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# Evolution of Lithuania's Approach towards Writing of Personal Names in the Official Documents: On the Verge of Liberalisation?

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**Abstract:** On 18 January 2022, the parliament of Lithuania adopted the law on writing personal names in the official documents. Having substantially liberalised the existing practice, the law, however, offered only a partial solution because it did not sanction the use of non-Lithuanian diacritical characters. Based on the relevant legal, linguistic and historical contexts, relevant Lithuanian legislation and case law, this study analyses the evolution of Lithuania's approach towards the writing of its citizens' personal names in official documents. The text shows that the significant changes that took place in Lithuanian society during the last 30 years have resulted in a partial liberalisation of these practices. The recent case law suggests that the state is on the verge of accepting full liberalisation, particularly if relevant interwar legislation and a broader understanding of historical traditions of the Lithuanian language will be taken into account. However, the Constitutional Court plays a key role in determining the contents and directions of this process.

**Keywords:** Lithuania, national minorities, equality, language rights, constitutional doctrine

## 1. Introduction

On 18 January 2022, the Lithuanian Seimas<sup>1</sup> adopted Law No. XIV-903 on writing personal names and surnames in the documents.<sup>2</sup> This law became effective on 1 May 2022, and jointly with Government Resolution No. 424 on approval of the rules for writing a person's name and surname in personal IDs and other documents (adopted pursuant to this law on 27 April 2022)<sup>3</sup> established new rules for writing the personal names of Lithuania's citizens.

This law offered a solution for nearly three decades of debate in Lithuania on writing non-Lithuanian personal names. This issue was particularly relevant for the country's

<sup>1</sup> Seimas is the name of Lithuania's parliament.

<sup>2</sup> Register of Legal Acts (Lithuanian: *Teisės aktų registras*, hereinafter: TAR) No. 2022-01142 (<https://bit.ly/45Fu5Lf>).

<sup>3</sup> TAR No. 2022-08744 (<https://bit.ly/3IV65Ky>).

autochthonous Polish minority because it opened the path for many Lithuanian citizens of Polish ethnicity to return to the spelling of their personal names in the original form. This situation has also affected many Lithuanian citizens with foreign spouses. In the previous two sentences, the word “many” is particularly important. The new law provided Lithuanian citizens with the opportunity to use letters q, x and w, which are absent in the Lithuanian alphabet. However, it did not legalise non-Lithuanian diacritical characters. The scale of the problem was confirmed using data from Lithuania’s Population Register. When the law was adopted, it contained 447 persons whose personal names contained Latin letters q, w, x (EFHR, 2022a). Before the law became effective, the personal names of Lithuania’s citizens were modified on a case-by-case basis in courts.

On 1 June 2022, the District Court of Vilnius City (Lithuanian: *Vilniaus miesto apylinkės teismas*) delivered its judgment no. e2YT-13948-1125/2022 that obliged the Civil Registry Department of the Vilnius District Municipality to inscribe the complainant’s personal names with the diacritical letter ł.<sup>4</sup> The complainant was Jarosław Wolkonowski, Lithuanian citizen of Polish ethnicity. Apart from this case context, his name and surname is an example of the limited scope of the new law. In the text of the judgment he appears as Jaroslav Volkonovski, i.e. as it should be by default according to the pre-2022 law rules for writing personal names of Lithuania’s citizens. Yet, the new law allowed him to write his name and surname as Jaroslaw Wolkonowski, i.e. without diacritical characters typical for the Polish language and, therefore, not identical to the original form.

The above ruling in Wolkonowski’s case led to further reactions. Nida Grunskienė, Prosecutor General of Lithuania, requested the District Court of Vilnius City to reopen the proceedings in this case (Prosecutor General’s Office, 2022). The Prosecutor General justified her motion by avoiding the legal consequences of this possibly wrongful judgment and protecting the public interest. Having resumed the case, the District Court of Vilnius City filed a petition on 14 November 2022 to the Constitutional Court (Constitutional Court of the Republic of Lithuania, 2022a). In this petition, the Constitutional Court was asked to examine compliance of the rules established by Law No. XIV-903 and Government Resolution No. 424 with the rule of law principle and Article 29 of Lithuania’s Constitution, which ensures equality before law. A few weeks earlier, a group of MPs filed a similar petition before the Constitutional Court (Constitutional Court of the Republic of Lithuania, 2022b). Their logic was based on the fact that the new rules affected the state (i.e. official) language and scope of its public use. Before that, in September 2022, two MPs representing the Electoral Action of Poles in Lithuania – Christian Families Alliance, an ethnic party that claims to represent Lithuania’s Polish and other national minorities (Kascian, 2021), submitted a proposal with amendments to Law No. XIV-903.<sup>5</sup> They proposed using characters based on Latin letters (Lithuanian: *lotyniško pagrindo rašmenys*) at the request of Lithuania’s citizens to write their names in official documents. This formulation was meant to legalise the use of non-Lithuanian diacritical characters in the names of Lithuanian citizens. These motions

