lithuanian citizens, upon acquisition of citizenship of a foreign state, to keep their Lithuanian citizenship. These provisions were later recognised as unconstitutional. Since then, the definition of the constitutional exception allowing for multiple citizenship remains an unsolved issue which inspires heated debate. However, as the constitutional prohibition on

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<sup>4</sup> This may be seen as a concession to the law of the occupying power. These residents were ‘legal’ under Soviet but not authentic Lithuanian or international law.

multiple citizenship may be lifted only by a referendum which is hardly likely to succeed (given an expected low turnout and the provision that there must be a 50 per cent threshold for a referendum to be valid), attempts are still being made to legalise multiple citizenship by means of legislative enactments.

Finally, and this singles out the citizenship situation in Lithuania from the ones in other Central and Eastern European states more than anything else, Lithuanian citizenship policymaking is squeezed into the framework which is determined by the Constitutional Court,<sup>5</sup> the official interpreter of the Constitution. The Court, thus, unwillingly became (to apply Robert A. Dahl's pointed characterisation of the US Supreme Court (Dahl 1957)) a national policymaker. Currently, the role of the Constitutional Court in shaping the boundaries within which citizenship policy may be formulated is probably the most striking feature of the citizenship situation in Lithuania. Problems pertaining to citizenship have, to a great extent, transferred from the policy domain to the legal domain, and matters of citizenship, at least for now, have become more constitutional issues rather than matters of policy.

These features will be examined in greater detail in this report.

## **2 Historical Background**

### **2.1 The First Independence: Legislation**

In 1918, Lithuania, after more than a century of being incorporated into the Russian Empire, emerged again as an independent state. The Act of Independence was adopted by the Council of Lithuania on 16 February 1918. However, it was nearly a year before the first citizenship legislation was passed. The first Provisional Law on Lithuanian Citizenship was adopted on 9 January 1919 by the Cabinet of Ministers which, under the provisional Constitution of 2 November 1918 (which did not contain any provisions directly pertaining to citizenship), had no power to issue laws. Laws could be adopted only by the State Council, and the cabinet obtained this power only on 24 January 1919. Today, the fact that the law was passed in formal defiance of the constitutional provisions is believed, by some analysts, to be the proof of the urgency of this regulation. The State of Lithuania which emerged needed to define its body of citizens quickly (Sinkevičius 2002: 27).

Although the law was provisional, it (with subsequent amendments) remained in force for two decades. While it was in force, the law's provisions regarding the composition of the body of Lithuanian citizens were not amended in their core essence. Under §1 of this law those considered to be Lithuanian citizens were:

- 1) persons, whose parents and grandparents have resided in Lithuania for some time, and who have always resided in Lithuania;
- 2) children of persons specified under the first item, who, even though they have not always resided in Lithuania, returned to reside there;
- 3) persons, who had resided in Lithuania for not less than ten years until 1914 and:
  - a) either owned their own real property, or
  - b) had a permanent job;

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<sup>5</sup> English translations of all Constitutional Court rulings, decisions and conclusions are available on the Court's website at [www.lrkt.lt](http://www.lrkt.lt).

- 4) children of a Lithuanian citizen;
- 5) his wife or widow;
- 6) children of an unmarried woman, who is a Lithuanian citizen, if they have not been accepted by a foreigner as his children and;
- 7) foreigners, who are newly accepted as Lithuanian citizens.

It is noteworthy that the provision regarding persons who had resided in Lithuania for not less than ten years until 1914 was applied with the reservation that ‘persons shall not be considered as Lithuanian citizens even if they had permanent jobs...if their jobs were only to serve the State of Russia, *i.e.* they were Russian officials’. This proviso was interpreted by the executive as including ‘only such former Russian officials who did not originate in Lithuania’ (Sinkevičius 2002: 28–29).

Thus, under the law, the body of citizens was composed of the Lithuanian citizens *ipso jure*, but it was also possible to acquire Lithuanian citizenship by naturalisation. However, for nearly a decade citizenship by naturalisation was not granted because of an interpretation by the Minister of Justice that the ten-year term must be counted from 16 February 1918 (when the State of Lithuania was restored), and therefore ‘until 16 February 1928 no one is accepted into citizenship of Lithuania’. Although this interpretation may be considered dubious, it was the official one, and citizenship could not be granted without the consent of the Minister of Justice (Sinkevičius 2002: 47). There was also a reservation regarding foreigners who resided in Klaipėda Region which did not become a part of the State of Lithuania in 1918 but was later incorporated into Lithuania in 1924 (see *infra* 2.2). For these residents, the term was counted from the day of their actual settlement in Klaipėda Region; however, if they had opted for German citizenship and now wanted to acquire Lithuanian citizenship they had to have resided in Lithuania for ten years. By the 1936 amendment to the law, it was established that the alien could be accepted into Lithuanian citizenship if he:

- 1) had resided uninterruptedly in Lithuania for no less than ten years;
- 2) had permanent job by which he maintained himself and his family;
- 3) had not been convicted by the court of a crime resulting in imprisonment or more severe punishments;
- 4) had paid the fee of 5000 *litas* required for the granting of citizenship.

In practice, other conditions were also applied such as the requirements that the person must have knowledge of the Lithuanian language and be loyal. He or she could not be of German or Polish origin (Sinkevičius 2002: 50). This was to avoid problems of dual loyalty to Lithuania and to one of the neighbouring states with whom Lithuania had tense relations.

The Provisional Law of 1919 outlived several Lithuanian Constitutions, including the provisional ones of 1918, 1919, and 1920, the permanent Constitution of 1922 (whose operation was interrupted by the 1926 coup), and the provisional one of 1928. In all of these constitutions the general prohibition on multiple citizenship was established. For example, in §9 of the 1922 Constitution it was established that no one could be a citizen of Lithuania and of any another state at the same time. This constitutional prohibition on multiple citizenship was justified because it was seen that ‘now there are many foreigners who, without renouncing either Poland or Russia, also would like to enjoy the rights of Lithuanian citizens, but who do not want to perform the duties that fall upon Lithuanian citizens’ (Jankūnaitė 1922: 25). In the 1928 Constitution, this prohibition was mitigated. It remained the case that no one could be a citizen of Lithuania and of any other state at the same time but it was also

established that ‘a Lithuanian citizen...shall not lose his citizenship rights after he has become a citizen of any American land if he performs certain duties specified by the law’ (§10). Thus, the 1928 Constitution entrenched not only the prohibition of dual citizenship but also a geographical exception. However, the concurrent use of two passports was not allowed: if a ‘dual’ citizen of the USA and Lithuania asked for a Lithuanian passport, the American one was taken from him, and *vice versa* (Sinkevičius 2002: 56). As for other ‘dual citizens’, academic lawyers of the time tended to interpret the provision that no one could be a citizen of Lithuania and of any other state at the same time in such a way that it meant that once the Lithuanian citizen acquires citizenship of another state his or her Lithuanian citizenship was lost automatically (Robinzonas 1936:16–17). However, administrative practice took another direction: certain procedural actions had to be taken in order to deprive someone of Lithuanian citizenship (Sinkevičius 2002: 55–56). Moreover, although the law did not state that the person had to obtain permission to acquire foreign citizenship, such permission was required in practice (Sinkevičius 2002: 58–60).

While commenting on the proviso regarding the ‘citizen of any American land’ in the 1928 Constitution, the Constitutional Court in its 13 November 2006 ruling (in which the tradition of the prohibition of multiple citizenship was presented at length and with many references to the legislation from the time of the first independence) stated that the prohibition of dual citizenship was determined by the striving of the restored and independently developing State of Lithuania to define clearly the body of its citizenry and not to allow that legal situations appear such that a Lithuanian citizen would be bound by loyalty to another state – the state whose citizenship, along with the Lithuanian citizenship, he would hold. Meanwhile, the exception to the prohibition of dual citizenship was determined by the striving of the State of Lithuania not to lose its link with Lithuanian citizens residing in those foreign states, where they emigrated at that time in huge numbers. Namely because of the fact that at that moment Lithuanian citizens mostly emigrated (in huge numbers, due to various reasons) to the states of the American Continent (Argentina, Canada, Brazil, the United States of America, Uruguay), said exception to the prohibition of dual citizenship was established for such Lithuanian citizens, who acquired citizenship of ‘any American land’. It is also to be noted that some of these Lithuanian citizens would depart from Lithuania temporarily and even after acquisition of citizenship of other states, they would return to Lithuania after some time.

In this context, the Treaty on Naturalisation and Military Service between the Republic of Lithuania and United States of America (which was concluded on 18 October 1937 and came into force on 20 July 1938) must be mentioned. The treaty regulated the naturalisation and conscription relations of persons who held dual citizenship. The treaty established that the citizens of one of the contracting parties, who were naturalised on the territory of another country and who would temporarily return to ‘the country of their original citizenship’ were not required to perform military service or any other act of faithfulness. However, a person who returned to one’s country of origin and resided there for more than two years had to be considered as someone who had refused naturalisation (art. I). Also, a person who was born on the territory of one country and whose parents were citizens of another country, and who, under the laws of that country, held the citizenship of both countries but permanently resided on the territory of that country, was not to be forced to perform military service or any other act of faithfulness, if he temporarily (for not more than two years) resided on the territory of the second country (art. II).

The new Constitution was adopted in 1938. Compared with the earlier Constitutions, it contained many more provisions pertaining to citizenship. Under this Constitution, ‘citizenship is acquired by birth, marriage or other family relationship, and also by option or

restoration' (art. 11). The prohibition of multiple citizenship, with the possibility of exceptions, was also entrenched by stipulating that 'a citizen who has acquired foreign citizenship loses his Lithuanian citizenship' and that, in cases established by law, a citizen who holds foreign citizenship may also retain Lithuanian citizenship (art. 13). Thus, the legislature had a duty to establish when a person could be a citizen not only of Lithuania, but also of another state. Moreover, under art. 12, item 3 of the Constitution, a person who had merits to the State of Lithuania could be accepted as a Lithuanian citizen. This constitutional provision implied that a foreign citizen who had merits to the State of Lithuania could be accepted as a Lithuanian citizen. Thus, this constitutional provision implied another exception to the prohibition on dual citizenship. At the same time, there were two explicit provisions in the Constitution regarding the loss of Lithuanian citizenship. Citizenship could be lost if the citizen did not reside in the State of Lithuania and had lost a relationship to the 'life of Lithuania'. Citizenship could also be taken away as the result of actions taken against the security of the state (art. 14). These and other constitutional provisions had to be made concrete in the law. Before the new (permanent) law was passed, the first of these provisions was, in a certain way, established by the 1937 amendment to the Provisional Law according to which Lithuanian citizenship could be lost if a person resided abroad for more than two years without a valid Lithuanian foreign passport. The Minister of the Interior had the power not to apply this sanction if he felt that there were justified reasons not to do so. One could mention that similar provisions were also contained in the citizenship legislation of the 1990s. However, in the legal literature doubts were raised as to their legitimacy and constitutionality (Sinkevičius 2000: 48-49). Another constitutional provision regarding loss of citizenship, namely the clause concerned with actions against the security of the state, was included in the new Law on Citizenship of 8 August 1939. This law provided much greater detail about the numerous constitutional provisions regarding the loss of citizenship. In it a citizen was considered to have committed actions which would result in the loss of citizenship if he:

- 1) was serving or had served, without permission as defined in the laws, in the army, military fleet or another organisation of military character of a foreign state;
- 2) while living abroad did not show up for military service upon conscription;
- 3) escaped abroad from the army, military fleet or another military service;
- 4) joined the civil service of a foreign state which was at the state of war with Lithuania or, when such state emerged, did not discontinue the civil service of that state;
- 5) did not, upon request of the Minister of the Interior, discontinue the civil service of a foreign state;
- 6) committed some action against the security of the state and was condemned by the court to hard labour in prison.

However, committing these actions did not mean that the citizen had to lose his or her Lithuanian citizenship automatically. One could be deprived of it only by the Council of Ministers upon the motion of the Minister of the Interior.

For naturalisation, in the 1938 Constitution (as well as those of 1922 and 1928) there was a requirement for a ten-year residence in Lithuania (art. 12), but, in order to attract members of the diaspora, this requirement was not applied to Lithuanians. The new Constitution was followed by the new Law on Citizenship of 8 August 1939. Because the body of citizens had been established, one could assert that, as a general rule, the *ius sanguinis* principle applied as those whose parents were Lithuanian citizens were *ex lege* Lithuanian citizens, and that the *ius soli* principle was a mere exception. A child of unknown

parents, when found in Lithuania, was considered as born on the Lithuanian soil and, consequently, as a Lithuanian citizen (Sinkevičius 2002: 46).

The new law also determined the conditions for naturalisation in that the person

- 1) must be 18 years of age;
- 2) must have resided in Lithuania for the last ten years uninterruptedly;
- 3) must not have received a sentence by a court for a crime for which the law imposed punishment in the form of custodial sentences;
- 4) must be able to maintain himself and his family;
- 5) must be stateless or a citizen of such state whose citizenship, according to the laws of that state, permitted release in the event that he acquired Lithuanian citizenship;
- 6) had to know the Lithuanian language (orally and in writing).

Compared with those under the 1919 Law, the conditions for naturalisation were manifestly tightened. But these conditions applied only to persons of non-Lithuanian ethnicity. For ethnic Lithuanians there was only one condition: they had to have permanent residence in Lithuania. There was also a possibility for exemption from the conditions. A person could acquire Lithuanian citizenship for merits to Lithuania without fulfilling the indicated conditions; however, in those cases the decision had to be taken by the Council of Ministers.

The Constitutional Court, in its 13 November 2006 ruling, summed up that ‘the body of citizens of the restored independent state of Lithuania was formed on the basis of permanent residents of Lithuania, irrespective of their nationality’. The Court also emphasised that from the date when the independent state of Lithuania was restored on 16 February 1918 until 15 June 1940, when Lithuania lost its independence after the Soviet Union had performed its aggression towards the independent state of Lithuania, legal rules governing Lithuanian citizenship were characterised by an attempt to define the body of Lithuanian citizens as clearly as possible; this was done by following the principled provision that a Lithuanian citizen may not be a citizen of any other state at the same time, save separate exceptions (whose regulation in the legal acts changed in the corresponding periods of time of the development of the State of Lithuania). This principled provision of the prohibition on dual citizenship was followed both when the established corresponding legal regulation was authentic (*i.e.* when the State of Lithuania and its institutions could actually decide independently how to regulate Lithuanian citizenship relations) and when the corresponding legal regulation was forced upon the State of Lithuania from outside (*i.e.* when the amendments of the legal regulation of Lithuanian citizenship relations were determined by the actions of other states in respect of the State of Lithuania). The reference to the ‘non-authentic’ regulation of citizenship matters points to the importance of international law instruments by which Lithuanian citizenship relations were regulated at that time.

