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THE ROLE AND PLACE OF THE PREAMBLE IN LITHUANIAN CONSTITUTIONAL REGULATION

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ABSTRACT

While analysing constitutions of various countries in the legal literature, typically not only the form and the content but also the structure of the constitution is discussed. The structure of the constitution is an internal organisational order of the norms of the constitution. Although every state's constitution has a unique structure, certain regularities can be discerned. The analysis of the structure of various constitutions leads to the conclusion that normally each constitution consists of the following standard structural parts: the preamble, the main part, the final, transitional or additional provisions, and in some constitutions there can also be annexes.

The article confirms that most constitutions begin with an introductory part, the preamble. Only the constitutions of several countries (e.g. Norway, the Netherlands, Belgium, Italy, Greece) contain no preamble. The preamble reflects the historical context and the circumstances of the adoption of a constitution, names the goals of the constitutional regulation, fortifies the values to be attained, declares the key political principles or even the fundamental human rights and freedoms, etc. Often the preamble reveals the methods of adoption of a constitution. The preamble is an important structural part of the constitution that helps to understand the established constitutional regulation. The principles enshrined in it can be considered a significant argument for the constitutional justice institutions while solving the case of whether the law or any other legal act in question contradicts the constitution. The preamble is not only a political, ideological, and/or philosophical category; it undoubtedly also carries a legal burden, therefore it is considered to have legal validity. Preambles are characterized as having a so-called higher style; they are usually formulated not in compliance with the requirements of legal technique.

KEYWORDS

Constitution, structure of the constitution, preamble of the constitution

INTRODUCTION

Legal literature that analyzes countries' constitutions typically deals not only with their form and content, but with the structure as well. The structure of the Constitution is an internal arrangement of constitutional norms.¹ While each state's constitution has a unique structure, nevertheless certain regularities can be easily found. Analysis of the structure of different national constitutions leads to the conclusion that the following standard structural parts are characteristic to them: the preamble, the main part, the final, transitional or supplementary provisions, and sometimes annexes. The constitutional systems of modern times are grounded upon the perception of a constitution which is broader than the formal text of the act (document) which is called the "Constitution". With time the constitutional doctrine starts to take over the functions of the "main" text and later the doctrine goes into the stage where it is further constructed by re-examining it.² The possibility of certain legal enrichment of the Constitution is related to the concept of a constitution as an "open" act.³

Given the research subject of the present article – preambles of the Lithuanian constitutions – the meaning of the term "preamble" should be clarified. The Dictionary of International Words gives the following first meaning of "preamble": preamble (Latin *preambulus* – acting at the forefront) is the introductory part of a law or other legal act, declaration, or international treaty, with important political implications, which identifies the parties, the participants, the circumstances, purpose and the reasons for the adoption of the act, explains its provisions, the enforcement procedure.⁴

The present interpretation understands a preamble as an introductory part of the constitution, which primarily reflects the historical conditions of adoption the constitution, goals and reasons, and other relevant circumstances. Further review of preambles to the Lithuanian constitutions should respond in more detail to the question of what they mean as an introductory part to the systems of constitutional norms, and what the similarities and differences of their content are.

Before embarking on this task, we would like to draw attention to the debate often found in literature on the legal nature of a preamble. For example, Vaitiekienė

¹ Elena Vaitiekienė and Gediminas Mesonis, *Lyginamoji konstitucinė teisė*, Pirmas leidimas [Comparative Constitutional Law, 1st edition] (Vilnius: Justitia, 2011), 75.

² Egidijus Kūris, "Konstitucija ir jos aiškinimas" [The Constitution and its interpretation], *Politologija* 42 (1999): 1345.

³ Egidijus Jarašiūnas, "The Influence of the Jurisprudence of the Constitutional court on the development of Legal Thought in Lithuania": 590; in: Egidijus Jarašiūnas, *et al*, *Constitutional Justice in Lithuania* (Vilnius, 2003).

⁴ Valerija Vaitkevičiūtė, *Tarptautinių žodžių žodynas*, Ketvirtas leidimas [International words Dictionary, 4th edition] (Vilnius: Žodynas, 2007), 881.

indicates that this part of the constitution is of great political and ideological significance. According to the author, it is generally considered that the claims set out in the preamble are not legal norms, but they are important in the interpretation and application of the other provisions of the Constitution.⁵ A similar position is taken by K. Jovaišas in the analysis of the preamble to the Constitution of the Republic of Lithuania of 1992; he states that “provisions of the preamble are rather of political than legal nature, and their wording is not in compliance with the requirements of juridical technique.”⁶ Meanwhile, V. Sinkevičius, speaking of preamble to the Constitution of the Republic of Lithuania of 1992, states that it has a normative load. According to the author, the provision of the preamble to the Constitution that people seek “open, just, harmonious civil society and the rule of law” is not, as is sometimes claimed, merely a philosophical-political category. Next, the author points out that the content of concepts of this provision may not be disclosed only by the written text of the Constitution, and draws attention to the fact that the striving for an open, just, and harmonious civil society is often defined by Lithuanian Constitutional Court rulings as an imperative, inextricably linked with the constitutional rule of law and other constitutional principles, often being an important argument in deciding whether the disputed law, or other legal act is in conformity with the Constitution.⁷ E. Jarašiūnas, in an overview of the structure of constitutions of different countries, provides a relevant example of this issue. The author points out that in France the significance of the preamble to the French Constitution of 1958 has long been debated. Disputes over this issue ended only in 1971, when the French Constitutional Council by its decision recognized the preamble to have regulatory force. As we can see, the decisive word in assessing the value of the preamble belonged to the constitutional justice authority.⁸

It should be mentioned in this context that the constitutions of many countries in the world are started by an introductory part – the preamble. The preamble to the Constitution of the United States of America of 1787, considered to be the first Constitution in the world, states: “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this

⁵ Elena Vaitiekienė and Gediminas Mesonis, *supra* note 1, 75.

⁶ Karolis Jovaišas, *Lietuvos Respublikos Konstitucijos komentaras, I dalis* [Commentary of the Constitution of the Republic of Lithuania, Part I] (Vilnius: Teisės institutas, 2000), 3.

⁷ Vytautas Sinkevičius, *Parlamento teisės studijos* [Parliament's Legal Studies] (Vilnius: Mykolo Romerio universitetas, 2011), 24.