<sup>4</sup> Civil case No. e2YT-13948-1125/2022 (the complete judgment in Lithuanian is available at <https://bit.ly/3OTrMyq>).

<sup>5</sup> Registration No. XIVP-1952 (<https://bit.ly/43lggA0>).

demonstrate opposing approaches towards the regulation of writing the personal name of Lithuania's citizens, which could roughly be described as a clash of linguistic liberals and conservatives.

This article aims to examine the evolution of Lithuania's legislation on writing personal names with particular focus on its balance with the principle of equality and interpretation of public interest. As the above text suggests, the analysis involves various Lithuanian domestic contexts in which history, linguistics and politics intersect and affect the contents of the law. Thus, the study is arranged as follows. After the explanation of various relevant contexts, the article analyses the evolution of approaches of the Lithuanian authorities and courts towards writing citizens' personal names in the official documents, and discusses the current *status quo* vis-à-vis the principle of equality and public interest. It is followed by the conclusion, where possible future scenarios regarding Lithuania's approach towards the writing of the personal names of its citizens in the official documents are presented.

## 2. Lithuanian domestic contexts as a cornerstone for the debate

On the one hand, the new law deals with the extremely diverse and dynamic sphere of relations (Kūris, 2022, p. 136) affecting different segments of Lithuanian society. On the other hand, it is centred around the language issue, which in many Central and Eastern European societies has been consistently perceived "as the innermost sanctum of ethnicity" (Schöpflin, 2000, p. 116). Any legal novelisation implies that there had been substantial public demand for these changes, and legislators were able to reach the necessary consensus to prepare and make them effective. This logic can be confirmed by the fact that the new law was not the first attempt to find a solution to this sensitive issue. Yet, all previous attempts failed colliding with the lack of political will among Lithuanian decision-makers (Račkauskaitė, 2011, pp. 380–381). There are four contextual lines that should be explained for a reader unfamiliar with Lithuanian realities before going further into the legal details.

The first is purely linguistic and clarifies why the use of specific letters in personal documents has become a long-debated issue in Lithuanian society. Pursuant to Article 14 of the Constitution, Lithuanian shall be the state (i.e. official) language (Lithuanian: *valstybinė kalba*) in Lithuania. The contemporary Lithuanian alphabet consists of 32 letters, including 12 vowels and 20 consonants. The following diacritic characters are used: ą, č, ę, ė, į, š, ū, ū and ž. Compared with the standard English alphabet, the Lithuanian alphabet lacks the letters q, x and w. Yet, these three letters are considered non-Lithuanian characters and, like other Latin letters with non-Lithuanian diacritical characters, may appear throughout Lithuanian texts (Vladarskienė & Zemlevičiūtė, 2022, pp. 7–9). At the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries, as some legal scholars remind, letters q, w, x and even l were quite common for the texts written in Lithuanian (Danėlienė, 2022). However, the legal framework that existed before the adoption of a new law entitled Lithuanian citizens to use just the above 32 letters of the Lithuanian alphabet, and the only option to change this on a case-by-case basis was the court.

The second contextual line is social, and explains who is affected by the state of things described in the previous paragraph. As of the 2021 population census in Lithuania, ethnic Lithuanians comprise 84.61 percent of the country's population, followed by Poles (6.53 percent), Russians (5.02 percent) and Belarusians (1.00 percent) (Statistics Lithuania, s. a.). Thus, the issue of writing personal names potentially concerns a significant part of Lithuania's population, including the members of the country's largest national minority. It also concerns ethnic Lithuanians, because the increasing number of international marriages is one of the implicit results of globalisation and Lithuania's European integration. Yet, as *Runevič-Vardyn and Wardyn* (2011)<sup>6</sup> case exemplified, these two categories can intersect with each other.

