Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

The Constitutional Court Case on Personal Names of Lithuanian Citizens: Balancing the Official Language and the Rights of National Minorities

Question(s) at stake:

Whether the requirement to write personal names in the official language of the Republic of Lithuania in official documents potentially infringes upon the rights of national minority individuals to maintain their ethnic identity and privacy, as well as the principle of equality.

Outcome of the ruling:

The Court determined that the requirements for writing names and family names in passports, as outlined in the Resolution of Lithuania's Supreme Council, are consistent with the Constitution.

Topic(s):

- Personal Status, Family and Inheritance
- State recognition of Groups and Their Practices

Keywords:

- First name
- Last name
- Linguistic rights
- Non-discrimination
- Official or administrative language
- Right to respect for private life
- Right to use one's name in a minority language
- Spelling
- Language

Tag(s):

- Lithuania
- Minority
- Minority language
- Official language

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Country:

Lithuania

Official citation:

Constitutional Court of the Republic of Lithuania, Ruling of 21 October 1999, Case No. 14/98 "On the compliance of the Resolution of the Supreme Council of the Republic of Lithuania ‘On Writing Names and Family Names in Passports of Citizens of the Republic of Lithuania’ of 31 January 1991 with the Constitution of the Republic of Lithuania” (1999 m. spalio 21 d. Lietuvos Respublikos Konstitucinio Teismo nutarimas dėl Lietuvos Respublikos Aukščiausiosios Tarybos 1991 m. sausio 31 d. nutarimo „Dėl vardų ir pavardžių rašymo Lietuvos Respublikos piliečio pase“ atitikimo Lietuvos Respublikos Konstitucijai” (bylos Nr. 14/98))

Link to the decision:

https://www.lrkt.lt/lt/teismo-aktai/paieska/135/ta363/content

ECLI:

No ECLI number / ECLI number unknown

Date:

21 October 1999

Jurisdiction / Court / Chamber:

Constitutional Court of the Republic of Lithuania

Remedy / Procedural stage:

Constitutional review

Previous stages:

- None

Subsequent stages:

- Decision of the Constitutional Court of the Republic of Lithuania of 6 November 2009 “On the construction of the provisions of items 4 and 7 of the reasoning part of the ruling of the Constitutional Court of the Republic of Lithuania of 21 October 1999” (case No. 14/98).
- Decision of the Constitutional Court of the Republic of Lithuania of 27 February 2014 “On the construction of certain provisions of the ruling of the Constitutional Court of the Republic of Lithuania of 21 October 1999” (case No. 14/98).

Branches / Areas of law:

Constitutional law; Human rights law

Facts:

This case was brought before the Constitutional Court of Lithuania by the Vilnius Regional Court. It dealt with a cassation civil case in which the claimant, a Lithuanian citizen of Polish ethnicity, requested the police commissioner’s office in charge to write his first and family names on his new passport of the citizen of Lithuania according to the rules of the claimant’s native language. In other words, in the claimant’s view the first and family names in the document should be written according to the standards of the Polish language which differ from the norms of the Lithuanian language.

The Vilnius Regional Court sought clarification from the Constitutional Court on whether the Resolution of the Supreme Council of the Republic of Lithuania from 1991, which outlines the rules for writing names and last names in Lithuanian passports, is consistent with the provisions of the Lithuanian Constitution, specifically Articles 18, 22, 29, and 37.

Ruling:

The decision of the Constitutional Court on the matter explicitly mentioned that “the dispute concerns the peculiarities of writing the names and family names of citizens of the Republic of Lithuania who are of Polish nationality.”

The Constitutional Court underlined that “the passport of a citizen of the Republic of Lithuania is an official document certifying a permanent legal link between an individual and the state, i.e. the citizenship of an individual.” Since the issue of citizenship is attributed to the public domain, the name of a person must be written in the state language. A failure to do so denies the constitutional status of the Lithuanian language in Lithuania.

