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**LITHUANIA'S MINORITY-
RELATED LEGISLATION: IS
THERE A LEGAL VACUUM?**

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LITHUANIA'S MINORITY-RELATED LEGISLATION: IS THERE A LEGAL VACUUM?

This working paper analyses the Law on Ethnic Minorities and its termination as well as the shortcomings connected with the existing legal vacuum that resulted in the lack of a current specific Law on national minorities and non-adoption of a new one for more than three years.

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I. INTRODUCTION

Lithuania, the first country of the Central and East European (CEE) region to adopt a specific law on national minorities in 1989, recently became a subject of international concern regarding the situation with its minorities. In his Statement of 12 July 2012, Knut Vollebæk, at the time OSCE High Commissioner on National Minorities, emphasized that during his visits to Lithuania in 2011 and 2012, he “ha[s] encouraged the Government of Lithuania to address the legal vacuum created by the lapse of the Law on Ethnic Minorities in 2010.”¹

This working paper analyses the Law on Ethnic Minorities and its termination as well as the shortcomings connected with the existing legal vacuum that resulted in the lack of a current

specific Law on national minorities and non-adoption of a new one for more than three years.

II. PORTRAIT OF LITHUANIA'S SOCIETY

As the most homogenous country of among the ex-USSR countries west of Russia, where the titular nation constitutes about 84.1 percent of its population, Lithuania accommodates about 115 different ethnic groups.² During the last two decades of Lithuania's independence, its most sizeable ethnic communities underwent significant demographic changes, reflected in the following table:

*Table 1: Dynamics of the ethnic composition of the Lithuania's population in 1989-2011*

| Ethnicity | 1989 | | 2001 | | 2011 | |
|--------------------|------------------|------------|------------------|------------|------------------|------------|
| | <i>Number</i> | <i>%</i> | <i>Number</i> | <i>%</i> | <i>Number</i> | <i>%</i> |
| Lithuanians | 2,924,251 | 79.6 | 2,907,293 | 83.5 | 2,561,314 | 84.1 |
| Poles | 257,994 | 7.0 | 234,989 | 6.7 | 200,317 | 6.6 |
| Russians | 344,455 | 9.4 | 219,789 | 6.3 | 176,913 | 5.8 |
| Belarusians | 63,169 | 1.7 | 42,866 | 1.2 | 36,227 | 1.2 |
| Ukrainians | 44,789 | 1.2 | 22,488 | 0.7 | 16,423 | 0.5 |
| Jews | 12,390 | 0.3 | 4,007 | 0.1 | 3,050 | 0.1 |
| Tatars | 5,135 | 0.1 | 3,235 | 0.1 | 2,793 | 0.1 |
| Total | 3,674,802 | 100 | 3,483,972 | 100 | 3,043,429 | 100 |

Source: 'Database of Indicators', Statistics Lithuania. <http://www.osp.stat.gov.lt/en/web/guest/statistiniu-rodikliu-analize1> (access: 15.08.2013).

Thus, analysing data presented in the table, one can reveal the following demographic tendencies vis-à-vis the ethnic distribution in Lithuania's population:

1. The total population of Lithuania decreased,
2. The population of each of the four biggest ethnic groups of Lithuania (i.e. titular nation and three biggest national minorities) decreased,
3. The percentage of ethnic Lithuanians increased,
4. The percentage of each of the three biggest national minorities decreased.

Against the background of the decrease of the general population, the general percentage of the national minorities has also decreased – from about 20 percent in 1989 to less than 16 percent in 2011.