The third line is attributed to legal norms that had to be changed. These norms were introduced by the country's Parliament Resolution No. I-1031 on writing names and family names in the passports of citizens of the Republic of Lithuania,<sup>7</sup> as adopted on 31 January 1991. The text of this document indicates that the MPs considered the proposals of the formal predecessor of today's State Commission of the Lithuanian Language (Lithuanian: *Valstybinės lietuvių kalbos komisija*, hereinafter: VLKK), an institution responsible for the regulation, standardisation and codification of the Lithuanian language. The Resolution established two ways of regulating the writing of Lithuania's citizens' personal names. The *lex generalis* implied that personal names should be written in Lithuanian characters. The *lex specialis* was conditioned upon citizens' ethnic belonging other than Lithuanian. It embraced the approach of *lex generalis* that required that the name should be written in Lithuanian characters. Yet, based on the ethnic criterion, it established that each individual had a possibility to choose whether his or her name shall be written with or without Lithuanian endings (for instance, either as Jaroslavas Volkonovskis, or as Jaroslav Volkonovski) (for details see State Commission of the Lithuanian Language 1991). For people belonging to national minorities, the practical outcome of the rules established by the Resolution was very much personalised and determined by each individual's name, surname and ethnicity. In some cases, it was sufficient for an individual to request not to add Lithuanian endings to achieve official spelling consistent with his or her native language. In other cases, people simply accepted the freedom to decide whether their name should contain Lithuanian endings provided by law. However, some tried to achieve changes in the norms that precluded them from writing their names in the original form of their native language. The corpus of relevant Lithuanian legislation also applied the practice of writing Lithuanian citizens' personal names in Lithuanian characters. In the case of international marriages, the names of Lithuanian citizens and their children were subject to the *lex generalis* procedure, which required personal names to be written in Lithuanian characters. In many situations, like the one addressed in the *Runevič-Vardyn and Wardyn* case, these "Lithuanised" names differed from their foreign originals. Taking into account the growing number of

<sup>6</sup> *Malgožata Runevič-Vardyn and Lukas̄ Paweł Wardyn v Vilniaus miesto savivaldybės administracija and Others* (12 May 2011). ECLI:EU:C:2011:291 (<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62009CJ0391>).

<sup>7</sup> Registration No. 09111010NUTA001-1031 (<https://www.e-tar.lt/portal/lt/legalAct/TAR.A0DD1190CAE9>).

international marriages, this situation also started increasingly affecting a growing number of Lithuanian citizens irrespective of their ethnicity, although it was also very much personalised depending on an individual's name, surname and connection to a specific foreign country and its language. On the one hand, the unresolved domestic minority context combined with the increase in the international component confirms the diversity and dynamics of the issues regulated by law on writing personal names. On the other hand, it illustrates that the norms adopted in the early 1990s should be adjusted to better meet contemporary challenges.

The fourth dimension is the minority-related international context. The Advisory Committee on the Framework Convention for the Protection of National Minorities has repeatedly addressed the issue of writing personal names in its opinions on Lithuania for the first to fourth cycles (Council of Europe, s. a.). For instance, in its Fourth Opinion, adopted on 30 May 2018, the Advisory Committee recommended Lithuania to “[b]ring the legislative framework [...] pertaining to the spelling of surnames and first names in official documents in line with Articles 10 and 11 of the Framework Convention”.<sup>8</sup> In the context of Lithuania's Polish minority, it is also worth mentioning the provisions of the bilateral treaty on friendly relations and good neighbourly cooperation signed on 26 April 1994.<sup>9</sup> In Article 14, the parties agreed that persons belonging to the Polish minority in Lithuania and the Lithuanian minority in Poland have the right to use their personal names in the form it appears in the language of the respective minority. The same article stipulates that detailed regulations on writing personal names should be specified in a separate agreement. This separate agreement has never been concluded. At the same time, on 6 January 2006, Poland adopted the Law on national and ethnic minorities and on the regional languages.<sup>10</sup> Its Article 7 guarantees that persons belonging to national and ethnic minorities<sup>11</sup> in Poland have the right to use and write their personal names in the form conforming to the rules of the respective language, *inter alia*, in the official register and identity documents. This implies two things in the context of bilateral Lithuanian–Polish relations. First, it can be interpreted as a unilateral implementation by Poland of the minority-related commitments specified in the bilateral treaty on friendly relations and good neighbourly cooperation. Second, Poland's domestic law ensured a higher standard for the protection of the linguistic rights of its minorities than did Lithuania. During meetings with their Lithuanian counterparts, Polish top-ranking officials frequently addressed the issue of writing personal names in the official documents of members of Lithuania's Polish minority (Official Website of the President of the Republic of Poland, 2003; 2018).

