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INTEGRATION PROCESSES AND DUAL CITIZENSHIP

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ABSTRACT

When relations of citizenship are regulated, it is very important to assess new actual situations, as well as the latest needs of society and the state and to react to them adequately. It is important that the Law on Citizenship defines which persons are citizens of the Republic of Lithuania, and in what situations a citizen of the Republic of Lithuania may be also a citizen of another state, since citizenship is not only a formal legal category, but it is also always inseparably related with the issues of sovereignty, national identity, political order, and the rights and freedoms of persons. While regulating the citizenship relations from the restoration of the State of Lithuania in 1918, the view was upheld that, as a rule, a citizen of Lithuania may not also be a citizen of another state at the same time, and that dual citizenship was allowed only in individual cases established in the law. The development of legislative regulation of citizenship after the 1992 Constitution entered into effect shows that legislation gradually widened the circle of persons who were allowed to be citizens of the Republic of Lithuania and of another state at the same time. In 2006, when a legal dispute arose regarding the compliance of some provisions of the Law on Citizenship with the Constitution, the Law on Citizenship used to contain the legal regulation whereby the absolute majority of citizens of the Republic of Lithuania, regardless of where they lived – in Lithuania or another foreign state – were allowed to be citizens of another state at the same time as well. By its ruling of 13 November 2006, the Constitutional Court recognised such legal regulation as being in conflict with the Constitution. If the legislator were really

committed to following the provision that dual citizenship may be a widespread phenomenon – and this would be so if, alongside the cases specified in the draft Law on Citizenship, one would provide that also the persons who left Lithuania after 11 March 1990 are allowed to have dual citizenship—it would be necessary to correspondingly amend the provisions of Article 12 of the Constitution. This can be done by referendum only. No matter how the legislative regulation of the relations of citizenship of the Republic of Lithuania will be amended in the future, one must pay heed to the provisions of the Constitution, including those which entrench equality of rights of all persons and non-discrimination on grounds of ethnicity.

KEYWORDS

Citizenship, Dual Citizenship, the Constitution, the Constitutional Court

NOTE

The author of the article is the former Justice of the Constitutional Court of the Republic of Lithuania.

INTRODUCTION

Globalisation processes prompt European and other states to look at issues of dual citizenship in a new light. Lithuania is not an exception. The ever increasing integration of states, the prodigious amount of emigration of citizens of the Republic of Lithuania, virtually unrestricted opportunities of employment in all states of the European Union, the increasing number of intermarriages and that of children born in such families, as well as other circumstances, create preconditions for increasing cases of dual citizenship. However, under Article 12 of the Constitution, dual citizenship may not be a widespread phenomenon. If it were resolved to allow that a large number of citizens of the Republic of Lithuania may have dual citizenship, then Article 12 of the Constitution would have to be respectively amended. Under the Constitution, this can be done only by referendum. While debating to what extent citizens of the Republic of Lithuania may be allowed to be citizens of another state at the same time, it is important to assess all the circumstances which could be significant for the development of the nation, society and the state.

1. PROHIBITION OF DUAL CITIZENSHIP IS A CONSTITUTIONAL PRINCIPLE

Paragraph 2 of Article 12 of the Constitution provides: "With the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time". Thus, the Constitution has consolidated the principle of prohibition of dual citizenship; however, this prohibition is not absolute: in individual cases established by the law, a citizen of the Republic of Lithuania may also have citizenship of another state as well.

All states decide issues of dual citizenship by taking into consideration the interests of the nation, society and the state, as well as new needs dictated by the reality. While debating the issue of how many instances of dual citizenship may be allowed in Lithuania under the conditions of the ever increasing integration of states, it is not emotions that should prevail, which is quite often is the case at present, but a rational assessment of the interests of the nation, society and the state. Also, one should not focus solely on an analysis of the present day "topicalities" related with emigration, but also on an assessment of the further perspective of a more distant future. It is important to give an answer to several basic questions. Who will determine the future of the State of Lithuania in 30-50 years' time? Who will elect the Seimas (parliament)—the representation of the

Nation? Who will elect the Head of State—the President of the Republic? Who will adopt decisions determining the fate of the people residing in Lithuania? Will this be done by the citizens of the Republic of Lithuania who both legally and factually are tied only with the State of Lithuania, who live here, in Lithuania, or the citizens of the Republic of Lithuania who will be bound by the requirements of loyalty, faithfulness and other similar requirements of other states, and who will virtually no longer have factual ties with Lithuania and, due to this, will not assume (will be unable to assume) the responsibility either for its present, or the future, who will have no obligations with respect to Lithuania, but “will love Lithuania only from afar”? Another aspect of the issue of dual citizenship is this: how to preserve the ties of the Lithuanians, who are increasingly scattering around the world, with Lithuania and with the nation? Will the strict limitation on dual citizenship contribute to the faster loss of the ties of a big part of the nation with Lithuania?

It is of crucial importance to properly define in the Law on Citizenship as to which persons are citizens of the Republic of Lithuania, and in what cases a citizen of the Republic of Lithuania may be a citizen of the Republic of Lithuania and a citizen of another state at the same time, since citizenship is not a mere formal legal category, it is inseparably related with the issues of sovereignty, national identity, political order, and the rights and freedoms of an individual. Only citizens of the Republic of Lithuania, i.e. a state community – the civil nation – have the right to create the State of Lithuania, i.e. only citizens have the right to decide what State of Lithuania there should be; only they can decide the constitutional order of the State of Lithuania, the structure of the institutions implementing state authority, the grounds of the legal relations between the person and the state, the economic system of the country etc. While implementing their rights and freedoms, the citizens participate by executing the sovereignty of the nation.

While regulating the citizenship relations from the very beginning of the restoration of the State of Lithuania in 1918, there was an approach that, as a rule, a citizen of the Republic of Lithuania may not be a citizen of another state at the same time, and that dual citizenship is allowed only in individual cases provided for in the law. Absolute prohibition of dual citizenship was provided for only in the 1922 Constitution, wherein it was established that “no one can be a citizen of Lithuania and any other state at the same time” (Article 9). The 1928 Constitution also established that “no one can be a citizen of Lithuania and any other state at the same time” (Paragraph 1 of Article 10); however, Paragraph 2 of the said article made a reservation: “A Lithuanian citizen, however, shall not lose his citizenship rights after he has become a citizen of any American land if he performs certain duties specified by the law”. It is noteworthy that the laws did not establish what