Lithuania's Polish and Belarusian minorities represent autochthonous ethnic groups, which

are mainly concentrated in Vilnius County, particularly in the Vilnius and Šalčininkai districts, where Poles form the majority of the population. Despite their competing identities, Poles and Belarusians in Lithuania are often perceived as a unified group, constituting a single cultural mass, whose members are carriers of the same cultural values and customs that, in their turn, are different from those of the Lithuanian majority.³ Ethnic Russians in Lithuania are a mostly urban group which forms the majority in the town of Visaginas as well as significant minorities in the cities of Vilnius and Klaipėda. The Russian minority consists of two groups. The first one, of approximately 45,000 persons, is formed by the descendents of Old Believers who obtained refuge from religious persecutions in the Russian Empire on the territory of the Grand Duchy of Lithuania in the eighteenth century, while the rest of the Russian community consists mainly of those who settled



in Lithuania in the post-war time or their descendents.⁴ There is also a number of historically significant non-Christian communities such as Jews, Karaites and Tatars traditionally residing in Lithuania, remaining an unalienable part of a wider region's culture.⁵

The preconditions for the nationalizing policies pursued by the independent Lithuanian state may be traced to the national policies in the Lithuanian SSR. There, as a result of the Lithuanisation permitted by the Soviet central authorities, the Lithuanian ethnic affiliation enjoyed an increase in prestige, particularly in Vilnius.⁶ The cultural system of Soviet Lithuania was relatively favourable towards Poles, whereas Belarusians were banned from developing schools of their own under the Lithuanian SSR.⁷ In Soviet Lithuania different minorities were subjected to different policies and these different experiences created different starting conditions for the various ethnic groups in an already-independent Lithuania⁸, and decidedly contributed to the current situation of minorities in the independent Lithuania.

Contrary to the other Baltic states, where the legal status of minorities became an issue of special concern and public debates⁹, the post-Soviet development of Lithuania is usually referred to as a success story, where the interethnic relations have been characterized by “a general climate of tolerance and intercultural dialogue”.¹⁰ As Lopata emphasizes, this resulted from “liberal citizenship laws of 1989 and 1991, and... the fact that the legislation on national minorities is directly based on international standards”.¹¹

III. THE LAW ON ETHNIC MINORITIES WITHIN THE CONTEXT OF LITHUANIA'S MINORITY-RELATED LEGISLATION

The core of Lithuania's legal system is the country's Constitution which prescribes that “any law or other act, which is contrary to the Constitution, shall be invalid” (Art. 7).¹² However, the Lithuanian Constitution lacks provisions that specifically apply to the country's national minorities. Those articles concerning national minorities “are of mostly general, [but] imperative character”.¹³

Such “general” provisions apply to all the citizens of Lithuania, regardless of their ethnicity. Describing it as “an integral and directly applicable act”, the Constitution guarantees the equality of persons before the law (Art. 6). Human rights and freedoms are proclaimed “innate” (Art. 18), and it is stated that “freedom of thought, conscience and religion shall not be restricted” (Art. 26). Article 29, for its part, provides for the equality of every person before the law, the court, and other state institutions and officials. This article also ensures equality regardless of gender, race, nationality, language, origin, social status, belief, convictions, or views; the same article states that distinctions based on these criteria should neither give privileges nor cause restrictions. Article 10 of the Constitution specifies that the territory of Lithuania “shall be integral and shall not be divided into any State-like formation”. This provision emphasizes Lithuania's nature as a unitary state, all of whose parts enjoy the same rights and have the same obligations. In addition, it legally excludes any possibility for the establishment of national or territorial autonomous units within the territory of the country. Thus, under the Constitution,



areas where minorities constitute majorities are specifically excluded from making claims of political autonomy.¹⁴ There are only two articles in Lithuania's Constitution that refer directly to the country's 'ethnic communities'. Minorities shall "foster their language, culture and customs" (Art.37) as well as "independently manage the affairs of their ethnic culture, education, charity, and mutual assistance" (art. 45) which shall also be supported by the State. Thus, despite the absence of a definition for the term "ethnic community" in the Constitution, we may infer three general criteria for these groups:

- the presence of specific language,
- culture, and
- customs

In order to enjoy the rights described in the Constitution, however, Lithuanian citizenship is required. Thus, only a Lithuanian citizen may be considered part of any national minority. Accordingly, national minorities in Lithuania can consist only of Lithuanian citizens.

