

# **Implementation of the Council of Europe's Framework Convention for the Protection of National Minorities in Lithuania**

*(an alternative report from the Union of Poles in Lithuania (Związek Polaków na Litwie – ZPL) and the Polish Educational Society (Polska Macierz Szkolna – PMS), non-government national minority community organisations)*

The aim of the alternative report regarding the implementation of the assumptions of the Council of Europe's Framework Convention for the Protection of National Minorities in Lithuania is as a supplement to an analogous document prepared by official Lithuanian authorities, as well as an accentuation of the differences in opinions and interpretation which arise in specific areas between the interested minorities and the country's authorities in relation to the rights and freedoms of Lithuanian national minority communities.

## **Promotion of culture, maintenance of identity of the national minority (Art. 5)**

The greatest and fundamental source of financial means for the cultivation of culture and the identity of national minorities is the Department of National Minorities and Emigration, in the government of the Republic of Lithuania. Over the last few years the Department's budget has significantly increased from 6-8 million lity in initial years from 2000 up to more than 20 million litas for 2007.

Unfortunately, the disposal of funds amongst Lithuanian national minorities and the emigration in these years was greatly staggered against the national minorities. For example, for the Department's budget of 6-8 million litas, the greatest Polish minority in Lithuania received an annual donation for various projects of a sum not exceeding 40 thousand litas. However, in 2007 only some 500 thousand litas were set aside for all the projects of Lithuanian national minorities (some 1 million litas were set aside for buildings maintenance in three national minority centres – in Vilnius, Kowno and Visaginas). This is an incommensurately small sum in relation to the total budget and the real needs of the minorities.

In relation to the above, we consider that in future the budget allocated by the state for the needs of the emigration and national minorities should be split and not be merged into one joint budget of the Department of National Minorities and Emigration, as has happened to date. The separate funds intended for the needs of the emigration and for those of the national minorities will enable the avoidance of situations of radical disproportion in financing the needs of two entirely different, after all, objects.

## **(Art.10 &11 of the Convention)**

In its practical realisation one of the most recalcitrant is the matter of the public use of a minority language as an aid alongside the State language of Lithuanian within offices and public administration institutions in areas inhabited by persons belonging to those national minorities in substantial numbers.

The Polish community in Lithuania, which inhabits substantially the regions of Vilnius (over 61%), Solecznice (over 79%) and partly Trocko (over 33%) and Święciane (over 28%), has striven for many years with the State's authorities to be allowed to use their language publicly (as well as within administrative offices) alongside Lithuanian in those areas where they inhabit the territory in substantial numbers. It should be explained here that the Polish community is not seeking parity status for both languages (which is the case frequently mistakenly presented by certain administrators and politicians in Lithuania, leading to erroneous public opinions), but only seeks that Polish should have the status of a language aid (local). The purpose is that alongside the State's Lithuanian, in territories defined by law the Polish language may be used in offices and public administration institutions, both orally and in writing. That is, an office employee when asked a question in a given language either orally or in writing would be obliged to give an answer in that language. Possible written communications between the interested party and the official in Polish should be translated into Lithuanian. On the other hand all official administrative documents

should be written exclusively in Lithuanian. The Polish language, as an aid, would therefore only be used for the purposes of communication and information.

The use of the Polish language as an aid alongside the State's Lithuanian in the regions of Vilnius (population percentiles were given above) is in complete agreement with the demands of Article 10 and Article 11 of the Framework Convention. For the Poles have tried more than once to obtain the right from the state authorities to use their mother tongue publicly (and so such a wish is formulated as a condition in Article 10 of the Convention), amongst other activities collecting over 50,000 signatures of those entitled to vote (which is a significant proportion of the population) in a petition to maintain in an unchanged state Articles 4 & 5 of the Law relating to national minorities (copies of these signatures were delivered *inter alia* to the delegation of experts from the Advisory Committee of the Council of Europe who were in Lithuania in autumn 2003). The relevant articles guarantee the representatives of national minorities in Lithuania the right to use their mother tongues in public in administrative offices (Article 4 „in administrative territories inhabited in substantial numbers by persons belonging to any national minority, in local and organisational offices their native tongue (local) should be used alongside the State language.“ Article 5 „In administrative territories inhabited in substantial numbers by persons belonging to any national minority, information notices may appear in the native tongue of the national minority (local) alongside Lithuanian.“)