duties a person must perform so that he could retain the Lithuanian citizenship held by him.¹ Therefore, a citizen of Lithuania, after he acquired citizenship of any American land was regarded as one who retained citizenship of the Republic of Lithuania – such a person was not required to perform certain duties so that he could be regarded as a citizen of Lithuania.² However, a person, “after he has become a citizen of any American land” and who retained the previously held Lithuanian citizenship, was not allowed to hold two passports at the same time: in cases when “a Lithuanian citizen, upon his becoming a citizen of any American land and after he settled in Lithuania, requests to be issued a Lithuanian domestic passport, his request is to be granted subsequent to the Rules for Domestic Passports, <...> the passport of the American land should be kept in the case file on issuance of the domestic passport, by preserving the passport and, upon demand of the owner, to return it untarnished, while in this case the previously issued domestic passport should be taken away and kept in the case file”.³ On the other hand, the constitutional provision that the citizen of Lithuania does not lose Lithuanian citizenship after he acquired citizenship of “any American land” was understood in the manner that Lithuanian citizenship is retained only by such person who before acquiring citizenship of “any American land” was a Lithuanian citizen. Domestic passports were not allowed to be issued to persons who acquired “citizenship of any American land” by birth.⁴

The USA institutions regulated the citizenship relations in a different manner in the situations where the persons from Lithuania, after they acquired US citizenship, later used to “return back” to Lithuanian citizenship. On 24 August 1926, the American Consular Post applied to the Ministry of Foreign Affairs of the Republic of Lithuania asking, “in cases where American citizens become Lithuanian citizens, to take the American passports and naturalisation certificates from them and later to send these documents over to the Consular Post”.⁵

Under the Treaty on Naturalisation and Military Service between the Republic of Lithuania and the United States of America which was concluded on 18 October

¹ *Ministrų Kabineto generalinio sekretoriaus 1937 m. sausio 29 d. raštas Nr. 65* (Note of the Secretary General of the Cabinet of Ministers as of the 29th of January, 1937, no. 65). LCVA, F. 1367, Ap. 9, B. 18, P. 95 (archival document).

² *Vidaus reikalų ministerijos nuomonė dėl Alfonso Gerdvilo pilietybės* (Opinion of the Ministry of the Internal Affairs on the Citizenship of Alfonsas Gerdvilas). LCVA, F. 1367, Ap. 9, B. 37, P. 126 (archival document).

³ *Vidaus reikalų ministerijos 1937 m. balandžio 15 d. aplinkraštis Nr. 50745* (Circular Note of the Ministry of the Internal Affairs as of the 15th of April, 1937, no. 5075). LCVA, F. 1367, Ap. 9, B. 295, P. 6 (archival document).

⁴ *Vidaus reikalų ministerijos Administracijos departamento 1939 m. balandžio 29 d. nutarimas Nr. 72105* (Decision of the Department of Administration of the Ministry of the Internal Affairs as of the 29th of April, 1939, no. 72105). LCVA, F. 1367, Ap. 9, B. 18, P. 32 (archival document).

⁵ *Vidaus reikalų ministerijos Piliiečių apsaugos departamento 1926 m. rugsėjo 26 d. aplinkraštis Nr. 23238* (Circular Note of the Department of the Security of Citizens of the Ministry of Internal Affairs as of the 26th of September, 1926, no. 23238). LCVA, F. 1367, Ap. 9, B. 295, P. 10 (archival document).

1937,⁶ a Lithuanian citizen, who had acquired US citizenship by way of naturalisation and upon settling in Lithuania once again and in the absence of his resolve to come back to the USA, in cases in which the citizen resided in Lithuania for more than two years, was deemed as one who refused naturalisation. It was allowed to deem the said person as not intending to return to the USA provided he resided in Lithuania more than two years. This presumption was not applied in cases in which opposite proofs were presented (Article 1 of the Treaty).

The 1938 Lithuanian Constitution determined the issues of dual citizenship in a more explicit manner. Paragraph 1 of Article 13 of the Constitution established that "after acquisition of foreign citizenship, the citizen shall lose Lithuanian citizenship". Thus, the principle of prohibition of dual citizenship was entrenched. However, neither was this prohibition absolute: Paragraph 2 of the same article specified that "in cases established by law, a citizen, who holds foreign citizenship, may also retain Lithuanian citizenship". The provision "after acquisition of foreign citizenship, the citizen shall lose Lithuanian citizenship" was set forth also in the 8 August 1939 Law on Lithuanian Citizenship.⁷ However, this law also provided that "a citizen of Lithuania, who accepted citizenship of a foreign state, may retain Lithuanian citizenship upon permission by the Minister of the Interior" (Article 21). The laws did not provide for any other cases (save the specified permission of the Minister of the Interior) where a citizen after acquisition of citizenship of another state was permitted to retain Lithuanian citizenship.

After the independent State of Lithuania was restored in 1990, there was also a prevailing approach that dual citizenship is allowed only in individual cases provided for in the law. The Basic Provisional Law (Provisional Constitution) provided that "*as a rule*, a citizen of Lithuania may not be a citizen of another state at the same time" (Paragraph 2 of Article 13). In the course of drafting the 1992 Constitution one also followed the approach that dual citizenship is allowed only in rare—individual, exceptional—cases which are provided for in laws. This is seen from the concept outline of the Constitution prepared by the working group formed by the 7 November 1990 resolution of the Supreme Council of the Republic of Lithuania. In the said draft it was provided that in the course of drafting the Constitution one will adhere to the provision that "the Republic of Lithuania shall recognise dual citizenship only in exceptional cases provided for in the Constitution", that "a citizen of the Republic of Lithuania may lose Lithuanian citizenship <...> after he acquires citizenship of another state".⁸ By its resolution of

⁶ Official Gazette (Vyriausybės žinios), 1938, no. 623/4441.

⁷ Official Gazette (Vyriausybės žinios), 1939, no. 656/4811.

⁸ "The Constitution of the Republic of Lithuania. A Concept Outline," *Lietuvos aidas* (the daily), 10th of May, 1991.