As mentioned above, Lithuania was the first country in the region that adopted a specific law on national minorities. Its initial formulation came into force in 1989 and was "rather anaemic"¹⁵; however, the amendments made on January 29, 1991 provided national minorities with many new rights, including the provision on the use of minority language and state assistance to minorities in the development of their culture and education.¹⁶

The Law consisted of the preamble and ten articles.¹⁷ It recognized ethnic identity, promoted ethnic consciousness and expression, and guaranteed all citizens of Lithuania regardless of their ethnicity equal rights and freedoms (preamble). It also required people residing in Lithuania regardless of their ethnicity to observe

the laws of Lithuania, protect its sovereignty and territorial integrity, as well as to "respect Lithuania's state language, culture, traditions, and customs"¹⁸. The state guaranteed all its ethnic minorities an opportunity to freely develop themselves, obliged to respect every ethnic minority and their language, ensured that any discrimination on the ethnic ground should be banned and punishable by law (Art. 1), and provided equal protection to all its citizens (Art. 2). Moreover, Art. 2 of the Law ensured the rights for minorities to

- "to obtain aid from the state to develop their culture and education;
- to have schooling in one's native language, with provision for preschool education, other classes, elementary and secondary school education, as well as provision for groups, faculties and departments at institutions of higher learning to train teachers and other specialists needed by ethnic minorities;
- to have newspapers and other publications and information in one's native language;
- to profess any or no religion, and to perform religious or folk observances in one's native language;
- to form ethnic cultural organizations;
- to establish contact with persons of the same ethnic background abroad;
- to be represented in government bodies at all levels on the basis of universal, equal, and direct suffrage; and
- to hold any post in the bodies of state power or government, as well as in



enterprises, institutions or organizations”.

Article 3 foresaw the assistance of the state in providing training for specialists necessary to respond the needs of particular ethnic cultures. Article 4 guaranteed that “in offices and organizations located in areas serving substantial numbers of a minority with a different language, the language spoken by that minority shall be used in addition to the Lithuanian language”. Use of bilingual signs in the areas indicated in Article 4 was ensured in Article 5. The state protection of historical and cultural monuments of ethnic minorities as a part of Lithuania’s cultural heritage was secured (Art. 6). Article 7 ensured establishments of cultural and educational institutions under the auspices of minorities’ cultural organizations and state support for such institutions was guaranteed, whereas establishing and dissolution of such organizations was a subject of specific legislation (Art. 9). Article 8 stated that every citizen “upon obtaining a passport shall be free to identify his ethnicity on the basis of the nationality of his parents or of one of his parents”.

None of the above mentioned provisions of the Law contained a definition of an ethnic minority. Neither did it imply that whether or not belonging to a minority was a fully-fledged matter of personal choice. Instead, it foresaw only the limited option to freely identify an individual’s ethnicity on the basis of his/her ancestry, as registered in the official documents. Such practice was inherited from the Soviet times when, as Brubaker emphasizes, ethnic nationality went beyond a statistical category and became “an obligatory and mainly ascriptive legal category, a key element of an individual’s legal status”.¹⁹ Moreover, the ethnicity paragraph still remains included into the profiles

of individual candidates for elections, available on the website of the Central Electoral Commission of the Republic of Lithuania.²⁰ At the same time, the key issues with regard to the Law ensured ethnic minorities in Lithuania with the rights to have schooling in the mother tongue and to use their language in the public sphere, as well as to maintain bilingual signs in the areas with “substantial numbers of a minority with a different language”. However, there was no clarification provided for the term ‘substantial numbers’ with regard to the Law on Ethnic Minorities which, as the Advisory Committee on the Framework Convention for the Protection of National Minorities emphasized in its first Opinion on Lithuania, “does not specify the criteria used to identify these areas and thus leaves scope for different interpretations”.²¹