⁸ Egidijus Jarašiūnas, “Daugybė šiuolaikinės konstitucijos veidų: bendri ir individualūs bruožai” [Many faces of modern constitution: general and individual features]: 28; in: *Konstitucinio reguliavimo įvairovė. Kolektyvinė monografija* [Variety of constitutional regulation. The collective monograph] (Vilnius: Mykolo Romerio universitetas, 2006).

Constitution for the United States of America.”⁹ Thus, the idea of constituent and founded powers is embodied here: “we” – a sovereign nation, availing itself to sovereign power, while the Constitution is a creation of the nation, providing legal arrangement to the established power.¹⁰ As emphasized by G. Mesonis, the U.S. Constitution is the first constitution in the world, adopted in the name of the Nation. It established the principle that the Constitution is declared by the nation, and this principle was then repeated many times in world history, in the constitutions in many countries of the world.¹¹ Preambles also exist in other constitutions influencing the development of constitutionalism: e.g. the Basic Law for the Federal Republic of Germany of 1949,¹² and the Constitution of the Fifth Republic of France of 1958¹³.

The Basic Law for the Federal Republic of Germany of 1949 states:

Conscious of their responsibility before God and man, inspired by the determination to promote world peace as an equal partner in a united Europe, the German people, in the exercise of their constituent power, have adopted this Basic Law. Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. This Basic Law thus applies to the entire German people.¹⁴

⁹ Egidijus Jarašiūnas and Gediminas Mesonis, eds., *Užsienio šalių konstitucijos*, Mokomasis leidinys [Foreign constitutions] (Vilnius: Lietuvos teisės universitetas, 2004), 268.

¹⁰ Mindaugas Maksimaitis, *Užsienio teisės istorija*, Antrasis leidimas [Foreign legal history, 2nd edition] (Vilnius: Justitia, 2002), 305.

¹¹ Gediminas Mesonis, “Jungtinių Valstijų Konstitucija” [The United States Constitution]: 35; in: *Šiuolaikinė konstitucija: studijos apie užsienio šalių konstitucinį reguliavimą, Kolektyvinė monografija* [Modern constitution: studies on the regulation of foreign constitutions, The collective monograph] (Vilnius: Mykolo Romerio universitetas, 2005).

¹² Milda Vainiūtė, “Vokietijos Federacinės Respublikos Pagrindinis Įstatymas” [German Federal Republic Basic Law] in: *Šiuolaikinė konstitucija: studijos apie užsienio šalių konstitucinį reguliavimą, Kolektyvinė monografija* [Modern constitution: studies on the regulation of foreign constitutions, The collective monograph] (Vilnius: Mykolo Romerio universitetas, 2005).

¹³ Indrė Kavoliūnienė, Milda Vainiūtė, “Prancūzijos V Respublikos valdymo modelis – mišrios (pusiau prezidentinės) respublikos etalonas” [Franch V Republic government model – standard of a mixed (semi-presidential) republic], *Socialinių mokslų studijos* 3 (3) (2011).

¹⁴ It should be noted that the current preamble of the Basic Law is different from that which was in adopted in the Basic Law of 1949. The changes were determined by amalgamation of the Federal Republic of Germany and the German Democratic Republic. The fact that God is mentioned in the first sentence of the preamble can not be interpreted in such a way that the Federal Republic of Germany is a Christian state. This provision also highlights that publisher of the Constitution is not claimant of the absolute Nation's sovereignty, denies that the state government is absolute and underlines its responsibility. Provision of the preamble also confirms that the Federal Republic of Germany is a part of the world's nations community. It also can be understood as a confirmation of an international principle of all states equality. The desire to serve world peace here is associated with peacefulness and is detailed in the Basic Law. The provision that the Basic Law was adopted by the German Nation is more fiction than reality, because the German people have never directly voted for the adoption of the Basic Law and it was adopted by the majority of Parliamentary Board members and representatives of the Nation's federal lands. This, of course, does not deny its legitimacy: Nation's actions occur not only in plebiscitary acts, but also representing it. The second sentence of the Basic Law's preamble indicates these federal lands, which formed Federal Republic of Germany during the unification of Germany as well as so-called “new” federal lands, which were in the territory of the former German Democratic Republic.

The Constitution of the Fifth Republic of France of 1958 states:

Le peuple français proclame solennellement son attachement aux Droits de l'homme et aux principes de la souveraineté nationale tels qu'ils ont été définis par la Déclaration de 1789, confirmée et complétée par le préambule de la Constitution de 1946, ainsi qu'aux droits et devoirs définis dans la Charte de l'environnement de 2004./ En vertu de ces principes et de celui de la libre détermination des peuples, la République offre aux territoires d'outre-mer qui manifestent la volonté d'y adhérer des institutions nouvelles fondées sur l'idéal commun de liberté, d'égalité et de fraternité et conçues en vue de leur évolution démocratique.¹⁵

1. PREAMBLES TO THE CONSTITUTIONS OF LITHUANIA, 1918–1940

The statehood of the Lithuanian nation has a long history. It was in the 13th century that King Mindaugas unified the Lithuanian lands into the centralized state of Lithuania. The state expanded eastwards and spread over a huge territory. During the reign of Vytautas Magnus, the Grand Duchy of Lithuania was one of the biggest and the most powerful states in Europe. The autonomy of the legal system of the Grand Duchy of Lithuania was reflected through the existence of the Statutes of Lithuania (1529, 1566, 1588) that contained systematised and codified customary norms and norms of monarch's act that were valid in its territory.

The historical development of Lithuania's statehood is also reflected through the Constitution of May 3, 1791, of the Polish-Lithuanian Commonwealth, which was the first legal act of its kind in Europe.

On February 16, 1918, the Council of Lithuania being the sole representative of the Lithuanian nation, declared an independent Lithuanian state based on its restored democratic foundations with its capital in Vilnius, as well as announced separating the State from all previous state relations that it had with other nations.

The political and legal foundation of the restored state was based on its constitutions. In the period of 1918–1940 as many as six Constitutions were

The third sentence of the preamble states that the Basic Law applies to the whole German Nation. This means the validity of it to the Germans in sense of Basic Law Article 116, paragraph 1. Ethnic minorities (ethnic groups) are not distinguished in terms of the Basic Law validity. Thus, the content of Basic Law's preamble consists of not declarative, but first of all politically and legally significant provisions that are important to understand the system of constitutional regulation. The Basic Law does not provide for any exceptions to the preamble's emendation. Also, in paragraph 3 of Article 79 it is not mentioned that preamble is assigned to those provisions which cannot be changed in general.