According to the Court, an individual’s ethnicity is a matter of personal choice. Thus, “it is impossible to establish any exclusive rules for the use of the state language by taking account of the nationality of an individual.” Similarly, an individual’s ethnicity cannot be used as an argument for this person “to demand that the rules arising from the status of the state language not be applied to him,” as it violates the constitutional principle of the equality of all persons before the law.

The Court emphasized that the requirement for Lithuanian citizens to write their names in the official language in their passports does not prevent those Lithuanian citizens belonging to different ethnic groups from using their languages to write their names in contexts outside of those explicitly governed by the law's requirement for the use of the official language..

Thus, the Court ruled that the challenged provision in the Resolution of Lithuania’s Supreme Council “On writing names and family names in passports of citizens of the Republic of Lithuania” is consistent with the country’s Constitution.

The ruling is final and cannot be appealed.

Main quotations on cultural or religious diversity:

- “[T]he Republic of Lithuania’s Law on the State Language which regulates the use of the state language in the public life of Lithuania but does not regulate the use of language in unofficial, informal relations of people in oral communication or in the events of ethnic communities or those of religious communities.” (Section IV)
- “The state language preserves the identity of the nation, it integrates a civil nation, it ensures the expression of national sovereignty, the integrity and indivisibility of the state, and the smooth functioning of the state and municipal establishments. The state language is an important guarantee for the equality of rights of citizens as it permits all the citizens to associate with state and municipal establishments under the same conditions and to implement their rights and legitimate interests.” (Section 4)
- “The Constitutional Court emphasises that the constitutional status of the state language means that Lithuanian is compulsory only in the public life of Lithuania. In other spheres of life persons may use any language acceptable to them without restrictions.” (Section 4)
- “The norms established in this article [Article 22] of the Constitution protect individuals’ right to privacy. This right encompasses private, family and house life, the physical and psychological inviolability of individuals, his honour and reputation, the secrecy of personal facts and a prohibition on publicising received or acquired confidential information etc. In case the private life of an individual is interfered in an arbitrary and unlawful manner, then, alongside, his honour and dignity are encroached upon.” (Section 6)
- “It is a matter of the decision of an individual to what nationality he belongs, i.e. no one save the individual himself is competent to decide the question of to which nationality this individual belongs, therefore, it is impossible to establish any exclusive rules for the use of the state language by taking

account of the nationality of an individual. Nor may the nationality of an individual serve the basis for him to demand that the rules arising out of the status of the state language be not applied as far as he is concerned. Otherwise, the constitutional principle of the equality of all persons before the law might be violated." (Section 7)

Main legal texts quoted in the decision:

- Constitution of the Republic of Lithuania (Articles 14, 18, 22, 29, 37, and 102)
- Law on Ethnic Minorities (1989) (Preamble, Articles 1 and 2) [note: this law was terminated on 1 January 2010]
- Law on the Constitutional Court of the Republic of Lithuania (1993) (Article 1)
- Law on the State Language (1995) (Article 6)
- Resolution of the Supreme Council of the Republic of Lithuania "On Writing Names and Family Names in Passports of Citizens of the Republic of Lithuania" (1991) (Item 2)

Cases cited in the decision:

- None

Commentary

The Constitutional Court Case on Personal Names of Lithuanian Citizens: Balancing the Official Language and the Rights of National Minorities

This commentary describes the situation that had existed in Lithuania before the adoption of Law No. XIV-903 of 18 January 2022 "On writing personal name and surname in the documents" when the issue of how to write the first names and surnames of Lithuanian citizens in their passports was resolved on a case-by-case basis in courts. These decisions typically made it possible for the claimants to use the letters q, x, and w only, or to modify the writing of their names and surnames in the documents in other ways. Moreover, these cases also involved ethnic

Lithuanians and their minor children from mixed marriages with citizens of other countries.