<sup>8</sup> Fourth Opinion on Lithuania – adopted on 30 May 2018: ACFC/OP/IV(2018)004. Advisory Committee on the Framework Convention for the Protection of National Minorities (<https://bit.ly/3qeQvCQ>).

<sup>9</sup> Dz.U. 1995 nr 15 poz. 71 (<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19950150071>).

<sup>10</sup> Dz.U. 2005 nr 17 poz. 141 (<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20050170141>).

<sup>11</sup> Poland's law on national and ethnic minorities and on the regional languages distinguishes between national and ethnic minorities based on the kin-state factor. National minorities have their own kin-states, whereas ethnic minorities lack them. Lithuanians are one of Poland's nine national minorities (see Article 2).

### 3. Evolution of the reaction of Lithuanian authorities

The main challenge for Lithuania's authorities with regard to writing the personal names of the country's citizens was to reconcile the state status of the Lithuanian language with issues related to its citizens' identity and civil status. Article 29 of the Lithuanian Constitution guarantees the equality of all persons before the law, court, as well as other state institutions and officials. Moreover, it establishes that an individual's rights may not be restricted or enhanced, *inter alia*, on the grounds of ethnicity, language, origin and social status. As Dainius Žalimas noted, "[t]he Constitution is an anti-majoritarian act" because "it protects the individual, regardless of the attitudes or stereotypes prevailing in a certain period of time among the majority of members of society" (Keturakienė et al., 2021, p. 8). In other words, the state should have established coherent and tangible criteria that justify different approaches towards the same domain of legal relations and adjust them to the challenges triggered by minority-related and foreign-driven contexts.

This need can be traced to the arguments used by the Lithuanian Government in its official documents, such as Resolution No. 589 on the proposal to the State Commission of the Lithuanian Language, adopted on 26 June 2013.<sup>12</sup> The government recalled that the norms for writing personal names in official documents were adopted in 1991, based on the recommendations issued by the Commission's formal predecessor in November 1990. However, it admitted that globalisation and European integration, accompanied by emigration and immigration, changed the situation significantly from that in 1990. The increasing number of people with spellings different from that introduced in the early 1990s is a consequence of these processes. The government acknowledged that these norms no longer offered adequate solutions. However, the text of this Resolution demonstrated the dominance of foreign-driven contexts that reasoned the need for change in the norms in question.

Lithuania's Constitutional Court addressed the issue of writing personal names on three occasions. In its ruling of 21 October 1999,<sup>13</sup> the Court acknowledged the Lithuanian language as a constitutional value. This implies the compulsory status of the Lithuanian language in all spheres of public life in Lithuania. Among other symbolic and practical things, the Lithuanian language ensures the effective functioning of state bodies of different levels, integrates the country's civil nation, and guarantees the equality of Lithuania's citizens irrespective of their ethnicity. Specifically, by virtue of its status as a state language, it provides all citizens of Lithuania with equal conditions for

<sup>12</sup> Registration No. 1131100NUTA00000589 (<https://e-tar.lt/portal/en/legalAct/TAR.98DADB5B10B8>). See also Resolution of the Seimas adopted on 11 June 2009 No. XI-289 "On the request to the Constitutional Court of the Republic of Lithuania with a petition to clarify the provisions of ruling of the Constitutional Court of the Republic of Lithuania of 21 October 1999 on the compliance of the Resolution of the Supreme Council of the Republic of Lithuania "On Writing Names and Family Names in Passports of Citizens of the Republic of Lithuania" of 31 January 1991 with the Constitution of the Republic of Lithuania", Registration No. 1091010NUTA000XI-289 (<https://e-tar.lt/portal/lt/legalAct/TAR.8809FFF38088>).

<sup>13</sup> Ruling on the compliance of the Resolution of the Supreme Council of the Republic of Lithuania "On Writing Names and Family Names in Passports of Citizens of the Republic of Lithuania" of 31 January 1991 with the Constitution of the Republic of Lithuania (21 October 1999). Constitutional Court of the Republic of Lithuania, case No. 14/98 (<https://lrkt.lt/en/court-acts/search/170/ta1147/content>).

communication with state bodies of different levels. However, this status does not encompass domains that go beyond public life, where citizens are free to use any language they feel comfortable with. The way personal names were written in the passports of Lithuania's citizens was interpreted in the ruling as a legal connection between an individual and the state. The logic for this approach is based on the fact that issues related to citizenship are attributed to public life, whereas official documents certify the integral connection between citizens and the state. Thus, in the Constitutional Court's view, the use of non-Lithuanian characters in the official documents of Lithuanian citizens would defeat the constitutional concept of the state language and principle, defy the functioning of state bodies, and infringe on the principles of citizens' rights, legitimate interests and equality before the law. This means that the writing of personal names of Lithuania's citizens solely with the letters of the Lithuanian alphabet, as stipulated by Resolution No. I-1031, does not contradict the Constitution of Lithuania. It is particularly interesting that sticking exclusively to letters of the Lithuanian alphabet was interpreted as an advantage for citizens in exercising their rights.