¹⁵ The Constitution of V French Republic of 1958 is very significant for development of World's constitutionalism because it established the so-called mixed (semi-presidential) state model. First of all, provisions of this preamble reveal that Declaration of the Rights of Man and of the Citizen of 1789 and preamble of the French Constitution of 1946 are the component parts of the French Constitution of 1958. Human rights and freedom, published in the mentioned Declaration were not only adopted in the preamble of the French Constitution of 1946, but also supplemented by the consolidation of economic, political and legal principles. These provisions of the preamble of the Constitution of 1958 explain why human rights and freedoms have not been re-recorded in the text of the Constitution.

adopted in Lithuania: three temporary Constitutional Acts of the Republic of Lithuania of 1918, 1919, and 1920, the first Constitution of the Lithuanian State of 1922, of a permanent nature, the Constitution of the Lithuanian State of 1928, in legal literature defined also as a temporary legal act, and the Constitution of Lithuania of 1938. Each of them reflected the corresponding political legal relations and characteristic features of the development of the country's statehood. An introductory part, the preamble, is present in all of these Constitutions with the exception of the temporary Constitution of Lithuania of 1920.

The following preamble declares the Basic Laws of the Temporary Constitution of the Lithuanian State, adopted on November 2, 1918: "Until the Constituent (Establishing) shall decide on the form of government and constitution of Lithuania, the Lithuanian State Council, expressing the sovereign power of Lithuania (*suprema potestas*), establishes the temporary Government of the State of Lithuania on these Constitutional foundations."¹⁶ The main idea of this preamble is that the Council declared the right to speak on behalf of the people stating in the preamble that at the time it was the only representative of the Lithuanian nation. Being not elected by the people, the Council realized that it cannot represent the general will of the people, therefore proclaiming the Temporary Constitution, it stated publicly in the preamble that it will not claim the prerogative of the Constituent Seimas to decide the form of government and constitution of Lithuania, and only expressing the sovereign power of the state (*suprema potestas*) establishes the temporary "government of the state" on the basis of this temporary constitution.¹⁷

The new version of the Basic Laws of the Temporary Constitution of the State of Lithuania¹⁸ adopted on April 4, 1919, repeated most of provisions of the document adopted on November 2, 1918. The preamble was also repeated, except for the word "government", securing its meaning that in the text was replaced by the word "power".

As already mentioned, the Temporary Constitution of the State of Lithuania adopted on June 10, 1920, had no preamble.

The provisional constitutions were followed by permanent constitutions. On August 1, 1922, the Constituent Seimas adopted the Constitution of the State of Lithuania. The content of this constitution was based on the ideas of liberalism that

¹⁶ 1918 m. Lietuvos Valstybės Laikinosios Konstitucijos pamatiniai dėsniai [Basic Principles of the Temporary Constitution of the State of Lithuania of 1918]; in: Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of the State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, 2001), 17–19.

¹⁷ Vytautas Andriulis, et al, *Lietuvos teisės istorija* [Lithuanian legal history] (Vilnius: Justitia, 2002), 310; Mindaugas Maksimaitis, *Lietuvos valstybės konstitucijų istorija* [Lithuanian state constitutional history] (Vilnius: Justitia, 2005), 65.

¹⁸ 1919 m. Lietuvos Valstybės Laikinosios Konstitucijos pamatiniai dėsniai [Basic Principles of the Temporary Constitution of the State of Lithuania of 1919]; in: Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of the State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, 2001), 19–22.

were popular in Europe after World War I. The principle of the separation of powers was entrenched in this document, along with human rights and freedoms, which were comprehensively described. The Constitution was based on the philosophy of parliamentary democracy and it was announced that any law incompatible with the Constitution was not valid in Lithuania.¹⁹

The preamble to the first permanent Constitution of the State of Lithuania²⁰ adopted during the inter-war period in 1922 read:

In the name of Almighty God, the Lithuanian Nation mentioning with gratefulness the honourable efforts of its sons and their noble sacrifices done to free the Homeland, having restored the independent State, and striving to build a strong democratic framework for its independent life, to enable development of fairness and legitimacy, and assure the equality, freedom and prosperity of all citizens and proper State care for the people's work and morality, through its authorized representatives, gathered in the Constituent Seimas, on August 1, 1922, have adopted the Constitution of the State of Lithuania.

The Constitution begins with the words "in the name of Almighty God". Constitutions of some other countries adopted at different times are also opened by an appeal to God, for example, the Basic Law for the Federal Republic of Germany of May 23, 1949,²¹ the Constitution of the Republic of Poland of April 2, 1997,²² and the Constitution of the Swiss Confederation of April 18, 1999²³. Usually *invocatio Dei* emphasizes the continuity of ancient traditions and emphasizes the existence of a power higher than that of the people and state. Since the Constitution reflected the striving of the Lithuanian nation to build their lives based on democratic grounds, the development of the idea started already in the preamble to the Constitution, underlining such ideals as justice, legality, equality of citizens, freedom and prosperity. The preamble also reflects the way of adoption of the Constitution: it was adopted by the Lithuanian nation through its delegates assembled in the Constituent Seimas. So, as M. Maksimaitis puts it, the Constituent Seimas consistently, as in the Temporary Constitution of 1920, consider themselves as expressing the will not of the ethnic Lithuanian nation but rather of the whole Lithuanian people, including all citizens of the country. The constitutional contents of the term "nation" is revealed in Article 103 of the Constitution, from which it

¹⁹ Juozas Žilys, "Foreword": 78; in: *Lietuvos Respublikos Konstitucija, 1992 m. spalio 25 d.* [The Constitution of the Republic of Lithuania, October 25, 1992] (Vilnius: Mykolo Romerio universitetas, 2013).

²⁰ 1922 m. *Lietuvos Valstybės Konstitucija* [The Constitution of the Republic of Lithuania of 1922]; in: Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of the State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, 2001), 25–33.

²¹ *German Federal Republic Basic Law* [interactive] // <http://verfassungen.eu/de/index.htm>.

²² *The Constitution of the Republic of Poland* [interactive] // <http://verfassungen.eu/pl/index.htm>.

