

Fostering political participation and policy involvement of immigrants in 9 Central and Eastern EU countries

Action under the EU Integration Fund - grant agreement No. HOME/2013/EIFX/CA/CFP/4234 and 30-CE-0586560/00/-09

Electoral participation (rights) of third country nationals in Lithuania

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MIPEX 2007/2010

According to Migrant Integration Policy Index¹ (MIPEX 2007), only Lithuanian citizens have a right to form a political organisation or join a political party. Immigrants in Lithuania have no access to consultative bodies or implementation policies. The authorities do not have any bodies for consulting immigrants on policies. The state does not actively inform immigrants about their political rights or in practice provide public funding to their organisations. Comparing 2007 and 2010 MIPEX results, no significant political and legislative developments in an area of political participation of third country nationals has been identified. According to MIPEX 2010, beyond limited voting rights, Lithuania does not value active immigrant civic participation. Third country nationals can vote and stand in local elections. However, they cannot be members of the political parties that they vote for or represent them as candidates. On the MIPEX scale, third country nationals in Lithuania enjoy only half their basic political liberties. Beyond fragmented project-based activities, immigrants are not supported in representing their interests through consultative bodies or structural funding (read more at: <http://www.mipex.eu/>).

While analysing political participation of immigrants, the Centre for European Studies² draws attention to immigrant role in the political process of four countries: France, Germany, Spain and Lithuania. According to authors, the problem is related to non-participation of immigrants in the political processes of the host country rather than to their active influence.

Legal background

Elections in Lithuania are regulated by the Law on Elections to the Seimas (*Lietuvos Respublikos Seimo rinkimų įstatymas*),³ the Law on Elections to the European Parliament (*Lietuvos Respublikos rinkimų į*

¹ Migrant Integration Policy Index: <http://www.mipex.eu/>

² Immigrants and Their Descendants in the Political Process. The Centre for European Studies, Policy Brief, October 2012, available at: <http://thinkingeurope.eu/publications/migrating-towards-participation-immigrants-and-their-descendants-political-process>

³ Lithuania, Seimas (2012) The Law on Elections to the Seimas (*Lietuvos Respublikos Seimo rinkimų įstatymas*), No. I-2721, 5 September 2012.

Europos Parlamentą įstatymas),⁴ the Law on Elections to Municipal Councils (*Lietuvos Respublikos savivaldybių tarybų rinkimų įstatymas*),⁵ the Law on Presidential Elections (*Lietuvos Respublikos Prezidento rinkimų įstatymas*)⁶ and the Law of Referendum (*Lietuvos Respublikos Referendumo įstatymas*).⁷

Permanent residents of the respective municipality, which age is over 18, have a right to elect members of City Municipality Council. The right to become City Municipality Council member belongs to foreigners (age over 20) who have permanent residence permit in Lithuania. The member of Council cannot be a foreigner, whose election right in his/her country of origin is limited by decision of court. The right to elect European Parliament or to be elected as member of European Parliament belongs to Lithuanian citizens and other citizens of EU member states, who live in Lithuania permanently (with the exception of those who have lost election right in their countries of origin). The right to elect the Parliament and President of Lithuania is entitled only to those who obtained Lithuanian citizenship. Foreigners have no right to stand as candidates in elections to Seimas and President.

However, considering the possibility for third country nationals to elect members of City Municipality Council and to become City Municipality Council member, the right to become a member of political party has to be discussed. According to the Law on Political Parties,⁸ only Lithuanian citizens aged 18 and over may be founders and members of a political party. It means that electoral rights of third country nationals and EU citizens, established in the Law on Elections to the Seimas, the Law on Elections to the European Parliament and the Law on Elections to Municipal Councils, are partly restricted by the Law on Political Parties as third country nationals in Lithuania have a right to become City Municipality Council member only as independent candidates. Such legislation limits possibility to be represented at the local level to a minimum.⁹

Statistical overview

Immigration flows to Lithuania started to increase since 2000 with the peak after the EU enlargement in 2004 and the development of Schengen Agreement in late 2007 (with an exception of sharp decrease in

⁴ Lithuania, Seimas (2010) The Law on Elections to the European Parliament (*Lietuvos Respublikos rinkimų į Europos Parlamentą įstatymas*), No. IX-1837, 14 December 2010.