In its decision of 6 November 2009,<sup>14</sup> the Constitutional Court returned to its ruling described in the previous paragraph to clarify items four and seven of its reasoning part. The Court largely repeated its stance from the 1999 ruling. Inter alia, it designated the provision on compulsory writing of individuals' names in the state language as imperative. However, it acknowledged the right of individuals to write their names in non-Lithuanian characters in sections of their passports other than the one that contains entries confirming their identities. However, this entry in non-Lithuanian characters should not be equated to the entry made in the state language. When sanctioning entries with non-Lithuanian writing of personal names in other sections of the passport, the legislator should consider that "the basis of the characters of the Lithuanian language, as the state language of Lithuania, as well as of an absolute majority of the state (official) languages of European countries, is Latin characters".

The Constitutional Court's decision of 27 February 2014<sup>15</sup> provided further clarifications of the 1999 ruling. It confirmed that the protection of the Lithuanian language is a constitutional imperative. Thus, a legislator or authorised state institution must consider this fact when defining the rules for writing the personal names of Lithuania's citizens. Thus, four aspects need to be addressed in the context of this decision. First, the Constitutional Court underlined that legal relations covering the scope and implementation of issues related to human rights and fundamental freedoms should be enshrined only in a law (Lithuanian: *įstatymas*). At the moment of this decision, this legal relationship was regulated by a parliamentary resolution (Lithuanian: *nutarimas*), which suggested a motion for the preparation of a new law on writing personal names in official documents. Second, the Constitutional Court referred to the regulation on the writing of personal

<sup>14</sup> Decision on the Construction of the Provisions of Items 4 and 7 of the Reasoning Part of the Ruling of the Constitutional Court of the Republic of Lithuania of 21 October 1999 (6 November 2009). Constitutional Court of the Republic of Lithuania, case No. 14/98 (<https://lrkt.lt/en/court-acts/search/170/ta1292/content>).

<sup>15</sup> Decision on the Construction of Certain Provisions of the Ruling of the Constitutional Court of the Republic of Lithuania of 21 October 1999 (27 February 2014). Constitutional Court of the Republic of Lithuania, case No. 14/98 (<https://lrkt.lt/en/court-acts/search/170/ta1093/content>).

names in interwar Lithuania. The 1938 Constitution designated Lithuanian as the country's state language. At the same time, the Court recalled the Law on Family Names adopted by the Seimas on 6 December 1938. This law established that individuals of non-Lithuanian ethnicity were entitled to request that their names be written in their native language, provided that Latin is the alphabet of this language. In other words, in interwar Lithuania, the authorities permitted its citizens belonging to national minorities to use non-Lithuanian Latin-based characters to write their personal names in official documents, and this was not conditioned by any foreign-driven context. Third, the Court provided a construction of the formulations “in the state language” and “in Lithuanian characters” within the context of writing personal names. It emphasised the possibility in certain cases to go beyond the letters of the Lithuanian alphabet and use other “exclusively Latin-based characters”. However, their possible use was conditioned by consistency with the tradition of the Lithuanian language and the non-violation of its distinctiveness. Among other things, this interpretation also excludes the extension of this approach to Cyrillic, Jewish, or any other non-Latin writing scripts. Fourth, the development of relevant legal provisions on writing personal names should involve experts, specifically the VLKK as an institution authorised by the state to be in charge of regulation, standardisation and codification of the Lithuanian language. The Court emphasised that “[w]hen deciding on how the name and family name of a person must be written in the passport of a citizen of the Republic of Lithuania, the legislature may not disregard the received official conclusions, including the official conclusion of the VLKK and its position”.