²³ *The Constitution of the Swiss Confederation* [interactive] // <http://verfassungen.de/ch/verf99i.htm>.

follows that it is the entirety of citizens possessing the right to vote, the so-called rule of people.²⁴

After the *coup d'état* of December 17, 1926, it was decided to amend the Constitution of 1922. The amendment procedure provided for in the Constitution was not made use of, and the idea to call a referendum also failed. In this way the government chose the easiest way, i.e. on May 25, 1928, a document under the decree of the President of the Republic of Lithuania, the Constitution of the State of Lithuania,²⁵ was announced. Even though this Constitution was based on the Constitution of August 1, 1922, the powers of the executive, and in particular those of the President of the Republic, were considerably widened. The development of statehood was directed towards authoritarianism. This was reflected in the preamble, which read:

President of the Republic, supporting the Cabinet of ministers in its entirety – Prime-minister and Minister of Foreign Affairs Prof. A. Voldemaras, Defence Minister Lt. Gen. T. Daukantas, Minister of Finance J. Tubelis, Minister of Justice A. Žilinskas, Minister of Agriculture J. Aleksa, Minister of Internal Affairs I. Musteikis, Minister of Communication S. Čiurlionis, Minister of Education K. Šakenis, and the State Controller V. Matulaitis – at its gathering on the army celebration day May 15, 1928 to express the gratitude for marches of the Lithuanian Nation during ten years, especially its best children, who defended with weapons the independent future of Lithuania and stood at its guard, decided to announce the present Constitution of the State of Lithuania.

The preamble, which states that neither nation nor its representatives, but the President with the approval of the Cabinet decided to proclaim the Constitution, immediately and unambiguously allows the assessment of its adoption way – it is an octroyate Constitution.²⁶ The preamble mentions May 15, the date of a festive meeting on the occasion of celebration of the Armed Forces Day, where supposedly Ministers expressed their support for the new Constitution. According to M. Maksimaitis, in fact it had no more than a symbolic meaning meant to increase the authority of the document.²⁷

The last Constitution²⁸ of Lithuania adopted during the interwar period on February 11, 1938, was formed under the new processes and political trends prevailing both in the country and the whole Europe. They were based on pursuit of

²⁴ Mindaugas Maksimaitis, *supra* note 17, 123.

²⁵ 1928 m. Lietuvos Valstybės Konstitucija [The Constitution of the Republic of Lithuania of 1928]; in: Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of the State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, 2001), 34–41.

²⁶ Mindaugas Maksimaitis, *supra* note 17, 212.

²⁷ *Ibid.*, 208–209.

²⁸ 1938 m. Lietuvos Valstybės Konstitucija [The Constitution of the Republic of Lithuania of 1938]; in: Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of the State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, 2001), 42–59.

social solidarity or national unity, based on the concept that the nation is not homogeneous, and its interests may coincide only when individuals are dominated by one leader. It was also declared that the state, in pursuit of the nation's unity, should not set limits of the nation's possibilities, but should mobilize the efforts of all its members for this purpose.²⁹ The constitution enshrined a political system based on authoritarianism. It was announced that the President of the Republic was the forefront of the state of Lithuania. The system of state government, institutional relations and competences were created according to this fundamental provision. The predominance of the institution of the President of the Republic in the political system of Lithuania denied the fundamental principle of checks and balances, which is unconditionally present in a democratic society.³⁰ The adoption of the Constitution, among other things, was influenced by the fact that the ten-year period during which the authors committed to verify it by referendum was expiring.

The Preamble to the new Constitution of the State of Lithuania proclaimed:

The Lithuanian nation, enlivened by the great past of old Lithuania has restored an independent sovereign state and fighting defended it, so as in pursue of its eternal right to be free and independent in parental lands shall by common will guard what for ages belongs to it, continue honourable Lithuanian marches and develop the power of Lithuania by efforts of the present and future generations.
/ It is by the experience of the Lithuanian nation that has been given to it by its antiquity and state experience, its revival and the struggle for independence, life of resurrected Lithuania and the creation of the nation-state, that the present Constitution is devoted to Lithuania.

In the Constitution of 1938 the role of the state, considered the nation's most perfect expression of freedom, was raised and exalted. The state's role in the preamble to the Constitution is associated with the historical past of Lithuania, which had a positive impact on the restoration and strengthening of the independence of Lithuania.³¹

The development of Lithuania's constitutionalism was disrupted on June 15, 1940, by occupation and annexation. These dramatic events resulted in the destruction of the Lithuanian government and state. Lithuania lost its independence. After the destruction of the constitutional structure of the state of Lithuania, the Soviet constitutional system was imposed upon the country, which was reflected in the Constitution of 1940.

On February 24, 1990, elections to the Parliament (the Supreme Council) of Lithuania were held, which were the first free and democratic elections after 50

²⁹ Toma Birmontienė, *et al*, *Lietuvos konstitucinė teisė, Vadovėlis* [Lithuanian Constitutional Law. Handbook] (Vilnius: Mykolas Romeris universitetas, 2012), 149.

³⁰ Juozas Žilys, *supra* note 19: 78–79.

³¹ Mindaugas Maksimaitis, *supra* note 17, 253.

years of occupation. Candidates to the deputies supported by Sajūdis won the elections by a large margin.

The culminating point of the implementation of the Sajūdis' political program was March 11, 1990. The Supreme Council of the Republic of Lithuania, expressing the will of the nation by "The Act of the Reestablishment of the State of Lithuania",³² declared that the sovereign powers that were forcefully destroyed by foreign forces in 1940 are being restored and that Lithuania is an Independent State again. As Žalimas said, provisions analysis of the Act of March 11, 1990, suggests that it consolidated principles of restoration of independence, which were later developed in other Lithuanian legislation and created legal preconditions to establish the restored state independence in practice: in accordance with the provisions of the Act, the Republic of Lithuania completely took over its territorial control and untied its citizens from a foreign state jurisdiction.³³

The Basic Temporary Law of the Republic of Lithuania adopted on March 11, 1990,³⁴ did not have a preamble. The state was created and functioned in line with the foundations established in the Provisional Constitution, and actions were taken to guarantee human rights and freedoms.

