
IMPLEMENTATION OF THE PRINCIPLE OF STATE LANGUAGE IN LITHUANIA: RECENT PROBLEMATIC ASPECTS

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Annotation. The Lithuanian language belongs to the Baltic branch of the Indo-European family. Most Baltic languages are extinct. The only ones preserved and used to date are Lithuanian and Latvian. Researchers of Indo-European languages say Lithuanian is the most archaic of all the living Indo-European tongues. The Constitution of the Republic of Lithuania ensures the Lithuanian special legal status and declares the principle of state language. This principle is implemented and defined in numerous various types of legislation, regulating different areas of public life. Application of some norms of legislation sometimes becomes more or less problematic. Recently the most problematic norms, implementing the principle of the state language, are the ones, regulating the writing of the names of natural persons, especially non-Lithuanian nationality and non-citizens, in official documents; public signs and education in languages of national minorities. Recently some important decisions were made by national and international courts, other state authorities which are linked to the implementation of the principle of state language.

Keywords: constitutional principle of state language, rights of national minorities.

INTRODUCTION

English has a very good expression to describe a native language – mother-tongue. Lithuanians also have a similar saying that a mother, nursing her baby, puts the native language on his lips. It means a belief that native language is part of a person's heart and determines his character and even behaviour. Of course, globalization and rising number of bi-lingual or multilingual families reduces its importance, but cultural and linguistic diversity is promoted, especially by EU.

Lithuanian belongs to the Baltic branch of the Indo-European family. Most Baltic languages are extinct. The only ones preserved and used to date are Lithuanian and Latvian. Researchers of Indo-European languages say Lithuanian is the most archaic of all the living Indo-European tongues¹. The preamble to the Constitution of the Republic of Lithuania, identifying the main values of the state, distinguishes the preservation of native language and writing. Article 14 of the Constitution sets that Lithuanian shall be the state language². So the main law ensures the Lithuanian special legal status and declares the principle of state

¹ <http://vlkk.lt/eng/lithuanian-language/background.htm> [interactive] [accessed 01/11/2013].

² Constitution of the Republic of Lithuania. *Official Gazette*, 1992, No. 33-1014.

language. It isn't a completely new provision. The status of state language was also established in Lithuania's Constitutions in 1922, 1928 and 1938. It isn't an original provision either. The special status of a state language is defined in Constitutions of other states as well, for instance the Constitutions of neighbouring states: Estonia, Latvia, Poland³, etc.

The constitutional principle of state language, its ambit became very actual in Lithuania in recent years because of speculations and interpretations, usually without good reasoning, about using languages of national minorities in Lithuania. Some politicians use this topic as an instrument to set members of society against each other making their political career. They criticize the existing legislation of state language principle and present assumptions on discrimination of languages of national minorities. Besides, recently some important decisions were made by national and international courts, other state authorities which are linked to the implementation of the principle of state language.

So the object of this paper is recent problematic legal aspects of the implementation of the principle of the Lithuanian as a state language. The objective of the research is to identify and to disclose the main recent problematic aspects arising in implementation of the principle of state language. In order to achieve the determined aim the following tasks are settled: 1. to define the scope of the principle of state language; 2. to describe the implementation of the principle and reveal recent problematic aspects; 3. to review the case law on the object of a research.

THE SCOPE OF THE PRINCIPLE OF STATE LANGUAGE

The principle of state language is implemented and defined in adopted legislation. The biggest set of special norms is Law on the State Language⁴. It repeats the provision of the Constitution that the Lithuanian language is the state language of the Republic of Lithuania (article 2). The Law regulates the use of the state language in public life of Lithuania, protection and control of the state language, and the responsibility for violations of the Law. These fields of activities are the main manifestations of the principle. It must be stressed, that this Law doesn't regulate unofficial communication of the population and the language of events of religious communities as well as persons, belonging to ethnic communities. The

³ Vainiūtė, M. Lietuvių kalbos kaip valstybinės konstitucinis statusas: pagrindiniai aspektai [Constitutional Status of Lithuanian as the Official Language: Basic Aspects]/*Jurisprudencija*[*Jurisprudence*], 2010, 4(122), P.30.