That such aspirations answer the needs of the Polish community in terms of using their mother tongue in public life, is reflected not only in their national percentage composition within the territories under discussion, but also in the fact that some 100 schools operate within these territories that use the Polish language as their teaching language, Polish community organisations are very active (for example ZPL which numbers some 11 thousand members and is from this point of view one of the largest organisations in Lithuania, not only amongst the national minorities but also among the dominant nationality population). Thus the Polish language has for many centuries been universally known and used in these territories. And so in the region of Vilnius the second condition of Article 10 of the Convention is fulfilled, whereby the wishes of the national minority in using the language in public offices must answer their true needs.

In a limited way the Polish language (in the form of information notices inside or indeed on the outside of self-governing buildings and in oral communication [it is not utilised in written form because of the authorities' restrictions in force]) is used in local self-governing offices where the local authority is run by the Polish Election Campaign in Lithuania (Akcja Wyborcza Polaków na Litwie), that is in the regions of Vilnius and Solecznice.

The State's policy, however, is the gradual elimination, or limitation, of the use of the Polish language in public life. Many of the actions of the authorities and politicians indicate that the ultimate aim is to limit the use of the Polish language in everyday relations within the circle of Polish community organisations, or indeed amongst friends and family. This aim is to be served by the ratification of the new Lithuanian Law relating to national minorities, which document the Lithuanian legislature intends to change in comparison with the first draft so that with regard to the use of national minority languages in public life it is subordinate and secondary to the Law relating to the State language. In the appropriate Article an additional clause is to appear which states that in Lithuania persons belonging to national minorities have the right to freely use their mother tongue in private and in public, both orally and in writing, **however they can take advantage of this right only if it does not affect the legislative assumptions regulating the use of the State language in public life in Lithuania.** (In a further, more recent draft of the Law relating to national minorities it is proposed that the national minorities in Lithuania may take advantage of their rights and freedoms whilst simultaneously however complying with the Constitution, laws and other legislative texts which are binding within the State, thereby including the Law relating to the State language; in this version of the draft the mother tongue of national minorities may be used in offices “should a real need for this exist”; who and in what way determines “a real need” is not specified.)

In practice such restrictions will mean that representatives of national minorities will have to firstly and above all apply the requirements of the Law relating to the State language, which Law specifies that only Lithuanian should be used in public life in Lithuania and in particular in administrative offices. However, the minority language with respect to the Law relating to the State language,

may only be used in informal relations within national minority communities. The Polish community perceives this restriction to the new Lithuanian Law relating to national minorities as a worsening of the situation to date with regard to the use of their mother tongue in public life (see Article 4; 5 of the current Law), and as a limitation of the rights already attained by national minorities. It is contradictory to Article 22 of the Framework Convention, which forbids depriving the national minority of any rights already „guaranteed“. Depriving the Polish community of the right to use their mother tongue in public administration offices within the areas inhabited by them in substantial number, would also infringe Articles 2, 10 and 11 of the Framework Convention. The XI Congress of the Federation of Poles in Lithuania protested against plans to introduce a restriction limiting the use of the Polish language in offices and public administration institutions in the region of Vilnius. On 20 May 2006 it accepted a resolution (which was later sent to the Parliamentary Committee on Human Rights, but remains without a response from that body), where attempts to subordinate the new Lithuanian Law relating to national minorities to the Law relating to the State language were deemed to be unacceptable and contradictory to the Framework Convention (see attached resolution).