1 May 1991, the Presidium of the Supreme Council of the Republic of Lithuania adopted the said concept outline of the Constitution and resolved to inform the Supreme Council of the Republic of Lithuania about the work done by the working group and to publish the draft in newspapers so that the public might discuss it.⁹ The circumstance that the concept outline of the Constitution (on the grounds of which the draft Constitution was prepared) provided that “the Republic of Lithuania shall recognise dual citizenship only in exceptional cases provided for in the Constitution” cannot be ignored in interpreting the legal regulation of dual citizenship established in the Constitution at present, since the said provision shows the intent of drafters of the Constitution. It is generally recognised in the legal academic literature that in the course of interpretation of the content of a legal norm the method of the intent of the legislator is very important as well.¹⁰ It was proposed in the draft Constitution, which, while following the concept outline of the Constitution, was prepared by the Provisional Commission for Drafting the Constitution formed by the Supreme Council of the Republic of Lithuania, that citizenship relations be regulated in the following manner: citizenship of the Republic of Lithuania shall be acquired by birth, restoration or other grounds provided for in laws (Paragraph 1 of Article 12); a foreigner or a stateless person may become a citizen of the Republic of Lithuania if he has resided in Lithuania no less than 10 years and meets other naturalisation conditions (Paragraph 2 of Article 12); persons of Lithuanian descent, who reside in Lithuania, shall be reserved the right for an indefinite time to citizenship of the Republic of Lithuania and the naturalisation conditions shall not be applied to them (Paragraph 3 of Article 12); the procedure for acquisition and loss of citizenship shall be established by law (Paragraph 4 of Article 12). While interpreting the legal regulation provided for in Article 12 of the draft Constitution, one may note that the provision “citizenship of the Republic of Lithuania shall be acquired by restoration” of Paragraph 1 of Article 12 of the draft Constitution meant that the legislator would establish which persons and under what procedure citizenship of the Republic of Lithuania is restored, while the provision “persons of Lithuanian descent, who reside in Lithuania, shall be preserved the right for an indefinite time to citizenship of the Republic of Lithuania and they shall not be applied the naturalisation conditions” of Paragraph 3 of Article 12 implied that the legislator would establish in what manner the preserved right to citizenship of the Republic of Lithuania would be implemented.

⁹ *Lietuvos Respublikos Aukščiausiosios Tarybos ir Lietuvos Respublikos Aukščiausiosios Tarybos Prezidiumo dokumentų rinkinys* (A Collection of Documents of the Supreme Council of the Republic of Lithuania and the Presidium of the Supreme Council of the Republic of Lithuania), t.3, Vilnius: Valstybinis leidybos centras, 1991, p. 506.

¹⁰ Dalia Mikelėnienė and Valentinas Mikelėnas, *Teismo procesas: teisės aiškinimo ir taikymo aspektai* (Court Process: Aspects of Interpretation and Application of Law), Vilnius: Justitia, 1999, p. 217-222.

By its resolution of 21 April 1992, the Supreme Council of the Republic of Lithuania assented to the work in drafting the Constitution done by the Provisional Commission for Drafting the Constitution and commissioned it to prepare the draft for printing in the media; it was also resolved to publish the draft Constitution edited by the said commission in the media so that the public might discuss it.¹¹ In the course of preparing the final version of the draft Constitution, its text was improved, and *inter alia* Article 12 thereof, which regulated citizenship relations, was changed. The draft Constitution which was approved by the Supreme Council of the Republic of Lithuania on 13 October 1992¹² and which was submitted for referendum, set forth Article 12 differently from what was laid down in the previous draft Constitution, which had been submitted to the public for consideration: it was established therein that citizenship of the Republic of Lithuania shall be acquired by birth and other grounds established by law (Paragraph 1); with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time (Paragraph 2); the procedure for the acquisition and loss of citizenship shall be established by law (Paragraph 3). Article 12 of the Constitution adopted by the 25 October 1992 referendum is set forth in precisely this manner.

In the course of revealing the concept of the provision "with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time" of Paragraph 2 of Article 12 of the Constitution, it is impermissible to be limited only by the linguistic (verbal) method of interpretation of law, and, on the grounds of the linguistic meaning of a single word contained in the said provision (the word "individual" in this case) to interpret the legal regulation established in the entire provision. There would be no sense in doubting that in Lithuanian the word "individual" means "certain, designated only for something",¹³ that the word "exceptional" means "exclusive, special",¹⁴ while the word "rare" means "happening within prolonged intervals".¹⁵ However, does the linguistic meaning of the word "individual" mean that the provision "with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time" of Article 12 of the Constitution has entrenched the legal regulation whereby the legislator is allowed to establish a great many said "individual" cases in the Law on Citizenship, where an

¹¹ "The Resolution of the Supreme Council "On Announcing the Draft Constitution of the Republic of Lithuania for Public Debate," *Lietuvos aidas* (the daily), 1st of May, 1992.

¹² Official Gazette (Lietuvos Respublikos Aukščiausiosios Tarybos ir Vyriausybės žinios), 1992, no. 31-953.

¹³ *Dabartinės lietuvių kalbos žodynas* (A Dictionary of Contemporary Lithuanian), Vilnius: Mokslo ir enciklopedijų leidykla, 1993, p. 58.

¹⁴ *Ibid.*, p.234.

¹⁵ *Ibid.*, p. 655.

absolute majority of Lithuanian citizens, regardless of where they reside—in Lithuania or another state—may be citizens of another state at the same time? In order to give an answer to this question, first of all, it is necessary to elucidate whether the provision of Paragraph 2 of Article 12 of the Constitution contains any special rule linked with the limitation of dual citizenship, or whether there is no such rule. If the provision “with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time” is interpreted as meaning that the drafters of the Constitution actually intended to establish therein that the cases of dual citizenship established by law would not be very rare, exceptional, and that dual citizenship could be a widespread phenomenon, it would mean that the Constitution entrenched the legal regulation whereby the Seimas enjoys the powers to establish virtually an unlimited number of “individual” cases leading to a situation where all or almost all Lithuanian citizens regardless of where they reside—in Lithuania or another state—may be citizens of another state at the same time. If the provision of Paragraph 2 of Article 12 of the Constitution is interpreted in this manner, one would also have to state that a legal regulation is entrenched therein whereby the decision whether to permit dual citizenship and how widely it should be permitted is a prerogative of the legislator, that the Constitution does not provide for any limitations on the legislator in this area, and that the discretion of the legislator is limitless. However, such interpretation of the legal regulation established in Paragraph 2 of Article 12 of the Constitution would be totally groundless. *If the drafters of the Constitution had really intended to consolidate in the Constitution the provision that the cases of dual citizenship established by law are not very rare—exceptional—and that dual citizenship is a widespread phenomenon, then the provision “with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time” would not have been entered into Article 12 of the Constitution at all.* For that Paragraph 3 of Article 12 of the Constitution would be sufficient, which provides that the procedure for the acquisition and loss of citizenship shall be established by law: while enjoying the powers to establish the grounds of loss of Lithuanian citizenship, the Seimas could decide whether to provide, in the law, that citizenship of the Republic of Lithuania is lost when citizenship of another state is acquired. Even if one agrees with the statements that, under Paragraph 2 of Article 12 of the Constitution, the legislator allegedly enjoys the powers to establish a lot of individual cases, that dual citizenship will be not a rare, but a widespread phenomenon, that the provision “with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time” of Article 12