⁵ Lithuania, Seimas (2011) The Law on Elections to Municipal Councils (*Lietuvos Respublikos savivaldybių tarybų rinkimų įstatymas*), No. I-532, 17 November 2011.

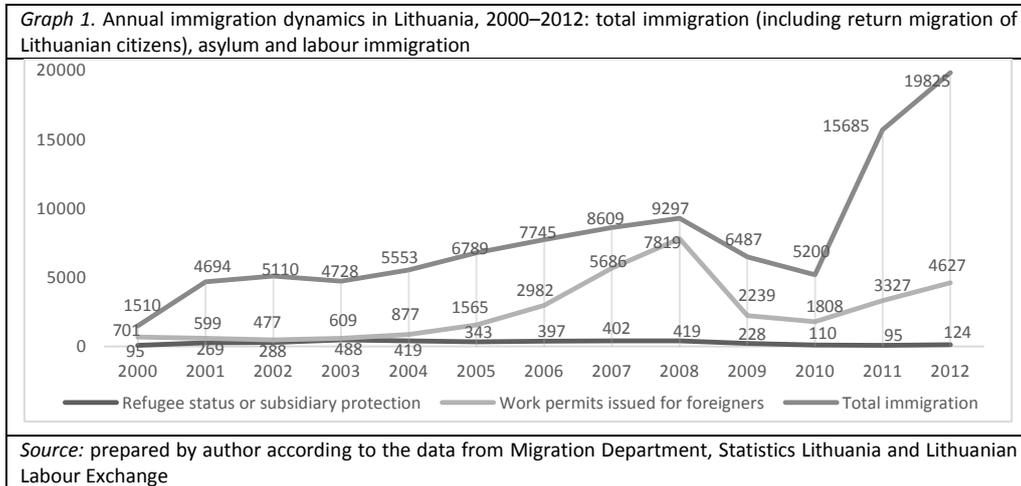
⁶ Lithuania, Seimas (2010) The Law on Presidential Elections (*Lietuvos Respublikos Prezidento rinkimų įstatymas*), No. I-28, 14 December 2010.

⁷ Lithuania, Seimas (2010) The Law of Referendum (*Lietuvos Respublikos Referendumo įstatymas*), No. IX-929, 14 December 2010.

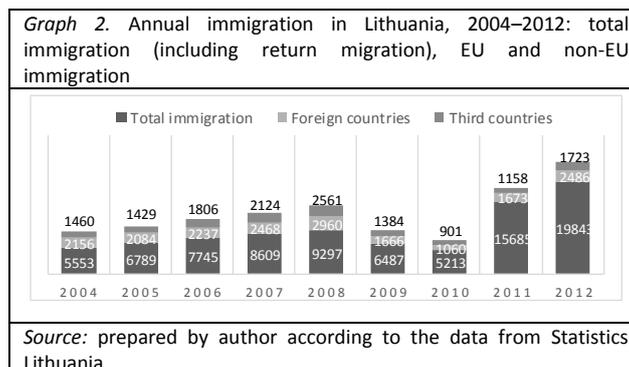
⁸ Lithuania, Seimas (2013) The Law on Political Parties (*Politinių partijų įstatymas*), No. XIIP-971(3), 26 November 2013.

⁹ As Žalimas (2013) argues, the inability of third country nationals to be members of political parties prevents them from participating in elections on an equal footing (Žalimas 2013).

2008–2010 due to global economic changes). Labour immigration of third country nationals and return migration of Lithuanian citizens became visible, while the number of foreigners granted asylum remained low and stable. Though statistical data shows that return migration and immigration of foreign citizens is increasing (see Graph 1 and 2), Lithuania is not a target country of immigration as, according to the latest statistical data, more Lithuanian and foreign citizens are leaving Lithuania than arriving to the country.