During the period of its validity the Law on Ethnic Minorities faced two attempts for its revision, made in 1997 and 2002.²² The first discussion in 1997 referred to the inclusion of the notion of “ethnic minority” into Lithuanian legislation. However, the Law remained unchanged due to “politically active members of ethnic minorities [who] resisted these revisions, as they were concerned that the government was not genuinely interested in protecting the interests of ethnic communities”.²³ In 2002, the new draft was prepared by the Department of National Minorities and Lithuanians Living Abroad. The novelty of this draft was the inclusion of a provision which would establish that belonging to any ethnic minority is a matter of the individual’s personal choice.²⁴ However, the draft law was prepared without consultations with representatives of minority group and thus, within the subsequent five years no agreement was reached between the governmental bodies in charge for the preparation of the draft law and the representatives of minorities.²⁵ As two



Lithuanian scholars, Budryte and Pilinkaite-Sotirovic, further emphasize,

while the leading political parties have not shown any political will to speed up the process, the representatives of minority groups remain frustrated and seemingly unable to communicate effectively with government representatives charged with protecting their rights.²⁶

This debate has been closely observed by the Advisory Committee on the Framework Convention for the Protection of National Minorities.

The Framework Convention for the Protection of National Minorities (FCNM) was signed by Lithuania on February 1, 1995 and ratified on March 23, 2000, so that it entered into force for Lithuania on July 1 of the same year. Lithuania did not present any reservation, declaration or other communication. Thus, all provisions of this document extend to all ethnic groups residing within the territory of the country. In other words, any provision of this Framework Convention shall be applicable in Lithuania, and Lithuanian legislation shall be brought into conformity with the provisions of this document. Prior to referring to the assessment made by the Advisory Committee, it seems necessary to mention the European Charter for Regional or Minority Languages, which in case of Lithuania presents a completely different situation, as the country never signed this treaty. Therefore, the Charter provides no protection for minority languages in Lithuania, leaving the national legislator to determine whether the country's domestic legislation should comply with the provisions of the Charter.

The above mentioned debate on the amendments to the Law on Ethnic Minorities in Lithuania

shows the need for such an amendment, acknowledged by both authorities and representatives of minorities. As it is emphasized in the Opinion on Lithuania by the Advisory Committee published on February, 21 2003, the second attempt to revise the Law initiated in 2002 failed to reach consensus in particular because the rights related to the use of minority languages in the draft law did not reach the level of protection ensured in the then acting Law on Ethnic Minorities.²⁷ As a result, minorities opted not to change the existing legal provisions, especially because “their attempts to have the draft amended, by means of consultations as well as by written requests, ha[d] been unsuccessful”.²⁸ The Advisory Committee, while having noted that in practice “in the regions where national minorities constitute the majority of the population, especially at local level, in relations with the authorities elected by the population, the minority language is used without any particular difficulty”, emphasized that the existence of conflicting provisions in various legal acts, particularly in the draft law on national minorities and the Law on the State Language²⁹, which “provides that in all institutions, offices, undertakings and organisations operating on Lithuanian territory, the language used will be the State language”.³⁰ A further issue raised by the Advisory Committee concerns the scope of application of both the Law on State Language and the then still in force Law on Ethnic Minorities. As it is noted in Art. 11, para. 58, the former indicates that the Law “authorises the use of minority languages only for the names and signs of organisations representing national minorities” while the latter “authorises bilingual public signs in areas inhabited by persons belonging to national minorities in substantial numbers”. The provision of the Law on Ethnic Minorities was therefore in conflict with the



provision of the Law on the State Language which requires having all other public signs than indicated above written exclusively in Lithuanian. As the Advisory Committee notes, “in practice the law on the State language often prevails over the law on national minorities”.³¹ In view of the Advisory Committee, such a contradiction between legal acts as well as the practice of their application is not compatible with Articles 10 and 11 of the Framework Convention.³²