of the Constitution is allegedly written not because one intended to prohibit the establishment of any such legal regulation whereby dual citizenship would be a widespread phenomenon, but only because one allegedly intended separately to discuss an opportunity to hold dual citizenship; still, however, one cannot help noticing that such reasoning is groundless. Only because of the fact that if the drafters of the Constitution had really intended to consolidate the provision in the Constitution whereby the cases of dual citizenship established by law would not be very rare and exceptional, and that dual citizenship would be a widespread phenomenon, the words "*individual cases*" would not have been entered into Paragraph 2 of Article 12 of the Constitution; also, there would not have been any emphasis stating "*with the exception of <...>, no one may be a citizen of both the Republic of Lithuania and another state at the same time*". One would have chosen a different textual form, which would not contain the word "individual". For instance, this form might have been "*with the exception of cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time*"; or "*in cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time*". It needs to be mentioned that precisely this textual form is employed in various articles of the Constitution by entrenching provisions where there appear corresponding relations or legal effects "in cases established by law". For instance, Paragraph 2 of Article 9 of the Constitution prescribes that "in the cases established by law, the Seimas shall announce a referendum", and Paragraph 4 of Article 123 of the Constitution provides that "in cases and according to the procedure provided for by law, the Seimas may temporarily introduce direct rule in the territory of a municipality". It is noteworthy that the formula "*individual cases provided for by law*" (emphasised by the author) is employed only in Paragraph 2 of Article 12 of the Constitution, while the other articles of the Constitution containing the provision that corresponding cases are established by law do not use the word "individual", but the formula "in cases established by law".

Thus, the mere linguistic meaning of the word "individual" employed in Paragraph 2 of Article 12 of the Constitution does not serve to maintain that this paragraph has entrenched the legal regulation whereby the Seimas enjoys the powers to establish, by means of a law, as many "individual" cases in which all or almost all citizens of Lithuania, regardless of where they reside—in Lithuania or another state—may be citizens of another state at the same time. It is noteworthy that Article 12 of the Constitution, as well as all the other articles of the Constitution, does not contain meaningless words, that each word used therein has its purpose and meaning. The word "individual" entered into Paragraph 2 of Article

12 of the Constitution is not coincidental, either. The purpose of this word is to show that there may not be many cases which are provided for by law, where a citizen of the Republic of Lithuania may also be a citizen of another state at the same time, and that dual citizenship may not be a widespread phenomenon. A different interpretation of the word "individual cases provided for by law" would distort the intent of the drafters of the Constitution (as mentioned, it was provided for in the concept outline of the Constitution that one will adhere to the provision that "the Republic of Lithuania shall recognise dual citizenship only in exceptional cases provided for in the Constitution") and would also distort the purpose and meaning of the constitutional regulation of dual citizenship. While rephrasing a well-known expression that 'the drafters of the US Constitution would likely spin in their graves if they knew how the US Supreme Court interprets the provisions of the Constitution once drafted by them', it must be said that the drafters of the Constitution of the Republic of Lithuania also would not dream, even in their worst nightmare, that someone would attempt to give interpretations that they had allegedly drafted a Constitution which permits the legislator to establish the legal regulation whereby almost all citizens of the Republic of Lithuania, regardless of where they reside—in Lithuania or another state—may be citizens of another state (e.g., Russia) at the same time. We should not forget that at the time when the Constitution was drafted, Russian troops were stationed in Lithuania and all sorts of ideas regarding "autonomies" were tenacious; it is evident that the drafters of the Constitution would not risk the independence of the State of Lithuania and the future of the state in such a way.

It is also noteworthy that from 1992 when the Constitution was adopted till the present day there has not been a single author who would state, in scientific legal publications on citizenship, that the Constitution has purportedly enshrined the legal regulation whereby the legislator is permitted to establish a great number of cases where dual citizenship is permissible, that, under the Constitution, dual citizenship is not a very rare and exceptional, but a widespread phenomenon. Quite to the contrary, all legal scientists who investigated the legal regulation of dual citizenship entrenched in the Constitution have always emphasised that the Constitution prohibits dual citizenship and that dual citizenship is allowed in individual, exceptional cases. For instance, while analysing the citizenship regulation established in the Constitution, in his book "Alternative Constitutional Law", Prof. Egidijus Šileikis writes: "Dual citizenship is not a constitutional value, but a certain exception. This is testified by the words of the Constitution 'with the exception of individual cases <...> no one may be' (Paragraph 2 of Article 12). Thus, the legislator does not enjoy powers to distort dual citizenship by making it a

constitutional exception, i.e. to consolidate the provision whereby a large number of people could be citizens of the Republic of Lithuania and another state.”¹⁶ In fact, in its rulings of 30 December 2003 and 13 November 2006, the Constitutional Court has interpreted the constitutional regulation of dual citizenship interpreted precisely in the same manner as it was done by E. Šileikis. In addition, in the manual “Lithuanian Constitutional Law” which was published in 2001 and which was intended for schools of higher learning, Assoc. Prof. A. Normantas also writes that the Constitution prohibits dual citizenship. In this book it is stated that “on the grounds of the pre-war Lithuanian tradition of regulation of dual citizenship, the principle of non-recognition of dual citizenship has been entrenched both in the Constitution of the Republic of Lithuania and the Law on Citizenship”.¹⁷ It also needs to be mentioned that the Law on the Basics of National Security¹⁸ adopted by the Seimas on 19 December 1996, wherein the risk factors and dangers to Lithuania were indicated, while “*attempts by other states to impose the principles of dual citizenship on Lithuania*” (Section 1 of Chapter 9 of Part II of the Law on the Basics of National Security) were regarded as one of such factors and dangers. This provision of the Law on the Basics of National Security was consolidated up to 2004, i.e. it was valid at the time when, on 30 December 2003, the Constitutional Court adopted the ruling wherein it held that, under Article 12 of the Constitution dual citizenship may not be a widespread phenomenon. One is to assent to the opinion of Prof. A. Vaišvila that “the legal solution of legalising or non-legalising dual citizenship stems not from ‘majority of votes’, not from good or bad objectives, even not from ‘national solidarity’ or mundane pragmatism, but from the notion of citizenship itself and the legal content thereof—the entirety of the rights and duties”.¹⁹

The principle of prohibition of dual citizenship is also entrenched in the Constitution (Article 12), which is valid at present, however, this principle is not absolute—in individual cases provided for by law, an individual is permitted to be a citizen of both the Republic of Lithuania and another state at the same time. In its rulings of 30 December 2003 and 12 November 2006, the Constitutional Court held that, under Article 12 of the Constitution, citizenship may not be a widespread phenomenon.