2. PREAMBLE TO THE CONSTITUTION OF THE REPUBLIC OF LITHUANIA OF 1992

During the period of the validity of the Provisional Basic Law of the Republic of Lithuania, the need of a permanent Constitution became more and more apparent. This necessity was predetermined by the rapid development of democracy, and in particular by the need to form constitutional foundations for a modern political system. The society and the Supreme Council raised discussions about the problems related to constitutional regulation, the form of government for the restored State, and the constitutional ideology to be followed in the process of strengthening the foundations of constitutionalism.³⁵

Tense work was carried out in the office of the Chairman of the Supreme Council, in the sittings of the Supreme Council and parliamentary groups, which gave birth to a "consensual" Draft Constitution that was approved by the majority of the Supreme Council deputies; it was presented to the Lithuanian people to be discussed and put to a referendum. The referendum was organised and held under

³² Kazimieras Liudvikas Valančius, *Lietuvos valstybės konstitucijos* [The Constitutions of State of Lithuania] (Vilnius: UAB Ekonomikos mokymo centras, Vilnius, 2001), 123-143.

³³ Dainius Žalimas, "Lietuvos valstybės nepriklausomybės atkūrimo teisiniai pagrindai" [Legal bases of Lithuanian State's Independence Restoration]: 26; in: *Valstybės atkūrimas. Lietuvos parlamentas 1990-1992* [Restoration of the State. Lithuanian parliament 1990-1992] (Vilnius, 2013).

³⁴ *Lietuvos Respublikos Laikinasis pagrindinis įstatymas* [The Basic Temporary Law of the Republic of Lithuania], Official Gazette, 1990, No. 9-245.

³⁵ Juozas Žilys, *supra* note 19: 81-82.

a special law entitled "On the Referendum to Adopt the Constitution of the Republic of Lithuania", which established that the Constitution will be considered for adoption if it is approved by more than half of all citizens eligible to vote.³⁶ The 1992 Constitution was approved by 75.4% of the voters, and 57% of the electorate. The law on the Procedure for the Enforcement of the Constitution was adopted along with the Constitution.³⁷

With the adoption of the Constitution, the nation strove to create a strong democratic foundation for the future development of statehood which would become a long-term impetus for the development of the society and the state. The content of the Constitution met the expectations of the people of Lithuania that the state should be based on the rule of law and justice, peaceful coexistence of all social groups, and harmony in societal relations and welfare. For the first time in the history of Lithuanian's constitutionalism, the Constitution was adopted not by the Parliament, but by a public vote of the nation. It was an act of constituent power – an act of the nation by which the essence of the meaning of the social contract was expressed.³⁸ 1992 is attributable to the constitutions of fourth generation constitutionalism. In this it is similar to the same period in Central and Eastern European countries' constitutions. In respect of legal content and legal technique this act is typical of late-twentieth-century patterns. In the legal literature the key features of the Republic of Lithuania are emphasized: the role of the Constitution as the Basic Law of the country; Supremacy of the Constitution; Stability of the Constitution; the Integrity of the Constitution. The Constitution is a directly applicable act, the main source of national law, and the basis of the Lithuanian legal system.³⁹

The current Constitution of the Republic of Lithuania,⁴⁰ adopted on October 25, 1992, begins with the preamble:

The Lithuanian nation / having created the State of Lithuania many centuries ago, / having based its legal foundations on the Lithuanian Statutes and the Constitutions of the Republic of Lithuania, / having for centuries staunchly defended its freedom and independence, / having preserved its spirit, native language, writing, and customs, / embodying the innate right of the human being and the Nation to live and create freely in the land of their fathers and

³⁶ *Ibid.*: 88.

³⁷ Caroline Taube, *Constitutionalism in Estonia, Latvia and Lithuania. A study in comparative constitutional law* (Uppsala, 2001), 52

³⁸ Juozas Žilys, *supra* note 19: 75.

³⁹ Egidijus Jarašiūnas, "Lietuvos Respublikos 1992 m. Konstitucija: nuo pagrindinio įstatymo iki aukščiausiosios teisės" [Constitution of the Republic of Lithuania of 1992: from the Basic Law to the Supreme Law]: 106; in: *Lietuvos konstitucinė teisė: raida, institucijos, teisių apsauga, savivalda* [Lithuanian constitutional law: evolution, institutions, rights, self-government] (Vilnius: Mykolas Romeris universitetas, 2007).

⁴⁰ 1992 m. *Lietuvos Respublikos Konstitucija* [The Constitution of the Republic of Lithuania of 1992], Official Gazette, 1992, No. 33-1014.

forefathers—in the independent State of Lithuania, / fostering national concord in the land of Lithuania, / striving for an open, just, and harmonious civil society and State under the rule of law, /by the will of the citizens of the reborn State of Lithuania, adopts and proclaims this Constitution.

The Preamble to the Constitution of the Republic of Lithuania – a brief introduction to the constitutional text – is the key to understanding the constitutional regulatory framework. It demonstrates essential Lithuanian public life principles, and the most important constitutional values and aspirations.⁴¹

Thus, the first thing mentioned is the Lithuanian nation, that “by the will of the reborn State of Lithuania, adopts and proclaims this Constitution”. The Lithuanian nation is a civil community, formed historically on the basis of common origin, territory, language, customs, history, culture and economic commonality. While Lithuanian citizens and the State of Lithuania are linked by a constant legal link that does not indicate the ethnic origin of a person, and is not associated with it.⁴² Thus, according to E. Jarašiūnas, the preamble shows a very successful transformation of the state from an ethnic nation (“Lithuanian nation”) to a civil nation (“... by the will of the citizens of the reborn State of Lithuania, adopts and proclaims this Constitution”)⁴³.

Another important point in the preamble is the naming of historical conditions and assumptions of the adoption of the Constitution. Particularly important are the provisions in the preamble on continuity and succession of the Lithuanian state and law. Statements in the preamble that the Lithuanian nation has created the State of Lithuania many centuries ago, and that the legal foundations of the state are based on the Lithuanian Statutes and the Constitutions of the Republic of Lithuania, reflect the evolution of the Lithuanian State from the Grand Duchy of Lithuania till the Republic of Lithuania of the period 1918-1940, and the life of the Republic of Lithuania restored again since 1990. The preamble enforces the inherent right of the Lithuanian nation that has for centuries staunchly defended its freedom and independence, “to live and create freely in the land of their fathers and forefathers – in the independent State of Lithuania” is in accordance with the principle of nations equal rights and self-determination, generally recognized in the international legal instruments.⁴⁴

Apart from this, the preamble defines the following factors that reflect the identity of a nation: its spirit, native language,⁴⁵ writing, and customs, which the

⁴¹ Egidijus Jarašiūnas, *supra* note 39: 103.