⁴ Law on the State Language. *Official Gazette*, 1995, No. 15-344.

right of persons, belonging to ethnic communities, to foster their language, culture and customs is guaranteed by other laws of the Republic of Lithuania (article 1). The Law on the State Language enforces the main elements of the principle of state language. One of them defines the areas of public life in which the Lithuanian language must be used:

- particular documents: legal acts (article 3); state and municipal institutions', establishments', enterprises' and organizations' correspondence with each other (article 5); filing work, accounting, reporting, financial and technical documents of all institutions, establishments, enterprises and organizations in Lithuania (article 4); transactions of legal and natural persons (article 9);
- providing the population with services by state and municipal institutions, establishments and organizations, as well as communications, transportation, health and social security, police and law-enforcement services, trade and other establishments – articles 7, 8;
- official events (sessions, congresses, meetings, sittings, conferences, etc.) organized by state and municipal institutions, state establishments and enterprises (except international events) – article 10;
- general, vocational, higher post-school and university education for the residents of the Republic of Lithuania – article 11;
- names: standardized genders of place-names (article 14); genders of personal names of the citizens of the Republic of Lithuania (article 15); names of all enterprises, establishments and organizations, functioning in the Republic of Lithuania (article 16);
- signs and information: seals, stamps, letterheads, plaques, signs in offices and other places of enterprises, establishments and organizations of the Republic of Lithuania, as well as names of goods and services provided in Lithuania and their descriptions (article 17).

Another element of the principle of state language includes norms describing the way how the Lithuanian must be used: it sets a requirement of correctness of the Lithuanian (articles 19). Yet another element of the principle covers the provisions on liability for the wrongful use of the Lithuanian. So any actions against the state language status are prohibited and incur liability (article 24). The institution having an obligation to control the implementation of this law is the State Language Inspectorate (article 25). Control of using and correctness of state language is one of the functions of municipalities too⁵.

⁵ Law on Local Self-Government, article 7§13. *Official Gazette*, 1994, No. 55-1049.

The Law of the State Commission of the Lithuanian Language establishes one more special state institution to decide issues concerning the implementation of the Law on the State Language. Among the other competencies this institution has a responsibility to submit proposals on language policy and implementation of the Law on the State Language; establish the directions of regulating the Lithuanian language, decide the issues of standardisation and codification of it; appraise and approve the most important standardising language works; deliberate important issues raised by the public, regarding language use and limits and adopt decisions regarding them (article 3)⁶. The decisions of the State Commission of the Lithuanian Language are obligatory for State and municipal institutions, all of the offices, enterprises and organizations operating in the Republic of Lithuania (article 6 §2).

Failure to fulfill the decisions of the State Commission of the Lithuanian Language and the instructions of the State Language Inspectorate incur administrative liability (Code of Administrative Offences of Republic of Lithuania, article 91²)⁷. The same kind of liability is determined for: not using the Lithuanian in companies', institutions' and organizations' seals, stamps, letterheads, signs, offices and other public records, in names, descriptions and instructions of products or services (article 91¹); correspondence within the country (article 91⁴); for presenting to state institutions documents not in a state language (article 91⁵); performing official duties (article 91³); television and radio broadcasts, demonstrations of films without translation into the state language, except in cases provided by law (article 91⁶); not using authentic and official Lithuanian place names forms in laws, official publications, mapping, road and street index, signboards, seals, communications, product documentation, textbooks (article 91⁷). The sanctions for all these administrative violations are fines, 1200 Lt is the maximum one (article 91⁶ §2).

It is obvious that it isn't enough to include the principle of state language into the Constitution and to pass a special law on it. Its effective application requires incorporation of it to the whole well-functioning system of national legislation⁸. So principle of the state language is also implemented in numerous various types of national legislation, regulating different areas of public life: civil service, public administration, litigation, education, rights of national minorities, advertisement, names of natural and legal persons, public records and

6 Law on the Commission of the Lithuanian Language. *Official Gazette*, 1993, No. 11-265.

7 Code of Administrative Offences of Republic of Lithuania. *Official Gazette*, 1985, No. 1-1.

8 Vainiūtė M. Lietuvių kalbos kaip valstybinės konstitucinis statusas: pagrindiniai aspektai [Constitutional Status of Lithuanian As the Official Language: Basic Aspects]/ *Jurisprudencija [Jurisprudence]*, 2010, 4(122), P. 38.

signs, and etc. The principle is interpreted and its scope is widely disclosed in the rulings of the Constitutional Court of the Republic of Lithuania and in the decisions of other courts.