After the 1992 Constitution came into force, legislation gradually expanded the circle of persons who could be citizens of both the Republic of Lithuania and

¹⁶ Egidijus Šileikis, *Alternatyvi konstitucinė teisė* (Alternative Constitutional Law), Vilnius: Teisinės informacijos centras, 2003, p. 120.

¹⁷ Toma Birmontienė et al, *Lietuvos konstitucinė teisė* (Lithuanian Constitutional Law), Vilnius: Lietuvos teisės universitetas, 2001, p. 385.

¹⁸ Official Gazette, 1997, no. 2-16.

¹⁹ Alfonsas Vaišvila, “Dviguba pilietybė – ne tik dvigubos teisės (Dual Citizenship—Not Only Double Rights),” *Jurisprudencija* 7(109) (2008): 8.

another state at the same time. In 2006, when there occurred a legal dispute on the compliance of some provisions of the Law on Citizenship with the Constitution, the Law on Citizenship contained the legal regulation whereby the absolute majority of citizens of the Republic of Lithuania, regardless of where they reside – in Lithuania or another state – could be citizens of another state at the same time. The Law on Citizenship also contained the provision whereby *the right of persons of Lithuanian descent to dual citizenship was not limited at all*, whereas the law divided citizens of the Republic of Lithuania of other ethnicities into two groups: *those citizens of the Republic of Lithuania of non-Lithuanian descent who repatriated (those who departed for their ethnical homeland and resided there) could not be citizens of the Republic of Lithuania and another state at the same time, while those citizens of the Republic of Lithuania of non-Lithuanian descent who departed to reside in any foreign state but not to their ethnic homeland could be citizens of the Republic of Lithuania and another state at the same time*. Thus, the Law on Citizenship totally disregarded the constitutional provision that dual citizenship is allowed only in individual cases, that cases of dual citizenship may be very rare only, and that dual citizenship may not be a widespread phenomenon. On the other hand, the Law on Citizenship had established the legal regulation whereby the retention of the right to citizenship of the Republic of Lithuania depended on the ethnic origin of the person and on the fact for which country – the ethnic homeland or another country – the corresponding person departed from Lithuania; thus, part of citizens of the Republic of Lithuania of non-Lithuanian descent were discriminated against on the grounds of nationality. It is due to this that in its ruling of 13 November 2006 the Constitutional Court recognised corresponding provisions of the Law on Citizenship as conflicting with the Constitution. In its ruling the Constitutional Court also indirectly held that *the Constitution does not regard dual citizenship as a constitutional value—the principle of single citizenship is a constitutional value*. Thus, the Constitution which is valid at present presumes a legal situation, where the absolute majority of citizens of the Republic of Lithuania, regardless of their nationality and where they reside—in Lithuania or another state—must be bound by ties of faithfulness and loyalty only with the State of Lithuania, and must not be bound by ties of faithfulness and loyalty with other states. It means that, under the Constitution, a citizen of the Republic of Lithuania can be bound by ties of faithfulness and loyalty also with another state only in rare cases. It is also indirectly held in the Constitutional Court ruling that citizenship of the Republic of Lithuania is not an addition to citizenship of any other state: under the Constitution, citizenship of the Republic of Lithuania is full-fledged.

As long as Article 12 of the Constitution entrenches the principle that a citizen of the Republic of Lithuania may be a citizen of another state at the same time only in individual cases provided for by the law, the legislator cannot establish any such legal regulation whereby there would be so many such cases that cases of dual citizenship would be a widespread, but not rare phenomenon. No matter how the concept of the provisions of Article 12 of the Constitution presented in the Constitutional Court ruling of 13 November 2006 is assessed (i.e. some people may agree while others disagree with it), this is nevertheless an official interpretation, the official concept of this provision of the Constitution, and no one save the Constitutional Court is allowed to change it. The fact that, under the Constitution, only the Constitutional Court has the powers to interpret the Constitution officially does not mean that no one is permitted to interpret the Constitution save the Constitutional Court. Everyone can interpret the Constitution. However, the consequences of the interpretation of the Constitution are different. As long as corresponding provisions of the Constitution have not been interpreted by the Constitutional Court, we (can) have as many concepts of the Constitution as there are interpreters. Whereas after the concept of the provisions of the Constitution is presented by the Constitutional Court, we have the *official* concept of the provisions of the Constitution which *must be heeded by all subjects of lawmaking*: the Seimas, the Government, the President of the Republic. Also, all subjects, including courts, which apply law, must heed the official constitutional doctrine: while applying law, they may not interpret the provisions of the Constitution differently from what has been interpreted by the Constitutional Court in its acts.²⁰ It means that the rulings and other acts of the Constitutional Court wherein the concept of provisions of the Constitution is presented not only construe the Constitution, but also have the potential for rearranging the legal regulation and creation of law.

However, the fact that the Constitutional Court has presented the official concept of the provisions of the Constitution does not mean that the existence of a great many concepts of these provisions of the Constitution different from that of the Constitutional Court is not allowed. However, the existence of those “different concepts” does not make them obligatory to subjects of law-making and subjects that apply law, which, as mentioned, are not allowed to disregard the official concept of the provisions of the Constitution which was presented by the Constitutional Court.

²⁰ On the 4 August 2005 petition of the Klaipėda Regional Court requesting to investigate whether Item 89 of the Instructions for Execution of Decisions as confirmed by Order No. 432 ‘On Confirming the Instructions for Execution of Decisions’ of 31 December 2002 issued by the Minister of Justice of the Republic of Lithuania is not in conflict with the Constitution of the Republic of Lithuania, Ruling of the Constitutional Court of the Republic of Lithuania (September 20, 2005).

The fact that the Constitutional Court has presented the official concept of the provisions of the Constitution does not mean that this concept cannot be assessed in a critical manner. The Constitution guarantees the right to have convictions and to freely express them; under the Constitution, a human being must not be hindered from seeking, receiving and imparting information and ideas. These rights and freedoms imply freedom of the media and are one of the most important grounds of a democratic society. Therefore, no one, either directly or indirectly, may forbid anyone from criticising decisions adopted by the Constitutional Court, including those wherein the official concept of Article 12 of the Constitution is presented. While enjoying the powers to assess legal acts adopted by other state institutions, thus, having the powers to "criticise" the activity of other institutions of state power, the Constitutional Court must be tolerant itself with respect to the criticism voiced in regard to its decisions, especially when its decisions are critically assessed by legal scientists and the legal community. In fact, no one has ever prohibited or attempted to prohibit the criticisms of decisions of the Constitutional Court; *nor have legal scientists and the legal community given any critical remarks concerning the manner of interpretation of the content of the provision "with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time" of Article 12 of the Constitution presented in the rulings of the Constitutional Court.*

The concept of the provisions of Article 12 of the Constitution presented in the Constitutional Court ruling of 13 November 2006 has lead to great dissatisfaction among Lithuanian emigrants, especially of those Lithuanian citizens who have recently emigrated from Lithuania, since the above concept means that the majority of the citizens of the Republic of Lithuania who in recent years departed for other states to reside there, provided such citizens acquire citizenship of another state, will be unable to retain the citizenship of the Republic of Lithuania held by them.

