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**REGULATIONS REGARDING THE SPELLING OF  
NATIONAL MINORITIES' NAMES IN THE DOCUMENTS  
AND THE PROTECTION OF THE STATE LANGUAGE IN  
LATVIA AND LITHUANIA**

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**Abstract**

The goal of this article is to compare the Latvian and Lithuanian provisions regarding the spelling of names of the members of the national minorities. Lithuanians often state an opinion, that provisions in both countries are very similar, and Latvian Poles cannot use the original form of their names. The legal comparative methods have been used. In the paper the most important provisions of both countries were analyzed: Constitution, state language law, law on the state language commission and the special regulations on the spelling of the names. Also, the problems with the national minorities law were analyzed. This comparison led to the discovery of differences in the Lithuanian and Latvian provisions regarding the spelling of names. Another factor which had been taken into account is the standing of the international bodies on those regulations. It has been presented by showing most important cases regarding Latvia and Lithuania. Abovementioned means allowed the author to verify the thesis that Latvian and Lithuanian provisions are similar. Both legal systems have also been criticized.

**Keywords:** Lithuania, Latvia, spelling, names, national minority

**Introduction**

The conflict between Poland and Lithuania regarding the rights of the Polish minority is a widely known problem which has been a frequent topic of debates in the media and in academic discourse. Polish minority in Lithuania complains about a number of problems: unfavorable map of electoral districts in some elections (until 2016), lack of any law on national minorities, problem of reprivatization of land in Vilnius and the neighboring territory (Górecki 2013, p. 69–112), and the education of national minorities (Sidorkiewicz 2014, p. 44–46). However, one problem became the symbol of the difficulties that Polish-Lithuanian relations need to face. It is the question of spelling the names of the Lithuanian Poles. According to Lithuanian law, it is impossible to write the names of the members of national minorities in their original forms and Polish names are to be written in the Lithuanian form.

Among many arguments found on the Lithuanian side of the debate is that Latvian provisions are very similar. Neither the Polish minority nor Polish government bother Latvia with that problem (The Lithuania Tribune 2010; Otocky 2017). Thus, it seems that Poland treats the two Baltic states unequally. It is true that relations between Polish minority and Latvia seem cordial (Leśniewska-Napierała 2015, p. 235–244), and the question of spelling Polish names is not present in Polish-Latvian relations. A report on the situation of Polish minorities in Latvia prepared by the Polish Ministry of Foreign Affairs in 2013 briefly describes the Latvian laws on the spelling of names and seems to confirm that they are similar to Lithuanian regulations. To quote the report: “It applies to acts of civil law status and passports (but on the first page). The question of spelling the names causes many controversies in Latvia, especially among the Russian minority. Polish minority does not really consider that a problem” (Ministerstwo Spraw Zagranicznych 2013, p. 154–155).

Thus, we can find a scientific problem: what is the reason for such a state of affairs? Is it true that provision of Latvian and Lithuanian law regarding the spelling of the names are similar? If so, why does the Polish minority not report any complaints about its situation in Latvia? Do the Lithuanian arguments find a justification in the Latvian legal acts?

To answer these questions, it is necessary to compare the regulations of Lithuanian and Latvian laws regarding the spelling of names of members of the national minorities. The analytic-formal approach to the legal comparison will be used.

However, before any attempt on that can be undertaken, it should be explained why the spelling of names is an important topic. It must be understood that the spelling of names is not only a political conflict but also a legal one, and as such it can lead to many consequences for everyday life of a citizen. The analyzed issue relates to certain values protected by the law, namely the protection of national minorities and the protection of person's identity. This means that the right to one's name is a very important element of a person's civil and public rights. Indeed, a name plays a very important role in law, as it serves the purpose of identification of any given person (Hrynicky 2014, p. 135). We use it in contact with administration, courts, while making contracts, and when we pay taxes. Therefore, it is very essential to establish a proper form of person's name. Another relevant aspect is the fact that a name is connected to our identity as a person – we fulfill our need of acknowledgment and we make social interactions under our names. The name is a part of our identity and dignity (Ura 2009, p. 211). It can be also a sign of someone's national feelings. A person may want to use his or her name in original form in order to underline their national identity or connection to the cultural heritage, especially to their language. If our names are slandered, norms of civil law guarantee us the right to protect it. Therefore, the right to the name is a legally relevant value.

This value may, however, collide with other legal values. In Lithuania and Latvia this value is the protection of the state language. Both of these countries have very broad and advanced systems of protection of the state language. In both cases, the protection of the national language has usually been considered more important value than the rights of national minorities. Authorities may argue that additional forms of protection of the state language is necessary in small countries which were under the domination of other nations (Poles, Russians). Also, it is the obligation of the state to protect the language, and its sovereign decision what measures are essential for that purpose. Thus, the need to protect the language justifies the spelling of names in the form other than the original (Jędrzyśiak 2016, p. 110–112).