The fact that the authorities intend to introduce the restrictions described above is evidenced by the change in Lithuania's position with regard to public information notices in minority languages. In previous reports Lithuania committed itself to take an appropriate government decision “regarding the naming, change and registration of building numbers, apartments and street names, buildings etc (...)”, which would enable traditional local names, street names and other topographical indications to be identified in the minority language alongside the State language in areas where there is a high concentration of national minority population. In its last report to the Council of Europe Lithuania has already withdrawn from this obligation, stating that this would be contradictory to Article 18 of the Law relating to the State language. The report suggests that the minority language could only be used alongside the State language in signage and information noticeboards if these relate to information about national minority organisations. It is worth mentioning here, that a few years ago the government representative for the district of Vilnius sued the self-governing authority of the region of Vilnius for the fact that the said authority, in accordance with Art.5 of the Lithuanian Law relating to National Minorities and Art.11 of the Framework Convention, placed street name signs in certain places within the region of Vilnius which are over 60% inhabited by Lithuanian Poles (eg Suderwa) in Lithuanian and Polish. The Highest Administrative Court, referring to the requirements of the Law relating to the State language, invalidated the actions of the self-governing authority of the region of Vilnius, forcing it in its judgment to remove those name signs which were deemed illegal. The council of the self-governing authority of the region of Vilnius was also earlier forced by the Highest Administrative Court to withdraw its decision, in which in accordance with Art.4 of the Law in force relating to national minorities, it had authorised the use of Polish as the local language alongside the State language in administrative offices in the territory of the region.

In the meantime it should be noted that the experts of the Advisory Committee of the Council of Europe (in document ACFC/OP/I(2003)003; Strasbourg 21 February 2003) and the experts of the Venice Commission (Strasbourg, 8 April 2003; sentence no. 237/2003-06-03 “Opinion on the Draft Changes to the Law relating to National Minorities” written by Sergio Bartole and Pieter Van Dijk) in evaluating Lithuania's implementation of the Framework Convention and also evaluating the new draft being prepared of the Lithuanian Law relating to national minorities, had many reservations in relation precisely to the regulations relating to the public use of national minority tongues. The Lithuanian authorities were criticised for their attempt to subordinate the Law relating to national minorities to the Law relating to the State language, for their attempts to introduce to the Law relating to national minorities the concept of “a language acceptable to both sides” as opposed to “the minority language”. There was criticism also relating to the lack of clear and effective criteria in the Law relating to national minorities as to where, how and within what situations the national minorities may use their mother tongue in public administration offices.

In reviewing this problem it should be stated that the Polish language is mostly used orally in the self-governing offices of the region of Vilnius and Solecznice (where the local self-governing offices where the local authority is run by the PECL [Polish Election Campaign in Lithuania]) in accordance with the inspiration and wishes of those interested as it were. Any legal resolutions in this area have been confused by the state authorities in ratifying the Law relating to the State

language in 1995, whose assumptions contradict Art.4 & 5 of the Law relating to national minorities (ratified in 1991). The official authorities have treated any uncertainties in this area to the advantage of the Law relating to the State language. In the draft of the new Lithuanian Law relating to national minorities the document's authors do not introduce any clear criteria for the use of the language of the national minorities in public administration offices, but on the contrary are introducing ambiguity and vagueness with regard to these issues including subordinating the Law relating to national minorities to the Law relating to the State language.

### **Spelling of names and surnames of Lithuanian Poles (Art.11 of the Convention)**

The representatives of the Polish community in Lithuania have on numerous occasions publicly declared the need and ambitions that the Polish citizens of Lithuania should be entitled to write their names and surnames in official documents using the original spelling, in other words in accordance with the correct Polish spelling using the appropriate diacritical marks. In the opinion of Polish Lithuanians, a person's name and surname is their personal name and possession. The State cannot by administrative means force its citizens to waive their right to their name and surname (their own name). Art.11 of the Framework Convention, which Lithuania ratified without any exceptions, will be binding for those states which are its signatories to undertake to recognise that every person belonging to a national minority has the right to use his or her name and surname in the minority language.

In the laborious and frequently unfruitful discussions (continuing for over 10 years) with representatives from Poland, Lithuania is slowly inclining towards granting permission for its citizens of Polish nationality to write their personal names in their mother tongue. Thus far, however, there is a lack of an appropriate legal framework for this area. Poland has guaranteed its citizens of Lithuanian nationality such a right.

The representatives of the Polish minority in Lithuania are of the opinion that the Lithuanian authorities should carry out to the letter of the law Art.11 of the Framework Convention, as is required by Art.2 of the said document.