## 2.2 First Independence: International Law Instruments

In addition to domestic legislation on citizenship which defined which persons were to be considered Lithuanian citizens, Lithuania signed, on 14 September 1921, the Declaration on the Protection of Minorities in Lithuania. This was a precondition for Lithuania’s admission to the League of Nations. According to the Declaration, all persons who were born in the territory of Lithuania after the day of signing of this Declaration and regarding whom it was

not possible to prove that they, by birth, have acquired another citizenship, had to be recognised as Lithuanian citizens (art. 3). The Seimas (parliament) never ratified the Declaration and limited itself to a statement that it ‘took it into consideration’ (Sinkevičius 2002: 39). Nevertheless, provision was followed without reservation.

Several bilateral international treaties pertaining to citizenship matters were concluded by Lithuania. These were with Russia (1920), Ukraine (1921), Latvia (1921), Germany (1925, 1939), and the USA (1937). The 1937 Treaty with the USA has been described supra 2.1. Of the other treaties, the Peace Treaty with Russia of 12 July 1920 and the Convention between Lithuania and Latvia on the Rights of Citizens of 9 July 1921 should be singled out. Under these treaties, persons had the right to opt only for the citizenship of one or another state (accordingly, Lithuanian or Russian, or Lithuanian or Latvian). They could not be citizens of both states which simultaneously concluded the relevant treaties. For example, the Convention between Lithuania and Latvia on the Rights of Citizens was signed on the same day as the Convention with Latvia for Establishment of the Frontier; according to the Convention on the Rights of Citizens ‘residents of the places separated from one state and attributed to the other are citizens of that state into whose territory they now have passed’; however this transfer was not rigid since a possibility was left (for a two-year period after the exchange of ratification letters) for an option for both Lithuanians and Latvians who had already acquired the citizenship of another state. In the Treaty with Russia, the option was also foreseen: persons, who on the day of ratification of the Treaty resided in Russia and were 18 years of age, were allowed to opt for Lithuanian citizenship for one year from the day of the ratification of the Treaty, and for those residing in the Caucasus or in the Asian part of Russia the term was two years. Lithuanian citizenship was also granted to children under 18 and spouses provided that they did not have other agreements.

Developments in citizenship policy and citizenship law during the first independence cannot be examined without reference to Lithuania’s relations with its biggest neighbours Germany, Poland, and the Soviet Union. These relations were complicated and tense and Lithuania’s frontiers shifted. It must be mentioned within this context that, in 1918, Lithuania did not exercise sovereignty over the Klaipėda Region which before the First World War had been a part of Germany. According to the Treaty of Versailles, sovereign powers in the Klaipėda Region were exercised by the Entente, and the Conference of Ambassadors recognised Lithuania’s sovereignty over the Klaipėda Region on 16 February 1923. On 8 May 1924, the Klaipėda Region Convention was signed in Paris. This came into force on 25 August 1925. According to the Convention, former German citizens who on the day of ratification of the Convention by Lithuania (30 July 1924) were 18 years of age *ipso facto* became Lithuanian citizens, provided that *inter alia* they had resided in the Klaipėda Region since at least 20 January 1920 (art. 8). Other residents over 18 years of age could opt (during a six-month period) for Lithuanian citizenship (art. 8). Married women acquired the same citizenship as their husbands, and children under 18 acquired the same citizenship as their parents (art. 10). On 10 February 1925, the Option Treaty between Lithuania and Germany was signed, according to which the residents of the Klaipėda Region were considered as German citizens until 30 July 1924. The date served as the criterion for determining whether the persons received Lithuanian citizenship *ipso facto* or opted for it if they had reached 18 years of age.

In 1939, Lithuania, after receiving an ultimatum from Nazi Germany, was forced to concede the Klaipėda Region to the Reich. Under German Law, all Lithuanian citizens who on 30 July 1940 lost their German citizenship became German citizens again. The Treaty between the Republic of Lithuania and the German Reich on the Citizenship of the Residents of the Town of Klaipėda was signed (on 7 July 1939) which came into force on 9 November

1939. It, in essence, reaffirmed the provisions of the German statute, however, those persons of Lithuanian origin who, before the day of the signing of this Treaty, left the Klaipėda Region and settled in Lithuania, retained their Lithuanian citizenship. The Treaty also entrenched the prohibition on having the citizenship of both the Republic of Lithuania and the German Reich at the same time: a person who acquired the citizenship of one state had immediately to lose the citizenship of the other.

It must be mentioned that Vilnius and Vilnius Region, which had belonged to Lithuania under the Peace Treaty signed by Lithuania and Russia on 12 July 1920, were annexed and administered by Poland in 1920-1939. Residents of Vilnius Region were considered, by Poland as Polish citizens; Lithuania, however, considered them to be Lithuanian citizens. Because Lithuania could not enjoy sovereignty in the Vilnius Region, implementation of the institution of Lithuania citizenship and of citizenship legislation in Vilnius and the Vilnius Region was restricted. Residents of the Vilnius Region were treated, by the Lithuanian authorities, as 'citizens of the occupied territory', that is, as 'neither citizens nor foreigners'. However, if a person expressed a wish to receive a Lithuanian passport (which, of course, was not possible because Lithuania and Poland did not maintain diplomatic relations) no special conditions were set for receiving it (Robinsonas 1936: 8-9; Sinkevičius 2002: 75-76).

After the Second World War began, the then Soviet Union occupied a part of the territory of the then Poland, including the annexed Vilnius and Vilnius Region. On 10 October 1939, the Treaty on the Transferring of Vilnius and Vilnius Region to the Republic of Lithuania and Mutual Assistance between Lithuania and the Soviet Union was signed. The Lithuanian President ratified this Treaty on 14 October 1939 and the parties exchanged the ratification letters on 16 October 1939. It was agreed that 'the Soviet Union shall transfer Vilnius and Vilnius Region to the Republic of Lithuania including them into the composition of the territory of the State of Lithuania and establishing the border between the Republic of Lithuania and the USSR' (art. I). This Treaty did not return the entire territory of the Vilnius Region which was attributed to Lithuania under its 1920 Peace Treaty with Russia. Instead, part of the Vilnius Region was incorporated into the USSR. On 27 October 1939, the Seimas adopted the Introductory Law on the Administration of Vilnius City and its Region which was instantly promulgated by the President of the Republic on 27 October 1939. It was established that 'Lithuanian legal regulations shall be in effect in Vilnius city and its Region' (art. 1) and 'the residents of Vilnius city and its Region who were considered to be citizens of Lithuania on the day when the ratification documents of the Peace Treaty between Lithuania and Russia of 12 July 1920 were exchanged and who had the place of residence in Vilnius city or its Region on the day when this law came into effect, shall be considered Lithuanian citizens. Wives and children of up to 21 years of age of these Lithuanian citizens shall also be considered Lithuanian citizens' (art. 3). The regulation made provision for Lithuanian citizenship not to be granted automatically to all residents of Vilnius Region. This was because during the previous nineteen years about 80, 000 people had moved into Vilnius Region from Poland who had no previous relation to this part of historic Lithuania. Thus, it was expected that about one fifth of the residents of Vilnius Region would not become Lithuanian citizens (Sinkevičius 2002: 77, 82). However, the USSR transferred Vilnius and part of the Vilnius Region to Lithuania in order to swallow the whole Lithuania with Vilnius as a part thereof: in 1940, it occupied Lithuania. All citizens and residents of Lithuania (with some exceptions), including the residents of Vilnius Region, were forcefully made Soviet citizens. Several small areas of the Vilnius Region were 'presented' to Lithuania after annexation.

## 2.3 The Soviet Era

After having presented its ultimatum to the Lithuanian government, the Soviet Union's army entered Lithuania on 15 June 1940. The so-called 'People's government' (*Liaudies Vyriausybė*) was formed according to the occupying powers' list, non-free elections staged and, on 21 July 1940, the new puppet 'People's parliament' (*Liaudies Seimas*) declared that Lithuania, from now on, was a Soviet Socialist Republic and that it 'asks' the USSR Supreme Soviet to be admitted to the Soviet Union. This 'request' was 'satisfied' on 3 August 1940. The new 'Constitution', which replicated the Soviet model, was adopted on 25 August 1940. According to it, every citizen of the Lithuanian SSR was also a USSR citizen.

On 7 September 1940, the Presidium of the USSR Supreme Soviet passed an ordinance 'On the Procedure for Acquisition of Citizenship for the Citizens of the Soviet Socialist Republics of Lithuania, Latvia and Estonia' which established that 'citizens of the Soviet Socialist Republics of Lithuania, Latvia and Estonia shall be citizens of the USSR from the day after these republics are admitted to the USSR' (item 1). Pursuant to this ordinance, on 30 December 1940, the Presidium of the Supreme Soviet of the Lithuanian SSR passed the Ordinance 'On the Acquisition of Citizenship of the Lithuanian SSR', by which it recognized that '[a]s from the day that the Lithuanian SSR is admitted to the composition of the USSR, all those persons who had the place of residence on the territory of the present Lithuanian SSR...on 1 September 1939, shall be considered citizens of the Lithuanian SSR, irrespective of whether at that moment these persons had Lithuanian citizenship or not.' These unlawful decisions of the occupying power denied both the law of the state of Lithuania (which ceased to exist *de facto*) and international law. All the then citizens of Lithuania were declared against their will to be 'USSR citizens' and 'citizens of the Lithuanian SSR'. The Constitutional Court, in its 13 April 1994 ruling, stated that the Soviet citizenship which was forcibly imposed on the Lithuanian citizens was null and void, and repeated this position in its 13 November 2006 ruling. The citizenship of a constituent republic was nominal, if not fictitious, because whoever moved into Lithuania became a 'citizen of the Lithuanian SSR', and if a 'citizen of the Lithuanian SSR' moved to reside into some other 'constituent republic', he or she was considered to have lost the 'citizenship of the Lithuanian SSR' automatically and having become a citizen of another 'constituent republic'.

Certain international agreements which further affected the body of 'citizens of the Lithuanian SSR' were concluded between the Soviet Union and neighbouring states before, during and after the Second World War. On 10 January 1941, the USSR-Germany agreement on relocation of persons was signed which served as a basis for the 'exchange' of the population between the two states within a set term for relocation of two and a half months. Persons, if they wished so and if the accepting party agreed, could move. This movement also meant a change of citizenship. After the Soviet Union regained control of Lithuania (before the end of the war), it concluded, on 22 September 1944, an agreement with the Polish National Liberation Committee on the evacuation of Lithuanians from the territory of Poland (whose borders at that time were not yet clear) and of Poles from the territory of the Lithuanian SSR (which was also applied to Jews moving from Lithuania to Poland). A new agreement on repatriation to Poland was concluded on 25 March 1957, allowing former Polish citizens who now had USSR citizenship to repatriate. This also meant changing their citizenship from the USSR to Polish. As for persons who were residents of the Klaipėda Region at the end of the war, the majority of whom fled to Germany with the approach of the Soviet army, they were unilaterally declared Soviet citizens as of 28 January 1945; however, as Soviet-German relations improved, they were allowed to repatriate to the German Democratic Republic or to the Federal Republic of Germany. This was according to the secret

Ordinance of the Presidium of the USSR Supreme Soviet of 7 January 1958 (Sinkevičius 2002: 90-94).

Not much shall be said here about the ‘Lithuanian SSR citizenship’ legislation of the post-war period up to 1989. Most of the citizenship matters were regulated by the legal acts of central authorities in Moscow and not by acts of the Lithuanian SSR authorities which were only a replica of the former. For most of this period, USSR citizenship matters were settled on the basis of the 1938 USSR law ‘On Citizenship of the Union of Soviet Socialist Republics’ according to which, and the lower-in-force legal acts of the Presidium of the Supreme Council of the Lithuanian SSR, this Presidium could grant ‘citizenship of the Lithuanian SSR’ to foreigners or stateless persons residing in the territory of the Lithuanian SSR if regarding these persons there were no prior decisions of the Presidium USSR Supreme Soviet. This regulation was very stable; the USSR Law was not amended for forty years. On 1 December 1978, the new USSR Law ‘On the Citizenship of the USSR’ was adopted according to which the authorities of the ‘constituent republics’ had no power to determine the conditions for acquisition and loss of citizenship. As, after the adoption of this law, the Presidium of the USSR Supreme Soviet abolished its Ordinance of 7 September 1940, and the Presidium of the Supreme Soviet of the Lithuanian SSR abolished its Ordinance of 30 December 1940, formally, there was no legal act left defining who the citizens of the Lithuanian SSR were. The only criterion for such a determination was a person’s permanent place of residence which was indicated in his or her passport. This, if issued in a republic other than Russia, was issued in two languages, Russian and the language of the titular nation of the ‘constituent republic’. Thus, with the influx of new permanent residents to Lithuania from other regions of the USSR, there were ‘citizens of the Lithuanian SSR’ whose passports were without a word of Lithuanian, and with the title page in, say, Georgian or Armenian. Furthermore, in certain situations where citizenship usually matters, there was no difference whether a person was a permanent resident of the Lithuanian SSR or not; *e.g.* Soviet military personnel stationed in Lithuania, or students from other ‘constituent republics’ studying there, or patients residing in other ‘constituent republics’ but undergoing treatment in Lithuanian hospitals had the ‘right’ (in fact, the obligation) to vote in the Soviet-type sham elections as if they were ‘citizens of the Lithuanian SSR’.

As for a Lithuanian SSR law on citizenship, such a law did not exist until the movement for liberation started. The respective Law on Citizenship was adopted only on 3 November 1989 by the Supreme Soviet of the Lithuanian SSR. Lithuania declared the restoration of its independent statehood four months later on 11 March 1990.

## 2.4 The 1989 Law on Citizenship

During the time which Lithuanians call Rebirth (*Atgimimas*, 1988-1990), when Lithuania was still occupied and annexed by the Soviet Union, the Lithuanian nation, acting through the Lithuanian Reform Movement (*Sąjūdis*), was successful in ensuring that the administrative institutions which were created by the foreign state and which functioned in Lithuania, *inter alia* the Supreme Soviet of the Lithuanian SSR, would adopt a number of legal acts which anticipated the restoration of Lithuanian statehood. The 11 March 1990 Declaration ‘On the Powers of the Deputies of the Supreme Soviet of the Lithuanian SSR’ (of the Supreme Council of the Republic of Lithuania)<sup>6</sup> held that the usage of the structures of the foreign state

<sup>6</sup> Here, the term ‘Supreme Soviet’ is used to refer to the institution before the restoration of independence, and ‘Supreme Council’ – after its restoration. In Lithuanian the term is the same for both (*Aukščiausioji Taryba*).