So there is created the whole legal framework for the implementation of the constitutional principle of Lithuanian as the state language in national legislation.

PROBLEMATIC ASPECTS OF IMPLEMENTATION OF THE PRINCIPLE OF STATE LANGUAGE

As it was already mentioned, the principle of the state language is implemented in numerous various types of legislation, regulating different areas of public life. Application of some norms of legislation sometimes becomes more or less problematic. This happens for different reasons: changing realities and public needs, migration or even politics. Ensuring the Lithuanian status of the state language and functionality in all areas of public life, its meeting to public needs, and promoting its development are the goals, set in the State Language Standardization, Use, Development and Dissemination Program for 2006–2015, approved by the resolution of the Government of the Republic of Lithuania⁹. However, not all these goals are successfully achieved. Recently the most problematic norms, implementing the principle of the state language, are the ones, regulating writing of the names of natural persons, especially non-Lithuanian nationality and non-citizens, in official documents; public signs and education in languages of national minorities.

1. Names of natural persons

One of aspects of principle of state language rising legal disputes is family names of women, when they choose spouse's surname after marriage. Writing the names of Lithuania's citizens in official documents is regulating by a complex of legal norms. Article 3.31 of the Civil Code of the Republic of Lithuania says, that both spouses have a right to retain premarital surname, select the other's spouse's one as a common last name or choose a double last name¹⁰. But this law requires writing person's name and family name according to the rules of the Lithuanian language (article 3.282). Additionally it is required to write a person's name and family name in characters of the Lithuanian language in the passport of the citizen

9 State Language Standardization, Use, Development and Dissemination Program for 2006–2015, approved by the resolution of the Government of the Republic of Lithuania No. 1177, 15/09/2004. *Official Gazette*, 2004, No. 140-5125.

10 Civil Code of the Republic of Lithuania. *Official Gazette*, 2000, No. 74-2262.

of the Republic of Lithuania¹¹. Civil status documents must be written in Lithuanian in accordance with the Rules of Civil Registry (the Civil Code of the Republic of Lithuania, articles 3.281, 3.282). The latter rules specify that civil status documents must be recorded in Lithuanian (p. 11)¹². When after marriage a woman chooses a spouse's last name or joins it to her own, she is given a feminine form of spouse's last name (p. 71). Similarly, Law on State Language sets that genders, which are prescribed by laws, of personal names of the citizens of the Republic of Lithuania shall be used in the Republic of Lithuania. Personal names shall be changed and corrected in the manner prescribed by laws (article 15). This means that family names of Lithuanian women must be feminine, but not masculine or neutral, which is not typical for the Lithuanian. State Commission of the Lithuanian Language decided to declare the publication "Lithuanian spelling and punctuation" normative (after an amendment – only Part I of it "Spelling")¹³. It says, that last names of Lithuanian girl's are made by their father's last names with the suffixes *-aitė*, *-ytė*, *-utė*, *-(i)ūtė*, and last names of married women – by their spouses's last names with the suffixes *-ienė*, *-(i)uviene*¹⁴. In 2003 State Commission of the Lithuanian Language decided to introduce a new possibility for Lithuanian women to choose a last name: when there is a preference not to disclose marital status, the last name may be made with the ending *-ė*¹⁵. So the legislation of writing the names of Lithuania's citizens is unambiguously and clear, however, institutions get requirements time to time to registry or to write in official documents a woman's family name in a form, identical to her spouse's one (masculine or neutral form). These claims are usually based on the ground of inconvenience, interference with private life or discrimination on the base of gender.

The Constitutional Court of the Republic of Lithuania interpreted in its rulings, that the constitutional status of state language means that Lithuanian is a constitutional value. The state language preserves language's identity, it integrates a nation, ensures expression of national sovereignty, the integrity and indivisibility of the state, and smooth functioning of state and local government establishments. The state language is an important guarantee of

11 The resolution of the Supreme Council of the Republic of Lithuania. No. I-1031, 21/02/1991, §1. *Official Gazette*, 1991, No. 5-132.

12 Rules of Civil Registry, approved by the order of Minister of Justice No. 1R-160, 19/05/2006. *Official Gazette*, 2006, No. 65-2415.