### **Administrative dispersion of closely-knit communities of the Polish minority (Art.16 of the Convention)**

In Lithuania under the cloak of agricultural reform, based on the return of land to its former owners, where the Soviet authorities had once nationalised it (taken it), the process continues of mass resettlement of persons of Lithuanian nationality in the territories of the region of Vilnius, up to now overwhelmingly inhabited by the Polish minority. This procedure has been possible thanks to the fact that in Lithuania within the framework of the so-called Law of reprivatisation (Law relating to the right of citizens to retained estates and properties), lands which were once real estate were termed personal property. In accordance with the above-mentioned Law every citizen of Lithuania, formerly a landowner, can now reclaim it not necessarily in the same place as it was owned prior to the war; he can sign an application requesting "transfer" of his former real estate to any territory within the country he desires. Such a legislative clause is exceptionally corrupting as it allows the administrators of the agricultural reform, politicians, surveyors, their relatives and friends to take advantage of their administrative positions, to "move" their land of little value in the countryside to land nearer the capital, where prior to the war the landowners were mostly Poles. It is worth mentioning that the actual market value of land near Vilnius is tenfold (or even a hundredfold) higher than the value of land in the depths of the country. It is for this reason that so-called "moves" which are accompanied by corruption, nepotism and indolence of the administrators responsible for the agricultural reform, are the source of serious inter-nationality tension in the territories in the region around the capital. For commercially the very valuable land close to Vilnius is inhabited most often by non-local persons, whereas the local former landowners (most often Lithuanian citizens of Polish nationality) are frequently offered land of poorer value or they risk ending up without any land, through the fault of the administrators. Often this happens despite the fact that Lithuanian legislation gives precedence to the return of land to former local landowners.

In this way a situation has arisen where on average over 94% of the land which once belonged to landowners has been returned, in the region of Vilnius this percentage is only around 68% (and it is not known how many within this percentage are local former landowners and how many are those who have “moved” their land to the region near Vilnius), whereas in Vilnius itself it is barely 9% which is an absolute ‘anti-record’ on the scale of the State.

Today, after 15 years of this reform, the authorities state that in Vilnius and the area surrounding the capital there is insufficient land, as there are too many applications from “movers”. In this way in the region of Vilnius as the only one in the country, where the aims of the reform may not be realised at all – for a part of the local former landowners their land will not be returned at all, which would violate their legal expectations. In Vilnius, contrary to the laws and even the judgment of the Constitutional Tribunal (which stated that within the territory of the town all free (undeveloped) land must be returned to its former owners), the local authorities did not even submit how much land is to be returned (in accordance with the law this was to have been done by 2002) to former owners. Unofficially there is talk that this is barely 30% of applications made.

Mass “moves” of land around Vilnius in this way resettling the inhabitants of Lithuanian nationality to areas to date densely populated by the Polish minority, is contradictory to Art.16 of the Framework Convention. In addition, this infringes the legal rights of local residents. At the present time for the whole procedure to be legally righted, future applications for “moving” should be stopped, until such time that all former landowners from the area of Vilnius and the city of Vilnius have had their lands returned (by law they are entitled to receive compensation in the form of plots of land in regional, countryside territory, for land once owned in the city). **We call on the Council of Europe to intervene urgently in this matter, as the continuing process of agricultural reform in this form in the territories mentioned threatens social disturbances or rioting and possibly national ones too (more and more politicians are talking of this in Lithuania).**

“Moves” carried out to date have already led to significant nationality changes in certain local administrations in the region of Vilnius (eg in the administration of Suderwo the percentage of Poles in the population has dropped to around 20%). The Polish community considers that all, irrelevant of nationality, who wish to own land near Vilnius can obtain it from its rightful owners.

The Polish community also does not agree with the shape of administrative-territorial reform, which is currently being carried out in Lithuania (although it has not affected the region of Vilnius yet). The one-step model of self-government which assumes the creation of small, often financially unviable, self-governing authorities, will impair authentic self-governance. It will increase the influence of disposal of financial sources by the appointment of authorities by central government, simultaneously incapacitating small self-governances. In the region of Vilnius the administrative reform may in addition lead to a dispersal of close-knit Polish communities, reducing their self-governing potential at the cost of regional authorities. Despite the opposition of local residents, the reform is to include the region of Vilnius too.