(i.e. USSR) which had been imposed on Lithuania should not be interpreted as the recognition of the sovereignty of the state which imposed them over the Lithuanian nation and its territory or the annexation committed by that state.

In this respect, the Law on Citizenship of the Lithuanian SSR which was adopted by the then Supreme Soviet of the Lithuanian SSR on 3 November 1989 and came into force on the day of its adoption, was of particular importance. This was the first piece of legislation of the Lithuanian SSR which did not copy a Soviet model but instead paved the way for the delimitation of ‘citizenship of the Lithuanian SSR’ and USSR citizenship, which was of crucial importance for defining those who were entitled to take part in elections or referenda. Before then, an amendment had been made to the ‘Constitution of the Lithuanian SSR’ which eliminated the provision that ‘a citizen of the Lithuanian SSR’ was a citizen of the USSR. The ‘citizenship of the Lithuanian SSR’ provided for in the law (which in this law was also referred to as ‘citizenship of the Republic’) meant that a special legal status was established for the former citizens of the Republic of Lithuania, their children and grandchildren who were permanent residents on the then territory of the Lithuanian SSR. This was different from the one established for persons who were on the territory of the then Lithuanian SSR and to whom the ‘citizenship of the Lithuanian SSR’ was not recognized. Thus, the law separated the permanent residents of Lithuania from persons who had arrived from the Soviet Union and resided in Lithuania, particularly Soviet officers and soldiers. It was explicitly established in art. 3, para. 3 of the law that ‘[n]o provision in this law shall be interpreted as binding any citizen of the Lithuanian SSR to the laws of any other state or to the law on citizenship established by said state’. In these circumstances, this was also a roundabout way of confirming the principle that multiple citizenship, *inter alia* that of Lithuania and USSR, would not be tolerated. However, it was established that ‘during the period prior to the full restoration of the state sovereignty of Lithuania, citizens of the Lithuanian SSR shall also use passports of the USSR’ (art. 35. para. 2). This was because there were no other passports to use at that time.

Art. 1 of the law established that the following persons would be ‘citizens of the Lithuanian SSR’:

1) persons who held citizenship of the Republic of Lithuania, children and grandchildren of such persons, as well as other persons who were permanent residents on the territory of the Lithuanian SSR prior to 15 June 1940, and their children and grandchildren who now are or have been permanent residents on the territory of the Lithuanian SSR;

2) persons who had a permanent place of residence in the Lithuanian SSR, provided that they were born on the territory of the Lithuanian SSR, or proved that at least one of their parents or grandparents was born on said territory, and provided that they are not citizens of another state;

3) other persons who, up to and including the date of entry into force of this law, had been permanent residents on the territory of the Republic and had here a permanent job or other permanent legal source of support; such persons shall freely choose their citizenship within two years following the entry into force of this law; and

4) persons who had acquired citizenship of the Lithuanian SSR under this law.

Apart from defining the body of those who ‘shall be citizens of the Lithuanian SSR’, the law provided for retention of the right to ‘citizenship of the Republic’ and for recognition of the ‘citizenship of the Republic’. Yet these were two different legal institutions. The right to citizenship was granted to the persons who were deported from the territory of Lithuania or who departed from it in or about 1940 or thereafter, as well as for their children and

grandchildren (art. 22, para. 1). Citizenship of the Republic was recognized for other Lithuanians after they relocated to reside in Lithuania and made an oath to the Republic (art. 22, para. 2). It must be emphasised that, in the law, persons who were considered to be citizens of the Lithuanian SSR and persons who retained the right to citizenship of the Lithuanian SSR were defined differently. Citizens of the Lithuanian SSR were considered *inter alia* persons who were citizens of the Republic of Lithuania, children and grandchildren of such persons, as well as other persons who were permanent residents on the territory of the then Lithuanian SSR prior to 15 June 1940, and their children and grandchildren who at that time were permanent residents on the territory of the Lithuanian SSR, while the right to Lithuanian citizenship was retained by the persons who were deported from the territory of Lithuania or departed from it in or about 1940 or thereafter (thus, who did not reside in Lithuania), as well as for children and grandchildren of such persons.

It is to be particularly emphasised that a two-year period was established for the law's 'full implementation' after its entry into force (art. 35, para. 4). Here, one must take into account that under said law 'other persons who, up to and including the date of entry into force of this law, have been permanent residents on the territory of the Republic and have here a permanent job or other permanent legal source of living ... shall freely choose their citizenship within two years after the entry into force of this law' (art. 1, item 3), and 'persons of full age who within two years from the date of entry into force of this law have not gained a passport of the citizen of the Lithuanian SSR, shall be considered as those who have not accepted the citizenship of the Lithuanian SSR' (art. 2, para. 4).

This is the so-called 'zero option' which, to a great extent, distinguishes Lithuania from the other Baltic states which declared their independence soon after Lithuania did, Latvia and Estonia. The essence of this zero option was that Lithuanian citizenship could be granted to all persons who on the day of coming into force of the law were legally permanent residents of Lithuania, irrespective of the grounds on which such their residence rested. As a matter of fact, there were minor exceptions, *e.g.* Soviet military officers who served in Lithuania were not entitled to Lithuanian citizenship. But as they were not considered to be permanent legal residents, this was not really an 'exception'. The zero option was possible because, in the pre-dawn of restoration of Lithuania's independence, when the law was adopted, ethnic Lithuanians composed almost 80 per cent of Lithuania's population. The other groups were Russians (9 per cent) and Poles (6 per cent). These existing minorities consisted more of autochthons (mostly Russians and Poles) who were considered to be loyal enough to the would-be independent state and less of settlers from the Soviet Union. Another important characteristic of the zero option was that no one was forced to become 'a citizen of the Republic' overnight or against their will. The law triggered the start of a two-year time period during which every permanent legal resident could decide whether to acquire Lithuanian citizenship or to keep USSR citizenship. The latter was lawfully held or had been imposed upon him or her by the occupying power, as in the case of the former citizens of the Republic of Lithuania and their descendants. The end of this time-period almost coincided with the final disintegration of the Soviet Union. By then there were not many who had not made a choice. Thus, the community of citizens was established not 'from above' by means of a centralised granting of citizenship to residents but 'from below' by means of free decisions made by individuals.

It was also established that 'for two years after this law comes into force, persons referred to in article 1 of this law may, until they freely choose their citizenship, avail themselves of the rights of a citizen of the Lithuanian SSR' (art. 35, para. 1).

Within this context, it has to be noted that the Constitutional Court, in its 13 April 1994 ruling, examined the constitutionality of the Seimas Resolution of 22 December 1993 by which persons, who had served in the armed forces of the Soviet Union and who had terminated their service within the period from 1 March 1992 to 4 November 1994 and who had been issued a Citizen of the Republic of Lithuania Certification Card or a Certification Testifying to the (Person's) Decision to acquire Citizenship of the Republic of Lithuania, were considered as having the citizenship of the Republic of Lithuania and could be issued with a Lithuanian passport. This resolution was recognised as unconstitutional because, according to art. 12, para. 3 of the 1992 Constitution, the procedure for the acquisition and loss of citizenship should be established by law and not by sub-statutory legislation. However, what is important from the point of view of the zero option discussed here is that the Court interpreted that the persons specified in art. 1, item 3 of the Law on Citizenship of 1989, that is 'other persons who, up to and including the date of entry into force of this law, have been permanent residents on the territory of the Republic and have here a permanent job or other permanent legal source of living' were different from the persons specified in items 1 and 2, *i.e.* those who held citizenship of the Republic of Lithuania, children and grandchildren of such persons, as well as other persons who were permanent residents on the territory of the Lithuanian SSR prior to 15 June 1940, and their children and grandchildren who then were or had been permanent residents on the territory of the Lithuanian SSR; persons who had a permanent place of residence in the Lithuanian SSR, provided that they had been born on the territory of the Lithuanian SSR, or had proved that at least one of their parents or grandparents was born on said territory, and provided that they were not citizens of another state. The difference was constituted by the fact that the former 'had never had firm permanent legal relations with Lithuania; as matter of fact, they were migrants, who had come from places that were beyond the borders of Lithuania, who usually had citizenship of the Soviet Union and after restoration of the independent State of Lithuania they became foreigners here'. It was held in the ruling that 'Lithuanian citizenship for them was granted under a rather simplified procedure: they were required to be permanent residents on the territory of Lithuania and had to have here a permanent job or other permanent legal source of living; they had the right within two years after the enforcement of the Law on Citizenship (of 1989) to freely decide on citizenship, *i.e.* they could either retain citizenship of the Soviet Union or become citizens of Lithuania'.

The law provided for the acquisition of citizenship of the Lithuanian SSR by naturalisation. A person could become a naturalised citizen upon his or her request if he or she agreed to give the oath to Republic (NB: The 'SSR' is not mentioned here) and fulfils the conditions that he or she:

- 1) knows the Lithuanian language;
- 2) has a permanent place of residence on the territory of the Lithuanian SSR for the last ten years;
- 3) has a permanent place of employment or a constant legal source of support on the territory of the Lithuanian SSR;
- 4) knows the 'basic provisions' of the Constitution of the Lithuanian SSR.

Citizenship by naturalisation could not be granted to a person who has committed crimes against humanity or acts of genocide, was sentenced to a custodial sentence for a serious and premeditated crime or was a chronic alcoholic or drug addict (art. 10, para. 1, item 2; art. 15).

The law also established that a person who holds the citizenship of another state might be, by way of exception, granted citizenship of the Lithuanian SSR by the Presidium of the Supreme Soviet of the Lithuanian SSR (art. 7). Here, the pre-war tradition described above in Section 2.1, was followed, with the slight change that, in such cases, citizenship had to be granted not by the executive but by the permanent body of the legislative authority. The Supreme Council, while construing art. 7 of the Law on Citizenship under which citizenship of the Republic of Lithuania could be granted to a citizen of another state by way of exception, and art. 35, para. 3, under which no provision of the law shall be interpreted as binding any citizen of the Lithuanian SSR to the laws on any other state or to citizenship established by said state, held, in its Resolution of 19 June 1990 ‘On the Application Procedure of Articles 7 and 35 of the Republic of Lithuania Law on Citizenship’, that a person, who acquired the citizenship of the Republic of Lithuania, would be considered as one who had lost the citizenship of another state and that a citizen of the Republic of Lithuania may also be a citizen of another state only in the case when citizenship of the Republic of Lithuania has been granted to him or her by way of exception. The Constitutional Court, in its ruling of 13 November 2006, stated that by this Resolution it ‘once again confirmed the prohibition of dual citizenship (arising from the Provisional Basic Law with the exception provided for) which also had to be heeded while applying the Law on Citizenship’. This prohibition had not been entrenched *expressis verbis* before art. 18 was amended.

Citizenship was lost if:

- 1) a person renounced it;
- 2) a person was deprived of it; or
- 3) there were ‘other reasons...as provided by international agreements with the Lithuanian SSR’ (art. 18).

However, it was established that renunciation of citizenship ‘shall be forbidden if an action has been instituted against the person asserting such renunciation, or if a court sentence against such person has come into force, or if the person’s renunciation of citizenship ... runs counter to the security interests of the Lithuanian SSR’ (art. 19, para. 2). A citizen could be deprived of citizenship by the Presidium of the Supreme Soviet if he or she:

- 1) acquired citizenship by forging documents, or by some other fraud;
- 2) committed very grave offences against the Republic;
- 3) took employment in another state without the knowledge and permission of the competent state bodies of the Lithuanian SSR;
- 4) committed crimes against humanity or acts of genocide, as defined by international law (art. 20).

Those who were deprived of citizenship had no right to recover it; if a person lost his or her citizenship on other grounds, he or she was allowed to apply for its restoration (art. 21). On 16 April 1991 (*i.e.* after the restoration of independence), the Supreme Council adopted an amendment to the Law whereby art. 18 (in the grounds of the loss of citizenship) was supplemented with the provision that citizenship of the Republic would be lost if a person acquired citizenship of another state. This was the only amendment to this law.

Of course, most of the provisions pertaining to the acquisition and loss of citizenship, in the last months of the Soviet era, were matters more of principle than of practical significance. As already mentioned, the law preceded the restoration of independence which took place on 11 March 1990. The Act of the Supreme Council of the Republic of Lithuania

‘On the Restoration of the Independent State of Lithuania’ (by the Supreme Council of the Republic of Lithuania), declared that ‘the execution of the sovereign powers of the State of Lithuania abolished by foreign forces in 1940, is restored and henceforth Lithuania is again an independent state and the constitution of no other state is valid in Lithuania’. On the same day the Supreme Council adopted the law ‘On the Provisional Basic Law of the Republic of Lithuania’ by which it confirmed the Provisional Basic Law of the Republic of Lithuania, the Provisional Constitution. The national legal system began to be created on the basis of this Provisional Basic Law which included *inter alia* provisions on Lithuanian citizenship. It established that the content of Lithuanian citizenship and the conditions and procedures for its acquisition and loss would be defined by the Law on Lithuanian Citizenship. It also established that, as a rule, a citizen of Lithuania may not be a citizen of another state concurrently. Lithuanian citizens abroad shall be defended and protected by the State of Lithuania, and immigration to the Republic of Lithuania would be regulated by law (art. 13).

According to art. 3 of ‘On the Provisional Basic Law of the Republic of Lithuania’ it was established that the laws and other legal acts which had been in effect hitherto and which were not in conflict with the Provisional Basic Law of the Republic of Lithuania would continue to be in effect. After the restoration of independence, most legal acts which had been passed therefore remained effective. The legislature had a constitutional duty to revise the corresponding laws which had been passed prior to the restoration of independence and to harmonise them with the Provisional Basic Law. This had to be accomplished quickly. One substantial change regarding all laws and other legal acts was made immediately before the adoption of the Provisional Basic Law. It was established, on 11 March 1990 in ‘On the Name of the State and the Coat of Arms’, that the only official name of the state—‘the Republic of Lithuania’, or its shorter version and in compound titles—‘Lithuania’, ‘Lithuanian’—can be used in the Constitution and other legal normative acts (art. 1). Thus, the former Law on the Citizenship of the Lithuanian SSR was renamed as the Republic of Lithuania Law on Citizenship, while also changing the former formula ‘the Lithuanian SSR’ of the text of this law accordingly so that this law, as a law of the restored independent State of Lithuania, could regulate the citizenship relations of the independent Republic of Lithuania.