Consequently, annual immigration flows (see Graph 2) and the total number of foreigners living in Lithuania (see Table 1) remained small: 32,500 foreigners (1.04 % from the total population) lived in Lithuania in 2010. This number decreased to 29,600 (0.97 % from the total population) in 2011, while in 2013 increased up to 32,300 (1.08 from the total population). Analysis of annual immigration flows by citizenship in 2004–2012 shows that the majority of immigrants had Lithuanian citizenship (this is an evidence of the return migration). Immigration flows of foreign citizens either from EU or non-EU countries are small. Third country nationals form small share from the total immigration flow, while in the context of foreign immigration flow, the share becomes significant. For example, in 2012 third country nationals formed almost 70 % from foreign immigration flow (see Graph), while at the same time the share of third country nationals from the total number of foreigners residing in the country was almost 91 % (see Table 1).



<i>Table 1. Foreigners in Lithuania: the share of foreigners from the total size of population 2008–2013 (thousand)</i>						
	2008	2009	2010	2011	2012	2013
Total population	3 202,6	3 176,3	3 137,0	3 052,6	3 007,8	2 979,3
Foreigners (EU and non-EU)	33,4	32,9	32,5	29,6	31,3	32,3
Share from total population	1,04 %	1,04 %	1,04 %	0,97 %	1,04 %	1,08 %
<i>Foreigners in Lithuania: the share of third country nationals from the total number of foreigners 2012–2013 (thousand)</i>						
	2008	2009	2010	2011	2012	2013
Total	33 394	32 902	32 363	29 981	31 338	33 253
EU + EFTA	4 751	2 376	2 065	2 417	2 881	3 263
Third countries	28 643	30 562	30 298	27 564	28 457	29 990
Share from foreign population	85,7 %	92,8 %	93,6 %	91,9 %	90,8 %	90,2 %
<i>Source: Prepared by author according to the data from Migration Yearbook 2012 (Migration Department, Vilnius, 2013)</i>						

Third country nationals as potential voters and/or members of political parties

The analysis of foreign population by legal status shows that 18 941 third country nationals have permanent residence permit: 16 have permit to the family member of EU member state national to reside permanent in the Republic of Lithuania; 18 925 – permit of a long term resident of the Republic of Lithuania to reside in the European Community (*see Table 2*). It means that only 57 % of third country nationals from the total number of foreigners residing in Lithuania and 63 % of third country nationals from the total number of immigrants from non-EU countries have permanent residence permit. It is only 0,73 % of eligible electorate in Lithuania (according to Statistics Lithuania, there were 2 588 418 voters in Elections to the Seimas in 2012). Due to age threshold and, at the same time, immigration structure by age groups, significantly smaller proportion than 0,73 % have a right to elect members of City Municipality Council and even smaller proportion – to become City Municipality Council member.

<i>Table 2. Third country nationals with permanent residence permit in Lithuania (2013)</i>						
	Certificate for a national of an EU Member State proving his right to reside in the Republic of Lithuania	Certificate for a national of an EU Member State proving his right to reside permanent in the Republic of Lithuania	Permit to the family member of an EU Member State national to reside in the Republic of Lithuania	Permit to the family member of an EU Member State national to reside permanent in the Republic of Lithuania	Residence permit in the Republic of Lithuania	Permit of a long term resident of the Republic of Lithuania to reside in the European Community
EU + EFTA	2301	962				
Third countries			198	16	10 851	18 925
<i>Source: Prepared by author according to the data from Migration Yearbook 2012 (Migration Department, Vilnius, 2013)</i>						

With regards to statistical data on the number of third country nationals, who exercised their right to elect members of City Municipality Council and to become City Municipality Council member, few challenges has to be emphasised. According to the Central Electoral Commission of the Republic of Lithuania, the data of voters (who came to ballot boxes) by citizenship and nationality is not collected. However, according to questionnaires of candidates to City Municipality Council (where indication of

nationality and citizenship is not compulsory), in 2007, 32 candidates indicated that they had citizenship of other country, while in 2011 the number was 43. With such data, no any generalisation could be made as the data is fragmented and it is not clear, whether these candidates had dual citizenship, citizenship of the EU member state or citizenship of third country.