In the Second Opinion on Lithuania adopted on February 28, 2008 the Advisory Committee on the Framework Convention for the Protection of National Minorities largely repeated the provisions of its first Opinion with regard to the contradiction between the various minority-related laws of Lithuania. At the moment of the adoption of the Second Opinion a new draft law was being discussed by the Seimas (Lithuanian Parliament), followed criticisms “expressed by national minority representatives and by international experts on a previous draft new law on national minorities”.³³ The major concerns were expressed with regard to “the use of minority languages in the public sphere, as a result of discrepancies between provisions of the current Law on National Minorities and the Law on the State Language”.³⁴ The Advisory Committee urged Lithuanian authorities to “ensure that the future law fully reflects the principles of the Framework Convention and is in line with the legislative provisions governing the protection of national minorities in Lithuania”.³⁵ The Advisory Committee also underlined that the necessity to revise the Law on the State Language in order to ensure a more consistent language policy³⁶ had been recognized by Lithuanian political elites. The Advisory Committee has also expressed its concern that despite the provisions contained in the Law on Ethnic Minorities, “a tendency has

emerged over the past few years for the use of minority languages in public life gradually to diminish”³⁷, in particular with regard to the judgements of the Supreme Administrative Court of Lithuania which declared null and void the decision of the authorities of the district of Vilnius, where the majority of the population is made up by ethnic Poles, “to authorise the use of Polish, in addition to Lithuanian, in the offices of the local administration of the region”, based on the provisions of the Law on Ethnic Minorities.³⁸ The Advisory Committee had underlined that the Lithuanian authorities followed the interpretation of the domestic laws as developed by the Constitutional Court of Lithuania, and “consider that the provisions of the Law on the State Language must prevail, and, in practice, they authorise application of the Law on National Minorities only to the extent that the provisions concerned do not conflict with the Law on the State Language”, even though these two legal acts are of the same level.³⁹ Such a situation with regard to public use of minority languages in Lithuania was recognized as “problematic, both in legal terms and where its practical consequences are concerned”, as “it does not respect the principles of the Framework Convention”.⁴⁰

With regard to the use of minority languages in Lithuania, it is necessary to address the issue of personal names spelling. In May 2012 the Advisory Committee published its Thematic Commentary No.3 entitled “The Language Rights of Persons Belonging to National Minorities under the Framework Convention”⁴¹ which has a specific section on personal names and patronyms of persons belonging to national minorities. In the Commentary the Advisory Committee stresses that

[t]he right to use one’s personal name in a minority language and have it



officially recognised is a core linguistic right, linked closely to personal identity and dignity, and has been emphasised by the Advisory Committee in a number of country-specific Opinions[, including the Second Opinion on Lithuania]. States Parties must make sure that individuals are free from obstacles or pressure on the use and recognition of their names in their own language. This means that relevant civil servants, such as those issuing birth certificates, must be aware of their obligations. While the provision is worded in a way that allows States Parties to apply it in light of their own particular circumstances and legal system, a clear legislative framework in line with international standards should exist and be implemented in an equal manner.⁴²

The Advisory Committee further emphasizes that

[i]n cases where persons have been obliged to change or give up their names, Article 11 of the Framework Convention requires that it should be possible for the original form of the name to be added to passports, identity documents or birth certificates. Registration should occur at the request of the person concerned or his/her parents [as it is noted in the First Opinion on Lithuania].⁴³

However, the practice of personal names spelling in Lithuania is based on the Lithuanian Constitutional Court's Ruling "On the compliance of the 31 January 1991 Supreme Council of the Republic of Lithuania Resolution "On Writing of Names and Family Names in Passports of Citizens of the Republic of Lithuania" with the Constitution of the Republic of Lithuania".⁴⁴ The Constitutional Court of the Republic of Lithuania declared that "in passports the names and family names of citizens of the

Republic of Lithuania who are of Lithuanian and non-Lithuanian nationality shall be written in Lithuanian letters". Thus, it established that the 1991 Resolution "On Writing of Names and Family Names in Passports of Citizens of the Republic of Lithuania" was "in compliance with the Constitution of the Republic of Lithuania". As a result, representatives of ethnic minorities in Lithuania are deprived of the right to write their personal names in the official documents according to the rules of their mother tongues (i.e. using letters that do not exist in the Lithuanian alphabet, incl. q, w and x).