According to the 1989 Law, Lithuanian citizens could use the passports of the USSR. They continued to do so also after the restoration of independence since Lithuanian passports were not immediately issued. However, this did not amount to a recognition that Lithuanian citizens also held USSR citizenship which had been forcefully imposed on them and/or their descendants. It was held in the Constitutional Court ruling of 13 April 1994 that persons who had lawfully acquired the citizenship of the Republic of Lithuania were considered as having lost the citizenship of the Soviet Union, so with regard to these persons, the citizenship of the Soviet Union was declared null and void. This meant that the consequences of the occupation and annexation with regard to the citizens of Lithuania who had been forced to have the citizenship of the Soviet Union against their will, had been eliminated. Even though the citizens of the Republic of Lithuania temporarily used the passports of citizens of the USSR (at para. 2 (3 November 1989 wording) of art. 35 of the Law on Citizenship), they could not be treated as citizens of the USSR, *i.e.* as citizens of the state which had declared them (or their parents or grandparents) as its citizens against their own will.

The two-year period which was established for the ‘full implementation’ of the 1989 Law expired on 4 November. At that time, the new law on citizenship was in preparation, but it was not yet adopted. According to the Constitutional Court (ruling of 13 November 2006), the 1989 Law continued to be effective and it had not lost its validity. The two-year period was meant for the corresponding persons to decide freely on Lithuanian citizenship. It was not the term for the validity of the law.

## 2.5 The 1991 Law on Citizenship: Before the 1992 Constitution

On 5 December 1991, a new Law on Citizenship was adopted which was meant to replace the 1989 Law. It did not automatically come into force. The 1989 Law was recognised as no longer effective by the 10 December 1991 Supreme Council Law ‘On the Validity of Documents of Citizenship of the Republic of Lithuania and Supplement of the Law on Citizenship’ (art. 3) and the new Law came into force on 11 December 1991 (art. 4). It is noteworthy that the new law was supplemented before it even came into force. The procedure for the implementation of some of the provisions of the new law was established in the Supreme Council Resolution of 10 December 1991 ‘On the Procedure for Implementation of the Republic of Lithuania Law on Citizenship’ in which it was established that, with regard to the persons specified in art. 1 of the new law, citizenship of the Soviet Union would be null and void.

The new law, in many respects, repeated the provisions of the previous one but there were also important novelties.

The body of Lithuanian citizens was redefined. In art. 1, para. 1, it was established that the following persons would be citizens of the Republic of Lithuania:

- 1) those who held citizenship of the Republic of Lithuania prior to 15 June 1940, and their children and grandchildren provided that they have not acquired citizenship of another state;
- 2) those who were permanent residents on the territory of the Republic of Lithuania in the period from 9 January 1919 to 15 June 1940, as well as their children and grandchildren, provided that on the day of entry into force of this law they were permanent residents in Lithuania, and were not citizens of another state;
- 3) those who acquired citizenship of the Republic of Lithuania or had it restored to them prior to 4 November 1991 under the Law on Citizenship which had been in force before the enactment of this law;
- 4) those who implemented the right to citizenship of the Republic of Lithuania, or had citizenship of the Republic of Lithuania restored to them under this law; and
- 5) other persons who acquired citizenship of the Republic of Lithuania under this law.

The introduction of the 9 January 1919 date, *i.e.* the date of the adoption of the first Provisional Law on Lithuanian Citizenship, emphasised the specific importance of the continuity between the citizenship legislation of the period of the first independence and the current one. Thus, in this article, the continuity of citizenship of the Republic of Lithuania was entrenched.

The continuity of pre-Soviet era citizenship was also consolidated in the provisions which pertained to the retention of citizenship, and the notion of the ‘recognition of citizenship’, which was used in the 1989 Law, was no longer used in the 1991 Law. The circle of those who retained the right to Lithuanian citizenship was expanded. This right for an indefinite period of time was retained by:

1) persons who held citizenship of the Republic of Lithuania until 15 June 1940 and were at that time residing in other states provided that they had not repatriated from Lithuania;

2) children of persons who held citizenship of the Republic of Lithuania until 15 June 1940, who had been born in Lithuania or in refugee camps, but were at that time residing in other states; and

3) other persons of Lithuanian origin who were residing in foreign states or in the territories governed by said states (art. 17).

The principles governing the retention of the right to citizenship were designed so that persons (not only of Lithuanian origin) who had held citizenship of the Republic of Lithuania before the loss of Lithuanian statehood and who now resided in foreign states, as well as their children and Lithuanians residing abroad, would not lose the link with the restored independent Republic of Lithuania, and so that Lithuanians residing abroad would not be severed from the Lithuanian nation. The persons who retained the right to citizenship could become Lithuanian citizens either by implementing the right to citizenship or by restoring citizenship (art. 18). The obligatory condition for the persons who retained the right to citizenship, in order to implement this right, was to renounce the citizenship of another state. There was no requirement for the persons residing in other states who held Lithuanian citizenship prior to 15 June 1940 (if they have not repatriated) to relocate to Lithuania for permanent residence and to make an oath to the Republic of Lithuania. These requirements were imposed only in respect of the children of these persons if they wanted to implement their right to citizenship.

The notion of ‘repatriation’ employed in art. 17 of the 1991 Law was an important novelty. It was not used in the 1989 Law. The right to Lithuanian citizenship was not retained by persons who held citizenship of the Republic of Lithuania prior to 15 June 1940 and who had repatriated from Lithuania. It must also be noted that the notion was not explicitly defined and no definition thereof was provided in the 1991 Law. From the *travaux préparatoires* (and from the practical application of the law), one could conclude (as the Constitutional Court did) that repatriation was understood as departure to one’s ethnic homeland even if the departure did not involve the acquisition of the citizenship of another state. Further, this definition of repatriation, given the context of its usage, was recognised as unconstitutional (see *infra* 2.6.4).

Only persons of Lithuanian origin who had had the citizenship of the Republic of Lithuania, and who had departed from Lithuania in the period from 15 June 1940 to 11 March 1990, and who were residing in other states could become citizens of Lithuania by way of restoration (art. 18, para. 3). The 10 December 1991 amendment established that their children could also become citizens of Lithuania in this way providing they had not acquired the citizenship of another state (in which they resided) by birth in that state. It was also established that the restoration of citizenship would not by itself bring about any legal consequences with regard to the members of the family of the person who has had his citizenship restored (art. 18, para. 4). The Constitutional Court, in its 13 November 2006 ruling, gave an interpretation suggesting that this regulation of the restoration of citizenship implied that Lithuanian citizenship could also be restored to the persons who held citizenship of another state.

It is clear from the provisions quoted that those which defined the body of the citizens and those which defined which persons retained the right to citizenship were phrased in a somewhat contradictory way. For example, it was established that persons who held the citizenship of the Republic of Lithuania prior to 15 June 1940 and their children and

grandchildren, provided that they have not acquired citizenship of another state, shall be Lithuanian citizens (art. 1, para. 1, item 1). However, whether these persons were those who were permanent residents of Lithuania or were persons who were permanent residents abroad was not explicitly specified. Meanwhile, under art. 17, the right to citizenship was retained by persons who had held the citizenship of the Republic of Lithuania prior to 15 June 1940 and were at the present time residing in other states, provided that they had not repatriated from Lithuania, and children of persons who held citizenship of the Republic of Lithuania until 15 June 1940, who were born in Lithuania or in refugee camps, but were at the present time residing in other states. If interpreted *verbatim*, it would follow that a large number of persons who had held Lithuanian citizenship prior to 15 June 1940, and their children, had a dual legal status both as citizens and as persons who have the right to retain citizenship. According to the interpretation of the Constitutional Court in its 13 November 2006 ruling, art. 17 referred only to persons residing abroad. Even though they have the right to the retention of citizenship, in itself they are not Lithuanian citizens *ex lege*. In order to become such they must express a corresponding intention and fulfil the requirements established in the law. Therefore persons specified in art. 1, para. 1, item 1 were persons who permanently resided in Lithuania. Nevertheless, as this interpretation appeared fifteen years after the law came into effect, a number of persons (there are no reliable statistics) who permanently resided abroad managed to make use of this ambiguity and to acquire Lithuanian passports.

Conditions for naturalisation, as established in the 1991 Law remained, in essence, the same as in the 1989 Law (although some were slightly rephrased). Persons meeting these conditions were to be granted citizenship while taking into consideration the interests of the Republic of Lithuania. Citizenship would be granted provided the applicant agrees to take the oath to the Republic (art. 12). Reasons precluding the granting of citizenship were also explicitly specified. As under the 1989 Law, citizenship was not to be granted to persons who had committed crimes against humanity or acts of genocide or to persons who are chronic alcoholics or drug addicts. However, other reasons were rephrased and expanded. Citizenship would also not be granted to persons who engaged in criminal activities against the Republic of Lithuania, to persons who, before coming to Lithuania, had been sentenced in another state to a custodial sentence for a premeditated crime for which criminal liability is imposed by the laws of the Republic of Lithuania, or had been sentenced in Lithuania for a premeditated crime punishable by a custodial sentence, or to persons who were ill with especially dangerous infectious diseases.

The general principle was maintained that multiple citizenship was prohibited; however certain exceptions were allowed if they were provided for in the law. It was established that a Lithuanian citizen may not at the same time be a citizen of another state, except in cases provided for in this law (art. 1, para. 2). This restriction was, in various aspects, entrenched in other provisions of the law, namely in the provisions that: citizenship is lost if a person acquires citizenship of another state (art. 19, item 2); citizenship could not be returned to the person who lost it on the grounds that he acquired citizenship of another state and it could be returned only to a person who was stateless or the citizen of a state, under the laws of which he would lose citizenship upon acquisition of citizenship of the Republic of Lithuania (art. 22); an obligatory condition for the persons who retained the right to citizenship, in order to implement said right, was to renounce the citizenship of any other state (art. 18, paras. 1-2). However, under art. 16, citizenship could be granted to citizens of foreign states who had special merits to the Republic of Lithuania without requiring of them the conditions of naturalisation. That is not applying either the requirement for a person to be stateless or to be a citizen of a state under the laws of which he loses citizenship of the state when acquiring Lithuanian citizenship or the requirement to provide written notification of his

decision to renounce citizenship of another state when granted Lithuanian citizenship. Thus, such persons could also be citizens of another state at the same time as holding Lithuanian citizenship.

The grounds for loss of Lithuanian citizenship were these:

- 1) a person renounces the citizenship of the Republic of Lithuania;
- 2) a person acquires citizenship of another state;
- 3) a person severs the actual links with the State of Lithuania;
- 4) upon grounds provided for by international agreements with the Republic of Lithuania (art. 19).

Severing of the actual links with the State of Lithuania meant either

- 1) having lived abroad for an uninterrupted period exceeding 3 years with an invalid passport of a citizen of the Republic of Lithuania or without said passport, or
- 2) joining the military service of another state or taking employment as a state official in another state without the permission of the competent bodies of the Republic of Lithuania (art. 21).

Here, some traces of the 1937 amendment to the Provisional Law are clear. Also, it was established that the act on the granting of citizenship would be declared invalid if a naturalised person or a person who voiced his or her option, has acquired citizenship by presenting forged documents or by any other fraud, or has not renounced citizenship of another state, or if the court determines that the person, prior to or after the granting of citizenship, committed crimes against humanity under international law, or acts of genocide, or committed crimes against the Republic of Lithuania, and that such act may be declared invalid if the court determines that in the period after 15 June 1940 the person organised or carried out deportation or extermination of the residents (of Lithuania), suppressed the resistance movement in Lithuania, or, after 11 March 1990, took part in the activities directed against the independence and territorial integrity of the Republic of Lithuania (art. 23).

Before the new Constitution replacing the Provisional Basic Law was adopted, the provisions of the 1991 law defining who were the citizens of the Republic of Lithuania, how the retention of the right to citizenship was regulated, what the legislative possibilities for Lithuanian citizens to hold multiple citizenship were, and how the loss of Lithuanian citizenship was regulated were not amended although some other provisions were.

## **2.6 The 1992 Constitution and Beyond**

The Constitution was adopted by the referendum vote of 25 October 1992 and came into force on 2 November 1992. From now on, to grant Lithuanian citizenship was within the competence of the President of the Republic (art. 84, item 21). In art. 12 of the Constitution, it was established that citizenship of the Republic of Lithuania would be acquired by birth and by other grounds established by law (para. 1), that 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 (para. 2), and that the procedure for the acquisition and loss of citizenship would be established by law (para. 3). In the official doctrine, the term 'law' is interpreted literally as the act of the Seimas; laws (or provisions thereof) may also be adopted by referenda. There are other possible international (bilateral and multilateral) treaties

containing provisions on citizenship matters, but in practice Lithuania has not yet concluded any such treaties. The European Convention on Nationality had not been ratified by Lithuania. What is most important is that the grounds for the acquisition and loss of nationality, as well as the exceptional cases where multiple citizenship is allowed, may not be determined by the acts of the executive. Disregarding this arrangement would amount to the violation of the constitutional principle of the separation of powers. The main act which regulates citizenship relations is the Law on Citizenship. Sub-statutory legislation pertaining to citizenship matters is merely an application of this Law. It is also noteworthy that according to art. 148, para. 1 of the Constitution, the provisions of art. 12 can be altered only by referendum.

After the Constitution entered into force, the 1991 Law on Citizenship, as well as the Supreme Council Resolution of 10 December 1991 remained in force. But the legislature had a constitutional duty to assess this law so that it would comply with the Constitution, *inter alia* with the general principle of the prohibition of multiple citizenship and with the principle of the equality of persons entrenched in art. 29 of the Constitution. The law was to be amended if necessary.

Numerous amendments and supplements were made both to the law (on 19 November 1992, 7 December 1993, 14 December 1993, 13 June 1995, 3 October 1995, 6 February 1996, 2 July 1997) and to the resolution (on 8 June 1993, 22 December 1993, 15 March 1994, 18 July 1994, 19 October 1995). Not all of these are discussed in this report.

### *The Body of Citizens and Retention of the Right to Citizenship*

In the 1991 Law, restoration of Lithuanian citizenship was linked to retention of the right to it. By the Amendment of 7 December 1993 to the law the circle of persons who may restore their Lithuanian citizenship and also hold citizenship of another state was substantially expanded (art. 18, para. 3). The right to restore Lithuanian citizenship without renouncing the citizenship of another state was already established, not only to persons of Lithuanian origin who resided in other states and held the citizenship of the Republic of Lithuania who had departed from Lithuania in the period from 15 June 1940 to 11 March 1990 and their children who did not acquire citizenship of this state by birth in another state (as before), but also to other persons of Lithuanian origin residing in other states who held citizenship of the Republic of Lithuania prior to 15 June 1940 and who departed or were exiled from Lithuania in the period from 15 June 1940 to 11 March 1990 and their children as well as to other persons of non-Lithuanian origin residing in other foreign states who held citizenship of the Republic of Lithuania prior to 15 June 1940 and who departed or were exiled from Lithuania in the period from 15 June 1940 to 11 March 1990. However, the restoration of the right to citizenship was related to the non-repatriation of the persons who resided in other states and held citizenship of the Republic of Lithuania prior to 15 June 1940 (art. 17, para. 1; art. 18, para. 3). This right was guaranteed only to those persons of non-Lithuanian origin who had departed from Lithuania but not to their ethnic homeland.