## **Protection of state language in Lithuania and Latvia**

The constitution of Latvia (Konstytucja Republiki Łotewskiej 1922) clearly states that Latvian is the official language in Latvia (Art. 4). Analogical rules are expressed in the Lithuanian constitution (art 14).

These regulations themselves do not contain much normative material. However, they are the legal basis to a highly developed system of protection of the state language in Latvia and Lithuania. Law on the protection of state language has been enacted in both Latvia and Lithuania. In both states, there is an authority specialized in the protection of state language. In Latvia it is the State Language Expert Commission; in Lithuania it is State Language Commission. In both states, an official standard for the transliteration of names of persons and places can be found. Significant differences can be observed when analyzing regulations enacted in each state.

## **Latvian Law on the state language and the rules of spelling the names of national minorities**

In Latvia, the main legal act that regulates the spelling of names is the Law on State Language from 21 December, 1999. This act regulates the use and protection of the state language in state and municipal institutions, courts, and agencies belonging to the judicial system, as well as at other agencies, organizations, and enterprises (or companies) in education and other spheres. It also ensures a special status for the Latgalian dialect of Latvian and of the Liv language. Article 18 of the Law on State Language ensures that all the names of places are to be created and used in the state language.

The spelling of names of citizens is regulated by art. 19. According to this provision, personal names shall be reproduced in accordance with the Latvian language traditions and shall be transliterated according to the accepted norms of the literary language while observing the requirements of paragraph two of this article. The aforementioned paragraph two gives the members of a national minority the right to apply for the supplementation of the passport or the birth certificate by the historical form of the person's surname or the original form of the person's name in another language transliterated in the Latin alphabet if the person or the parents of a minor so desire and can provide verifying documents. Paragraph three of this article obligates the council of ministers of Latvia to issue a regulation in which the spelling and the identification of names and surnames, as well as the spelling and use in the Latvian language for personal names, from other languages shall be regulated.

An act that regulates the transliteration of names was applied on 22 August, 2000 (Regulation on Spelling and Identification of Names and Family Names). According to Art. 3 of this document, when spelling and using name and family name in the Latvian language, the following basic rules shall be observed:

3.1. A person's name (names) and family name (double family name) are the personal names that shall be written in the Latvian language in basic documents;  
3.2. The name and family name shall be spelled according to the spelling norms of the Latvian language and Latvian alphabet letters;

3.3. Every name and family name shall have an ending corresponding to the Latvian language's grammatical system in masculine or feminine forms according to the person's

gender (except common gender family forms with the feminine endings for persons of both genders).

Foreign names and family names shall be spelled in the Latvian language (expressed with Latvian language phonemes and letters) as close as possible to their pronunciation in the original language and according to the rules for spelling foreign proper nouns as well as the norms given in Article 3 of these regulations. In fact, Latvian provisions anticipate that all the names must be written with Latvian endings.

However, Latvian law offers a special regulation for the members of national minorities. According to art. 19 section 2 of this law, if a person wishes, Latvian authorities enter additionally in documents testifying civil status registration in the column "family name, name" the historic form of the name or family name, the original form or the transliterated form written in Latin alphabet according to the record in the person's documents. Original (or as the Latvian provisions state: "historical") or transliterated form of a name can be written in other documents upon request (only in the Latin alphabet though).

Nevertheless, the most important provision regarding the spelling of names is art. 10 of this legal act. It says that the form of the personal name written in Latvian is legally identical to the original form, transliterated form, or historic form of the personal name in Latin alphabet writing. It means that the Latvian legal system recognizes the original (historical) form of the names and gives them equal status to its Latvian versions. A person originating from a national minority is therefore able to use both versions of his or her name and both are legally binding. The regulation does not differentiate between the sphere of public and private law, and so it should also be acceptable to use the historical form of the name when in contact with public authorities, although some technical problems might arise (the original form of the name would be written in the passport, but necessarily in other documents – so it might prove problematic to use the original form of the name, if the passport is not involved in the procedure).

### **Lithuanian regulations on the spelling of names**

Lithuanian regulations are more complicated. First, the spelling of names is regulated by an older resolution from 31 January, 1991. According to this act, in the passport of the citizen of the Republic of Lithuania, the name and surname of the persons of non-Lithuanian origin shall be spelled using the letters of the Lithuanian language. On the citizen's request in writing the name and surname can be spelled in the order established as follows:

1. according to pronunciation and without grammaticalization (i.e. without Lithuanian endings) or
2. according to pronunciation alongside grammaticalization (i.e. adding Lithuanian endings).

It may seem that Lithuanian provisions are more liberal, since they allow for one to choose between two versions of the name: with Lithuanian endings and without them. As already mentioned, in Latvia name has to be spelled with a Latvian ending.