13 Resolutions of the State Commission of the Lithuanian Language No. 58, 19/12/1996. *Official Gazette*, 1996, No. 126-2966; No. N-5(106), 28/09/2006. *Official Gazette*, 2006, No. 107-4087.

14 Lietuvių kalbos rašyba ir skyryba [The orthography and punctuation of the Lithuanian]. V, 1992, §46–47, p. 34–35.

15 Resolution of the State Commission of the Lithuanian Language No. N-2 (87), 26/06/2003, §2. *Official Gazette*, 2003, No. 65-3009.

equality of citizens. It also means, that the legislature is required to determine by law, how the language is ensured in public life, in addition, it must provide for the protection of the state language. The Constitutional Court has emphasized, that the Lithuanian is compulsory only in public life in Lithuania. In other spheres of life persons may use any language acceptable to them without restrictions. Taking into account that the passport of the citizen of the Republic of Lithuania is an official document certifying a permanent legal link between an individual and the state, i.e. citizenship of an individual, and that citizenship relations belong to a public life of the state, the names and family names must be written in the Lithuanian language in passports. Otherwise, the constitutional status of state language would be denied¹⁶.

The Supreme Court of the Republic of Lithuania consistently comply with the case law of the Constitutional Court and comes to analogical conclusions in cases on this issue. The rules of state language and its protection are attributable to public order in a state, so enforcement of them cannot be qualified as a violation of a principle, implemented in the Constitution and in the European Convention on Human Rights and Fundamental Freedoms – person’s and his family’s privacy (case No. 3K-7-20/2006, 8 June 2008; a plaintiff wanted to have a husband’s surname in masculine form)¹⁷. Historical, systemic and teleological analyses of legal acts, regulating the writing persons’ family names in official documents, traditions of the Lithuanian language, national and international case law leads to a conclusion that legal reglamentation of family names of Lithuanian women *per se* isn’t discriminative either¹⁸.

Even more problematic aspect is writing the names of non-Lithuanian nationals and non-citizens of Lithuania (non-Lithuanian names). According to the already mentioned resolution of the Supreme Council of the Republic of Lithuania, passed in 21/02/1991, names and surnames of non-Lithuanian’s must be written in Lithuanian characters in passports of Lithuania’s citizens. By a person’s choice, they may be written according to pronunciation without Lithuanian endings or according to pronunciation with Lithuanian endings (§2). The State Commission of the Lithuanian Language has specified the writing of the names of some particular languages. But the social and cultural realities have changed from the adoption of

16 The Constitutional Court of the Republic of Lithuania. Ruling. 21/10/1999.

17 Teismų praktika [Case law]. No. 26, 2007, §1.3.

http://www2.lat.lt/lat_web_test/4_tpbuletiniai/senos/nutartis.aspx?id=32296 [accessed 01/11/2013].

18 *see* Jakštienė, R. Ar lietuvės moterys po santuokos gali pasirinkti vyro pavardę su vyriškosios giminės galūne? [Do Lithuanian Women Have the Right after Marriage to Choose a Husband’s Surname With a Male Ending]/ *International Journal of Baltic Law*. 2004, Volume 1, No. 4. p. 72–95 on www.ceeol.com [interactive] [accessed 01/11/2013].

mentioned resolution of the Supreme Council. Besides, the Law on Identity Card was passed on the 12 October 2001. It states that an identity card (not passport anymore) shall be the main personal document of a citizen of the Republic of Lithuania intended for use in the state (article 2 §1)¹⁹. Data in identity card must be inscribed in Lithuanian characters and the name and surname of a citizen – in accordance with the procedure established by national legal acts regulating writing of names and surnames in personal documents (article 4 §5). The problem is that such a special law isn't adopted yet, although its various projects are discussed from 1997. So by the need specific secondary legislation is applied (rules of civil registry, issuance of permits of residence for foreigners, etc.). This raises legal disputes, when people require to write their names or surnames not in the Lithuanian characters. These requirements are usually based on the right of using national minority's language, interference with family private life or inconveniences. National courts basically rely on general status of state language, on its protection and systemic analyses of legal acts on this issue. The same arguments dominate in recent Vilnius District Court's decision, when it has stated that plaintiff's (Lithuania's citizen of Polish nationality living abroad) name and surname can't be written in Polish characters in her birth and marriage certificates (she was born and has married in Lithuania). The court stressed that a large number of ethnic minorities reside in Lithuania and writing their names in their language may undermine public order in the state²⁰. This decision was reached after EU Court of Justice has made its decision in this dispute too: a state may refuse to amend writing of person's name and forename in civil status documents (such as birth or marriage certificates) in a form which doesn't comply the rules of national language spelling on condition that such a refusal doesn't give rise to serious inconvenience at administrative, professional or private levels, which is for the national court to decide²¹. So the Court of Justice hasn't found a violation of EU law and its arguments have reaffirmed earlier interpretations of Lithuania's national courts.