Another important amendment to the law regarding the retention of the right to Lithuanian citizenship, as well as to the definition of which persons would be citizens of the Republic of Lithuania, *i.e.* the body of citizens, was introduced by an amendment of 3 October 1995. The body of citizens *ex lege* was redefined so that it now included (apart from those indicated in art. 1, that is: persons who held citizenship of the Republic of Lithuania prior to 15 June 1940 and their children provided that they have not acquired citizenship of

another state; persons who were permanent residents on the present-day territory of the Republic of Lithuania in the period from 9 January 1919 to 15 June 1940, as well as their children and grandchildren, provided that on the day of the coming into force of the Law on Citizenship they have been permanent residents in Lithuania, are residing here at the present time and are not citizens of another state; persons who acquired citizenship under the 1989 Law and other persons who have acquired citizenship on other bases provided for in the Law on Citizenship) persons of Lithuanian origin residing in other states if they had departed from Lithuania prior to 16 February 1918 and have not acquired citizenship of another state; persons who held citizenship of the Republic of Lithuania prior to 15 June 1940, and their children who acquired citizenship of another state, provided these persons or their children did not repatriate from Lithuania. The circle of those who retained the right to Lithuanian citizenship for an indefinite period of time and could implement this right and also hold citizenship of another state was once again expanded by making an amendment to art. 17. This group now included the persons who had held the citizenship of the Republic of Lithuania prior to 15 June 1940 and their children (provided that they or their children had not repatriated from Lithuania and—according to the later amendment of 6 February 1996—they were persons residing in other states). These no longer had to renounce the citizenship of another state when implementing their right to Lithuanian citizenship, because although the provision that ‘[a] citizen of the Republic of Lithuania may not at the same time be a citizen of another state, except in cases provided for in this Law’ remained intact (art. 1, para. 3), it was none the less established that persons of Lithuanian origin who resided in other states could implement their right to Lithuanian citizenship only after they renounced citizenship of another state and returned to Lithuania to reside permanently. It was also established that the persons who held the citizenship of the Republic of Lithuania prior to 15 June 1940 and their children (provided that they and their children have not repatriated from Lithuania) who resided in other states could implement their right in accordance with art. 1 of the law which defined the body of citizens, therefore they could make use of this right as citizens *ex lege* and, consequently, they no longer had to renounce the citizenship of another state when implementing their right to Lithuanian citizenship (art. 17, para. 5-6). In interpreting these provisions, the Constitutional Court held, in its 13 November 2006 ruling, that this principle was not changed by the 3 October 1995 amendment: persons were not citizens of the Republic of Lithuania ‘*ex lege* of their own accord’. In order to become Lithuanian citizens, they had to express their intention and to fulfil the requirements established in art. 17 (the content of which was changed in essence). It was also established that Lithuanian passports or documents confirming the right to Lithuanian citizenship would be issued to them at their request (art. 1, para. 2), irrespective of whether they permanently resided abroad or in Lithuania. This did not mean that being a Lithuanian citizen depended on whether the person was issued a Lithuanian passport or other document confirming citizenship of the Republic of Lithuania since they were all now considered as Lithuanian citizens *ex lege*, even if they implemented their right to citizenship.

These provisions were changed again by an amendment of 2 July 1997. The body of citizens was redefined so to allow the possibility of being a Lithuanian citizen while at the same time holding the citizenship of another state, extending this to the grandchildren of those who held the citizenship of the Republic of Lithuania prior to 15 June 1940 (provided these persons have not repatriated from Lithuania). Now, they too were considered citizens *ex lege*.

**Table 1. Decisions regarding retention of the right to citizenship, 2004–2008**

Citizen of	2004	2005	2006	2007	2008	Total
Argentina	–	–	–	1	–	1
Australia	–	–	–	2	–	2
Azerbaijan	–	–	–	1	–	1
Belarus	57	11	29	78	141	326
Canada	–	–	–	–	1	1
France	–	–	–	–	1	1
Georgia	1	–	–	2	5	7
Germany	2	1	2	4	2	11
Israel	–	–	–	4	8	12
Kazakhstan	7	–	1	2	2	12
Kyrgyzstan	–	–	1	1	–	2
Latvia	1	–	–	1	–	2
Netherlands, the	–	–	–	1	–	1
Norway	–	–	–	–	1	1
Poland	3	–	–	2	2	7
Russia	17	7	12	57	104	197
South Africa	–	–	–	1	–	1
Switzerland	–	–	–	–	1	1
Ukraine	1	–	1	2	17	21
United Kingdom	–	–	–	1	–	1
United States	–	–	–	2	2	4
Uruguay	–	–	–	–	16	16
Stateless persons	1	1	1	–	1	4
Total	90	20	47	163	305	625

*Source: www.migracija.lt*

Other changes contained in the 3 October 1995 amendment pertained to the repeal of art. 18 which provided for the restoration of Lithuanian citizenship (in the law, this notion was no longer employed), as well as to persons who retained the right to Lithuanian citizenship. It was established that persons for whom the right to citizenship was retained, together with members of their families, might enter the Republic of Lithuania without visas and reside in Lithuania without having the requirements of the Law on Immigration applied to them. They

could also leave Lithuania, and that laws would also provide for their other rights (art. 17, para. 4). As this group of persons now also included persons of Lithuanian origin, the definition of the latter was formulated. A person of Lithuanian origin was defined as '[a] person whose parents or grandparents, or one of the parents or grandparents are Lithuanians and the person himself admits that he considers himself Lithuanian' (art. 17, para. 2).

### *Naturalisation and Granting Citizenship by Way of Exception*

Under the 1991 Law, the conditions of naturalisation were these:

- 1) passing the examination in the Lithuanian language (proving that a person can speak and read Lithuanian);
- 2) permanent residence on the territory of the Republic of Lithuania for the last ten years;
- 3) permanent employment or a constant legal source of support on the territory of the Republic of Lithuania;
- 4) passing an examination on the basic provisions of the Constitution of the Republic of Lithuania;
- 5) a person had to be a person without citizenship, or a citizen of a state under the laws of which he or she loses citizenship of said state upon acquiring citizenship of the Republic of Lithuania, or if the person had provided written notification of his or her decision to refuse citizenship of another state upon being granted citizenship of the Republic of Lithuania.

Taking an oath to the Republic was also required. It was established that those who met these conditions would be granted citizenship while taking the interests of the Republic of Lithuania into consideration (art. 12). These conditions, in essence, never significantly changed. The term of residence in Lithuania was limited for those who had contracted a marriage with a citizen of the Republic of Lithuania. The marital status had to have been maintained during the last three years of Lithuanian residence (art. 14). The law gave specific reasons for precluding the granting of citizenship. Citizenship could not be granted to:

- 1) persons who have committed crimes against humanity or acts of genocide;
- 2) persons who took part in criminal activities against the Republic of Lithuania;
- 3) persons who, before coming to Lithuania, have been sentenced in another state to a custodial sentence for a premeditated crime for which criminal liability is imposed by the laws of the Republic of Lithuania, or have been sentenced in Lithuania for a premeditated crime punishable by a custodial sentence;
- 4) persons who were chronic alcoholics or drug addicts;
- 5) persons who were ill with especially dangerous infectious diseases (art. 13).

**Table 2. Granting of citizenship by naturalisation, 1993–2000**

Year	1993	1994	1995	1996	1997	1998	1999	2000
Number	2,227	2,561	1.263	760	581	550	567	490

*Source: The Department of Migration, Ministry of Interior*

One amendment to the Law on Citizenship deserves special attention. The 16 July 1993 amendment to the law rephrased the provision of art. 16 (as formulated prior to the adoption of the Constitution) which regulated the granting of citizenship by way of exception to citizens of foreign states who had special qualities desired by the Republic of Lithuania. It was established that, in such cases, citizenship was no longer to be granted by way of exception by the Presidium of the Supreme Council (which ceased to exist) but by the President of the Republic. This, of course, was a formality. More piquant was another rephrasing in the 16 July 1993 amendment: the formula ‘with special merits’ was changed into ‘with merits to Lithuania’. The Constitutional Court, while interpreting, in its 13 November 2006 ruling, this ‘change in wording’, drew on its earlier ruling of 30 December 2003, whereby it had interpreted the provision contained in art. 12, para. 2 of the Constitution (that 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) in such a way that

‘in the course of the establishment of the grounds of acquisition of citizenship of the Republic of Lithuania and regulation of the procedure of acquisition and loss of citizenship, the legislator enjoys discretion. However, the legislator is not permitted to establish any such legal regulation under which cases of dual citizenship would be not extraordinarily rare exceptions, but a widespread phenomenon.’

Since the wording of art. 16 of the law was changed, the provision could be found to be unconstitutional if it meant that the merits to the Republic of Lithuania mentioned therein could be not of a ‘special’ character. However, the Constitutional Court did not find the provision unconstitutional; it interpreted the change as merely editorial (drawing upon the *travaux préparatoires* and language dictionaries). It did not deviate from the constitutionally binding understanding of the granting of citizenship by way of exception as ‘an exceptional, special and extraordinary case’, and thus was not a substantive change. The Court stated that

‘in the sense of the Law on Citizenship, only the activity of the person is to be considered to have merit to the Republic of Lithuania, when the person very significantly contributes to strengthening of Lithuanian statehood, to the increase of power of Lithuania and its authority in the international community, when it is evident that the person has already been integrated into the Lithuanian society’

and that

‘only in such cases there may appear preconditions for consideration and decision whether the citizen of a foreign state or stateless person is with merits desired by the Republic of Lithuania, as required by the Law on Citizenship’.

Here, it makes sense to quote the 30 December 2003 ruling more extensively:

‘while one takes account of the fact that citizenship of the Republic of Lithuania expresses legal membership of the person in the State of Lithuania and reflects his legal

belongingness to the state community, the civil nation, the President of the Republic, when he decides whether to grant citizenship of the Republic of Lithuania to a person, must be guided by interests of the Nation and the State of Lithuania’;

‘by means of laws or other legal acts one cannot establish a final list of merits, for which a citizen of a foreign state or a stateless person can be granted citizenship of the Republic of Lithuania by way of exception’;

‘the merits of the person who requests to be granted citizenship of the Republic of Lithuania by way of exception must be such and grounded in such a way so that it would not cause any doubts as to their presence’.

And further:

‘Granting of citizenship means that one holds that a permanent legal link has appeared between the person and the state, that such a person has become a member of the state community—the civil nation. The state, as the organisation of the entire society, cannot be indifferent as to what persons become its citizens. Therefore, even in cases when a citizen of a foreign state or a stateless person has merits to the Republic of Lithuania and is linked with the State of Lithuania by permanent factual links, is integrated into the Lithuanian society, when one decides whether to grant citizenship of the Republic of Lithuania to such a person by way of exception, one must assess all the circumstances characterizing such a person, one must follow the interests of the Nation and the State of Lithuania’.

It must be mentioned that the 30 December 2003 ruling related to a case initiated by the Seimas when it became known that the then President of the Republic had granted Lithuanian citizenship ‘by way of exception’ to a Russian citizen who, in order to acquire Russian citizenship, had just renounced a previously possessed Lithuanian citizenship. His previously possessed Lithuanian citizenship had been acquired illegally since he, as a former USSR occupation army officer, was not entitled to it. Lithuanian citizenship was ‘repeatedly’ granted to this person ostensibly because of his merits to the Republic of Lithuania. However, it was in fact given as a reward for his financial and other support for the President during his electoral campaign. This abuse of power constituted one of the grounds for concluding that the President had committed gross violations of the Constitution and breached his oath to the Nation. He was removed from office by way of impeachment. This was the first effective impeachment in Europe.

During the 1990s, the granting of citizenship by way of exception became a widespread practice; in certain cases citizenship was granted to whole families, including minors.

**Table 3. Granting of citizenship by way of exception, 1993–2003**

Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Number	47	127	157	65	104	64	71	71	49	75	27

*Source: The Department of Migration, Ministry of Interior*

In its ruling of 30 December 2003, the Constitutional Court assessed such citizenship practices:

‘[I]t is clear from the case material that when one used to grant citizenship of the Republic of Lithuania by way of exception (without applying general conditions of naturalisation) to citizens of foreign states or stateless persons, one often used to interpret and apply the norms of the Law on Citizenship which established the powers of the President of the Republic to grant the citizenship of the Republic of Lithuania by way of exception in a legally deficient manner, without taking account of the essence and nature of citizenship of the Republic of Lithuania as enshrined in the Constitution.... Merits of a citizen of a foreign state or a stateless person to the State of Lithuania cannot be evaluated on the mere amount of sum of money or the amount of material and other support rendered by the citizen of a foreign state or stateless person to a certain citizen or a group of citizens of the Republic of Lithuania, a state official, a certain enterprise, establishment or organisation or even to the State of Lithuania itself. Citizenship of the Republic of Lithuania cannot be acquired for financial, material or any other support, *i.e.* bought....It is clear from the decrees of the President of the Republic issued in 1995-2003...attached to the case that sometimes one used to consider persons under age as those with merits to the Republic of Lithuania, who actually did not have merits to the Republic of Lithuania, that one sometimes used to regard individual persons to be with merits to the Republic of Lithuania only because that they had made investments in Lithuania into enterprises that belonged to them, or rendered financial or other support to individual organisations, etc....[O]ne used to grant citizenship of the Republic of Lithuania by way of exception also to the citizens of foreign states who had possessed citizenship of the Republic of Lithuania and had lost it because they had acquired citizenship of another state. Such conception of the legal regulation consolidated in the Law on Citizenship virtually means that granting of citizenship of the Republic of Lithuania by way of exception (without application of general conditions of naturalisation) often used to be understood not as a statement of the factual, permanent link that had been established between the person seeking to acquire citizenship of the Republic of Lithuania and the State of Lithuania and the transformation of such a link into a permanent legal link between the person and the State of Lithuania, but as a way to create legal grounds for a citizen of a foreign state or stateless person to acquire the passport of a citizen of the Republic of Lithuania so that the said person could easier arrive in Lithuania and stay in Lithuania, to arrange his property, business and other dealings in Lithuania, also, to go to many European and other states without a visa....[S]uch conception of art. 16 of the Law on Citizenship, which had been in practice until now, distorts the institution of citizenship of the Republic of Lithuania established in the Constitution and virtually devalues citizenship of the Republic of Lithuania, by denying its nature and meaning.’

This doctrine of the Court, as well as the result of the case, radically influenced the numbers of citizenships granted by way of exception.