There are no regulations present on the topic of writing the original form of the name on other passport pages. This possibility is, however, indicated in the judgment of the Lithuanian Constitutional Court from 21 October, 1999, in which the court stated that writing the original form of name is possible on the other pages of the passport. However,

such entry will have no legal significance, meaning that only the Lithuanian form is allowed to be used in official situations. Additionally, Lithuanian Constitutional Court stated that the goal of the provisions on the spelling of names is the protection of the rights of citizens. Using letters that do not exist in the Lithuanian language would create confusion since the officials would not know how to read or write such names. The Lithuanian form of the language allows people to freely communicate with other citizens and with the administration in the Lithuania and to live in the Lithuanian society. The court also obligated the State Commission of the Lithuanian Language to conclude if some rules "may be established for writing names and family names in the passports of citizens (where the names and family names are written in Lithuanian characters and according to pronunciation), including whether, in certain cases, for the purposes of writing non-Lithuanian names and family names in the passports of citizens of the Republic of Lithuania, it is possible to use not only the letters of the Lithuanian alphabet but also other exclusively Latin-based characters, to the extent that these characters are consistent with the tradition of the Lithuanian language and do not violate the system or the distinctiveness of the Lithuanian language."

This creates a very visible difference between Latvian and Lithuanian legal systems. While it is true that the Latvian legal system contains regulations similar to the Lithuanian system, Lithuanian law does not give other national minorities one important right. Latvian law accepts the original form of names, only giving the Latvian form a default status. Lithuanian provisions decline the national minorities' rights to effectively use the original form of their names. It does not mean, however, that Latvian provisions are perfect. On the contrary, they can cause additional problems, such as creating a *de facto* dual identity of a person. While it is possible for the person to use both forms of the name in the Latvia, the practical relevance of this solution in situations outside of Latvia are limited. It would be difficult to explain why two forms of one person's name exists and is used in everyday situations in countries not familiar with the name spelling problem. A person may be a target of suspicion, might be obligated to submit additional documentation, or may not be able to finalize some official matters. Another problem is that the original form of the name may not be visible on other documents.

There are also big differences in the area of the language commissions. Statute of the Latvian Language Expert Commission had been issued on 22, August 2000 (on the basis of Article 23, paragraph 3 of the Language Law). The Latvian Language Expert Commission is established to promote the achievement of the goals determined in the State Language Law: preserving, protecting and development of the Latvian language. According to Article 2 of the Statute. The commission is a specialized collegial institution that fulfills the following tasks:

- 2.1. Codifies the norms of the Latvian literary language;
- 2.2. Specifies and develops new norms of the Latvian literary language;
- 2.3. Participates in developing of the methodological publications of the State Language Center.

However, the decisions of the commission are only of a recommendatory nature. Aside of the commission, there is also the State Language Center which is purely an advisory organ. This contrasts a very strong position of the Lithuanian Language Commission. First, the statute of the State Lithuanian Language Commission has the rank of the legal act. Secondly, the decision of the Lithuanian Language Commission becomes obligatory



to all enterprises, institutions and organizations, and mass media. Breach of the obligation engenders an administrative responsibility as stated in the law. It means that they are practically a commonly applicable law, and not just recommendations. It is supported by the fact that the Lithuanian Language Commission gets help from the Inspection of the Lithuanian Language, whose main objective, according to Article 4, is to control the implementation of the provisions of the State Language Law and the State Language Commission. Inspection can punish people who break the Language Law with an administrative penalty (art. 5 sec. 1 p. 7 of the Law on the State Language Inspection). Fines up to 170 euros had been noted (Bauraitė Martišiūtė 2017).

### **Law on national minorities**

There are some differences between Latvian and Lithuanian lawmaking when it comes to the national minorities. Both constitutions assure the protection of national minorities – Lithuanian constitution ensures it in art. 37 of the protection of “national communities” (which is a very original and a bit mysterious legal construct – normally constitutions just use the term “national minority”), while the Latvian constitution guarantees language rights and the preservation of cultural and ethnical identity. However, since 2010, Lithuania has had no law on the protection of national minorities. These rights are already protected by other provisions of the law. Latvia has its own law on the protection of national minorities, titled “On the Unrestricted Development and Right to Cultural Autonomy of Latvia’s Nationalities and Ethnic Groups”. It is a very short document (16 articles – for comparison, the Polish law on national minorities has 43 articles) and it does not refer to, for example, the possibility of writing topographical names in other language than Latvian. It is also very general and imprecise. Its provisions look more like promises or declarations than legal provisions, such as “All nationalities and ethnic groups have the right to freely develop their own professional and amateur art” or “National societies, associations and organizations have the rights to use the government mass media resources as well as to form their own mass media. The Republic of Latvia government institutions should promote the publication and distribution of national periodicals and literature.” Nevertheless, some basic law for national minorities exists and their rights in the sphere of education are being guaranteed in the Education Law from 29 October, 1998.

Lack of law on national minorities in Lithuania – a state with around 16% of non-Lithuanians (Gyventojų Tautinė Sudėtis 2011) – might create a very negative impression on minorities. It could even lead to the feeling that minorities are a target of “Lithuanisation” and assimilation, despite the intentions of the Lithuanian lawmaker. It could only be strengthened by ideas such as giving a State Language Law the rank of the constitutional act, which would mean that it would require a qualified majority to be amended. Also, the norms of that act would be hierarchically stronger than the ones of the normal bill (Jędrzyśiak 2016, p. 114). This would indicate that State Language Law would be much more difficult to change (it would require a special majority of votes in the *Seimas*) and would be legally more important than the norms of the “normal” bill. In case of a conflict between the norms regulating the state language and those regulating the protection of national minorities, the norms of the first law would always have to prevail. Thus, every attempt to fight for minority rights (schools, spelling of names, usage of geographical terms) may be ignored by the court because of its incompatibility with the State Language Law.