Constitutional Court of Lithuania decided to clarify its earlier ruling about writing names and surnames in a passport of a citizen of Lithuania (31/01/1991) and repeated that

¹⁹ Law on the Identity Card. *Official Gazette*, 2001, No. 97-3417.

²⁰ <http://www.diena.lt/naujienos/lietuva/salies-pulsas/teismas-skelbs-sprendima-del-pavardes-rasymonelietuviskais-rasmenimis-417533#.UoCccZq9vmI> [interactive] [accessed 2013-11-01].

²¹ Judgement of the Court of Justice (Second Chamber), case No. C-391/09, Malgožata Runevič-Vardyn and Łukasz Paweł Wardyn v Vilniaus miesto savivaldybės administracija and Others. 11/05/2011. <http://curia.europa.eu/juris/celex.jsf?celex=62009CJ0391&lang1=lt&type=NOT&ancre=> [interactive] [accessed 01/11/2013].

writing of a person's name and surname in this document must be only in the Lithuanian characters. But it also added that additionally, if a person wishes, his name or surname may be written in non-Lithuanian characters in passport's sections for other records. This record in non-Lithuanian characters shouldn't be equated to a record of personal identity in state language. The Court has concluded that such records don't violate the principle of state language. The legislature has a discretion to enact such a possibility by law determining its grounds and objective criterions²². Although various projects of such provisions are constantly discussed but until now this hasn't been done mainly because of political reasons. The Government of the Republic of Lithuania has decided to propose the State Commission of the Lithuanian Language to establish by its legal act – resolution – the rules of writing names in official documents, including the names in other languages, names which have authentic spelling in other languages and names in non-Latin characters²³. But the Commission refused to do this stating that there is no ground for creating new special rules to write names of other languages: it has already defined by the recent resolution (No. N11-147, 24 October 2013), that names of other languages are written in their original form (original and adaptive form may be written together – in brackets) in official documents (except in personal documents of citizens of Lithuania). The Commission has also concluded that it can't establish rules on writing names in non-Latin characters in personal documents of citizens of Lithuania, because they would be in contradiction with the mentioned ruling of the Constitutional Court of Lithuania about writing names and surnames in a passport of a citizen of Lithuania (31/01/1991)²⁴.

As long as there is no law legitimizing to write a person's name or surname in non-Lithuanian characters in passport's sections for other records, there is no possibility to give such a right by the decision of the court, because this is an exceptional discretion of legislature. That is the argument presented by the Supreme Court of Lithuania, when it decided the case (No. 3K-3-392, 17/07/2013) where plaintiff, a citizen of Lithuania who married in Austria to a citizen of Austria, required to issue a certificate of marriage and a passport of citizen of Lithuania with a record of her surname in non-Lithuanian characters. The court also refers to the case law of European Court of Human Rights, specifically to a

22 Decision of the Constitutional Court of Lithuania, 06/11/2009. *Official gazette*, 2009, No. 134-5859.

23 Resolution of the Government of the Republic of Lithuania, 26/06/2013, No. 589. *Official gazette*, 2013, No. 70-3532.

24 <http://www.vlkk.lt/lit/104546> [interactive] [accessed 01/11/2013].

similar case, where an applicant's (Latvia's citizen's) surname after marriage to non-citizen was written according to the rules of the Latvian language (*Mentzen alias Mencena v. Latvia*, No. 71074/01, 7 December 2004). European Court of Human Rights has concluded that right to a name falls into the scope of right to privacy of person's and family's life. Limitation of this right was proportionate to legitimate aid – to protect the state language – one of the biggest constitutional values. So there was no violation of the European Convention on Human Rights and Fundamental Freedoms. Each state has a discretion to adopt laws on using a state language in personal identity or other official documents. And national courts rather than an international one can better decide on the necessity of limitation in such a specific and sensitive sphere. So the Supreme Court of Lithuania has decided that there are no evidence in the case showing that plaintiff's economical, political or social rights were restricted. The need to present additional documents explaining the difference between her and husband's surnames can't be qualified as an unproportionate limitation.