As this section of the paper demonstrates, Lithuanian authorities demonstrated a considerable degree of awareness that the norms for writing the personal names of Lithuania's citizens established by the 1991 Resolution No. I-1031 no longer offered adequate solutions in contemporary reality. The constitutional doctrine on this issue, developed by the Constitutional Court, resulted in an increase in the status of the relevant regulatory instrument from resolution to law. It also emphasised the crucial significance of the VLKK's role in this domain (see Kūris, 2022, pp. 125–126). A comparison of the 1999 ruling and the 2009 and 2014 decisions demonstrates the liberalisation of Lithuania's constitutional doctrine in this domain. Equally important is the reference to the relevant regulations that existed in interwar Lithuania and the possibility in certain cases to use “exclusively Latin-based” non-Lithuanian characters. Thus, as Ingrida Danėlienė (2022) emphasises, both supporters and opponents of Law No. XIV-903 relied on the position of the Constitutional Court expressed on these three occasions.

#### **4. Lithuanian case law: Can non-Lithuanian diacritics be used in personal identification documents?**

The Lithuanian domestic case law pertinent to the right to use letters q, x and w, as well as some other combinations of letters (e.g. nn, cz, rz, sz, or tt) that are not typical for the Lithuanian language in official documents is quite numerous (EFHR, 2021a). Based on these developments, on 8 September 2021, Lithuania's Ministry of Justice issued

recommendations for Civil Registry Offices (EFHR, 2021b). If the court allowed a parent to write her or his name with letters q, x and w in the official documents, this approach should be extended to their children. Among other things, this motion was justified by the need to optimise court work and ensure a more efficient enjoyment of citizens' rights. At the same time, there are at least three domestic precedents when Lithuanian courts sanctioned the use of non-Lithuanian diacritic characters in official documents of the country's citizens. One of them is mentioned in the judgment of the District Court of Vilnius City in Wołkonowski's case. On 6 October 2021, the Supreme Court of Lithuania delivered a judgment in an appeal on cassation in case No. e3K-3-122-1075/2021 (Supreme Court of Lithuania, 2021). The case dealt with the foreign-driven component when a Lithuanian citizen married a Slovenian and opted to choose his name that contained a letter ć. The Civil Registry Office in Panevėžys refused to make an entry with this diacritical character arguing that it was technically impossible. The court of the first instance backed the applicant claims and the court of appeal kept them unchanged. The Supreme Court found that Lithuanian bylaws did not prohibit the writing of personal names with Latin-based diacritical characters. It claimed that the Lithuanian legislation does not specify how the surname of Lithuania's citizen should be written if she decided to adopt her foreign husband's name. Specifically, the lack of diacritical characters in the Lithuanian alphabet should not be interpreted as a technical impossibility. In its argument, the Supreme Court also relied on the relevant practice of the Court of Justice of the European Union.

Another two examples have a similar context and deal with the letters ń and ö respectively. On 27 January 2022, the District Court of Vilnius City delivered a judgment in a case involving a Lithuanian married to a Polish citizen and residing with him in Poland (EFHR, 2022b). The court compelled the Civil Registry Office in Vilnius to change the applicant's name from Mulerskaitė-Vaczynska to Mulerskaitė-Waczyńska. In other words, the court ordered to bring the second part of her surname in conformity with the Polish original. In its arguments, the court, *inter alia*, found that the discrepancy in writing the names of the family members could produce disadvantages in the administrative and personal sphere and restrict the scope of rights guaranteed by Article 21 of the TFEU. More importantly, the available information informs that the VLKK delivered a favourable opinion on the issue designating the case as an exception justified by the needs of society and applicable towards Lithuania's citizens who opted to adopt the names of their surnames. On 14 April 2022, the Civil Registry Office in Vilnius, by virtue of a court decision, was obliged to register a marriage of a Lithuanian with a Hungarian citizen and inscribe the wife's name with the letter ö because she opted to choose her husband's surname Györffy (EFHR, 2022c).

These three recent cases confirm that the use of non-Lithuanian diacritical characters in official documents of Lithuania's citizens is possible. However, it currently exists as a justifiable exception backed by the VLKK, and is applicable to an identifiable group of Lithuanian citizens with foreign spouses. Therefore, this again confirms the dominance of foreign-driven contexts that triggered the change in Lithuanian domestic case law on writing citizens' personal names.

