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INDEPENDENCE AND INTEGRATION

- CONSTITUTIONAL REFORM IN LITHUANIA PREPARING ITS ACCESSION TO THE EUROPEAN UNION -

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I. Introduction

1 On March 11, 1990, when Lithuania re-established its independence, it inherited a Soviet legal system which was far away from European legal standards including the rule of law, respect of human rights, etc. It became evident that the Lithuanian legislation should be brought into conformity with such standards. Therefore, the incorporation of human rights into domestic law became one of the main elements of legal reform in Lithuania. This project is inseparably connected with a European integration policy of Lithuania.

2 The new Lithuanian Constitution[1] which was adopted by referendum on 25 October 1992 created a legal basis for the incorporation of international and European standards of human rights and fundamental freedoms into domestic law. Chapter 2 of the Constitution (The Individual and the State) contains a list of constitutional rights and freedoms and proclaims that "the rights and freedoms of individuals shall be inborn" (Article 18). As for the international treaties of Lithuania, the Constitution is based on a monistic approach and incorporates ratified international treaties into the Lithuanian legal system. After accession of Lithuania to the European Convention on Human Rights in 1995, it became a constituent part of the Lithuanian legal system.

3 However, new constitutional questions arise in connection with the future accession of Lithuania to the European Union. On 12 June 1995, Lithuanian signed the Europe Agreement and the accession to the European Union became one of the main tasks of the development of the country.

4 On 7 January 1998 the Chancellery of the Seimas (Lithuanian Parliament) established a working group. Its task was to draft necessary legal acts for the accession of Lithuania to the European Union.[2] On 15 September 1998 this working group submitted to the Chancellery of the Seimas the first draft consisting of draft amendments to articles 135 and 138 of the Constitution of Lithuania:

[1] For the English text of the Constitution of the Republic of Lithuania *see*: *Parliamentary Record*/Seimas of the Republic of Lithuania. 1992, Nr.11, p. 2-30.

[2] The Author is a rapporteur of the Working group. This lecture was prepared on the basis of his preliminary report submitted to the Working group. Below see the text of first draft constitutional amendments prepared by the Working group. The draft amendments are written in bold letters.

5 "*Draft of 15 September 1998*

REPUBLIC OF LITHUANIA

CONSTITUTIONAL LAW ON THE AMENDMENT OF ARTICLES 136 AND 138 OF THE CONSTITUTION OF THE REPUBLIC OF LITHUANIA

Article 136

The Republic of Lithuania shall participate in international organisations provided that they do not contradict the interests and independence of the State.

With the view of assuring the security and independence, democracy and the rule of law, the welfare of its citizens and their fundamental rights and freedoms, the Republic of Lithuania may join international organisations the treaties on establishment and activities whereof provide delegation of the competence of State institutions of Member States to the bodies of such organisations in the spheres defined by these treaties to which the Republic of Lithuania is a party.

In order to guarantee the protection of the interests of the Republic of Lithuania and its participation when passing the mandatory legal acts by the bodies of the organisations referred to in paragraph 2 of this Article, the Government shall submit to the Seimas the proposals to adopt such acts and shall be guided during the process of adoption by the resolutions of the Seimas on the proposals.

Article 138

The Seimas shall either ratify or denounce international treaties of the Republic of Lithuania which concern:

1) the realignment of the State borders of the Republic of Lithuania;

2) political co-operation with foreign countries, mutual assistance, or treaties related to national defence;

3) the renunciation of the utilisation of, or threatening by force, as well as peace treaties;

4) the stationing and status of the armed forces of the Republic of Lithuania on the territory of a foreign state;

5) the participation of Lithuania in universal or regional international organisations; and

6) multilateral or long-term economic agreements.

Laws and international treaties may provide for other cases in which the Seimas shall ratify international treaties of the Republic of Lithuania.

International agreements which are ratified by the Seimas of the Republic of Lithuania shall be the constituent part of the legal system of the Republic of Lithuania. **If an international agreement ratified by the Seimas of the Republic of Lithuania stipulates other provisions than the laws or other legal acts of the Republic of Lithuania, irrespective of whether they are in force at the moment of the conclusion of the agreement or enter into force following the conclusion of the agreement, the provisions of the international agreement of the Republic of Lithuania shall apply.**

If it follows from the treaty on the establishment or activities of an international organisation

ratified by the Republic of Lithuania, the binding legal acts adopted by the bodies of this organisation shall be a constituent part of the legal system of the Republic of Lithuania and shall have supremacy where the laws or other legal acts of the Republic of Lithuania are contrary to them."