Elections	2002	2007	2011	Total
Question in the questionnaire	Do you have citizenship of another country?	Do you have citizenship of another country?	Do you have citizenship of another country?	
Do not have	No data	13 390	16 361	29 751
Have	No data	32	43	75
Total	No data	13 422	16 404	29 826

Source: prepared by author according to the data received after official communication of Lithuanian Red Cross Society and the Central Electoral Commission of the Republic of Lithuania

Political discussion and public (media) discourse on political participation of third country nationals

With regards to political discussion and public discourse on political participation of third country nationals, two main issues has to be emphasised. First, national debates on the changes of the Law on Elections to Municipal Councils; second – ongoing debates on access of foreigners (particularly – EU citizens) to political parties. The latter issue is very much related to third country nationals as more general debate on EU citizens’ rights draws contextual framework of how political rights of non-EU citizens might be perceived both in the society and among politicians.

National debates on the Law on Elections to Municipal Councils

On 20 June 2002, the Seimas amended Art. 119 of the Constitution in order to extend electoral rights in local elections to all permanent residents of municipalities, including EU citizens and third country nationals. In 2002, Article No. 119(2) of the Constitution was amended. As a result, similar amendments of the Law on Elections to Municipal Councils were adopted. It enabled EU citizens permanently residing in the country to vote passively and actively at the local level. Along with the EU citizens, amendment entitled with the same electoral rights third country nationals (Žalimas 2013¹⁰). According to Žalimas (2013), this measure was rather uncontroversial as it was considered as an integral part for Lithuania to become the EU member state. Moreover, it did not raise intense discussion as the number of foreigners with permanent residence permit in Lithuania was (still is) very small. However, looking at recent debates on access of third country nationals to political parties (*see below*), argument of small share of foreigners with permanent residence permits does not seems to be relevant any more.

¹⁰ Žalimas D. (2013) *Access to Electoral Rights: Lithuania*. European University Institute, Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, June 2013.

The lack of political debate around the amendments of the Constitution and the Law on Elections to Municipal Councils could be explained by the political and societal will to enter the EU in 2004. Moreover, at that time discussions were related to outflow of Lithuanian population (and projections of emigration after the EU enlargement) rather than to immigration, especially, from third countries. In general, the debates in the society and among politicians were concentrated around implementations of Lithuania's commitments to the EU in order to become the EU member state.

Access of third country nationals to political parties

Contrary to the debates on allowing permanent residents to vote passively and actively at the local level, possibility for foreigners (particularly – EU citizens) to become members of political parties raised intense discussions among politicians and public commentators in the media. The EU also 'joined' the debate: as Seimas has banned foreigners from membership in political parties, Lithuania received warning from the European Commission¹¹. An emphasis should be given to the fact that amendment was related to electoral rights of the EU citizens, rather than to third country nationals or all foreigners, residing in the country on permanent basis. However, such debate gives an opportunity to look at the general political attitude towards political participation of foreign population in Lithuania.

The proposal to allow EU citizens to join political parties was submitted by the Ministry of Justice in October 2013. The proposal was rejected by 36 of 141 Seimas' parliamentarians (19 were in support and 20 abstained). Consequently, the document was sent back for improvement. The European Commission asked Lithuania, whether rejected proposal was in line with the Community's standards allowing EU citizens run for the European Parliament and municipal councils.¹² According to the Ministry of Justice, the proposal envisaged equal opportunities for Lithuanian citizens and citizens of other EU member states to participate in political life at the local level equally. According to the Minister of Justice Juozas Bernatoniš, it had to be the same like in the other EU member states. Minister argued that political parties play significant role in the political life and if people from other EU member states do not have opportunity to participate in activities of political parties, they also do not have equal rights in the elections; moreover, such process would not be massive (as the number of foreigners in Lithuania is small). However, according to editorial of the website¹³, such proposal should be considered as subservience to Brussels as it is encroaching constitutional structure and sovereignty to