Lithuanian and Latvian regulations are similar, yet not identical. Latvia recognizes the legal validity of the name written in the original form, while this is not the case in Lithuania. However, it remains a completely different topic if Latvian citizens are properly informed on that possibility (European Commission 2007, p. 9). Negligence in that sphere would make this law virtually non-functioning.

### **International bodies and Lithuanian and Latvian laws on spelling the names**

Problems regarding the spelling of names had been a subject of many judgments and decisions of international courts and committees.

Lithuanian provisions had been analyzed by the Court of Justice of the European Union in the Runievič-Vardyn case. A Lithuanian citizen of Polish origin married the Polish citizen, Mr. Wardyn, and took up his family name. In the documents issued in Poland, her name was written in the Polish form: Małgorzata Runiewicz. However, when she wanted to register the marriage in Lithuania, her new name was written in the Lithuanian form, "Malgožata RunevičVardyn". The Wardyns (Vardyns) appealed against the decision. Soon, the case became the object of the preliminary questions to the Court of Justice of the European Union.

The main problem that had to be solved by the court was if the spelling of name in the Lithuanian form does not collide with the rule of freedom of movement guaranteed by the article 45 of the Treaty on the Functioning of the European Union. It could be the case that, since the name of the husband and the wife would be written differently, Wardyn and Vardyn, that it would be problematic to prove they are indeed married. Also, the different form of names on documents can cause many inconveniences in the banks, with the police, and in other official occasion. Mrs. Wardyn (Vardyn) would have to prove that she is indeed the person mentioned in all the documents, despite the different spelling.

The European Court stated that national rules which provide for a person's surname and forename may be entered on certificates of civil status of that state, only in a form which complies with the rules governing the spelling of the official national language. Also, the European Court declared that the joint surname of a married couple who are citizens of the European Union, as it appears on certificates of civil status issued by the member state of origin of one of those citizens, in a form which complies with the spelling rules of that latter State, on condition that the refusal does not give rise, for those Union citizens, to serious inconvenience at administrative, professional and private levels. It is a matter which it is for the national court to decide. If that proves to be the case, court should also determine whether the refusal to make the amendment is necessary for the protection of the interests which the national rules are designed to secure and is proportionate to the legitimate aim pursued.

At first glance, it would seem that Lithuania had won the case. The European Court of Justice stated that the spelling of names of citizens is the matter of the state, not of the European institutions. However, it must be noted, that while the European Court did not clearly state that the Lithuanian provisions contradict the freedom of movement, it suggested that it might be the case in this situation. The CJEU likely expected for the Lithuanian courts to analyze whether the provisions of the Lithuanian Law did not contradict

the freedom of movement and realize that they caused an inconvenience for the Wardyn (Vardyn) family. That, however, did not happen.

It must be noted that in 2017, the Wardyn family managed to win the case between the Lithuanian courts and received the possibility to write their names and the names of their children in their original form (European Foundation of Human Rights (EFHR)).

Three important cases regarding the Latvian provision which, as was proven, are much less strict than the Lithuanian provisions are the Mentzen (Mencena), Kuhareca (Kuharec), and the Raihman (Raihman) cases.

Leonid Raihman was a Latvian citizen of Jewish origins whose mother tongue was Russian. Raihman's documents issued by the Soviet Union spelled his name "Raihman". However, in 1998, Latvian authorities changed his name to a non-Russian and non-Jewish form "Leonīds Raihmanis". Raihman argued that the imposition by state authorities of a Latvian spelling for his name was in breach of article 9 (Non-Discrimination), and article 114 (Right to Preserve Cultural and Ethnic Identity) of the Constitution of the Latvian Republic, articles 17, 26 and 27 of International Covenant on Civil and Political Rights, as well as articles 8 and 14 of the European Convention on Human Rights and Fundamental Freedoms. He also argued that legal requirement imposing a Latvian spelling for his name in official documents, after 40 uninterrupted years of use of his original name, resulted in a number of daily constraints and generated a feeling of deprivation and arbitrariness, since he claimed that his name and surname "look and sound odd" in their Latvian form. The European Human Rights Committee (EHRC) agreed with the pursuant. In the Communication No. 1621/2007, EHRC Committee stated that Latvian unilateral modification of the author's name on official documents is not reasonable, and thus amounted to arbitrary interference with his privacy.