**Table 4. Granting of citizenship by way of exception, 2004–2008**

Year	2004	2005	2006	2007	2008
Number	–	–	–	1	1

*Source: The Department of Migration, Ministry of Interior*

Within this context, the 3 October 1995 amendment to art. 16 is also important: it was established that the granting of Lithuanian citizenship by way of exception would not by itself cause legal consequences for the members of family of the person who has acquired citizenship.

### *Loss of Citizenship*

By an amendment to the law of 14 December 1993, it was established that a citizen who, after he had been issued with the documents of citizenship of the Republic of Lithuania, had acquired citizenship of another state or has been issued a passport of another state or any other document confirming the citizenship of that state, will lose citizenship of the Republic of Lithuania on the day of the acquisition of the citizenship of another state or on the day of the issue of the passport of citizenship of that state or any other document confirming the citizenship of that state.

The grounds for losing Lithuanian citizenship were slightly mitigated by the amendment of 3 October 1993. It was no longer considered grounds for having severed the actual links with the Lithuania state if one had lived abroad for an uninterrupted period exceeding 3 years without the passport of a citizen of the Republic of Lithuania. However, other elements of the notion ‘severing of the actual links with the State of Lithuania’ (*i.e.* having lived abroad for an uninterrupted period exceeding 3 years with an invalid passport of a citizen of the Republic of Lithuania and joining the military service of another state or taking employment as a state official in another state without the permission of the competent bodies of the Republic of Lithuania) were left intact.

The arrangements for the return of citizenship, however, were somewhat ‘liberalised’. As already mentioned, under the 1991 Law, Lithuanian citizenship could not be returned to a person who had lost it on the basis that he or she had acquired the citizenship of another state. It could only be returned to a person who was stateless or a citizen of a state, according to the laws of which, he would lose that citizenship of that state by acquiring Lithuanian citizenship. The amendment of 3 February 1996 provided for a possibility to return Lithuanian citizenship to such a person but only if at the time of his or her application he or she permanently resided in the territory of the Republic of Lithuania and fulfilled the condition of not holding the citizenship of another state or the condition of agreeing to renounce the citizenship of another state. Normal naturalisation conditions regarding a permanent place of residence in Lithuania and a permanent job or other permanent legal source of support had to be met.

**Table 5. Renunciation of citizenship, 1993–2000**

Year	1993	1994	1995	1996	1997	1998	1999	2000
Number	4,041	773	479	452	552	423	211	298

*Source: The Department of Migration, Ministry of Interior*

## Repatriation

As already mentioned, in the 1991 Law, the restoration of the right to citizenship was related to the non-repatriation of the respective persons. Within this context, the 15 March 1994 amendment to the Supreme Council Resolution of 10 December 1991 must be mentioned. This amendment established that persons who restored citizenship under art. 18, para. 3 (see supra 2.5) of the law and members of their families, ‘shall specify in the application for restoration of citizenship whether they have not repatriated from Lithuania and shall provide evidence thereof’. The Seimas interpreted the notion of ‘repatriation’ as used in the law as meaning ‘departure for one’s ethnic homeland and settlement there’. The Constitutional Court, in its 13 November 2006 ruling, held that the Seimas by defining, in the sub-statutory act which the Resolution was, the content of the notion ‘repatriation’ used in the law did not consider the hierarchy of legal acts. Consequently, this provision was recognised as unconstitutional, since the definition of ‘repatriation’ (pertaining to the fundamental rights of a person) could be contained only in an act of the Seimas, *i. e.* the statute (the law). What was more important (and the Court expanded on it at length) was that the definition of the notion had been formulated in the 15 March 1994 amendment to the Resolution. The ruling constitutionally forbade this usage as a contradiction of the constitutional principle of equality of persons even if the Seimas had endeavoured to define it in the statute (which it later did). More specifically, the Court held that the definition, given the context of its usage, implied that retention of the right to Lithuanian citizenship depended on the ethnic origin of the person and on which country, an ethnic homeland or other country, the person departed for from Lithuania. The rights to the retention of citizenship and the implementation of the right to citizenship and the restoration of citizenship were restricted to persons of non-Lithuanian origin who had held the citizenship of the Republic of Lithuania prior to 15 June 1940 and who departed for their ethnic homeland, and to their children. This regulation deviated from the constitutional imperative (art. 29) that the rights of the human being may not be restricted, nor may anyone be granted any privileges on the grounds of, *inter alia*, race, nationality, language, origin or social status. The same definition of the notion of ‘repatriation’ was also contained in the Resolution as amended on 18 July 1994. It was recognised as unconstitutional on the same grounds. The provisions of the law (in the wordings of 5 December 1991, 7 December 1993, 3 October 1995, 6 February 1996 and 2 July 1997) which linked the retention of the right to citizenship to repatriation were recognised as unconstitutional, too, as was the provision of the 19 October 1995 law ‘On the Procedure for Implementation of the Republic of Lithuania Law on Citizenship’ (and the later wording of the same law of 2 July 1997), wherein (art. 1, para. 3) the Seimas placed the same definition (by the Seimas Resolution adopted on the same day that the Resolution of 10 December 1991 was recognised as invalid).

It was explicitly stated in this ruling by the Constitutional Court that the recognition of unconstitutionality rested

‘not on the fact that the right for the persons who repatriated from Lithuania also to hold citizenship of the Republic of Lithuania along with the held citizenship was not established, but on the fact that the right to citizenship of the Republic of Lithuania was not retained to said persons, *i.e.* they no longer had an opportunity, under the law, to freely decide whether to renounce the citizenship of another state and to become citizens of the Republic of Lithuania, or to remain citizens of another state and not to become citizens of the Republic of Lithuania.’

It is noteworthy that the group of MPs which initiated the case believed that citizenship should not be related to ethnicity and that such a relationship privileged ethnic Lithuanians and discriminated against non-Lithuanians. The petitioners did not challenge the 1991 Law or its subsequent amendments or supplements but instead the new 2002 Law where the relationship was even more clearly expressed (see *infra* 3). On the other hand, there are insufficient grounds to assert that, by this regulation, all non-Lithuanians were discriminated against 'equally'. Those of them who emigrated and resided in states other than their ethnic homeland (*e.g.* Jews in the USA or Ukrainians in Russia, or Tartars or Karaites who do not have an independent state which could be called their 'ethnic homeland') did not fall under the repatriation clause and were entitled to the same status as ethnic Lithuanians.

**Table 6. Ethnic composition of Lithuania's population**

Ethnicity	1989 census	2001 census
Lithuanians	79.6	83.5
Poles	7.0	6.7
Russians	9.4	6.3
Byelorussians	1.7	1.2
Ukrainians	1.2	0.7
Jews	0.3	0.1
Others	0.8	1.5

*Source: www.verslas.banga.lt*

### *Summing Up: Multiple Citizenship*

In its 13 November 2003 ruling, the Constitutional Court summed up the possibilities for Lithuanian citizens to have in addition the citizenship of another state as entrenched in the 1991 Law on Citizenship (with subsequent amendments and supplements) at the time when the Constitution was already in effect. It stated that the principle of prohibition of 'dual citizenship', as well as exceptions to this prohibition, has always been entrenched in this law. In the initial wording of 5 December 1991, only two exceptions to the prohibition were entrenched: 1) a foreigner, without renouncing citizenship held by him or her, could be granted Lithuanian citizenship for having special merits to the Republic of Lithuania; and 2) persons of Lithuanian origin who held the citizenship of the Republic of Lithuania and who had departed from Lithuania in the period from 15 June 1940 to 11 March 1990 and were at the present time residing in other states, as well as their children who have not acquired the citizenship of another state by birth, could have their Lithuanian citizenship restored without renouncing the held citizenship of another state. This (as well as the arrangements for retention of the right to Lithuanian citizenship which saw the circle of those retaining said right gradually expanding) was approved by the Constitutional Court (save the repatriation clauses), for such cases could be only 'very rare (individual), exceptional, but not common ones'. However, the gradual expansion of the possibility for multiple citizenship (which

started with the 10 December 1991 amendment) was assessed differently. It amounted to the creation of preconditions for ‘dual citizenship’ to become not an especially rare exception, but a widespread phenomenon. Consequently, the relevant provisions (contained in the 7 December 1993, 3 October 1995, and 2 July 1997 amendments to the law) were recognised as unconstitutional.

However, the principle of legal certainty compelled the Court to state explicitly that the recognition of unconstitutionality may not be interpreted as grounds to question the acquisition of Lithuanian citizenship by persons who acquired it according to the law prior to this recognition of its unconstitutionality.

The outcome of the case did not meet the expectations of the petitioner – the group of MPs who asserted that non-Lithuanians should also be given the right of having multiple citizenship — even if they repatriated. Thus, with this case, the equality of persons irrespective of their nationality was secured. However, this equality was on the basis that all were subject to the prohibition on multiple citizenship with the exception of those who already held two or more citizenships according to then valid law before its unconstitutionality was established.

### **3 The Current Citizenship Regime**

#### **3.1 The 2002 Law on Citizenship**

Whatever incompatibility with the Constitution of the 1991 Law (and its subsequent amendments and supplements) and related statutory and sub-statutory legislation, it should be noted that the defects were recognised by the Constitutional Court only at the end of 2006 by which time the law was no longer in force. One can easily see from the discussion above that the political will (of the MPs) to expand the possibilities for multiple citizenship which, with some exceptions, is prohibited in the Constitution was implemented, at least to a certain degree, in roundabout ways.

On the other hand, after independence was restored and the frontiers were opened, Lithuania really underwent, partly as a result of a brain drain and partly as cheap labour, a mass emigration which could be compared to an exodus. This is sometimes called ‘the greatest non-military threat to national security’. It is said that, in this respect, Lithuania is the ‘leader’ among all the EU newcomers. No undisputable statistics on this matter exist. It is estimated that the new emigration comprises up to 400,000 people—most of whom have gone to the UK, Ireland, the USA, Spain, and Germany, but also elsewhere. It is not yet known how many of them have left for ever. The constitutional prohibition of multiple nationality, as well as the provision that a Lithuanian citizen loses his or her citizenship whenever he or she obtains foreign citizenship, did not stop many of the new emigrants from acquiring citizenship of the states where they settled to reside often without informing the Lithuanian authorities about the new citizenship they obtained. By using alternately both passports whenever and wherever necessary, a ‘dual citizen’ feels more ‘comfortable’. Various emigrant organisations (including the influential World Lithuanian Community) pressed, both formally and informally, for the MPs and the executive to get rid of this ambiguous situation whereby members of the ‘old’ (*i.e.* the Soviet era and earlier) emigration had to ‘restore’ or to ‘implement’ their right to Lithuanian citizenship by taking an oath to the Republic. This is an act that citizens of some countries, including the USA, are not allowed to perform without

jeopardising their citizenship. This pressure culminated and achieved its goal in 2002 when the Seimas finally resolved not to pay much attention to the constitutional prohibition of multiple citizenship and passed the new Law on Citizenship in which virtually all former restrictions (save minor ones) were removed.

This law was adopted on 17 September 2002 and entered into force on 1 January 2003; from that day the formerly valid Law on Citizenship (wording of 5 December 1991 with subsequent amendments and supplements) and the 1995 Law ‘On the Procedure for Implementation of the Republic of Lithuania Law on Citizenship’ became null and void. On the same day the Law on the Implementation of the Law on Citizenship was also adopted which also came into effect on 1 January 2003. The new Law on Citizenship in structure and phrasing mostly repeated the one of 1991, which, in its turn, in these respects had repeated the Law of 1989. Some of the new law’s provisions were as clumsy as those in previous laws.

### *The Body of Citizens and Retention of the Right to Citizenship*

As with its predecessors, the new law did not start by defining concepts and notions or by stating general principles from which one could extract the essential content of citizenship policy. This would be desirable from the point of view of modern legislative technique. The new law instead started with the definition of which persons ‘shall be’ Lithuanian citizens.

Regarding the definition of what ‘persons shall be citizens of the Republic of Lithuania’, little had changed compared to previous legislation, except for the explicit mention not only of children and grandchildren but also of great-grandchildren of the persons who held citizenship of the Republic of Lithuania prior to 15 June 1940, and persons who acquired citizenship prior to 4 November 1991 under the Laws on Citizenship of 3 November 1989 and of 5 December 1991’ (art. 1). The Constitutional Court, in its 13 November 2006 ruling, held that the quoted repatriation clause (and also the definition of repatriation contained in art. 2 of the Law on the Procedure for Implementation of the Law on Citizenship which, in essence, repeated the definition of the notion as formulated in the earlier statutory and sub-statutory legislation), as well as the provision that persons who held citizenship of the Republic of Lithuania prior to 15 June 1940, their children, grandchildren and great-grandchildren, shall be Lithuanian citizens *ex lege* even if they hold citizenship of another state, were unconstitutional.

The 2002 Law reserved the retention of the right to citizenship for an indefinite period of time to:

1) persons who held citizenship of the Republic of Lithuania prior to 15 June 1940, their children, grandchildren and great-grandchildren (provided that said persons, their children, grandchildren or great-grandchildren have not repatriated), who are residing in other states;

2) persons of Lithuanian origin who are residing in other states (Para. 1, Art. 17).

Again, the novelty was the extension of the right to great-grandchildren. The repatriation clause contained in the provision quoted here was also quashed (in the same ruling of the Constitutional Court) as unconstitutional, as well as another provision (art. 17, para.3) which pertained to the implementation of the right to Lithuanian citizenship which did not establish a requirement to renounce the citizenship of another state when exercising the right to Lithuanian citizenship. This was formulated even more ambiguously than in the previous law, namely: ‘Persons specified in items 1 and 2 of paragraph 1 of this article, shall

exercise the right to citizenship of the Republic of Lithuania in accordance with item 1 of paragraph 1 of article 1 of this law or shall be considered persons of Lithuanian origin residing in other states’.

### *Naturalisation*

The conditions for naturalisation were not essentially changed by the 2002 Law. The law still requires the oath to the Republic of Lithuania. It also requires the applicant to pass an examination in the Lithuanian language, to provide evidence of a legal source of support in the territory of the Republic of Lithuania, and to pass an examination on the basic provisions of the Constitution of the Republic of Lithuania. A person applying for citizenship by naturalisation must also be a stateless person or a person who is a citizen of a state under the laws of which he or she loses the citizenship of the state upon acquiring the citizenship of the Republic of Lithuania. The applicant must also provide a written notification of his or her decision to renounce the citizenship of another state held after he or she is granted citizenship of the Republic of Lithuania. He or she must also have had a permanent residence in the Republic of Lithuania for the last ten years (art. 12). This term of residence is not applied for those who have contracted a marriage with a Lithuanian citizen and have maintained their marital status for the last 5 years while residing in Lithuania, deportees, political prisoners or their children born in exile. For them, citizenship shall be granted provided that they have maintained their marital status for the last three years, have moved to a permanent residence in the Republic of Lithuania together with their spouse who is a citizen of the Republic of Lithuania and meet the other conditions for naturalisation save a condition of a legal source of support. Also, a person who, after contracting a marriage with a citizen of the Republic of Lithuania, has resided on the territory of the Republic of Lithuania for over a year may, in case of death of his or her spouse, be granted Lithuanian citizenship after he or she has resided in the Republic of Lithuania for three years, provided that the same conditions are met (art. 14). In the 2002 Law, as well as in the legislation preceding it, there were no legislative provisions which would in any way differentiate between spouses by gender with relation to their naturalisation.