## 5. Debate on citizen's equality and public interests

The above analysis of Lithuania's constitutional doctrine raises two issues that need to be addressed. First, it has a clear historical dimension relevant to linguistic and legal contexts. In linguistic terms, VLKK is duly authorised to perform the tasks of regulation, standardisation and codification of the Lithuanian language. In other words, this institution has the discretion to define the composition of the Lithuanian alphabet, the use of non-Lithuanian characters throughout Lithuanian texts, and to designate and justify relevant exceptions. The 2014 decision of the Constitutional Court named compliance with the tradition of the Lithuanian language and the non-violation of its distinctiveness among the criteria to sanction the use in certain cases of non-Lithuanian characters in the official documents of Lithuanian citizens. The notion of tradition of language can be broadly interpreted. However, it obviously includes historical developments. As mentioned above, the letter *l̄* was quite commonly used in Lithuanian texts at the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries. Thus, a logical question arises whether this and, eventually, some other diacritical signs should be broadly understood as part of the tradition of the Lithuanian language.

Second, the same 2014 decision of the Constitutional Court recalled the reference to interwar Lithuania's legislation on writing personal names that gave persons belonging to national minorities the right to write their names in their native language with letters of the Latin alphabet. While analysing Wolkonowski's case, Egidijus Kūris (2022, p. 135) recalls the personality of Mykolas Römeris (1880–1945),<sup>16</sup> one of the founders of Lithuanian constitutional law. Kūris ironically discusses a hypothetical VLKK's decision to include the letter *ö* in the Lithuanian alphabet. He writes that it could potentially require the Mykolas Romeris University (Lithuanian: *Mykolo Romerio universitetas*) to change its official name because it does not use the form of how Römeris wrote his name in Lithuanian (i.e. with the letter *ö*) but "the way some purist of the Lithuanian alphabet wrote it" (Kūris, 2022, p. 135) (i.e. with the letter *o*). This retrospective view of the case of one of the most prominent lawyers from Lithuania suggests that interwar legislation in this domain could offer quite a simple solution for both persons belonging to Lithuania's national minorities and Lithuanian citizens with foreign spouses. If Lithuania's authorities choose this path, it would signify a triumph of a minority-friendly liberal approach in the sphere of the Lithuanian language justified by domestic historical legal practices.

In fact, the wording of the 1938 Law, the 1991 Resolution and the 2022 Law provides each citizen with the option to choose. However, neither the 1991 Resolution nor the 2022 Law offers a universal solution to the issue with the personal names of Lithuania's citizens. On the one hand, the *lex generalis* in both cases implies that personal names should be written in Lithuanian characters. This means that all citizens are placed in equal conditions by the possibility of using the same letters to write their personal names in official documents. However, the *lex specialis* is very much individualised and dependent on each individual's name, surname and ethnicity. To put it succinctly, Law No. XIV-903 divides all potentially affected persons into at least three groups. Owing to numerous

<sup>16</sup> For more information about him, see Maksimaitis, s. a.

possible reasons, the first group was simply not interested in changing their names in official documents. The second group was composed of those who wished to change the official writing of their names. Thus, they either did so or plan to do so in the near future. The third group includes those such as Wołkonowski, who want to change their names but cannot do so because their names in their native language contain non-Lithuanian diacritical characters. Those attributed to groups two and three have two things in common. First, they are entitled to use the mechanism prescribed by the *lex specialis*. Second, they both expressed the wish to change the official writing of their names. Being equal by law, they still have one substantial difference that derives from the rules of writing their names in their native language. Some of them have non-Lithuanian Latin-based diacritical characters in their names, while others lack them. This issue is individualised and may even differ among close relatives. An illustration of this situation could be the imaginary case of two brothers of Polish ethnicity with Lithuanian citizenship and the same surname written in the original Polish version without diacritics. In their native Polish language, the name of one is written without diacritics, whereas the name of the other requires diacritical characters. If both express the will to change the writing of their names in official documents, the available mechanism will bring them to two different outcomes. One of them can use the mechanism foreseen by Law No. XIV-903 to fully restore the original writing of his name and surname in the official documents issued by Lithuania. Another one will obtain a version that resembles the original Polish form but is not identical to it. An example of this deficit is Wołkonowski's first name. The original Polish form is Jarosław. Before Law No. XIV-903 became valid, his name without Lithuanian endings was written in the official documents as Jaroslav. The new law offered him a possibility to change it to Jaroslaw. It resembles the original form but still differs from it because it lacks the letter ł. Thus, the question regarding compliance of Law No. XIV-903 and Government Resolution No. 424 with the principles of equality and the rule of law is quite logical and reasonable. However, this assessment should be made in conjunction with the obvious fact that the new law has contributed to significant progress in solving the long domestic debate about the rules of writing personal names in official documents. In symbolic terms, it embodies Lithuania's openness towards its loyal citizens belonging to national minorities and demonstrates the state's commitment to creating a more inclusive society. Viktorija Čmilytė-Nielsen, speaker of the Lithuanian Seimas, emphasised shortly before the vote on Law No. XIV-90 that its adoption signified an important step in terms of human rights, human dignity and the country's security policy (TVP Wilno, 2022). Therefore, a return to the rules that existed before the adoption of this law would mean an abridgment of the scope of rights of individuals affected by these positive changes.