2. THE DILEMMA: AMENDMENTS TO ARTICLE 12 OR ITS IGNORANCE?

Article 12 of the Constitution can be amended only by referendum. While amending and supplementing the Constitution, one is not allowed to disregard *inter alia* the fact of how the amendments of the Constitution will be coordinated with the legal regulation entrenched in the Constitution. It is necessary to see the entire legal regulation established in the Constitution and by means of the amendments to the Constitution not to create any such legal situation where one provision of the Constitution, both textually and from the point of view of meaning, would deny any

other provision of the Constitution. In other words, by means of the amendments of the Constitution one is not allowed to entrench any legal regulation, where provisions thereof would compete with or even deny one another. In such a case it would be very difficult to establish what the legal regulation entrenched in the Constitution actually means; it would be very difficult, if even possible at all, to interpret the Constitution reasonably and rationally. It would mean that the Constitution would be unable to perform a lot of its functions, *inter alia* it would be unable to be the etalon (measure) by applying that to which it would be possible to verify whether laws and other legal acts are in compliance with the Constitution.

While looking for ways, without calling a referendum on the amendment of Article 12 of the Constitution, as to how to amend the Constitution in the manner whereby the cases of dual citizenship would not be very rare, some people have given proposals to supplement, e.g. Article 32 of the Constitution, with the provision "a person who acquired Lithuanian citizenship by birth cannot lose it against his will". Such proposal was given by Prof. E. Šileikis at a press conference arranged on 19 April 2007;²¹ in the opinion of the author of the proposal, in this way "the context of assessment of Article 12 of the Constitution would increase", in addition, "Article 12 of the Constitution, which contains the provision 'with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time', should be assessed together with Article 32 of the Constitution". There are also proposals that Article 18 or Article 32 be supplemented with the provision "No citizen of the Republic of Lithuania or his descendant may lose, against his will, citizenship of the Republic of Lithuania acquired by birth, even after he has acquired citizenship of another state".²² Let us take a closer look at what is meant by these proposals and to what legal effects they could lead if they would be implemented.

First of all, let us compare the provision "with the exception of individual cases provided for by law, no one may be a citizen of both the Republic of Lithuania and another state at the same time" of Article 12 of the Constitution and the proposed provision "a person who acquired Lithuanian citizenship by birth cannot lose it against his will" of Article 32 with one another. It is clear that these provisions are of different content. The proposed provision "a person who acquired Lithuanian citizenship by birth cannot lose it against his will" also means that a person, who became a citizen of the Republic of Lithuania by birth, will not lose Lithuanian citizenship if he acquires citizenship of another state, i.e. he will be able

²¹ "Teisininkas ir diplomatas sako radę konstitucinį dvigubos pilietybės išsaugojimo raktą (Lawyer and Diplomat Say They Found Key to Constitutional Preservation of Dual Citizenship)," *BNS News Agency* // <http://www.balsas.lt/naujiena/85855>.

²² See, e.g., Regina Narušienė, "Pilietybė ir naujas pilietybės įstatymo projektas (Citizenship and the New Draft Law on Citizenship)," *Bernardinai* 6th of April, 2009.

to be a citizen of the Republic of Lithuania and of another state at the same time. Since an absolute majority of Lithuanian citizens acquired Lithuanian citizenship by birth, it means that the absolute majority of Lithuanian citizens, regardless of where they reside—in Lithuania or another state—will be able to be citizens of Lithuania and of another state at the same time. Thus, if Article 32 of the Constitution were supplemented as proposed, two different and conflicting provisions would be consolidated in the Constitution: under Article 12 of the Constitution, dual citizenship would be allowed only in rare cases and it *may not* be a widespread phenomenon, whereas under Article 32 of the Constitution, dual citizenship *would be (would allowed to be)* a widespread phenomenon.

Just this fact alone would allow the said proposal to be assessed as legally deficient. However, this is not its main legal deficiency. Article 32 of the Constitution, whose supplements are proposed, is set forth in Chapter II of the Constitution. The Constitution does not demand that the articles contained in this chapter be amended only by referendum, thus, the Seimas can also amend them by passing a law on amending a respective article of the Constitution. The proposal that the Seimas establish a different rule in Article 32 which would compete with that entrenched in Article 12 of the Constitution and which, as mentioned, can be amended only by referendum, means that it is proposed that the Seimas “circumvent” the rule established in Article 12 of the Constitution, that the Seimas disregard the will of the nation expressed in Article 12 that dual citizenship is allowed only in rare cases, and that dual citizenship cannot be a widespread phenomenon. Since it was proposed the Seimas disregard the procedure for amendment of Chapter I of the Constitution which is established in the Constitution itself (under Paragraph 2 of Article 148 of the Constitution, the provisions of Chapter I can be amended only by referendum), it is possible to maintain that it was proposed that the Seimas exceed the powers granted to it in the Constitution, i.e. that the Seimas usurp the right which, under the Constitution, belongs only to citizens of the Republic of Lithuania, to decide by referendum as to what legal regulation of citizenship relation should be entrenched in the Constitution.

The said proposal is also to be assessed in a wider context, because it virtually also means that the special protection of individual provisions of the Constitution—the possibility to amend them only by referendum, which is consolidated in the Constitution itself—becomes meaningless, since, if one follows the logic of this proposal, the rules (imperatives) entrenched in these provisions of the Constitution are easily “neutralised”—it is possible to do so when the Seimas correspondingly amends those constitutional articles which are not demanded by the Constitution to be amended only by referendum. If one follows the logic of such