It was also provided that citizenship would not be granted to persons who:

- 1) have committed international crimes provided for by the international treaties to which the Republic of Lithuania is a party or by customary law, such as: aggression, acts of genocide, crimes against humanity, or war crimes;
- 2) have taken part in criminal activities against the State of Lithuania;
- 3) before coming to Lithuania, have had imposed upon them a custodial sentence for a premeditated crime for which laws of the Republic of Lithuania also prescribe criminal liability, or have been convicted in Lithuania for a premeditated crime punishable by a custodial sentence (art. 13).

Repeat applications for the granting (or restoration) of citizenship of the Republic of Lithuania shall be accepted not earlier than one year after the adoption of the previous decision (art. 31).

**Table 7. Granting of citizenship by naturalisation**

Citizen of	2001	2002	2003	2004	2005	2006	2007	2008	Total
Armenia	8	5	10	18	5	3	9	2	60
Azerbaijan				2	1		2		5
Belarus	25	20	8	39	24	28	31	10	185
Bolivia						1			1
Bosnia-Herzegovina			1						1
Bulgaria		1							1
Egypt					1				1
Georgia	2	1	1	1	3	2		1	11
Iran		1							1
Israel	2	1	2	3	3		1		12
Kazakhstan	2	3		9	1	6	4	3	28
Kyrgyzstan		1			2				5
Latvia		3	1	1	1			1	7
Lebanon	3	2		1	3	2		3	14
Mexico								1	1
Moldova	2	1	4		4	5	3	1	20
Pakistan				1					1
Poland	1		1	1	1	1	2	2	9
Romania		1							1
Russia	66	75	87	179	151	151	113	54	876
South Africa			1						1
South Korea							1		1
Syria		1							1
Tajikistan			1						1
Turkey		1		2					3
Turkmenistan	1								1
Ukraine	9	24	19	37	21	30	20	31	191
Uzbekistan	1		1	2				3	7
Stateless persons	385	363	252	314	214	238	184	128	2078
Total	507	505	389	610	435	437	370	240	3493

*Source: The Department of Migration, Ministry of Interior*

*Loss of citizenship*

As for regulating the loss of citizenship, the 2002 Law was especially 'inventive'. The relevant provisions were probably most important insofar as they expanded the possibilities for multiple citizenship to the point where there were, in fact, no limits (save for the repatriates). Having established that Lithuanian citizenship would be lost upon the renunciation of it, upon acquisition of citizenship of another state or on the grounds provided for by international agreements to which the Republic of Lithuania is a party, the legislator made the proviso that the second of these grounds (*i.e.* acquisition of citizenship of another state) would not be applicable either to persons who had held citizenship of the Republic of Lithuania prior to 15 June 1940, their children, grandchildren and great-grandchildren (provided that they, their children, grandchildren or great-grandchildren have not repatriated), or to persons of Lithuanian origin whose parents or grandparents are or were or one of parents or grandparents is or was Lithuanian and the person considers himself to be Lithuanian (art. 18, paras. 1-2). This 'ingenuity' also resulted in the recognition of unconstitutionality of the provision. The Constitutional Court held that, by this regulation, preconditions were created for dual citizenship to become 'not an especially rare exception, but a widespread phenomenon'. It is well known that in order to acquire the citizenship of certain states (*e.g.* the USA, Denmark, Norway) one, according to the laws of these states, has to renounce the citizenship held at the time of acquisition. Such cases would formally fall under the grounds for the loss of Lithuanian citizenship as the 'renunciation of citizenship' and not the 'acquisition of citizenship of another state'. In practice, however, this was neglected. There are no known cases where Lithuanian authorities applied the renunciation of the citizenship clause to persons who acquired citizenship of the USA whereby they have to pronounce an oath beginning with the words: 'I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen...'

The regulation was amended on 6 April 2006. The amendment limited the proviso cited described and established that the acquisition of the citizenship of another state, as the grounds for the loss of Lithuanian citizenship, would not be applicable to the same categories of persons as listed above (that is, to persons who held citizenship of the Republic of Lithuania prior to 15 June 1940, their children, grandchildren and great-grandchildren (provided that they, their children, grandchildren or great-grandchildren have not repatriated), and to persons of Lithuanian origin whose parents or grandparents are or were or one of whose parents or grandparents is or was Lithuanian and the person considers himself Lithuanian), only if they acquired citizenship of another state after 1 January 2003 (art. 18, para. 2). At the same time, it was established that persons who, 'upon acquiring citizenship of another state or upon receiving the passport of a citizen of another state or any other document confirming citizenship of that state before 31 December 2002 shall be considered to have lost citizenship of the Republic of Lithuania from the day of acquisition of citizenship of another state or from the day of issue of the passport of citizen of that state or from the day of issue of any other document confirming citizenship of that state' (art. 18, para. 4). Thus, what was legalised by the 17 September 2002 wording, namely, the factual retention of Lithuanian citizenship upon acquisition of citizenship of another state prior to coming of the 2002 Law into effect, once again became illegal. However, as the possibility for multiple citizenship remained wide open to those who would acquire a foreign citizenship in future, of the cited amendments art. 18, para. 2 was recognised as unconstitutional but not art. 18, para. 4.

There are no reliable statistics, however, on how many citizens, especially those belonging to the new emigration managed, in 2003–2006 (and especially in early 2006 before the 6 April 2006 amendment), to make use of this regulation and to acquire citizenship of a foreign state; unofficial sources (whose reliability is difficult to verify) mention figures of close to or even more than 100,000. Moreover, the regulation was such that it was possible, for a Lithuanian citizen, to acquire the citizenship of a foreign state without losing Lithuanian citizenship even in cases when a person was resided in Lithuania and did not emigrate.

**Table 8. Retention of citizenship after acquisition of citizenship of another state, 2003–2006**

Year	2003	2004	2005	2006
Number	140	299	115	161

*Source: The Department of Migration, Ministry of Interior*

Regarding the other grounds for the loss of Lithuanian citizenship, it was established that a person will be recognised as having lost this citizenship if he or she is in the military service of another state or is employed in the public service of another state without having been granted authorisation by the relevant institutions of the Republic of Lithuania. It is noteworthy that the provision, which can traced back to 1937, that a Lithuanian citizen may lose this citizenship for ‘severing of the actual links with the State of Lithuania’ (defined as ‘having lived abroad for an uninterrupted period exceeding three years with an invalid passport of a citizen of the Republic of Lithuania’) were valid up to 1 January 2003 when the new law came into effect. This was despite criticism not only in the legal literature but also by practitioners. It is seldom applied (once in 2004<sup>7</sup>). The law also allows for the possibility of the restoration of Lithuanian citizenship.

**Table 9. Loss of citizenship, 2008**

Renounced citizenship	Acquired citizenship of another state	Did not opt for Lithuanian citizenship according to the 1989 Law, resides abroad and did not inform Lithuanian authorities about his or her option for citizenship	Total
121	647	158	926

*Source: The Department of Migration, Ministry of Interior*

<sup>7</sup> Source: [www.migracija.lt](http://www.migracija.lt).

**Table 10. Return of lost citizenship, 2001–2008**

Year	2001	2002	2003	2004	2005	2006	2007	2008
Number	1	1	82	68	48	62	26	14

*Source: The Department of Migration, Ministry of Interior*

### **3.2 Privileges for Emigrants: Disregard of the Prohibition of Multiple Citizenship**

Another amendment made on 6 April 2006 neglected, in a peculiar way, the constitutional prohibition on multiple citizenship. It was established that a person, who wishes to restore his or her Lithuanian citizenship, was not required to renounce the citizenship of another state (art. 20, para. 2). This was later recognised as unconstitutional.

As another example of disregard for the Constitution, the amendment of art. 16 of the Law on Citizenship must be mentioned. This article pertained to the granting of citizenship by way of exception and, by the amendment of 9 December 2004, was reformulated in line with the Constitutional Court's doctrine as elaborated in its 30 December 2003 ruling (see above 2.6.4). However, by the new amendment of 18 July 2006, the grounds for granting of citizenship by way of exception were expanded: it was established that the President of the Republic could grant the citizenship of the Republic of Lithuania to citizens of foreign states or stateless persons 'when it is related to the public interest or glorification of the name of the Republic of Lithuania by representing Lithuania'. This casuistic formula appeared after the intense (and very open) pressure of sports NGOs in anticipation that a top female basketball player (with an American passport) who had played for two seasons for the Lithuanian domestic team would be able, as a citizen, to join the Lithuanian national team so as to participate in the World Championship later that year. Lithuanian sports officials and NGOs expected the best results, even a 'golden' victory in the country's favourite sport. Despite this amendment, the player did not join the team because of an injury she suffered before the championship. The amendment did not last long. It was quashed by the Constitutional Court, in its 13 November 2006 ruling, as unconstitutional.

After discussing the legislative developments and contexts of citizenship, one cannot shake off the impression that they reveal, at least to some extent, the obscurity and ambiguity of citizenship policy, as well as the sometimes deliberate ignorance of the relevant constitutional imperatives. The policy was and remains highly unstable. As noted by the Constitutional Court, in its 13 November 2006 ruling, the requirement of stability is particularly relevant to the legislative provisions which define the body of the citizens of the Republic of Lithuania. The Court summarised its extremely long review of citizenship legislation by stating that it is very controversial, inconsistent and confusing, more specifically, that the 2002 Law on Citizenship as well as earlier laws included a number of provisions which were hardly compatible with each other, and that some formulas were ambiguous. It was stated that this law in essence needed correction.

Addressing the issue of multiple citizenship, the Court stated that the legislature, in disregarding the Constitution, continually expanded the legislative possibilities for citizens of the Republic of Lithuania to also hold the citizenship of another state, and that, finally, legal regulations had been established such that a great number of the citizens of the Republic of

Lithuania could concurrently also be citizens of other states. If the legislator wished to follow the principle that ‘dual citizenship’ had not to be restricted, it had to start the revision of the corresponding provisions of the Constitution, namely of art. 12. To do this required following the procedure which was established in the Constitution itself, that is, by holding a referendum. The Constitutional Court also held that no matter how the legal regulation of citizenship relations might be corrected in the future, the provisions of the Constitution must be heeded, especially those which entrench the equality of all persons and non-discrimination on the grounds of ethnic origin.

### **3.3 Institutional Arrangements**

The 2002 Law made almost no changes to the existing institutional arrangements and did not contain provisions which competed with the constitutional ones. As mentioned, Lithuanian citizenship is granted – both by way of naturalisation and by way of exception – by the President of the Republic (art. 84, item 21 of the Constitution). Neither the Seimas nor the Government nor any other institution may interfere in these powers of the President. However, the President is entitled to grant citizenship only ‘in the procedure established by law’, thus, his or her discretion is limited by the relevant statutory requirements.

However, one constitutional provision, namely that contained in art. 85, deserves special attention. According to this article, to be valid, the decrees of the President of the Republic specified in certain items of art. 84 of the Constitution must also be counter-signed by the Prime Minister or an appropriate Minister, and ‘responsibility for such a decree shall lie with the Prime Minister or the Minister who signed it’. This also pertains to presidential decrees by which Lithuanian citizenship is granted to aliens. As is seen from the situation already described (*supra* at 2.6), this ministerial responsibility cannot extricate the President from his own constitutional responsibility in such cases where the granting of Lithuanian citizenship constitutes a gross violation of the Constitution and the breach of oath to the Nation which is grounds for the President’s removal from office by way of impeachment. The Department of Migration dealing with most routine issues on citizenship (such as the collection of applications) is within the system of the Ministry of the Interior. Diplomatic and consular offices are involved in these matters to a minor extent, as well as local municipalities. They were, under the 2002 Law, made responsible for setting the conditions for the oath-taking of the new citizens.

Under the 2002 Law, to assist the President of the Republic on citizenship matters, the Commission of Citizenship was formed. It is established by the President and its composition lies within presidential discretionary powers. However, the Commission’s voice is only advisory. Moreover, the investigation, by the Constitutional Court, of the unconstitutional granting of citizenship as a reward for the support in the presidential campaign, led to the conclusion that the procedural provisions under which this Commission had to operate, were, at one time, completely lacking (see Constitutional Court ruling of 30 December 2003). Such rules are issued by the President.

## **4 Current Political Debates and Reform Plans**

The landmark ruling of the Constitutional Court which has been cited so many times in this report produced real havoc. Many statutory and sub-statutory provisions (both those in effect

at the time of the ruling and those that had already lost their validity) were recognised as unconstitutional because they either discriminated against former Lithuanian citizens of non-Lithuanian ethnic background and/or consolidated multiple citizenship not as exception which would be allowed by the Constitution but rather as an unrestricted possibility. As this one Constitutional Court ruling caused so many statutory and sub-statutory provisions to be removed from legal ‘circulation’, the Law on Citizenship became a document which contained many lacunae and uncertainties.

What took place after the ruling came into force (which was three days after it was handed down when it was published in the Official Gazette), may be instructive as to the mode and intensity of public debate in a post-Communist country on the issues that lie on the boundary between law and politics. These lacunae and inadequacies were not only not filled for about two years but were used as a ‘pictorial’ argument to dispute the power of the Constitutional Court to deliver the final verdict on the constitutionality of statutes and to give official interpretations of the Constitution. It was asserted that the Court had usurped these powers and that, by elevating law above politics, attempted to force the Seimas to squeeze its policy decisions into the constitutional frame which amounted to a ‘killing of policy’.<sup>8</sup>

A lot of populist pressure was exerted on the Court, probably in the naïve belief that it could initiate the review of its own ruling. This never happened.

At the time of the writing of this report, there is an ongoing and heated debate on the requirements which those aspiring to Lithuanian citizenship should satisfy and on the possibility of allowing for multiple citizenship (if necessary, by means of constitutional amendment). The very essence of the right to citizenship is also being debated, namely, whether the right to Lithuanian citizenship (as well as the right to citizenship in general) must be treated as an inborn right of persons related to Lithuania in some way (and in what way), or not. It must be emphasised that those taking part in the debate are not only lawyers, commentators or media people, but politicians, including the members of the Seimas, and their opinions radically diverge. This question is sometimes addressed to the President of the Republic, but the answers received only excited the impression that even the President,<sup>9</sup> in his legal initiatives,<sup>10</sup> did not fully correspond to his own political attitudes.