⁴² Karolis Jovaišas, *supra* note 6, 1.

⁴³ Toma Birmontienė, *et al*, *supra* note 29, 171.

⁴⁴ Karolis Jovaišas, *supra* note 6, 2.; Toma Birmontienė, *supra* note 29, 236.

⁴⁵ Darius Beinoravičius and Milda Vainiutė, “Die verfassungsrechtliche Stellung der litauischen Sprache als Staatssprache: Schwerpunkte,” *Osteuropa-Recht* 1 (2013); Milda Vainiutė, “Lietuvių kalbos kaip

Lithuanian nation succeeded in preserving in spite of different threats. Another important constituent part of the preamble is the goal to be achieved by the Lithuanian nation. They are, "as if genetically encoded and inseparable from the Lithuanian nation-specific properties and characteristics, and the historical conditions and assumptions of adoption of the Constitution."⁴⁶ Objectives such as political independence, territorial integrity and indivisibility, acquisition and retention of unity and identities are not explicitly stated in the preamble as they are generally inseparable from the purpose of the state. Only objectives that the nation seeks to implement are directly identified.⁴⁷ So, the Lithuanian people adopt and proclaim the Constitution, "fostering national concord in the land of Lithuania", "striving for an open and harmonious civil society and the rule of law".

As previously mentioned, it is this striving for an open, just, and harmonious civil society and State under the rule of law imposed by the preamble to the Constitution, in association with other constitutional principles, by the jurisprudence of the Constitutional Court of the Republic of Lithuania, which is often defined as an imperative, serving as the basis for decisions on conformance of other laws and legal acts with the Constitution. The Constitutional Court of the Republic of Lithuania in its rulings has repeatedly stated that the constitutional principle of the rule of law is a universal principle underlying the entire Lithuanian legal system and the Constitution of the Republic of Lithuania itself, and that the content of the rule of law is disclosed in different provisions of the Constitution, and is to be construed inseparably as striving for an open, just and harmonious civil society and the rule of law as proclaimed in the preamble to the Constitution.⁴⁸

The procedure for amending the Constitution is set out in Article 147. Provisions of chapters I "Lithuanian State" and XIV "Amending the Constitution" of the Constitution can be changed only by a referendum. Thus, the preamble to the Constitution may be amended in the same manner as other sections of the Constitution. No special procedure for changing it is foreseen. According to E. Šileikis, recognizing that the Preamble to the Constitution is an integral part of the Constitution, it can be said that in order to change the text in the preamble, it is necessary to follow a special procedure for amending the Constitution (Section XIV, "Amending the Constitution"). Under this procedure, the preamble may be changed

valstybinės konstitucinės statusas: pagrindiniai aspektai" [Constitutional status of Lithuanian language as the official language: main aspects], *Jurisprudencija* 4 (122) (2010).

⁴⁶ Karolis Jovaišas, *supra* note 6, 2–3.

⁴⁷ *Ibid.*, 3.

⁴⁸ *Lietuvos Respublikos Konstitucinio Teismo 2000 m. spalio 18 d. nutarimas* [Ruling of the Constitutional Court of the Republic of Lithuania of October 18, 2000], Official Gazette, 2000, No. 88-2724; *Lietuvos Respublikos Konstitucinio Teismo 2000 m. vasario 23 d. nutarimas* [Ruling of the Constitutional Court of the Republic of Lithuania of February 23, 2000], Official Gazette, 2000, No. 17-419; *Lietuvos Respublikos Konstitucinio Teismo 2001 m. sausio 11 d. nutarimas* [Ruling of the Constitutional Court of the Republic of Lithuania of January 11, 2001], Official Gazette, 2001, No. 5-143.

by law, for which at least 2/3 of all members of the Seimas (paragraph 3 of Article 148) voted twice (with an interval of at least three months apart between first and second vote).⁴⁹

It should also be emphasized that the preamble is an integral part of the official text of the Constitution. The Lithuanian Constitutional Court, interpreting the Constitutional principle of integrity set forth in paragraph 1 of Article 6 of the Constitution, indicated that the integrity of the Constitution primarily means that the constitutional provisions are related not only formally, in accordance with the layout structure, but also according to their content. This unanimity of norms means that the preamble to the Constitution, as well as its chapters and articles, constitute a meaningful whole.⁵⁰ And, in general, the content of the preamble should be taken into consideration when interpreting and applying both the Constitution as a single act, and its different chapters and articles, or certain provisions: no part of the text of the Constitution can be interpreted contrary to provisions of the preamble, and the spirit thereof.⁵¹

The primacy of the constitutional spirit against the letter of the Constitution (not denying the value of linguistic interpretation as one of the methods of interpretation of the Constitution) finds its place in the place of constitutional jurisprudence gradually, on the basis of "case after case" accumulation of the constitutional doctrine on every specific issue.⁵² According to E. Šileikis,⁵³ the practical significance of the preamble to the Constitution lies in the following aspects: a systematic interpretation of the Constitution, e.g. separate statements of the preamble can be the basis for an appropriate interpretation of Articles I, II or other provisions of Constitution;⁵⁴ justification (legitimization) of specific initiatives or measures of the state, expressed in the law or government resolutions;⁵⁵ assessing whether the disputed act does not oppose the Constitution⁵⁶.

⁴⁹ Egidijus Šileikis, *Alternatyvi konstitucinė teisė*, Antras leidimas [Alternative Constitutional Right, 2nd edition] (Vilnius: Teisinės informacijos centras, 2005), 120-121.

⁵⁰ *Lietuvos Respublikos Konstitucinio Teismo 1995 m. sausio 24 d. išvada* [Conclusion of the Constitutional Court of the Republic of Lithuania of January 24, 1995], Official Gazette, 1995, No. 9-199.

⁵¹ Karolis Jovaišas, *supra* note 6, 3-4.

⁵² Egidijus Kūris, "The Constitutional Court and Interpretation of the Constitution": 228; in: Egidijus Jarašiūnas, *et al*, *Constitutional Justice in Lithuania* (Vilnius, 2003).

⁵³ Egidijus Šileikis, *supra* note 49, 122.