Thus, the interpretation of the domestic laws by Lithuanian authorities has in fact limited the use of minority languages to the private communication between people. Such narrow interpretation of the minority language use in Lithuania was illustrated in the criticisms included into the Resolution of the Committee of Ministers of the Council of Europe on the implementation of the Framework Convention for the Protection of National Minorities by Lithuania⁴⁵ which argued that "the legal framework for the protection of persons belonging to national minorities lacks clarity and consistency" and that "certain judgments adopted by Lithuanian courts on the use of minority languages are disconcerting as they have not taken due account of other laws protecting national minorities, the relevant provisions of the Constitution and of the Framework Convention".⁴⁶



IV. TERMINATION OF THE LAW ON ETHNIC MINORITIES AND EXISTING LEGAL VACUUM ON THE MINORITY PROTECTION

The termination of the validity⁴⁷ of the Law on Ethnic Minorities in January 2010 resulted in a situation where the legal provisions that allowed the usage of minority languages in the public sphere in Lithuania ceased to exist, as did the legal conflict between the Law on Ethnic Minorities and the Law on the State Language. The latter remained the only document that specifies the use of languages in Lithuania in the public sphere and, as it was illustrated above, it provides much narrower scope for minority language use in the public sphere in Lithuania. The problem is recognized by Lithuanian authorities, who acknowledge that despite its shortcomings, the Law “endorsed the option of using the language of the national minority alongside the state language at administrative territorial units, inhabited by substantial numbers of persons belonging to a national minority” even though “it did not stipulate in what way those provisions must be enforced”.⁴⁸ The concern arisen from the annulment of the Law was also regularly emphasized by the representatives of minorities. According to Waldemar Tomaszewski⁴⁹, the leader of the Electoral Action of Poles in Lithuania (EAPL), “as a result of annulling this law, Lithuania’s authorities have denied national minorities the previously guaranteed right for the public use of their native languages as local languages, along with Lithuanian, in areas with a dense minority population”.⁵⁰ However, the lack of progress on this matter, combined with the lack of clarity and consistency in the domestic minority-related legal framework, brought the minority issues to

the political agenda, which often led to rather emotional reactions from minorities. An example of such a reaction is another statement made by Tomaszewski concerning the situation in Lithuania, which was characterized by him as an “inappropriate attitude towards national minorities, as such problems should not exist in the European Union”.⁵¹ Similar statements have been issued by a number of influential human rights NGOs, such as Freedom House, which while recognizing that “the rights of ethnic minorities... are legally protected”⁵² stress that “discrimination against ethnic minorities, who comprise about 16 percent of the [Lithuanian] population, remains a problem”.⁵³

Therefore, even though minority issues have not been on the political agenda and the ethnic question has never been politicized in Lithuania⁵⁴, it might be emphasized that despite “a general climate of tolerance and intercultural dialogue [which] characterises Lithuanian society”⁵⁵, in recent years the minority issues in Lithuania have become a subject of increasing politicization as a result of the lack of a specific Law on Ethnic Minorities.

V. RECENT LEGAL DEVELOPMENTS AND FURTHER PERSPECTIVES

The comments provided by the Advisory Committee in its Second Opinion were considered by the Lithuanian authorities while preparing the draft Concept of the Law on National Minorities.⁵⁶ In 2010 the Ministry of Culture, responsible for the coordination of minority-related issues⁵⁷, called for the creation of a working group responsible with the preparation of the new draft law which included the members of different state bodies and representatives of minorities.⁵⁸ The main difficulties were posed by incorporating /