proposal, it is possible to construct very dangerous precedents of alteration of the Constitution. Let us consider some examples. For instance, Article 14 of the Constitution provides that Lithuanian shall be the state language. Then, if one follows the logic of the aforementioned proposal, would it not be possible to suggest that the Seimas supplement a certain article of the Constitution, which can be amended not necessarily by referendum, e.g., Article 37, in which the rights of citizens belonging to ethnic communities are entrenched, with, e.g., the following provision: "Not only Lithuanian, but also the X [indicating a concrete language] language shall be the State languages." If the Seimas made such amendment to Article 37 of the Constitution, would it not deny the will of the nation expressed in Article 14 of the Constitution whereby only Lithuanian is the state language? It is clear that the will of the nation would be denied. The Constitution prohibits the Seimas from adopting such decisions: under Paragraph 2 of Article 148 of the Constitution, the provision of Article 14 that Lithuanian shall be the state language may be amended only by referendum, but not by amendments to the Constitution adopted by the Seimas. Also, let us take another example: Paragraph 1 of Article 148 of the Constitution provides that the provision of Article 1 of the Constitution "the State of Lithuania shall be an independent democratic republic" may only be altered by referendum if not less than 3/4 of the citizens of Lithuania with the electoral right vote in favour thereof. Then, if one follows the logic of the aforementioned proposal, would it not be possible to suggest that the Seimas amend a certain article of the Constitution, which can be amended not necessarily by referendum, e.g., a certain article in Chapter XIII "Foreign Policy and National Defence" (for instance, Article 138) and supplement it with, e.g., a provision that the Seimas is allowed to ratify also such international treaties, according to which Lithuania *is not an independent state*? If the Seimas made such an amendment to Article 138 of the Constitution, would it not deny the will of the nation expressed in Article 1 of the Constitution whereby the State of Lithuania is an independent democratic republic? It is clear that it would deny the will of the nation—the Constitution prohibits the Seimas from adopting such decisions.

Perhaps such examples are somewhat drastic; however, the said proposals regarding the amendments to Articles 18 and 32 of the Constitution by entering the provision "a person who acquired Lithuanian citizenship by birth cannot lose it against his will", or the provision "no citizen of the Republic of Lithuania or his descendant may lose, against his will, citizenship of the Republic of Lithuania acquired by birth, even after he has acquired citizenship of another state" are nothing else but creation of the precedent of amending the Constitution of precisely such drastic character. The proposals of such character, as mentioned, are

absolutely incompatible with Article 148 of the Constitution whereby the provisions of the Constitution specified in it may be amended only by referendum; nor are they compatible with Paragraph 2 of Article 5 of the Constitution whereby the scope of power (thus, including the power of the Seimas) is limited by the Constitution. The proposals of such kind are completely incompatible with the constitutional principle of a state under the rule of law, as well. Prof. E. Kūris was absolutely right when he urged "not to create any legal 'hocus-pocus' while saying that it is permissible to enter several words in the Constitution and thus the provision of Article 12 will be changed".²³

The main issue in the discussions regarding a new draft Law on Citizenship²⁴ is this: how many cases there may be in which a citizen of the Republic of Lithuania would be permitted to hold citizenship of another state at the same time. In other words, how widely is the establishment of dual citizenship by means of a law allowed? The draft Law on Citizenship provides that the Lithuanian citizens who left Lithuania between 1919 and 1940, as well as the Lithuanian citizens who were exiled from Lithuania or who left Lithuania on their own between 1940 and 1990 as well as their descendants, may hold dual citizenship. The persons who left Lithuania after 11 March 1990 will not be able to be citizens of Lithuania and another state at the same time. Thus, the dividing line of 11 March 1990 was chosen. The drafters of the law chose this date only because they were bound by the concept of the provisions of Article 12 of the Constitution, whereby dual citizenship may not be a widespread phenomenon (in other words, the legislator is not allowed to provide for many "individual cases" in the Law on Citizenship, where a citizen of the Republic of Lithuania may hold citizenship of another state at the same time, in order that dual citizenship would not become a widespread phenomenon). It is to be held that the said dividing line is chosen after no other criterion was found which could be more convincing and objective, and how, while increasing the possibilities to be a citizen of the Republic of Lithuania and of another state at the same time, not to violate the requirement established in Article 12 of the Constitution. According to the press, at present more than a million individuals of Lithuanian descent are residing abroad whereas more than 400 thousand citizens of the Republic of Lithuania left Lithuania after the restoration of the independence. If the draft Law on Citizenship provided that not only the persons who departed from Lithuania or who were exiled till 1990, but also the persons who left Lithuania after the restoration of the independence may hold dual citizenship, it would mean that the law again will establish the legal regulation whereby dual citizenship becomes (may become) a

²³ Aurelija Vernickaitė, "Much Talk, Little Work," *Verslo žinios* (the daily), 9th of August, 2007.

²⁴ The draft Law on Citizenship was submitted to the Seimas by the President of the Republic of Lithuania (Official Gazette, 2009, no. 19-747).

widespread phenomenon; it would also mean that the law will establish the same legal regulation which the Constitutional Court recognised as conflicting with the Constitution in its ruling of 13 November 2006. However, precisely that was proposed by the Commission of the Seimas of the Republic of Lithuania and the Lithuanian World Community, which, on 24 April 2009, adopted a resolution urging that the Seimas supplement the draft Law on Citizenship and that it "provide for the situations where a citizen of the Republic of Lithuania is allowed to be a citizen of another state as well, provided he is an individual who departed from Lithuania after 11 March 1990 and acquired citizenship of another state". It is noteworthy that, under the Constitution, the legislator may not overrule the Constitutional Court ruling by a repeated adoption of a law or individual provision thereof, which was recognised by the Constitutional Court rulings as conflicting with the Constitution.

If the legislator really intended to follow the provision that dual citizenship can be a widespread phenomenon, and this would be the case if alongside the cases indicated in the draft Law on Citizenship one also provided that dual citizenship may be held by the persons who departed from Lithuania after 11 March 1990, it would be necessary to respectively amend the provisions of Article 12 of the Constitution. As mentioned, it is permitted to do so only by referendum. No matter how the legislative regulation of the relations of citizenship of the Republic of Lithuania will be amended, the provisions of the Constitution, including those which entrench equality of rights of all persons and non-discrimination due to ethnicity, will have to be heeded.

In the course of debating how widely citizens of the Republic of Lithuania could be allowed to be citizens of another state at the same time, it is also necessary to have in view other provisions of the Constitution, *inter alia* those related with the electoral right. Under the Constitution, the right to elect and be elected to the Seimas, the right to elect and be elected the President of the Republic, as well as the right to participate in referendums belong only to citizens. If it were decided to amend Article 12 of the Constitution in the manner that dual citizenship would become a widespread phenomenon, would it not be necessary to correct the articles of the Constitution related with the Seimas of the Republic of Lithuania, the President of the Republic, with the implementation of the passive electoral right? In its judgment of 18 November 2008, the European Court of Human Rights (case *Tanase and Chirtoaca v. Moldova*) held that in cases where dual citizenship is widespread it is impermissible to prohibit a person with dual citizenship to become a member of parliament, that such prohibition is discriminatory and disproportionate, since a significant portion of citizens lose the

passive electoral right. It is to be presumed that this court judgment indirectly implies *inter alia* the fact that if dual citizenship is a widespread phenomenon in Lithuania, an amendment to Article 56 of the Constitution will have to be necessary and the persons who hold citizenship of another state as well will have to be allowed to be elected members of the Seimas. Alongside, the constitutional provision as to who can be elected President of the Republic will have to be corrected accordingly. While resolving whether Lithuania can afford dual citizenship as a widespread phenomenon, it is also important to assess whether some states which are unfriendly to Lithuania, by making use of the fact that a large number of citizens of the Republic of Lithuania will be (will be allowed to be) also citizens of such unfriendly states, will not attempt "to defend" their citizens from the State of Lithuania? Will there really be no well-known scenario in Lithuania, where in the beginning residents are given passports of citizens of another state, and later that state comes to defend their allegedly violated rights?