This is a landmark case because it is the first Constitutional Court decision on the writing of personal names of Lithuanian citizens.

The ruling examined the relationship between the use of the official language in Lithuania's public sphere and the rights of individuals belonging to national minorities to have their personal names written in their native language. In its ruling, the Court stated that “[t]he state language preserves the identity of the nation, it integrates a civil nation”. The approach of the Lithuanian authorities at the moment of the judgement’s delivery followed the trend of post-communist developments in Central and Eastern Europe, in which the “nationalizing states” claim to act in the name of the titular nation (Brubaker 1996). At the same time, it confirmed the observation that in Central and Eastern Europe “language is universally interpreted as the innermost sanctum of ethnicity” (Schöpflin 2000: 116). This approach assigned constitutional value and functional status to the Lithuanian language in Lithuania. In other words, the Constitutional Court drew a clear boundary between public life and the private sphere. Whereas the use of the official language in the public space was compulsory, individuals and communities were free to choose which language to use in all other aspects of life without any restrictions.

The ruling of the Constitutional Court also gave individuals wiggle room to decide whether the ending of their names should be Lithuanian. It did not preclude an individual from using other forms of writing his or her name in documents not issued by the Republic of Lithuania. The logic of the Constitutional Court to take this stance was based on two key principles. The first was the principle of equality of all persons before the law. The second factor was the voluntary choice of each individual to identify with a specific ethnicity. This approach complied with Article 3(1) of the Framework Convention for the Protection of National Minorities, which establishes that “[e]very person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which

are connected to that choice". Furthermore, Article 8 of Lithuania's then-valid Law on National Minorities proclaimed that nobody shall be forced to prove their ethnicity.

Following its independence in 1991, Lithuanian authorities established rules for writing the personal names of their citizens. These rules provided certain flexibility for the representatives of the country's national minorities. Although the Resolution of Lithuania's Supreme Council of 31 January 1991 "On writing names and family names in passports of citizens of the Republic of Lithuania" (invalidated by Law No. XIV-903 of 18 January 2022 "On writing personal name and surname in the documents") required that the names be written in the letters of the Lithuanian alphabet according to the rules of the Lithuanian language, each individual could file a request to have her or his name written without Lithuanian language endings (compare: Mackevičius v. Mackevič for male surnames; Litvinovičiūtė / Litvinovičienė v. Litvinovič for female surnames).

For persons belonging to national minorities, the practical outcome of the rules established by the Resolution depended on each individual's name, surname, and ethnicity. As a result, in some cases, it was sufficient for a person to request that Lithuanian language endings not be added to their name if the first name and surname were already written in the same way as in their native language. However, the implementation of the provisions of the aforementioned Resolution produced two important outcomes.

First, the official Lithuanian alphabet does not contain the following letters: q, w and x. It meant that by default the first name or the surname of a person in the passport of a Lithuanian citizen could not contain these letters. Second, some problems could arise for the Polish minority in Lithuania. For its members and their political representatives, the issue of writing their names according to the rules of the native language had always been a part of the political agenda. The rules established by the Resolution made it impossible for many ethnic Poles in Lithuania to write their names in official documents in a way that matched the writing in their native language (compare: Jaroslavas Volkonovskis – default official writing with Lithuanian endings / Jaroslav Volkonovski – default official

writing without Lithuanian endings / Jarosław Wołkonowski – writing according to the rules of the Polish language).

Yet, the ruling in Case No. 14/98 did not fully resolve the issue of how to write the names of certain Lithuanian citizens, particularly those belonging to the Polish minority, in their passports.