A complaint against Lithuania on this issue was filed for UN Human Rights Committee too: Lithuania's citizen of Polish origin alleged the violation of the International Covenant on Civil and Political Rights (right to private life, prohibition of discrimination, protection of minorities) when state institutions refused to spell applicant's name and surname according to Polish orthography in personal identity documents. The Committee has decided that this communication is inadmissible, because the author has not substantiated any claim under the Covenant and never presented this claim to the national authorities²⁵.

The description of national legislation, case law of national courts and international institutions shows that existing Lithuania's regulation of writing the names in official documents in principle doesn't violate state's national and international obligations. The legislation on this issue is constantly expanded and specified. State authorities of various levels make permanent efforts to improve it. Nevertheless, the need to exhaust possible legal measures – to adopt a specific law corresponding to recent society's needs – is obvious.

2. Public signs

One more aspect of a principle of state language rising difficulties in its implementation is public signs in languages of national minorities, especially streets name plates. The

²⁵ Decision Of Human Rights Committee, No. 1258/2004, CCPR/C/90/D/1285/2004, 29 August 2007. http://www.ccprcentre.org/wp-content/uploads/2012/12/1285_2004-Lithuania.pdf [interactive] [accessed 01/11/2013].

problematic territories are Vilnius District and Šalčininkai District Municipalities, which are historically populated by a large number of people of other nationality, mostly of Polish and Russian.

As it was already mentioned, the Law on State Language requires that public signs shall be in the state language in Lithuania (article 17). It also states that names of organizations of ethnic communities, their informational signs may be rendered in other languages along with the state language. The format of signs in other languages cannot be larger than that of signs in the state language (article 18). The Law also determines that the rights of persons from ethnic communities to foster their language, culture and customs are guaranteed by other laws and legal acts (article 1 §3). The Law on Ethnic Minorities, which was previously in force, provided even broader possibilities: in offices and organisations located in areas serving substantial numbers of a minority with a different language, the language spoken by that minority could be used in addition to the Lithuanian language; signs used in such areas could be in the Lithuanian language and in the language used by that minority (articles 4, 5)²⁶. But this law has expired from 1 January 2010. Its various new projects are discussed time to time, but the final decision hasn't been reached mostly because of political disagreements. The current legislation regulating *inter alia* the naming of the streets is a procedure approved by the order of the Minister of the Interior of the Republic of Lithuania (No. 1V-57, 25 January 2011). It points that the names of streets, buildings and other objects in road signs, tables, notes or sign boards must be rendered as they are registered in Address Register or Real Property Register (§30), that means they must be in Lithuanian characters according to the rules of the Lithuanian. The municipal executive authorities are responsible for the installation, recording, monitoring and replacement of the above mentioned signs (§29)²⁷. But according to the information of the Government representative in Vilnius County, the executive authorities of Vilnius District municipality and Šalčininkai District municipality systematically violate these requirements and install street names plates recorded not only in the Lithuanian, but in Polish too. Usually they attempt to justify the violations by the rights of national minorities, society's needs or inconvenience. The most recent decisions of the courts ascertaining violations were made in last two months. The Supreme Administrative Court of Lithuania (case No. A⁵²⁰-1271/2013, 30 September 2013) obliged the Director of Šalčininkai

²⁶ *Official Gazette*, 1989, No. 34-485.

²⁷ *Official Gazette*, 2011, No. 12-541.

District Municipality Administration to change the street names plates, which don't comply with the requirements of the legislation. The Vilnius District Court (case No. 2S-1437-585/2013, 23 October 2013) has fined the Director of Vilnius District Municipality Administration for the failure to fulfil the court's decision to replace bilingual street names plates to the plates only in state language. According to the Government representative in Vilnius County the authorities of these two municipalities not only systematically violate the legislation, but also systematically neglect to fulfil the decisions of the courts. For this reason the enforcement of court's decisions is delegated to bailiffs²⁸. This situation is absolutely intolerable: the state officials are supposed to be loyal to the state, its values, legislation and court decisions. The case law of administrative courts of Lithuania in cases on this issue is consistent: systemic analyses of national legislation leads to an unambiguous conclusion that street names can't be considered as the names of ethnic community's organizations or its information signs in the sense of Article 18 of Law on State Language. Only official Lithuanian names of places can be written in the street names plates, because they are related to the state language in public life²⁹. In a case where the Supreme Administrative Court of Lithuania announced the name of a school illegal because of non-Lithuanian forms, it has recognized a public interest in state language. The Court has concluded that state language in public life and the right to foster ethnic language and culture are two distinct but not contradictive conceptions of using the language: the right to foster ethnic language is a personal one, but the right to use the state language in public life is determined by public interest – the aspect, which isn't connected to a specific person or his nationality (case No. A¹⁴³ – 687/2008, 15 April 2008).