### **The right to learn the mother tongue or to an education in the mother tongue (Art.14)**

The law and legal acts (Constitution of the Republic of Lithuania, the Law relating to national minorities of the Republic of Lithuania, the Law relating to education in the Republic of Lithuania) guarantees the right to a secondary education in the mother tongue. Based on the above-mentioned legislation, Lithuanian administrators are preparing all reports to the Council of Europe relating to the creation of good development conditions for national minorities in Lithuania, characterising them in an exclusively positive light. However, often in practice these conditions do not allow for the realisation of clauses within the legislation mentioned above.

The pupils of Polish schools in Lithuania do not have identical conditions in which to receive a secondary education:

1. The fact of legalisation of the establishment of the only schools in the Republic of differing authority (regional schools and self-governing schools) in areas densely populated by the Polish minority (in the areas of Vilnius and Solecznice), is at the very heart of the different treatment of Polish and Lithuanian schools. Lithuanian regional schools are better equipped, have more modern technical centres, have greater possibilities of financial sources at their disposal, and are treated more amicably by the education authorities, which creates a generally more positive work environment.

2. The teaching staff for educational establishments (schools and nursery schools) which teach in the mother tongue, with the exception of teachers of Polish, are not educated in the mother tongue at higher educational establishments in Lithuania, which causes additional problems in using appropriate terminology.

3. Continuing actions are being taken aimed at limiting the use of the mother tongue in schools where Polish (the mother tongue) is used for the purposes of teaching, thereby diminishing its role by:

- removing the Polish (mother tongue) examination from the obligatory list of subjects required for matriculation,

- requiring that internal information, administrative affairs, meetings and even minutes of meetings of self-governing schools is carried out in Lithuanian, although the teaching itself is carried out in Polish.

4. There are significant deficiencies in the provision of Polish textbooks. This can be explained by the shortage of funds in Polish schools, as textbooks translated from Lithuanian into Polish are twice as expensive. The Republic's education authorities do not however cover the difference in costs in the publication of Polish textbooks as opposed to Lithuanian ones. The parents of children attending Polish schools must cover these costs out of their own pockets.

5. Polish schools find themselves in a far worse financial situation as the "pupil's basket of school equipment" for Polish schools by comparison with that for Lithuanian schools is larger by barely 10%, whereas the real costs of running a Polish school are 40% greater in rural communities and 30% greater in urban ones (the realisation of the teaching programme: the subject is nonetheless taught more; the cost of textbooks is twice as high; cost of teaching aids is higher and the cost of improving teacher qualifications) by comparison with the costs of running a Lithuanian school. From 2008 an increase of another 10% is planned in the value of the "pupil's basket of school equipment" in national minority schools.

Polish education is constantly faced with difficulties and stresses resulting from various "innovations" introduced by education administrators. The aim is to put parents off, to wreak havoc and uncertainty, to create false problems which is the basis for then stating that unequal conditions are being created for the development of Polish and Lithuanian schools. One such example is:

- the planned standardisation of the State examination of the Lithuanian language in Polish and Lithuanian schools, without taking into account the significant difference in the number of hours devoted to learning Lithuanian. In years 1 to 4 the difference between Polish and Lithuanian schools is threefold, where in years 5-10 it is twofold to the disadvantage of Polish schools; the teaching programmes are also significantly different as well as the textbooks used. In this way Polish school students are disadvantaged by being made to purposely achieve worse grades in matriculation than their colleagues in Lithuanian schools, and thereby they then have a handicapped start in life in terms of further education, compared with pupils from Lithuanian schools.

- in the ongoing reorganisation of the network of education centres, a series of schools teaching in the Polish language in the region of Trock, Szyrwinc and the town of Vilnius have been closed or their status has been reduced, which has been explained by the reduced number of pupils attending class. In the demands of the Polish community in Lithuania relating to the setting up of Polish schools as national minority schools, the reduced pupil numbers attending a class/group have not been taken into account and on more than one occasion these figures have been rejected.

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