The Mentzen (Mencena) case was a subject of the court sentence of the European Court of Human Rights (ECHR). The Latvian citizen married in Germany and took up the husband's name – Mentzen. Latvian authorities decided to write the name in the Latvian form – Mencena. The ECHR agreed to the argumentation provided by the Latvian authorities. While admitting that transcription of personal names in the Latvian language in personal identity documents can be considered an interference in the private life of an individual, such interference was justifiable as the Latvian authorities. The ECHR agreed that the state language is an important constitutional value. Thus, every state can create a specific system of its own language protection. The ECHR would agree that the qualities of the Latvian language are a justification for altering the form of the name. Also, the use of the Latvian forms of surnames has not prevented the applicants from exercising all political, economic, and social rights, including the right to leave Latvia and to return to the country.

Similar arguments were used in the Kuhareca case. Miss Kuharec took up the surname of her husband. But in her Latvian passport her name was written as "Kuhareca", despite the fact that in other documents (such as her driving license) her name was written in the original form. Once again, the Latvian standing on the spelling of names had been accepted by the international bodies (Naumova 2014, p. 45).

In these very similar cases, international organs issued two completely different rulings. What is interesting, Mr. Raihman (Raihmanis) argued that Latvian law constitutes an arbitrary discrimination which is not properly justified by the goals of the regulation. The European Human Rights Committee disagreed, however, that this law results in de-



nial of his right to use his own language with other members of his community. In the Mentzen (Mencena) case, the applicant claimed that Latvian provision caused them many difficulties in everyday life (similar to the Wardyn case). That argumentation proved to be ineffective, as Latvia legally recognizes both forms of the name and Latvian law contains the legal instruments that allow the citizen to introduce the original form of the name in their passport. Thus, the ECHR claimed that these difficulties can be solved according to Latvian law. This shows how important the legal recognition of both forms of the name can be. It also indicates that the possible interruptions in human life are not an effective argument, and they have inferior value while compared to the *ratio legis* of the law that protects the state language.

These court proceedings clearly show that the Latvian provisions are highly controversial and met the reservations from the international organs. They also suggest that both Lithuanian and Latvian provision may create a very inconvenient situation of dual identity. As had been mentioned before, a name is a very important legal factor used not only in private but also in official situations. Dual identity may cause difficulties with exercising both public and private rights. What is more, a provision regarding the spelling of names is being justified by public interest, and this interest seems to always prevail over the interests of the single human being (Miksza 2014, p. 273–277).

### **Sociological, demographic and historical background and its influence on the law**

Up to this point, this paper has focused mainly of the analysis of legal norms and court sentencings and presented mostly a formal-analytical approach to the law. It must be noted that finding answers to the problems mentioned in this article should be supported by including different methods known in legal sciences. Law is a result of sociological, economical, and political processes.

Remarks based on different approach to law can help answer two questions. First, why does the Polish minority in Latvia not protest the Latvian regulation on names? Second, why are the Lithuanian and Latvian provisions different with Latvian provision containing some favors for the minorities while Lithuanian provision does not?

To answer the first of these questions, we need to refer to the demographic data in Latvia and Lithuania.

In Lithuania the biggest national minority are Poles (6,6%), followed by Russians (5,8%), and Belarusians (1,2%) (Ministry of Culture of the Republic of Lithuania 2016). Polish people live mostly in two regions in which they constitute a majority: Šalčininkai District Municipality and Vilnius District Municipality. Poles are also a significant minority in the city of Vilnius itself. Russians are a majority only in the municipality of Visaginas, however most of them live in the cities of Vilnius and Klaipėda (Lietuvos Statistikos Departamentas 2012), but they are not a majority in those cities. Russian can be found in most Lithuanian regions.

In Latvia, the biggest national minority are Russians (25,4%), who make up the majority of people in eastern, southeastern Latvia, and in Riga (Centrālā Statistikas Pārvalde 2016, p. 94–95). Other national minorities are Belarussians (3,3%), Ukrainians (2,2%), Poles (2,1%) and Lithuanians (1,2%) (Centrālā Statistikas Pārvalde 2016, p. 94). Poles live

mostly in two regions of Latvia: near Daugvāpils in southeastern Latvia and in the capital of Riga. They do not constitute a majority in any of the regions.

As mentioned at the beginning of this article, the Polish-Lithuanian relations suffer because of many unsolved problems of the Polish minority, which is a majority in two Lithuanian regions. Both the Polish minority and Poland often accuse Lithuanian authorities of discrimination and all sides of the conflict do not seem able to achieve any kind of compromise (Wołłejko 2011, p. 111–113). It is not the goal of this article to settle the question if Poles in Lithuania really are discriminated, nor is it indicating the side guilty for that state of matters. However, the general reception of the Lithuanian policy is usually seen as a discrimination by the Lithuanian Poles, despite their seemingly good status. Polish schools and university exist, we can find a number of Polish-speaking media, and the Polish Electoral Action in Lithuania is present in Lithuanian parliament. On the other hand, it is not only the Lithuanian authorities' fault that the Polish minority is seen as not fully integrated with Lithuanian society (ENRI-EAST, p. 76–78). Similar views have been expressed by the Polish Ministry of Foreign Affairs (Ministerstwo Spraw Zagranicznych 135–140).