The national courts reject the argument that existing reglamentation violates article 11 §3 of the Framework Convention for the Protection of National Minorities (ratified in 17 February 2000) according to which in areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the state endeavours to display traditional local names, street names and other topographical indications intended for the public also in the minority language. The courts emphasize that the implementation of the Convention isn't absolute, it can be carried out only under certain circumstances: in the framework of national legal system, taking into account specific conditions and agreements with other states when

28 <http://vyr-atstovai.lrv.lt/vilnius/index.php?p=0&l=LT&n=1> [interactive] [accessed 01/11/2013].

29 The decisions of the Supreme Administrative Court of Lithuania in cases No. A⁵⁵⁶-761/2013, 8 May 2013; No. A⁷⁵⁶-152/2009, 30 January 2009; etc.

there is a sufficient demand. First the procedures should be established to enforce the norms of the Convention (The decision of the Supreme Administrative Court of Lithuania, case No. A²⁶¹-997/2009, 14 September 2009). Besides, parallel use of several languages in public sphere would be a strong factor of dezintegration, it could even stimulate the process of decentralization³⁰.

Although national courts don't detect violations of national and international regulations on topic issue, but at this time no special national law regulates the rights of national minorities. This situation can be considered as a failure to fulfil international commitment³¹. For this reason it is crucially important to adopt a national set of norms defining the rights of national minorities *inter alia* the scope of right to use the language of national minority.

3. Education

One more sphere recently raising legal disputes on implementation of the principle of state language is education in languages of national minorities. Such a right is included in national and international legal acts. Article 17 of the Law on State Language obliges the state to guarantee the residents of Lithuania the right to acquire general, vocational, higher post-school and university education in the state language. According to the article 12 of the Framework Convention for the Protection of National Minorities states, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority. The states undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities³². The Law on Education is based on principle of equal opportunities and provides guarantees to learn in a language of national minority and to learn that language (articles 5, 28 §7, 30)³³.

A lot of attention of the society of Lithuania was attracted by the order of the Minister of Education and Science (No. V-109, 20 February 2013³⁴) according to which a shorter essay

30 Beinoravičius, D., Vainiūtė, M. Tautinių mažumų teisės [The Rights of National Minorities]/ Tautinių mažumų teisės [The rights of national minorities]. 2005. P. 123-124.

31 Račkauskaitė, A. 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* [Societal studies]. 2011, 3(1). P. 377.

32 <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> [interactive] [accessed 01/11/2013].

33 *Official Gazette*, 1991, No. 23-593.

34 *Official Gazette*, 2013, No. 20-996.

during the final examination of the Lithuanian language was required for pupils learning in national minorities languages, and a longer one – for those, learning in the Lithuanian language. So this regulation has facilitated national minorities to enter higher schools. The official reasoning of such an order was the implementation of the rights of national minorities. But probably political pressure was even more determinant factor. So it was not surprising that a complaint was lodged soon. The Supreme Administrative Court of Lithuania (case No. I²⁶¹-16/2013, 18 June 2013) has decided that the differentiation created by the order is discriminative. The Court has presented a wide analyses of various national and international legislation on principles of state language, equality, nondiscrimination, rights of national minorities to education and their language and has concluded that the legislation oblige the state to provide a possibility to learn in the language of national minority and in the state language, but the state also has the right to set requirements of knowledge of the state language at some level. The Court based its arguments on case law of the Constitutional Court of Republic of Lithuania and international courts and has concluded that exemption for pupils learning in national minorities languages is not proportionate to differences which were made for them to prepare for the examination. Besides, the Minister of Education and Science explained that these measures taken were temporally, but the acting of his order was permanent. The Court found that this circumstance is an additional independent ground to announce the Minister's order discriminative³⁵.