¹¹ *Seimas bans foreigners from membership in Lithuanian political parties*. Lithuaniantribune, 08.10.2013, Available at: <http://www.lithuaniantribune.com/53089/seimas-bans-foreigners-from-membership-in-lithuanian-parties-201353089/>

¹² *Seimas bans foreigners from membership in Lithuanian political parties*. Lithuaniantribune, 08.10.2013, Available at: <http://www.lithuaniantribune.com/53089/seimas-bans-foreigners-from-membership-in-lithuanian-parties-201353089/>

¹³ *Government agreed, that EU citizens would have a right to become members of political parties*. Ekspertai.eu, 17.07.2013, available at: <http://www.ekspertai.eu/vyriausybe-pritekade-es-pilieciai-butu-lietuvos-partiju-nariai/>

decide on electoral issues independently. According to editorial, such proposal should be considered as misunderstanding.¹⁴

During the discussion in Seimas (when the proposal was rejected), more arguments against the proposal came out. Representative of Homeland Union – Lithuanian Christian Democrats stated that such proposal may narrow sovereignty of the state and, at the same time, trigger disintegration within the state (such attitude was also expressed by other conservatives). Other parliamentarian stated, that through the membership in the political parties, relation between citizens and the state is addressed.¹⁵

Before and after the rejection of the proposal, different opinions were expressed. Some political scientists warned, that such proposal should be considered as an attempt to reduce Lithuania's, as sovereign states', rights; while others experts did not see any threats. According to parliamentarian Vytautas Gapšys (who prepared the amendment to the Law on Political Parties), the main form of participation in the elections remains participation through political parties – so to say – through the list of particular party. Though, theoretically it is possible to be in the list without membership in the political party, the main principle, which is the best one, remains the same and that's why members of political parties are participating in the elections. Parliamentarian added that only few foreigners should be interested in becoming members of political parties as there is a requirement that EU citizen must be permanent resident with permanent residency. He concluded that EU citizens should form not more than 1 % of total eligible voters.¹⁶ In contrast, political scientists Vytautas Radžvilas argued that the proposal should be considered as an attempt to deny principles of sovereign country. He stated that amendment would be reasonable and justified only if EU citizens would have a possibility to join political parties only after naturalisation as citizenship is an institution, which forecasts relationships between citizens and the state.

Contrary to above mentioned argument, social scientist Lauras Bielinis indicated that Lithuanian integration into the EU should be considered as a natural process; while participation of the EU citizens in political life of the state should be also regarded as a natural phenomenon. He argued that there are no any threats to Lithuania as a state. Vytautas Dumbliauskas from Mykolas Romeris University

¹⁴ Government agreed, that EU citizens would have a right to become members of political parties. Ekspertai.eu, 17.07.2013, available at: <http://www.ekspertai.eu/vyriausybe-pritekade-pilieciai-butu-lietuvos-partiju-nariai/>

¹⁵ Seimas resisted to the EU requirement allowing foreigners to establish political parties. Infolex.lt, 08.10.2013, available at: <http://www.infolex.lt/portal/start.asp?act=news&Tema=43&str=53678>

¹⁶ According to statistical overview, the share of EU citizens from total number of eligible voters should be significantly smaller than 1 %.

repeated that new amendments would not bring any challenges or threats to the state as Lithuania is not an immigration country both for EU citizens and third country nationals.¹⁷

Lawyer, the signatory of the Act of Independence of Lithuania Egidijus Bičkauskas could not perceive any legal offence in the proposal as Lithuania has already implemented EU directive, which allows permanent residents to vote and to be elected in Municipal Councils. According to the Constitution, only Lithuanian citizens have a right to become President and Member of Parliament. However, the lawyer argued, Lithuania is going towards the removal of this restriction. That is why Lithuania has to decide which of the interests are of the highest priority – the EU or national. Moreover, he added, that such proposal would distort the mission of the political parties as political parties has to ensure sovereignty of the state. With every such 'step' (proposal) Lithuania is losing sovereignty. In this case, the sovereignty was considered along the lines of national identity, especially of small countries with small populations (such as Lithuania).