Meanwhile, the Polish minority in Latvia seems to be well-integrated into Latvian society. As the aforementioned report of the Polish Ministry says: "Generally, it must be noted that there is a good Polish-Latvian cooperation in the sphere of respecting the rights of the Polish national minority in Latvia. Latvian authorities consider the Polish minority as one of the most loyal and praiseworthy. That is why authorities present a good and friendly approach" (Ministerstwo Spraw Zagranicznych 2013 p. 154). Comparable views have been expressed in scientific literature on the topic (Leśniewska-Napierała 2015, p. 235–244). The different approach to Lithuanian and Latvian policies might be a result of demographic and historical reasons. Lithuanians might be afraid of a potential Polish separatism, which is rather not the case in Latvia. The different approach can also be a result of a role of Polish minorities in creating an independent Lithuania or Latvia. In Latvia, the highly respected Ita Kozakiewicz openly supported the independence of Latvia (Ambasada Rzeczypospolitej Polskiej w Rydze 2015). As well as most of the Latvian Poles. On the other hand, Lithuanian Poles' activity in the early 1990s, such as attempt to create to create an autonomous region around Vilnius and not voting in favor of Lithuanian independence by some of the Polish activists created a high level of distrust (Chajewski 2015, p. 241; Sirutavičius 2013, p. 135–143). We can assume there is no feeling of distrust between the Polish minority and the Latvian authorities. Thus, Polish people do not feel discriminated and the issue of name spelling is not seen as another form of some alleged assimilation policy.

The second question regards to the differences between the Lithuanian and Latvian law. The first law in the Baltic states that would regulate the names of people was the Latvian *Likums par uzvārdumaiņu* law on name changes from 22 December, 1939. This law was not important for national minorities because it focused mostly on ethnic Latvians who were given the right to change the German or Russian form of their names to the Latvian one. National minorities were excluded from that right. Article 1, point 3 of the law stated that it is impossible to change the name to one that does not correspond to the nationality of the citizen. Analogical regulation had not been introduced in interwar Lithuania.

It is important to look at the regulations on the state language not only from the perspective of the national minorities but also the perspective of the Lithuanians and Latvians.

This way, what can be understood as an assimilation policy is in reality an unfortunately introduced system of protection of the identity of the titular nation. In Balts' understanding it is not the Russian or Polish identity that is being threatened, but the unique identity of the only two Baltic nations left in the world. That explains the state language policies, but it does not explain the differences between them.

State language policy in both Latvia and Lithuania is an invention of the post-Cold War era. In the case of Latvia, many international organs would criticize the law and consider it highly restrictive towards the minorities (Kelley 2006, p. 75–93; 214–216). However, the law would still be passed. Lithuanian solutions are older than the Latvian. There is no indication that one state would model its language policy after another. However, the court rulings mentioned before that refer to Latvia contain some arguments which refer to the legal system of Lithuania. It must be noted that Latvian law had been introduced during Latvia's accession process to the European Union. Thus, Latvian law has been monitored and highly criticized by the international bodies (Ozolins 2003, p. 223–233). It probably forced Latvians to achieve some level of the compromise with the national minorities, thus "the dual identity" principle. It is unlikely that the right to the original form of name on the last page of the passport and its legal recognition by Latvia can be seen as an effort to avoid the accusation similar to those formulated against Lithuania. In the late 1990's, the problem of spelling of names was not so vivid yet. However, Latvia already had to face a lot pressure because of the situation of the Russian minority and the problem of stateless people.

## Summary

Latvia officially recognizes the original version of one's names. The original (historical) version of the name has more than just a symbolic value. The often-expressed claims that Latvian and Lithuanian regulations are the same is false. That might be the reason why Polish authorities never pressure Latvia with the problem of the spelling of names. Another reason might be the very pro-Latvian views of the Polish minority and the generally positive approach of Latvian authorities (Leśniewska-Napierała 2016, p. 206). It raises the question if the rules of the spelling of names would really be important in Lithuania, if not for the general development of the quarrel between the Lithuanian authorities and the Polish minority. Nevertheless, the "Latvia argument" should not be used in the discussion between the Poles and Lithuanians: it is based mostly on the lack of knowledge on the Latvian solutions, which are rarely being explained in the scientific literature.

It does not mean, however, that Latvian provisions should be free from criticism. They have created a complicated situation of dual identity. Also, they still contain the element of arbitrariness – they enforce the change of the person's name – one of the most important elements of person's identity – to a different form against the person's will. It might be seen as the form of denationalization and an infringement of one's national identity. The existing rulings of the international organs also show that Latvian citizens are often not conscious of the possibility of writing their names in their original form. This would be a good topic for both legal and sociological analysis, on whether the minorities are really aware that they have this right. It also worth checking if that right is respected in the contact with the Latvian administrative bodies.