⁵⁴ For example, the content of provisions "There is no state religion in Lithuania" (43 Art. 7) or "censorship of mass media is prohibited" (44 Art. 1) can be disclosed, according to the words of the preamble "in order to reach open / ... / society".

⁵⁵ For example, statement of the preamble "fostering national concord in the land of Lithuania" (also "in order to reach/.../cohesive civil society" can be seen as legitimizing legislature's decision to legitimize the state budget subsidies for political parties and so on.

⁵⁶ For example, the Lithuanian Constitutional Court on the basis of abstract words of the preamble, "to reach an open, just and cohesive civil society and law-governed state" saw, on the one hand, a society which is sufficiently free and safe from criminal acts, and, on the other hand, the society, which can not be fair and humane, if the criminals can act more freely than people who abide by the law. This became an additional argument to state that the punishment for offenses "confiscation of property" is not in conflict with the guarantee of the inviolability of property (23 Art. of the Constitution; *Lietuvos*

Assessing the Constitution of the Republic of Lithuania it should be stressed that this Constitution in the most general sense also reflected the expectations of the Lithuanian nation, and is the highest political legal form of their expression. According to the words of the preamble of the Constitution, it embodies the right of the human being and the Nation to live and create freely in the land of their fathers and forefathers, foster national concord, and strive for an open, just, and harmonious civil society as well as State under the rule of law.⁵⁷

In summary, it should be noted that after the collapse of totalitarian regimes in Central and Eastern Europe in the late twentieth century, a number of new constitutions were adopted. Though constitutional regulation in every country differs, they have much in common both in their structure and content. Many constitutions adopted during this period—such as the Constitution of the Republic of Lithuania of 1992, and the constitutions of the Republic of Bulgaria of 1991,⁵⁸ the Republic of Estonia of 1992,⁵⁹ the Czech Republic of 1992,⁶⁰ the Slovak Republic of 1992,⁶¹ the Republic of Poland of 1997⁶² and others—begin with preambles. In this

Respublikos Konstitucinio Teismo 1993 m. gruodžio 13 d. nutarimas [Ruling of the Constitutional Court of the Republic of Lithuania of December 16, 1993], Official Gazette, 1993, No. 70-1320).

⁵⁷ Juozas Žilys, *supra* note 19: 90.

⁵⁸ *The Constitution of the Republic of Bulgaria* [interactive] // <[http: www.parliament/bg/en/const](http://www.parliament.bg/en/const):

We, the National Representatives of the Seventh Grand National Assembly, aspiring to express the will of the Bulgarian people, Declaring our loyalty to the universal human values of liberty, peace, humanism, equality, justice and tolerance; Elevating to the rank of paramount principle the rights of the human person and the dignity and security thereof; Aware of our irrevocable duty to safeguard the national and state unity of Bulgaria, Hereby proclaim our determination to create a democratic, law-governed and social state, wherefor we adopt the present".

⁵⁹ *The Constitution of the Republic of Estonia* //

< <https://www.president.ee/en/republic-of-estonia/the-constitution/>:

With unwavering faith and a steadfast will to strengthen and develop the state, which is established on the inextinguishable right of the people of Estonia to national self-determination and which was proclaimed on 24 February 1918, which is founded on liberty, justice and law, which shall protect internal and external peace, and is a pledge to present and future generations for their social progress and welfare, which shall guarantee the preservation of the Estonian nation, language and culture through the ages, the people of Estonia, on the basis of § 1 of the Constitution which entered into force in 1938, and by a referendum held on 28 June 1992, adopted the following Constitution.

⁶⁰ *The Constitution of the Czech Republic* // <http://www.usoud.cz/en/constitution-of-the-czech-republic/>:

We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, at the time of renewal of an independent Czech State, true to all the good traditions of the ancient statehood lands of Czech and Czechoslovak statehood, resolved to build, protect and develop the Czech Republic in the spirit of the inviolable values of human dignity and freedom as the home of equal and free citizens who are aware of their responsibilities towards others and responsibility to the community, as a free and democratic State founded on respect for human rights and the principles of civil society as part of the family of European and world democracies, committed to protect and develop their natural and cultural, material and spiritual wealth, determined to abide by all proven principles of law, through their freely elected representatives this Constitution of the Czech Republic".

⁶¹ *The Constitution of the Slovak Republic* [interactive] //

<http://www.slovakia.org/sk-constitution.htm>:

We, the Slovak nation, mindful of the political and cultural heritage of our forebears, and of the centuries of experience from the struggle for national existence and our own statehood, in the sense of the spiritual heritage of Cyril and Methodius and the historical legacy of the Great Moravian Empire, proceeding from the natural right of nations to self-determination, together with members of national minorities and ethnic groups living on the territory of the Slovak Republic, in the interest of lasting peaceful cooperation with

context, it should be noted that in our neighboring country, the Republic of Latvia, the Constitution of 1922 is currently in force.⁶³ That Constitution did not include a preamble. A preamble to the Constitution was added as a supplement only on June 19, 2014.⁶⁴

other democratic states, seeking the application of the democratic form of government and the guarantees of a free life and the development of spiritual culture and economic prosperity, that is, we, citizens of the Slovak Republic, adopt through our representatives the following Constitution.

⁶² *The Constitution of the Republic of Poland*, *supra* note 22:

Having regard for the existence and future of our Homeland,/Which recovered, in 1989, the possibility of a sovereign and democratic determination of its fate,/We, the Polish Nation - all citizens of the Republic,/Both those who believe in God as the source of truth, justice, good and beauty,/As well as those not sharing such faith but respecting those universal values as arising from other sources,Equal in rights and obligations towards the common good - Poland,/Beholden to our ancestors for their labours, their struggle for independence achieved at great sacrifice, for our culture rooted in the Christian heritage of the Nation and in universal human values,/Recalling the best traditions of the First and the Second Republic,/Obliged to bequeath to future generations all that is valuable from our over one thousand years' heritage,/Bound in community with our compatriots dispersed throughout the world,/Aware of the need for cooperation with all countries for the good of the Human Family,Mindful of the bitter experiences of the times when fundamental freedoms and human rights were violated in our Homeland,/Desiring to guarantee the rights of the citizens for all time, and to ensure diligence and efficiency in the work of public bodies,/Recognizing our responsibility before God or our own consciences,/Hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on respect for freedom and justice, cooperation between the public powers, social dialogue as well as on the principle of subsidiarity in the strengthening the powers of citizens and their communities.We call upon all those who will apply this Constitution for the good of the Third Republic to do so paying respect to the inherent dignity of the person, his or her right to freedom, the obligation of solidarity with others, and respect for these principles as the unshakeable foundation of the Republic of Poland.