Eliminating the violations detected by the Court, the Minister of Education and Science has passed a new order No. V-1019, 13 October 2013³⁶. This is a good example to conclude that existing legal regulation doesn't infringe the right of national minorities to learn in their language. By contrary, the state promoting better knowledge of state language increases integration of the society. It is also necessary to stress the importance that implementation of the principle of state language would be protected from influences of political powers.

CONCLUSIONS

The Constitution of the Republic of Lithuania ensures the Lithuanian special legal status and declares the principle of state language. The state regulates the use of the state language

³⁵ *Official Gazette*, 2013, No. 66-3307.

³⁶ *Official Gazette*, 2013, No. 114-5701.

in public life of Lithuania, protects and controls using of it, and establishes the responsibility for violative use of the Lithuanian.

There is created the whole legal framework for the implementation of the constitutional principle of the Lithuanian as the state language in national legislation. Application of some norms of legislation sometimes becomes more or less problematic. This happens for different reasons: changing realities and public needs, migration or even politics. The recent problematic aspects in implementation of the principle of the state language are basically connected to the exercise of the rights of national minorities: writing of the names of natural persons in official documents; public signs and education. Existing Lithuania's legal regulation of writing the names of persons in official documents in principle doesn't violate state's national and international obligations. Nevertheless, the need to adopt a specific law corresponding to recent society's needs is obvious. National courts don't detect violations of national and international regulations on public signs, but to fulfil international commitment it is crucially important to adopt a specific national act defining the rights of national minorities, *inter alia* the right to use their language.

The existing legal regulation doesn't infringe the right of national minorities to learn in their language. By contrary, the state promoting better knowledge of state language increases integration of the society. The case law of national courts on the implementation of the principle of state language is consistent: the courts rely on systemic analyses of national and international legislation, case law of international courts. The interpretations of the courts contribute to the protection of special status of the Lithuanian. The implementation of the principle of state language must be protected from influences of political powers. This would help to avoid certain problems in the future.

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VALSTYBINĖS KALBOS PRINCIPO ĮGYVENDINIMAS LIETUVOJE: DABARTINIAI PROBLEMINIAI ASPEKTAI

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Santrauka

Lietuvos Respublikos Konstitucija nustato lietuvių kalbai valstybinės kalbos statusą. Tai reiškia, kad lietuvių kalba yra vartojama viešajame gyvenime, valstybinės kalbos vartojimas yra saugomas ir kontroliuojamas, o už netinkamą jos vartojimą numatyta atsakomybė. Šis principas įgyvendinamas visoje teisės sistemoje. Jis įtvirtintas ir specialiuose teisės aktuose, ir kituose įvairių rūšių teisės aktuose, reguliuojančiuose įvairias viešojo gyvenimo sritis: valstybės tarnybą, viešąjį administravimą, švietimą, teismines procedūras, tautinių mažumų teises, reklamą, vardų ir pavadinimų suteikimą, viešuosius užrašus ir pan. Valstybinės kalbos principas yra plačiai atskleistas ir Lietuvos Respublikos Konstitucinio Teismo ir kitų nacionalinių teismų praktikoje. Tačiau kartais tam tikrų normų, kuriose įtvirtintas valstybinės kalbos principas, įgyvendinimas tampa problemiškas – dėl besikeičiančių socialinių realijų, migracijos ar net politikos. Pastaruoju metu išryškėjo keletas tokių probleminių sričių, kai keliamas klausimas dėl teisės tautinėms mažumoms vartoti savo kalbą: tai yra asmenvardžių rašymas oficialiuose dokumentuose, viešieji užrašai ir švietimas. Sistemine nacionalinių ir tarptautinių teisės aktų analizė, nacionalinių ir tarptautinių teismų praktika leidžia daryti išvadą, kad egzistuojantis teisinis minėtų probleminių sričių reguliavimas iš esmės atitinka valstybės įsipareigojimus dėl asmenų teisių. Tačiau būtina nedelsiant priimti specialius teisės aktus, atitinkančius šiuolaikinės visuomenės poreikius ir užtikrinančius tarptautinių įsipareigojimų vykdymą.

Pagrindinės sąvokos: konstitucinis valstybinės kalbos principas, tautinių mažumų teisės.

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