It does not negate the fact that both Lithuania and Latvia have not only the right, but in fact an obligation to protect their own official languages. The fact that only about 62% of Latvian citizens speak Latvian at home (Centrālā Statistikas Pārvalde 2016, p. 112) clearly shows the potential danger these languages must face. However, what should be reexamined is the productiveness of those measures. Does basing the language policy on such legal instruments really serve the purpose of integrating the society, or does it create additional divisions? Does it really strengthen the prestige of the state language? In this researcher's opinion, the examples of both Lithuania and Latvia show that legal measures are not the right tool for advocating the unity of society. In the old definition of law, it is understood as an order of a sovereign power which is supported by the possibility of using sanctions. Law is based on coercion. Effectiveness of influencing one's identity and feelings towards the state solely on the basis of orders and sanctions is doubtful at best. Legal norms itself cannot change the social reality and someone's emotional and mental state without a use of other instruments. The proper introduction of the law and the analysis, whether given instrument can be effective – or even possible to execute – needs to follow. It shows the importance of the sociological analysis of the consequences of the law. For example, it may not be understandable to the national minorities as to why writing the personal names in the original form can really hurt the state language and why is the spelling of names such an important element of the language or identity policy. Thus, while in Latvia we may see a problem with the execution and the communication of the law, in Lithuania we can observe mistakes in lawmaking, which were followed by the unfortunate execution and communication of the regulations. It must also be considered that all the states today have many international obligations and are a part of many conventions on protecting the human rights. That creates a risk for the states to be called before the international courts – and in case of losing – their stand on the state language policy may get hurt. That certainly does not help the prestige of the state and the language.

### Bibliography:

- [1922] Konstytucja Republiki Łotewskiej [online] available at: <http://libr.sejm.gov.pl/tek01/txt/konst/lotwa.html> [Accessed on: 14 August 2017]
- [1991] Konstytucja Republiki Litewskiej [online] available at: <http://libr.sejm.gov.pl/tek01/txt/konst/litwa.html> [Accessed on: 14 August 2017]
- Ambasada Rzeczypospolitej Polskiej w Rydze [2015], Ita Kozakiewicz i deklaracja niepodległości Łotwy, [http://ryga.msz.gov.pl/pl/aktualnosci/ita\\_kozakiewicz\\_i\\_deklaracja\\_odnowienia\\_niepodleglosci\\_lotwy](http://ryga.msz.gov.pl/pl/aktualnosci/ita_kozakiewicz_i_deklaracja_odnowienia_niepodleglosci_lotwy) [accessed on: 20 December 2017]
- Bauraitė R., Martišiūtė A. [2017] Už viešai netinkamai pavartotą žodį gali išgasdinti, [online] available at: <http://lietuvsdiena.lrytas.lt/aktualijos/2017/05/16/news/baudos-uz-viesai-netinkamai-pavartota-zodi-gali-isgasdinti-1179641/> [Accessed on: 12 August 2017].
- Centrālā Statistikas Pārvalde [2016] Latvijas 2011. gada tautas skaitīšanas rezultāti, Rīga.
- Chajewski A. [2015] Polacy na Litwie wobec litewskich dążeń niepodległościowych na przełomie lat osiemdziesiątych i dziewięćdziesiątych XX w. Cz. II – Koncepcja autonomii terytorialnej Wileńszczyzny – cele i metody realizacji, *Rocznik Stowarzyszenia Naukowców Polaków Litwy*, Vol. 15.