The Constitutional Court returned to this case on two occasions, in 2009 and 2014. In its decision of 6 November 2009, the Constitutional Court acknowledged the possibility of writing a person's name and surname according to the standards of his or her native language. However, this entry in his or her native language should not be equated to the entry in the Lithuanian language and did not have any legal value in Lithuania's public space. In other words, a person could write his or her name according to the rules of their native language in personal communication, social network profiles, or elsewhere. Yet, all official documents issued by Lithuania would still identify the person in the form written in his or her official documents. In its decision of 27 February 2014, the Court acknowledged the possibility to establish the rules for writing the names of Lithuania's citizens in ways other than that which had been established by the Resolution. Yet, this type of amendment should be proposed by a state institution "composed, under the laws of the Republic of Lithuania, of professional linguists—Lithuanian language specialists […], which enjoys the powers to take care of the protection of the state language" (i.e. the State Commission of the Lithuanian Language).

This ruling and two subsequent decisions of the Constitutional Court can be seen as the milestones of a long-lasting debate on issues involving various political and civil actors in both Lithuania and Poland. In Lithuania, this issue was repeatedly raised by the members of the country's Polish minority, including politicians and civil society organizations acting as their representatives. Some mainstream Lithuanian political parties also tried to offer their solutions. The authorities of Poland had also repeatedly raised this issue before their Lithuanian counterparts. The problem of the official writing of personal names was addressed by several international bodies, including the European Union and the Council of Europe. Proponents of the minority-friendly legislative amendments argued that they

would comply with the EU norms and meet the needs of Lithuania's national minorities.

Literature related to the main issue(s) at stake:

General legal literature on the topic:

- Danėlienė, Ingrida. 2021. "Nauji Lietuvos Respublikos piliečių asmenvardžių rašymo originaliais rašmenimis teisiniai aspektai [New Legal Aspects of the Spelling of Personal Names of Citizens of the Republic of Lithuania in the Original Characters]". *Lietuvos teisė 2021: esminiai pokyčiai*: 49-59.
- Kascian, Kiryl. 2023. "Evolution of Lithuania's Approach towards Writing of Personal Names in the Official Documents: On the Verge of Liberalisation?" Public Governance, Administration and Finances Law Review 8(2): 73–86.
- Kūris, Egidijus. 2022. "Konstitucijos nereikia, įstatymo nereikia: apie vieną Vyriausybės poįstatyminį teisės aktą ir vieną pirmosios instancijos teismo sprendimą [No Constitution Is Necessary, No Law Is Necessary: On One Secondary Legal Act of the Government and One Decision of the First Instance Court]". Vilnius University Open Series: 118–166.
- Račkauskaitė, Aistė. 2011. "Tautinėms mažumoms priklausančių asmenų vardų ir pavardžių vartojimas: tarptautinė ir Lietuvos Respublikos praktika [The right to use first names and surnames in minority languages: international practice and the practice of the Republic of Lithuania]". *Socialinių mokslų studijos* 3(1): 365–384.
- "Spelling of Names and Surnames". *European Foundation of Human Rights*, <https://en.efhr.eu/spelling-of-names-and-surnames/>, accessed 19 September 2021.
- Vainiutė, Milda. 2010 "Lietuvių kalbos kaip valstybinės konstitucinis statusas: pagrindiniai aspektai [Constitutional status of Lithuanian as the official language: basic aspects]". *Jurisprudencija* 4(122): 25–41.

General literature on the topic from other disciplines:

- Brubaker, Roger. 1996. *Nationalism Reframed: Nationhood and the National Question in the New Europe.* Cambridge: Cambridge University Press.
- Schöpflin, George. 2000. *Nations, Identity, Power: The New Politics of Europe* . London: Hurst and Co.
- Walkowiak, Justyna B., and Tomasz Wicherkiewicz. 2019. “Tangled Language Policies: Polish in Lithuania vs. Lithuanian in Poland”. In Sanita Lazdiņa and Heiko F. Marten (eds), *Multilingualism in the Baltic States: Societal Discourses and Contact Phenomena,* 153-202. London: Palgrave Macmillan.

Disclaimer

All quotations on cultural diversity are cited as they are formulated in the English version of the judgment available on the website of Lithuania’s Constitutional Court.

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