⁶³ Juozas Žilys, "Latvijos Respublikos konstitucinė sistema" [The constitutional system of the Republic of Latvia] in: *Europos Sąjungos valstybių narių konstitucinės sistemos* [Constitutional Systems of European Union Member States] (Vilnius: Mylolo Romerio universitetas, 2012).

⁶⁴ The Saeima, with 69 parliamentarians voting in favour and 28 voting against, adopted amendments to the Constitution of the Republic of Latvia (Satversme) in the final reading. The Constitution was supplemented with an introduction revealing its very purpose and essence. The Saeima has approved the following wording of the preamble to the Constitution of the Republic of Latvia (*The Constitution of the Republic of Latvia* [interactive] // <http://www.saeima.lv/en/legislation/constitution>):

The people of Latvia, in freely elected Constitutional Assembly, have adopted the following State Constitution: The State of Latvia, proclaimed on 18 November 1918, has been established by uniting historical Latvian lands and on the basis of the unwavering will of the Latvian nation to have its own State and its inalienable right of self-determination in order to guarantee the existence and development of the Latvian nation, its language and culture throughout the centuries, to ensure freedom and promote welfare of the people of Latvia and each individual./The people of Latvia won their State in the War of Liberation. They consolidated the system of government and adopted the Constitution in a freely elected Constitutional Assembly./The people of Latvia did not recognise the occupation regimes, resisted them and regained their freedom by restoring national independence on 4 May 1990 on the basis of continuity of the State. They honour their freedom fighters, commemorate victims of foreign powers, condemn the Communist and Nazi totalitarian regimes and their crimes./Latvia as democratic, socially responsible and national state is based on the rule of law and on respect for human dignity and freedom; it recognises and protects fundamental human rights and respects ethnic minorities. The people of Latvia protect their sovereignty, national independence, territory, territorial integrity and democratic system of government of the State of Latvia./Since ancient times, the identity of Latvia in the European cultural space has been shaped by Latvian and Liv traditions, Latvian folk wisdom, the Latvian language, universal human and Christian values. Loyalty to Latvia, the Latvian language as the only official language, freedom, equality, solidarity, justice, honesty, work ethic and family are the foundations of a cohesive society. Each individual takes care of oneself, one's relatives and the common good of society by acting responsibly toward other people, future generations, the environment and nature./ While

Most constitutions, like the first constitution in the world, the U.S. Constitution, are proclaimed in the name of the peoples of these countries. Preambles reflect the way they are adopted. Another important characteristic feature of these preambles is that they aim to stress the continuity of their national statehood. Most countries in this region, including Lithuania, suffered heavy losses in their history: the states used to disappear in long battles, or under favorable conditions were revived again. Therefore, historical excursus is not accidental in constitutional preambles. In this light, the desire to emphasize the tradition of statehood is understandable.⁶⁵

The integrity of a Constitution is the legal, philosophical and logical integrity of its norms, which obliges the interpreter to see the full picture and regard the Constitution as equilibrium of values.⁶⁶ Preambles are part of this integrity. Constitutional provisions are equal in terms of their legal power and it is for this reason that imperatives built in these provisions do not refute but rather supplement one another and facilitate the building of a new legal reality.⁶⁷

Another important point is that these preambles name the values, which the people of the restored countries consider basic, and the objectives which they pursue. The values and goals being freedom, justice, democracy, the principles of civil society, protection of fundamental human rights and freedoms, concord, peace, social progress, universal prosperity, state-strengthening, and so on.

Additionally, despite some individual features, most constitutions are characterized by a formal style of writing. Preambles have a different style. To achieve certain emotional effect, they use the so-called high style; their wording is not in compliance with the requirements of juridical technique. Such style creates grandeur, sensuality, elevation and other similar emotional tones.

CONCLUSIONS

The Constitution is a coherent act, which means that its principles and norms are related not only formally, but also contextually. The unity of the norms presupposes that either the preamble of the Constitution or its chapters or articles create a meaningful whole, and that none of its provisions can be contrasted to

acknowledging its equal status in the international community, Latvia protects its national interests and promotes sustainable and democratic development of a united Europe and the world./God, bless Latvia!

⁶⁵ Egidijus Jarašiūnas, "Žvelgiant į Lietuvos Respublikos 1992 m. Konstituciją platesniame konstitucionalizmo raidos kontekste" [Looking into the Constitution of the Republic of Lithuania of 1992 in the broader context of the development of constitutionalism], *Jurisprudencija* 30 (22) (2002): 52.

⁶⁶ Gediminas Mesonis, *Konstitucijos interpretavimo metodologiniai pagrindai* [Methodological basis for the interpretation of the Constitution] (Vilnius: Registrų centras, 2010), 211.

⁶⁷ *Ibid.*

others or be interpreted in such a way that the essence of the Constitutional provisions would be denied or distorted.

The constitutions of many states begin by an introductory part, a preamble. The constitutions of only some countries (e.g., Norway, the Netherlands, Belgium, Italy, and Greece) do not have preambles. The preamble is often considered an integral part of the official text of the Constitution. Preambles reflect historical conditions of adopted constitutions, define goals of constitutional regulation, pursued values, determine main political principles, and even declare main rights, freedoms, etc.; and very often preambles disclose ways of adoption of constitutions. A preamble is an important structural part of a constitution, which helps to understand the determined constitutional regulation. Principles enshrined in the preambles may be considered relevant arguments for constitutional justice institutions in deciding whether or not the disputed law or other legal act is in conflict with the Constitution. Interpreting and applying the Constitution as a single act, the individual chapters, articles, or certain provisions, it is necessary to take into account the content of the preamble, as no part of the text of the Constitution can be interpreted in a way that is contrary to the statements in the preamble, and the spirit thereof.

The preamble is not at bottom a political, ideological, or philosophical category; it definitely carries a legal load, so it is assigned normative significance. Usually the constitution does not provide for a special procedure for amending preambles. A so-called high style is characteristic for constitutional preambles. Their wording is usually not in compliance with the requirements of juridical technique. This makes them different from other constitutional provisions, which are usually set in a formal style that is beholden to certain rules of juridical technique.

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