- ECHR [2007] Kuharec alias Kuhareca vs. Latvia, no. 71557/01 Decision of 7 December 2007, [online] available at: <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-82241&filename=001-82241.pdf>, [Accessed on: 10 August 2017].
- ECJ [2011] C-391/09 – Runevič-Vardyn and Wardyn, Judgement of 12 May 2011 [online] available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-391/09> [Accessed on: 1 August 2017].
- EFHR [2016] Sąd orzekł: różnicowana pisownia nazwisk stwarza trudności [online] available at: <http://www.efhr.eu/2016/11/07/sad-orzekl-zroznicowana-pisownia-nazwisk-stwarza-trudnosci/> [Accessed on: 14 August 2017].
- EHRC [2007] Mentzen vs. Latvia no. 71074/01, Decision of 7 December 2007 [online] available at: <http://echr.ketse.com/doc/71074.01-en-20041207/view/> [Accessed on: 10 August 2017].
- EHRC [2010] Leonid Raihman v. Latvia, Communication No. 1621/2007 of 30 November 2010 [online] Available at: <http://hrlibrary.umn.edu/undocs/1621-2007.html>, [Accessed on: 4 August 2017].
- ENRI-EAST [2013] Research Report #8 The Polish Minority in Lithuania [online] Available at: [http://www.ces.lt/wp-content/uploads/2013/01/ENRI\\_Polish-in-Lithuania.pdf](http://www.ces.lt/wp-content/uploads/2013/01/ENRI_Polish-in-Lithuania.pdf) [Accessed on: 13 January 2018]
- European Commission [2007], Third report on Latvia Adopted on 29 June 2007 <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/LVA-CbC-III-2008-2-ENG.pdf>, [Accessed on: 20 December 2017].
- Górecki D. [2009] Sytuacja ludności polskiej na Wschodzie w świetle obowiązującego prawa i praktyki, Toruń.
- Jędrusiak M. [2016] Litewska tożsamość konstytucyjna a kwestia pisowni nazwisk przedstawicieli mniejszości narodowych na Litwie, *Internetowy Przegląd Prawniczy TBSP UJ* Vol. 3(25).
- Kelley J. [2006], *Ethnic Politics in Europe: The Power of Norms and Incentives*, Princeton
- Konstytucja Republiki Łotewskiej [1922], <http://libr.sejm.gov.pl/tek01/txt/konst/lotwa.html> [Accessed on: 19 December 2017].
- Latvijas Republika Augstākā Padome [1991] Likums Par Latvijas nacionālo un etnisko grupu brīvu attīstību un tiesībām uz kultūras autonomiju, “Ziņotājs”, 21/22, 06.06.1991
- Latvijas Republikas Ministrukabineta [2000] 22.08.2000 noteikumi Nr.287 Valsts valodas centra Latviešu valodas ekspertu komisijas nolikums
- Latvijas Republikas Ministrukabineta [2000] 22.08.2000. noteikumi Nr. 295 Noteikumi par vārdu un uzvārdu rakstību un identifikāciju
- Latvijas Republikas Saeima [1998] Izglītības Likums, “Latvijas Vēstnesis”, 343/344 (1404/1405), 17.11.1998.
- Latvijas Republikas Saeima [1999] Valsts valodas Likums, “Latvijas Vēstnesis”, 428/433 (1888/1893), 21.12.1999.
- Leśniewska-Napierała K. [2015] Geograficzno-polityczne uwarunkowania sytuacji mniejszości polskiej na Litwie i Łotwie po 1990 roku, Łódź.
- Leśniewska-Napierała K. [2016] Działalność organizacyjna mniejszości polskiej na Łotwie (dawne Inflanty Polskie), *Studia z Geografii Politycznej i Historycznej*, Vol. 5.
- Lietuvos Respublikos Aukščiausiosios Tarybos Nutarimas [1991], *Dėl vardų ir pavardžių rašymo Lietuvos Respublikos piliečio pase*, Nr. I-1031.



- Lietuvos Respublikos Seimas[1993], *Lietuvos Respublikos Valstybinės Lietuvių Kalbos Komisijos Statuso Įstatymas*, Nr.I-108.
- Lietuvos Respublikos Seimas [1995] *Lietuvos Respublikos Valstybinės Kalbos Įstatymas*, Nr.I-779.
- Lietuvos Statistikos Departamentas [2012] *Gyventojų Tautinė Sudėtis* [online] available at: [http://statistics.bookdesign.lt/esu\\_04.htm?lang=en](http://statistics.bookdesign.lt/esu_04.htm?lang=en) [Accessed on: 20 August 2017].
- Miksza K. [2014] Interes państwa a prawo do nazwiska w świetle prawa międzynarodowego i 30 unijnego, *Rocznik Stowarzyszenia Naukowców Polaków Litwy*, No. 13/14.
- Ministerstwo Spraw Zagranicznych [2013] Raport o sytuacji Polonii i Polaków za granicą 2012, <http://www.msz.gov.pl/resource/d44dcd91-ed03-4e64-a475-b56dbece5a46:JCR> [Accessed on: 27 December 2017].
- Ministry of Culture of the Republic of Lithuania [2016] National minorities, <https://lrkm.lrv.lt/en/activities/national-minorities> [Accessed on: 21 December 2017].
- Naumova K. [2014] Legal aspects of transcription of personal names in the Latvian language, *RGSL Research Papers*. Vol. 11.
- Ozolins U. [2003] The Impact of European Accession upon Language Policy in the Baltic States, *Language Policy*, Vol. 2.
- Otocki T. [2017] Audronius Ažubalis: Akceptujecie Łotwę, krytykujecie Litwę. To podwójne standardy, <http://przegladbaltycki.pl/6171,audronius-azubalis-akceptujecie-lotwe-krytykujecie-litwe-podwojne-standardy.html>, [Accessed on: 10 December 2017].
- Sidorkiewicz K. [2014] Polityczne zaangażowanie mniejszości polskiej na Litwie po wyborach parlamentarnych 2012 roku, *Polityka i Społeczeństwo*, No 1.
- Sirutavičius V. [2013] Etniškumo politizacija Lietuvoje: lenkų autonomistų judėjimas, Sąjūdis ir Lietuvos valdžios politika 1988 m. – 1990 m. pradžioje, *Etniškumo studijos*, Issue 2.
- The Lithuanian Tribune [2010] Lithuania's Poles should not complain, since the Latvia's Poles don't, <https://www.alfa.lt/straipsnis/10370711/lithuania-s-poles-should-not-complain-since-the-latvia-s-poles-don-t>, [Accessed on: 10 December 2017]
- Ura M. [2009] Znaczenie imion i nazwisk dla sytuacji administracyjnoprawnej osób, *Studia Iuridica Lubliniensa*, No 12.