At the core of the debate is the issue of multiple citizenship which the Constitution, as has been mentioned repeatedly, forbids as a general rule and allows only by way of exception. The topicality of the whole range of issues pertaining to citizenship matters is conditioned chiefly by two factors already mentioned, namely, by the large number of the Soviet era deportees and emigrants and by the large number of post-independence emigrants. Those who assert that the right is an inborn one assume that the person who is already a Lithuanian citizen may not be stripped of this citizenship without reason, unless he or she opts for voluntary renunciation. If the answer to the question of the ‘inborn character’ of this right is ‘no’, there remains enough space for debate about what the conditions should be upon which the State of Lithuania could deprive a person of Lithuanian citizenship even if he or she has not opted for its renunciation. In this context, the answer to the paramount question about the inborn character of the right to citizenship is not abstract theorising but something which must be at the very heart of the underlying principle of Lithuanian citizenship policy, whatever it may be. The answer to this question will inevitably provide the justification for the relevant legislative enactments which, when they take place, may trigger such corollaries which today may be difficult to foresee. They may also bring heavy costs to a young, small and not rich

<sup>8</sup> In Lithuanian, the term for ‘politics’ and ‘policy’ is the same (*politika*).

<sup>9</sup> That is, President Valdas Adamkus. The new President, Dalia Grybauskaitė, was sworn in on 12 July 2009.

<sup>10</sup> That is, the right to present bills to the Seimas and the veto power (suspensive).

state which is still emancipating itself from its Soviet heritage. An answer that would satisfy the majority of the political establishment has not yet been found, not to speak of a wider social consensus, therefore it would be premature to say that Lithuania has any sort of citizenship policy. It simply does not exist. The fact that it does not now exist, or, to be less pessimistic, is currently in the process of being reformulated, does not mean that citizenship policy did not formerly exist. This also does not mean that there will be no clear citizenship policy in the near future. Inevitably citizenship policy in Lithuania will have to be formulated and reflected in legislation in the next few months. The problem today is that it is not possible to predict what kind of policy there will be because it is impossible to predict what the answer will be, on a political level, to the paramount question of the right to citizenship.

Regarding the developments which took place after the Constitutional Court's 13 November 2006 ruling, if anybody was convinced by populist incantations that the Constitutional Court had 'rejected' a big part of the Lithuanian nation by not allowing Lithuanian citizens (especially the new emigrants) to have concurrently the citizenship of other states, it was MPs who, in mid-2008, with the support of activists from amongst the group of new emigrants, approved the legislative innovations which overcame the Court ruling and repeatedly legalised multiple citizenship. On 30 June 2008 the new version of the Law on Citizenship was adopted by the Seimas which attempted to reopen the door to multiple citizenship but this time in a selective way. Citizens of Lithuania, irrespective of their place of permanent residence, who acquire the citizenship of a state which is a member of the European Union or of NATO were allowed to retain their Lithuanian citizenship (art. 18, para. 2). According to this newly adopted law the right to Lithuanian citizenship could be implemented on condition that persons renounce the citizenship that they currently hold. This requirement was not applicable to those persons of Lithuanian origin who 'traditionally' lived in the states which have borders with Lithuania. These include Latvia, Belarus, Russia, and Poland. In Poland and Belarus there are autochthonous Lithuanian minorities. The definition of a 'traditional' resident of Lithuanian origin in Russia (where in Russia? Kaliningrad Oblast? Siberia?) is obscure. Moreover, in the newly adopted law, there is an attempt to apply the norms of the 2002 Law which were, in the Constitutional Court 13 November 2006 ruling, recognised as unconstitutional. These had to be applied to petitions regarding the acquisition of citizenship or the implementation of the right to citizenship that were presented to competent bodies (*e.g.* consular offices abroad) before 16 November 2006 (the day of the official publication of the ruling of the Court).

Unexpectedly, this new variant of the Law on Citizenship was vetoed by the President on 11 July 2008. The then President's personal history of emigration and former dual citizenship (of Lithuania and the USA), as well as his public statements that he would like to see every ethnic Lithuanian wherever he or she lives abroad able also to be a Lithuanian citizen, should seemingly have prompted him not to veto but to promulgate the newly adopted law.

The Seimas did not manage to collect enough votes to overcome the veto. It could then only accept several of the most necessary amendments approved by the President and it promised that a new ('better') law would be adopted in 2009. For the time being, the Seimas has agreed with the President's proposal that the current law should be considered to be provisional and will be valid only until 1 January 2010. This term, as soon appeared, was too optimistic.

For his part, the President pledged to present to the Seimas a new bill which will correspond with the requirements of legal technique and will contain no ambiguities. He kept this promise in March 2009. In the bill, the possibilities for multiple citizenship were

expanded, compared to what was left in the current law after the Constitutional Court's intervention. However, those who ardently advocate a policy of having almost no restrictions on multiple citizenship for the new emigrants were not satisfied. Namely, if the bill becomes law, multiple ('dual') citizenship would be allowed for those persons who had departed from Lithuania (were deported or were refugees or emigrants) prior to 11 March 1990 (the day of restoration of independence) and acquired citizenship of the state of their new residence. For those who emigrated after that date the possibility will be denied. The justification for this dividing date is that most of those who departed from Lithuania prior to 11 March 1990 had limited possibilities, if any, to return to Lithuania while it was occupied by the Soviets without risking their security or even their lives. Those that had departed after 11 March 1990, however, had departed from an independent state. Of course, this date is, to a certain extent, fictitious since not all of those who emigrated before it did so for political reasons or really faced any risks if they returned. At the time of the writing of this report, the bill is under consideration by the parliamentary committees. The information which has reached us from there does not make it possible to forecast what amendments to the bill will be made and, consequently, what new citizenship regime will be introduced when (and if) the bill becomes law.

However, the Seimas, after long deliberations in committees, failed to adopt the new law. Instead, by the Law on Amendment of Article 3 of the Law on Amending the Law on Citizenship, of 1 December 2009, the Seimas extended the validity of the current Provisional Law on Citizenship until 1 July 2010.

In sum, Lithuanian citizenship policy and citizenship law continues to develop in a rather zig zag way, if not haphazardly. It is important to state the very essence of the citizenship problem in Lithuania today. It is complicated not because of the ongoing debate (as a debate on fundamental issues is one of the features of deliberative democracy) but because there is too little time to choose between citizenship policy alternatives without being unsure that the alternative chosen is the best one of all the possibilities and that the laws reflecting the chosen policy, if they are ever subjected to inspection by the Constitutional Court, will satisfy the requirements of the Constitution.

## 5 Conclusion

It is sometimes asserted that, in many Central and Eastern European states, the citizenship situation is in a state of flux (Liebich 2009: 19). It is also stated that the citizenship policy in these countries is characterised by two tendencies: 'the triumph of ethnic conceptions of citizenship over others' and 'the use of citizenship policy as a means to right historical wrongs' (Liebich 2009: 20). I do not aim to debate these generalisations but rather to show the developments in the citizenship policy and the citizenship law in one of these states, Lithuania. However, such characterisations bring me to assert that the two tendencies are, or, to be more precise, were characteristic to Lithuania only to a certain extent. The latter one, if evident at all, only appeared in limited ways, and the former was characteristic only of the period 1918–1940, *i.e.* during the first independence. However, as soon as it started to manifest itself in recent years, it was significantly corrected or even rejected. The tendency to reject these key features was conditioned, to a considerable degree, by the Constitutional Court's most extensive jurisprudence on citizenship matters in which it interpreted the constitutional clauses which pertained to citizenship.

More specifically, Lithuanian citizenship policy cannot be, without serious reservations, considered as ‘a means to right historical wrongs’, because most of the wrongs which Lithuanians see as historical ones can in no way be ‘righted’. These wrongs include the deportation of a significant part of population to faraway regions of the USSR (e.g. Siberia, Kazakhstan), the loss of lives during the Second World War, emigration to the West, and territorial losses (which were only partly compensated by certain territorial gains accompanied by incorporation into the USSR). The disarray of the fundamentals of the economic system and the social structure, imposed by the occupation, as well as the essential changes in the way of life, also, can not be ‘righted’ by means of citizenship policy. Historical wrongs are different for every country but, even within the same country, perceptions of them may vary. In Lithuania, citizenship policy aimed at the demarcation of the body of citizens of the newly restored independent state from the citizens of the former USSR and at the creation of preconditions for integration into the civic community of those former citizens and their descendants who during the Soviet era became citizens of other states. As mentioned above, the zero option solution allowed for the possibility for acquiring citizenship for all legal permanent residents. One could speculate about whether this policy was aimed at having wider effects. The restitution of property nationalised by the Soviets, for instance, was linked to citizenship. Although restitution laws have been amended many times (and the restitution is not yet over), the underlying principle that nationalised private property is returned to citizens alone prevails. One could also speculate that citizenship policy is aimed at a ‘Lithuanisation of Lithuania’, as for some time citizenship was not restored to former Lithuanian citizens of non-Lithuanian ethnic background who repatriated to their ethnic homelands. The relevant statutory provisions allowing this were recognised as discriminatory and unconstitutional.

The tendency of the so-called ‘triumph of ethnic conceptions of citizenship over others’ cannot be separated from linguistics and semantics in the Lithuanian context. As argued above, the Lithuanian word *pilietybė* is translated both as *citizenship* and as *nationality*, but the English word *citizenship* is translated as *pilietybė*, and the word *nationality* as *tautybė*, which is to say ethnicity. The unsynonymous terminology of citizenship and nationality as ethnicity stems from the historical times of the Polish–Lithuanian Commonwealth. The newly restored independent state always emphasised that its basis and nucleus was the ethnic Lithuanian nation. However, national concord is fostered on Lithuanian soil. This concord was between the ethnic communities of which Lithuanians were the biggest and the titular. The disparity between nationality as citizenship and nationality as ethnicity prevails both in language and in consciousness; both are perceived as virtues, albeit non-competing ones.

Such experience does not allow, at least not without serious reservations in the context of Lithuania, reference to the ‘triumph of the ethnic conception of citizenship over others’. What was restored was Lithuania, but it was not perceived as only the state of Lithuanians. The Constitutional Court elaborated the broad official doctrine of the civic nation as a state community formed on the basis of the ethnic Lithuanian nation.<sup>11</sup> But even when the Constitutional Court’s doctrine is set aside, the ethnic conception of citizenship does not prevail over the others. This is testified to both by the zero option solution, and by the constitutional prohibition of multiple citizenship which was made more concrete in the Law on Citizenship with the exception of the statutory deviation from this principle, for some time, in the 2002 Law. Multiple citizenship is allowed by way of exception, but even these exceptions, in the Constitution, are not linked to ethnic background. Still, as has been discussed, many deportees and emigrants of the Soviet era and/or their descendants managed

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<sup>11</sup> It is acknowledged by some analysts that, in Lithuania, there was no desire to develop the ‘Lithuanian’ nation into a civic nation (Barrington 1995: 127). The official constitutional doctrine goes the other way.

to obtain Lithuanian passports without renouncing the citizenship that they acquired after they left occupied Lithuania. Moreover, many Lithuanian emigrants of the restored independence era managed to acquire foreign citizenship while, at the same time, keeping their Lithuanian passports although, under the law, they should have lost their Lithuanian citizenship. Such practice, although openly unconstitutional, was legalised in the 2002 Law on Citizenship (which came into force on 1 January 2003). According to this law, those former Lithuanian citizens of non-Lithuanian ethnic background who repatriated to their ethnic homelands were not entitled to Lithuanian citizenship, but, in 2006, the relevant statutory provisions were quashed as unconstitutional. Thus, if it is at all possible to speak of the domination of an ethnic conception of citizenship in Lithuania, it is only possible to do so only during the time of the first independence and—with even bigger reservations—in 2003–2006. To call it a triumph would be too much of an exaggeration.

The characteristic of the citizenship situation in many Central and Eastern European states being in a state of flux probably suits Lithuania better than any other state. But this flux stems not necessarily from the same reasons as in other countries. There is no consensus yet as to whether the right to Lithuanian citizenship should be treated as an inborn right for persons related to Lithuania in some way (and in what way), or not. The answer to this important question must be at the very heart of the underlying principle of Lithuanian citizenship policy, whatever it become. As it has not yet been found, it is premature to say that Lithuania has any sort of citizenship policy. It is not possible to predict today what kind of policy there will be in the immediate future.

The outside observer may be shocked by this lack of a clear citizenship policy. But those who have been following citizenship developments in Lithuania in the last few years will know that substantial changes have taken place which have translated most of the citizenship policy provisions from practical guidelines for actual decision-making to a matter of historical analysis. It must be mentioned in that in 2003–2004 the question was raised with all intensity as to the conditions under which persons with a foreign citizenship may be granted Lithuanian citizenship without renouncing their foreign citizenship. This question electrified the public when it was raised in a very tense political context when it became known that the then President of the Republic had granted Lithuanian citizenship ‘by way of exception’ to his Russian campaign supporter ostensibly for his merits to the Republic of Lithuania. This revelation led to the President’s impeachment. From the point of view of constitutional law it was most singular that in respect of this process the key role was played by the Constitutional Court which, in its several rulings and conclusions, produced a broad official constitutional doctrine on citizenship.

Less than three years later, in 2006, the Court had to decide another case in which it overturned the most essential statutory regulation valid at that time by recognising that many statutory and sub-statutory provisions were unconstitutional and thus triggered the current debate on citizenship policy. It also sent a clear signal to the legislature that this policy, whatever it is, may not bypass the Constitution. Some of the provisions were recognised by the Court as unconstitutional because they discriminated against former Lithuanian citizens of non-Lithuanian ethnic backgrounds and/or consolidated multiple citizenship, not as an exception which would be allowed by the Constitution but as an actually unrestricted possibility. Because of that, by this one Constitutional Court ruling so many statutory and sub-statutory provisions have become defunct. The Law on Citizenship has become a document with many lacunae and uncertainties.

The Seimas, in 2008, resolved to overcome the ruling by adopting a new law which defied the Constitution as interpreted by the Court. This was vetoed by the President, and the

Seimas could not overcome the veto. The Seimas was compelled to accept the President's proposal that the current law should be considered provisional and will be valid only until 1 January 2010. The President pledged to present this bill to the Seimas and did so in March 2009. In the bill, the possibilities for multiple citizenship were expanded, compared with what was left in the current law after Constitutional Court's intervention. Considerations in the parliamentary committees, however, brought to no result other than extension of the 1 January 2010 deadline for six months. It is not yet known what turn events will take and, consequently, what new citizenship regime will be introduced when (and if) the bill becomes law. Any further research on the citizenship situation in Lithuania conducted in the very near future risks soon becoming outdated or incomplete.

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