translating the provisions of Articles 10 and 11 of the FCNM into the Lithuanian legislation, which would have enabled the national minorities to use their languages in public sphere, including bilingual signs and use of minority language in oral and written communication with the public bodies in the areas where the number of persons belonging to minorities exceeds one third of the population.⁵⁹ According to Edward Trusewicz⁶⁰ from the EAPL in Lithuania, the attempt to include such a provision into the draft law caused emotional opposition from the members of the working group representing different state organs.⁶¹ After 2012 national elections in Lithuania, Trusewicz became the vice-minister of culture responsible for the preparation of the draft law on ethnic minorities. The draft law prepared under his supervision and initially envisaged to be passed to the Seimas of the Republic of Lithuania via the Strategic Committee of the Government of Lithuania by July 1, 2013 got considerable criticisms from the members of various ethnic minorities.⁶² Among the strengths of the draft law, its focus on the use of minority languages in public sphere was underlined.⁶³ This would imply the use of minority languages along with the State language in the areas where the percentage of persons belonging to minorities exceeds 25 percent of the population.⁶⁴ It applies to the Polish language in the districts of Trakai, Vilnius, Šalčininkai and Švenčionys, as well as to the Russian language in the city of Visaginas.⁶⁵ The criticisms encompassed the insufficient attention to smaller minorities, the linkage of the citizenship criterion with the situation of persons belonging to minorities and the contradictions between certain articles of the draft law.⁶⁶ Despite certain progress in the preparation of the draft law on ethnic minorities in Lithuania it is not clear how long it will take to reach an agreement on the

draft which will be passed to the Seimas of the Republic of Lithuania via the Strategic Committee of the Government of Lithuania. Moreover, it is not clear how long it will take the Seimas to adopt it, if at all.

An intermediate solution was proposed by Rita Tamašunienė, the chairwoman of the EAPL parliamentary club of the Seimas, who urged the MPs to prolong the validity of the previous Law on Ethnic Minorities until the new law would be passed.⁶⁷ However, Lithuania's Prime Minister Algirdas Butkevičius almost immediately responded that his government does not intend to do so.⁶⁸

VI. CONCLUSION

Despite all its shortcomings, the Law on Ethnic Minorities provided a significant base for the protection of minorities in Lithuania. The Law provided a legal basis for the fulfilment of important rights, particularly concerning the use of minority languages in public sphere, even though the application of the provisions of the law in practice was narrow and restrictive. The current absence of a specific law on ethnic minorities in Lithuania creates significant shortcomings in the minority protection regime, most notably in the sphere of the public use of minority languages, which resulted into numerous criticisms by various domestic and international actors, including the Advisory Committee of the FCNM.

The analysis of the Lithuanian minority legislation enables us to identify a number of problems. First, the legislation has its shortcomings, with regard to the lack of definitions or the conflicting provisions that existed while the Law on Ethnic Minorities was in force. Second, in the absence of a valid Law on Ethnic Minorities, the minority-related legislation in Lithuania is split between various



legal acts, being thus less consolidated and quite restrictive towards the use of minority languages. Third, the public debate on the new draft law takes too much time and it is not clear whether a consensus could be achieved in the short-term perspective. Thus, a logical solution

could be the proposal by Rita Tamašunienė to prolong the validity of the previous Law on Ethnic Minorities until the new law would be passed. Fourth, the new law should be in compliance with the FCNM, and particularly with Articles 10 and 11.

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- 42 Ibid, Art. 2.1, para 61; 71fn.
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- 47 According to Arminas Lydeka, the Chairman of the Human Rights Committee of the Seimas in 2009-2012, previously the problem with the Law on Ethnic Minorities was solved by the prolongation of the old law, that exists from the Soviet times; however in 2010 the Seimas deliberately did not do it. He stressed that the old law contained reference to such institution as Department of National Minorities which was abolished and its functions were transferred to other institutions. Thus, as Lydeka argues, prolongation of the Law could have brought even more confusion. Source: ‘Natsmehinstva bez zakona’, Litovskij Kurjer, 3(778), 21.01.2010, <http://old.kurier.lt/?r=11&a=3982> (access: 15.08.2013).
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- 49 Note: in this text, the names of ethnic Polish politicians in Lithuania are provided according to the rules of the Polish language. Lithuanian variant is: Valdemar Tomaševski.
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