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# JERUSALEM



# of Lithuania

## CITIZENSHIP LAW IS UPSETTING TO MANY

The issue of the need to change the Citizenship Law remains on the horizon for the Lithuanian Jewish Community. Recently the Community executive addressed a letter to members of Parliament, the President, and the government of Lithuania, requesting amendments to chapters 1, 17, 18 and 20, and the addition of clauses 17 (1) and 18 (1).

The letter states that the issue of citizenship is one of concern to the Lithuanian Jewish Community, whose statutes make no distinction between Community members living in Lithuania or abroad. All Jews whose lives are somehow connected to Lithuania can be members of our Community.

And there are Jews who do have such a connection. They have been an integral part of Lithuania since the 14th century, and have contributed both physically and mentally to its present-day successes. Nevertheless, it would appear that, as of October 3, 1995, the body which is responsible for formulating Lithuanian laws aims to segregate those Jews who have acquired citizenship elsewhere into a special category of persons who are not entitled to Lithuanian citizenship, and who are deprived of access to Lithuanian civil rights, simply because they are Jews. We are referring to approximately 5-6 % of the Jews who survived the Holocaust in Lithuania - some of whom emigrated to live abroad, and who would like to implement their right to Lithuanian citizenship.

The preamble to the Constitution states that many centuries ago, the Lithuanian nation created the State of Lithuania. But the Constitution does not make reference to an "ethnic nation", as does, in a particularly misleading manner, an explanatory writ accompanying the proposal for the aforementioned Citizenship Law.

We believe that even though they preserved their own identity, the Jews are part of the Lithuanian nation in the sense that is meant by "Lithuanian nation" in the Constitution. It cannot be otherwise. If it were, then the Lithuanian Constitution would contravene the norms of international rights, and Lithuania would not be part of the European Union or of any other organisations that espouse democracy. No-one would ever think of asking whether a Swiss or Norwegian person is an ethnic Jew, or the opposite - whether an ethnic Jew, a citizen of Switzerland or Norway who has emigrated to Israel, falls into some separate legal category than any other Swiss or Norwegian person living abroad.

It is no coincidence that we mention the date, October 3, 1995, when the Citizenship Law was changed to incorporate the exception which blocks the right to citizenship - i.e., repatriation. It was the October 3, 1995 edition, and all subsequent editions, that stated: "Lithuanian citizens include all persons who had Lithuanian citizenship prior to June 15, 1940, their children, grandchildren, and great-

grandchildren (if said persons, their children, grandchildren, and great-grandchildren did not repatriate). The concept of repatriation was defined in the implementation of the Citizenship Law thus: "Repatriation - departure and residence in one's ethnic homeland."

It was this edition of the Law by which Jews who had emigrated to Israel were considered to have repatriated, and were thus no longer Lithuanian citizens - despite the conditions surrounding their departure from Lithuania (the threat of death or deportation, Soviet persecution, economic difficulties). And it was this fact that led the Constitutional Court to declare on November 13, 2006, that the Law contravened the Constitution of the Republic of Lithuania.

A brief historical summary which very superficially refers to mass emigration to North America, and notes several excerpts from inter-war Lithuanian laws and commentaries, accompanies the preamble to the present-day Citizenship Law. Incidentally, those involved in formulating this Law forgot to mention the mass emigration in the inter-war period of Lithuania's Jews to South Africa. Jews now make up a large and financially significant portion of that country's white race. The preamble also mentions the threat that foreigners potentially coming from Poland and Russia could arouse. But we are forgetting that we no longer live in the 19th, or even the 20th century. There are no grounds to suspect that Jews are any less loyal to Lithuania than Lithuanians. The war has long ended, the people of Lithuania are living in an entirely different period, and there is no need to frighten the public with all manner of non-existing dangers.

We were very disturbed by an explanation that dual citizenship for a specific category of people, i.e., Jews who had repatriated to Israel, was, for a long time, restricted in order to avoid restitution of property. The preamble states the following: "After March 11, 1990, the regulation of dual citizenship in Lithuania, which took its constitutional form in the October 25, 1992 Constitution, constantly changed, and became less restrictive on the basis of fewer challenges to independence, and because the process of restitution of property, the scale of which also influenced the restriction of the right to dual citizenship, was moving closer to a resolution."

When Jewish property was being nationalised or otherwise appropriated, no-one asked for a citizenship-confirming document. Now, for the longest time, attempts continue to be made at a state law-making level to restrict Lithuanian citizenship in order to prevent the restitution of property.

Undoubtedly, the rights of Jews who have acquired Israeli citizenship are being restricted as if to citizens of a state which does not conform to the criteria of Euro-Atlantic integration.

We believe that the proposal contravenes the following:

1. European Convention on Citizenship (Strasbourg, November 6, 1997, European agreement series /166).

Chapter 2 of the Convention explains the concept of "citizenship" as a legal tie between individuals and the state, which does not declare the individual's ethnic origins. The Convention forbids any form of discrimination in the area of citizenship, as well as discrimination on the basis of national or ethnic origins (ch. 5).

2. Chapter 14 of the European Convention on safeguarding human rights and basic freedoms, which forbids positive or negative discrimination.

3. The January 24, 1995 conclusion by the Constitutional Court of the Republic of Lithuania on chapters 4, 5, 9 and 14 of the European Convention on human rights and basic freedoms, and on the correspondence of chapter 2 of its Fourth Protocol to the Convention of the Republic of Lithuania.

4. The November 13, 2006 decision by the Constitutional Court of the Republic of Lithuania regarding legal acts regulating relations vis-a-vis citizenship of the Republic of Lithuania, and the correspondence of their provisions with the Constitution of the Republic of Lithuania, which declared that the provision "if said individuals did not repatriate out of Lithuania" contravenes chapter 29 of the Constitution of the Republic of Lithuania, and the constitutional principle of a legal state.

We feel that we are obliged to speak out for the proposal for the Citizenship Law which was registered on April 13, 2007. We support dual citizenship and an open, democratic, 21st century society. We are convinced that, even though the prior proposal's deliberately emphasized "ethnic Lithuanians" are so very highly respected, persons of different ethnic groups are entitled to the same civil rights. "An individual of Lithuanian origins" must be considered by law as an individual born in Lithuania, or one whose parents and grandparents were born in Lithuania.

We believe that deliberations regarding a proposal for a Citizenship Law must take into account the opinion of national minorities.

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**P.S.** A reply from the Lithuanian Parliamentary Committee on Human Rights on May 18 states: "We inform you that the Committee on Human Rights has been appointed the principal committee in the deliberations on legal proposal N XP-2167 "Regarding amendments of chapters 1, 17, 18 and 20 of the Citizenship Law, and the addition of chapters 17 (1) and 18 (1)". The Committee on Human Rights will begin its deliberations after receiving the conclusions of other committees and experts on the proposal for this law. You will be invited to the Committee meeting." The letter was signed by Committee chairman Arminas Lydeka.