Such attitude was repeated by the leader of the Lithuanian National Youth Union Julius Panka. He stated that such amendment is a very big threat to independence, sovereignty and entire political system as the doors for foreigners to Municipal Councils are open and soon Lithuania will face more requirements from the EU. As other opponents to the proposal, leader of the Lithuanian National Youth Union considered citizenship as the only relation to the state, democracy and Constitution.¹⁸

Professor, political scientist from Kaunas University of Technology concluded that in many EU member states foreigners have a right to become members of political parties. However, in such cases, there are restrictions that foreigners has to reside in the country for a certain period of time in order to be better integrated into majority of the society, understand cultural, social, economic and political context. According to professor, policy is the question of community's public affairs.

The debate on political rights shows that issue of political participation of the EU citizens in Lithuania is reconsidered. Therefore, looking at the arguments raised in a favour and against the amendment it seems that political rights of third country nationals will not likely to be strengthen in the near future. Arguments in the favour of stronger political rights of the EU citizens were related to Lithuania's commitments to the EU, while arguments against the proposal were related to ethnic rather than civic community engagement in political life of Lithuania. Such debate draws the line between EU citizens and

¹⁷ *Foreigners will join political parties*. Lžinios.lt, 01.07.2013, available at: <http://lzinios.lt/lzinios/Lietuvoje/politines-partijas-paivairins-uzsienieciai/158462>

¹⁸ *Europe forces Lithuania to elect foreigners. We will not be owners any more. We will be flunkies*. Respublika.lt, 10.05.2013, available at: <http://www.respublika.lt/lt/naujienos/lietuva/kitos-lietuvos-zinios/europa-vercia-kad-i-lietuvos-valdzia-butu-renkami-uzsienio-pilieciai-nebebusime-seimininkais-busime-liokajais/print.1>

third country nationals as in the latter case immigration flows to Lithuania are bigger, immigration structure is more diverse and the fact of commitments to the EU is no longer relevant.

Moreover, considering current debate and initiative of the Referendum in order to decide whether foreigners should have a right to buy Lithuanian land¹⁹ (initiators of the Referendum are seeking to ban such possibility), it is clear that each attempt to give more rights to foreigners in different areas will face more resistance.

Membership in political parties to be possible: arguments why yes

- Legislation should foresee equal opportunities for Lithuanian citizens and foreigners (both from EU and non-EU countries) to participate in political life at the local level equally; especially, taking into consideration Convention on the Participation of Foreigners in Public Life at Local Level (the Convention in Lithuania is not ratified).
- Political parties play significant role in the political life and if migrants do not have opportunity to participate in activities of political parties, they also do not have equal rights in the elections.
- The share of non-EU citizens in Lithuania is very small. Moreover, It is only 0,73 % of eligible electorate in Lithuania. Due to age threshold and immigration structure, significantly smaller proportion than 0,73 % have a right to elect members of City Municipality Council and even smaller proportion – to become City Municipality Council members.
- As migrant integration is taking place at the local level, the Law on Elections to Municipal Councils and the Law on Political Parties has to ensure equal rights in an area of political participation (including access to political parties) of Lithuanian citizens and foreigners residing in the country on permanent basis. However, in Lithuania foreigners can be elected only as independent candidates as they do not have access to political parties. Thus, despite liberal Law on Elections to Municipal Councils, the Law on Political Parties excludes migrants from representation at the local level.

¹⁹ *Land-sale to foreigners: will the ban be cancelled.* Delfi.lt, 01.12.2013, available at: <http://www.delfi.lt/verslas/nekilnojamas-turtas/zemes-pardavimas-uzsienieciams-ar-bus-panaikintas-draudimas.d?id=63420570>; *Who is buying Lithuanian land?* Delfi.lt, 12.09.2013, available at: <http://www.delfi.lt/verslas/kaimas/kas-perka-lietuvoje-zeme.d?id=62286587>; *Seimas is in a favour to ban land-sale to foreigners.* Delfi.lt, 12.09.2013, available at: <http://www.delfi.lt/verslas/kaimas/seimas-uz-draudimo-parduoti-zeme-uzsienieciams-pratesima.d?id=61225499>, etc.



Co-funded by the European Union