While regulating the relations of citizenship, it is very important to assess new realities and the new needs of society and those of the state and to react to them in an adequate manner. It needs to be observed that in international law the approach to dual citizenship is becoming more liberal: for instance, if the 1963 Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality consolidated a clearly negative approach towards dual citizenship; however, the 1997 European Convention on Nationality (which was adopted by the Council of Europe) contains a rather neutral approach to citizenship and the question of whether dual citizenship is permissible is left for the discretion of states. The regulation of relations of citizenship in states of the European Union indicates that they are beginning to treat dual citizenship more liberally and are abandoning the strict prohibition of dual citizenship that has been there for a long time. At present approximately 70 percent of states of the European Union (among them are Ireland, Belgium, France, the United Kingdom, Italy, Sweden, Finland, Slovakia, Malta, Cyprus, Poland and Luxemburg) allow their citizens to be citizens of other states as well. Around 20 percent of the states in fact tolerate dual citizenship (treat dual citizenship liberally)—such states are the Czech Republic, Spain, Holland, Portugal, Romania, Hungary, and Slovenia. Around 10 percent virtually prohibit dual citizenship and allow only small exceptions. They are Lithuania, Estonia, Denmark, and Austria. In the states which considerably limit dual citizenship the acquisition of citizenship under *jus sanguinis* is dominant, the priority is given to preservation of homogeneity and the so-called principle of effective citizenship is applied.

While analysing the experience of the states in which in recent years there were cardinal changes in the approach to dual citizenship, one may mention Sweden. Sweden used to follow the principle of prohibition of dual citizenship for some time; however, in the Swedish Law on Citizenship adopted in 2001 it is established that a Swedish citizen who acquired citizenship of another state shall retain Swedish citizenship provided the laws of the state of the citizenship whereof was acquired by the Swedish citizen do not require that the person should refuse his citizenship in order to acquire the citizenship of that state. It is possible to presume that the change in the approach to dual citizenship was determined by the fact that since the middle of the previous century there has been an increase of immigrants in Sweden, whereas at present almost every fifth resident of Sweden (from the population of 9 million) is an immigrant or his parents are foreigners; it has created preconditions for increasing instances of dual citizenship. Nevertheless, the permission of wide dual citizenship is expected to improve the integration of immigrants into the Swedish society.

Dual citizenship is regulated in Finland and Iceland in a similar manner, too, where new citizenship laws were adopted in 2003. This year, our neighbour Poland has also adopted a law allowing wide dual citizenship. However, it must be noticed that states which allow dual citizenship often entrench a provision in their laws whereby they consider that a person with dual citizenship is only a citizen of their own state, that holding the citizenship of another state is insignificant to the relation of that person with the state, nor does it grant any additional rights or guarantees and does not exempt him from discharging the duties established in the Constitution and laws etc.

The flexible reaction of most of the states of the European Union to the new existing realities because of the integration of states where there is an apparent increase in the number of dual citizenship is allowed by the fact that their Constitutions as a rule do not regulate the relations of dual citizenship—the legislator is permitted to regulate them. The situation in Lithuania is different. As long as Article 12 of the Constitution is not amended, dual citizenship may not be a widespread phenomenon. The problem of dual citizenship is a complex matter not only in Lithuania, but also in other states. A new tendency in states of the European Union has come into being, where most of the states tolerate dual citizenship *de jure* or *de facto*, since this helps them *inter alia* foster ethno-cultural ties with their citizens residing abroad and allows the state to maintain the legal link with them. Unlike in Lithuania, in other states there are, as a rule, rational discussions before adopting decisions which would either expand or narrow the possibilities to be citizens of several states at once. At the time of such discussion all circumstances

are comprehensively assessed, which could influence the development of the nation, society and the state also in the long-term perspective. And not only politicians, but also the public, and scientists from various fields take part in such debates, and various research is conducted and predictions are made. It is a pity that in Lithuania there are not sufficient debates of such kind, or, in other words, such debates have not started yet.

CONCLUSIONS

1. It is of crucial importance to properly define in the Law on Citizenship as to what persons are citizens of the Republic of Lithuania, and in what cases a citizen of the Republic of Lithuania may be a citizen of the Republic of Lithuania and a citizen of another state at the same time, since citizenship is not a mere formal legal category, it is inseparably related with the issues of sovereignty, national identity, political order, the rights and freedoms of an individual.

2. While regulating the citizenship relations from the very beginning of the restoration of the State of Lithuania in 1918, there was an approach that, as a rule, a citizen of the Republic of Lithuania may not be a citizen of another state at the same time, and that dual citizenship is allowed only in individual cases provided for in the law.

3. As long as Article 12 of the Constitution entrenches the principle that a citizen of the Republic of Lithuania may be a citizen of another state at the same time only in individual cases provided for by the law, the legislator cannot establish any such legal regulation whereby there would be so many such cases that cases of dual citizenship would be a widespread, and not rare phenomenon.

4. Article 12 of the Constitution can be amended only by referendum. The Seimas, while enjoying the powers to amend corresponding articles of the Constitution, may not entrench therein any such provisions which would compete with the provisions of Article 12 of the Constitution.

5. The ever increasing integration of states, enormous emigration of citizens of the Republic of Lithuania, virtually unrestricted opportunities of employment in all states of the European Union, the increasing number intermarriages and that of children born in such families and other circumstances, create preconditions for increasing cases of dual citizenship. While debating whether citizens of the Republic of Lithuania may be allowed to be citizens of another state at the same time, it is important to assess all the circumstances which could be significant for the development of the nation, society and the state also in the long-term perspective.

6. A new tendency in states of the European Union has come into being, where most of the states tolerate dual citizenship *de jure* or *de facto*, since this helps them *inter alia* foster ethno-cultural ties with their citizens residing abroad and allows the state to maintain the legal link with them.

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