This highlights the need to address the issue of the public interest. The motion of the Prosecutor General of Lithuania aimed to ensure the consistency and stability of the country's legal system by avoiding the probability of an unlawful court ruling and restoring the status quo that had existed before it was pronounced. In this particular case, the approach of the Prosecutor General's Office was well justified. First, Law No. XIV-903 does not legalise the use of the non-Lithuanian Latin-based diacritical characters in the names of Lithuania's citizens. Second, references to the case law made by the court in its

ruling in Wołkonowski's case produce much room for possible interpretation. Contrary to the three cases mentioned in the previous section of this text, Wołkonowski's case lacks any foreign-driven context. In other words, he does not belong to the identifiable group of Lithuanian citizens with foreign spouses for whom writing of their personal names exclusively with the letters of the Lithuanian alphabet might cause significant inconveniences in the labour, administrative and personal domains. Considering the stance of Lithuanian authorities and courts, one can imagine that should Jarosław Wołkonowski be the full name of a child from an international marriage involving a Lithuanian citizen, the court would likely sanction the entry of his name into the Population Register according to the rules of the Polish language, that is, with non-Lithuanian diacritical character *ł*. This again returns the entire debate back to the analysis of the principles of equality and the rule of law. However, some lawyers from Lithuania, such as Aleksander Radczenko, argue that it is rather Wołkonowski who protects the public interest by striving to return the original writing of his name in personal identification documents (Knutovič, 2022). Radczenko further explains his position by the ineffective allocation of limited resources by the prosecutor's office. In his view, the prosecutor's office frequently claims a lack of sufficient capacities to process serious cases and instead focuses on cases with very limited impact on the actual public interest.

## Conclusion

At the time of this article's production, the ruling of the Lithuanian Constitutional Court was not delivered. Once published, it will become an important legal piece for analysis, particularly in terms of the balance between the state status of the Lithuanian language and issues related to the individual. Another point of interest might be a possible extension of the reference to the historical legislation on this matter that existed in interwar Lithuania compared to the 2014 aforementioned decision.

Overall, Lithuania provides an interesting example of the evolution of the approach towards writing the names of the country's citizens in official documents. Since the restoration of Lithuania's independence after the Soviet occupation, Lithuania has consistently applied the combination of *lex generalis* and *lex specialis* with regard to writing its citizens' names in official documents. Both Resolution No. I-1031 and Law No. XIV-903 ensured a free choice for persons belonging to national minorities regarding whether *lex specialis* should apply to their situations. However, neither of these legal acts offered a universal solution to this long-debated issue. While substantially extending the number of Lithuania's citizens belonging to national minorities and entitled to return the original writing of their names in official documents, Law XIV-903 still cannot accommodate the needs of all citizens because it does not envisage the possibility of using non-Lithuanian diacritics. However, the return to norms identical to those enlisted in Resolution No. I-1031 would mean significant drawbacks.

At the same time, the example of Lithuania provides an illustration of a transition from a conservative language-centric approach towards the accommodation of the country's ethnolinguistic diversity and the impacts of globalisation on its society. This

liberalisation is embodied in Law No. XIV-903 and can be interpreted as a tangible measurement of the maturity of Lithuania's political elites to commit itself to the development of a more inclusive society. As mentioned above, the long debate on writing personal names in Lithuania was predetermined by different domestic contexts linked to historical and identity-related issues. Paradoxically, Lithuania's past offers justification for the full liberalisation of the sphere of writing of personal names, as it derives from the country's historical legislation and a broad interpretation of the traditions of the Lithuanian language. The role of the Constitutional Court in this process is to ensure the consistency and stability of Lithuania's legal system in matters that potentially affect a significant part of the society. Therefore, the involvement of the Constitutional Court in this matter is essential for avoiding doubt in interpretations.

Finally, Lithuania can also serve as a positive example for its northern neighbour, Latvia, which applies an even more conservative approach (Dimitrovs, 2012, pp. 18–19) than that established by Resolution No. I-1031 of the Lithuanian Seimas.

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