The proposals of the Seimas Working group were based on the deliberations that
6 the integration of the Republic of Lithuania into the European Union demands an answer to two fundamental legal questions:

7 1) Does Lithuania's domestic law provide an effective legal mechanism for the implementation of the Europe Agreement of July 12, 1995, instituting an association between the European Communities/their Member States and the Republic of Lithuania?

8 2) Would Lithuania's accession to the European Union be contrary to the Constitution of the Republic of Lithuania?

II. The Constitutional Framework for the Implementation of the Europe Agreement

9 The 1995 Europe Agreement instituting association between the European Communities and their Member State, of the one part, and the Republic of Lithuania, of the other part, (hereinafter - the Europe (Association) Agreement), lays down:

10 "Article 124

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measure, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Association Council and shall be the subject of consultations within the Association Council id the other Party so requests."

11 It has been recognised in the practice of application of Europe (Association) Agreements that these agreements should be directly applicable in the domestic law of the EU Member States. "The Europe Agreement – as an act of the EC – is *directly applicable*

and effective in the EU Member States and has *supremacy* over their national laws."[3] Of course, direct effect and supremacy concerns only such provisions of the Europe Agreements which are self-executing, i.e. provisions which create rights and obligations for the subjects of national law - natural and legal persons. In the case *Sevince v. Staatsecretaris van Justitie (1990)* dealing with the application of the Association Agreement with Turkey the European Court of Justice argued that "a provision in an agreement concluded by the Community with non-member countries must be regarded as being directly applicable when, regard being had to its wording and the purpose and nature of the agreement itself, the provision contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measures. The same criteria apply in determining whether the provisions of a decision of the Association Council can have direct effect."[4] As regards the 1995 Europe Agreement of the Republic of Lithuania, the requirement for its direct application in domestic law is laid down in Article 124 of the Agreement and follows from the provisions of some other articles (9-13, 16 and others) of the Agreement.

12 Legal norms of the European Union, also the norms laid down in Europe Agreements have supremacy over legal norms of domestic law of Member States.[5] As regards the Republic of Lithuania it should be pointed out that according to Art. 138 para. 3 of the Constitution, the 1995 Europe Agreement is a constituent part of its legal system because the Agreement has been ratified by the Seimas. [6]

13 This means that self-executing provisions contained in an Europe Agreement are directly applied in Lithuania's legal system. All State bodies - the legislature, the judiciary, administrative and other bodies must apply these provions and comply with them. The Europe Agreement has the force of law. Article 12 of the Law of the Republic of Lithuania on International Treaties which was in force when the Europe Agreement took effect stipulates:

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[3] See: J. Zemanek et al., Status and Tendencies in the Czech Republic, in: East Central Europe and the European Union: from Europe agreements to a Member Status, Baden-Baden, 1997, p.163.

[4] Common Market Law Reports 2/1992, p.57.

[5] In *Simmenthal* (1978) the Court of Justice of the European Communities referred to this requirement as "supremacy of Community law" which invalidates the norm of domestic law contrary to Community law and precludes adoption of national legislation contrary to it. - Common Market Law Reports 3/1978, p. 263.

[6] A provision analogous to the provision of Article 138 of the Constitution of the Republic of Lithuania is established by the 1978 Constitution of Spain laying down that validly concluded international treaties shall constitute part of the internal legal order but does not say anything about the relation of such treaties with legislative and constitutional norms.

14 "International treaties of the Republic of Lithuania shall have the force of law on the territory of the Republic of Lithuania".

15 In its Opinion of 24 January 1995 on the Conformity of Articles 4, 5, 9, and 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and of Article 2 of Protocol No. 4 of the Convention with the Constitution of the Republic of Lithuania, the Constitutional Court gave the following conclusion on the relation between Article 138 para.3 of the Constitution and Article 12 of the Law on International Treaties:

16 "This constitutional provision with regard to the Convention means that a ratified and effective Convention will become the constituent part of the legal system of the Republic of Lithuania and will have to be applied in the same way as legislation of the Republic of Lithuania. Its provisions correspond to the level of laws within the system of sources of law of the Republic of Lithuania because Article 12 of the 21 May 1991 Law of the Republic of Lithuania on International Treaties (Þin., 1991, No. 16-415; 1992, No.30-915) establishes that "International treaties of the Republic of Lithuania have the force of law on the territory of the Republic of Lithuania".[7]

17 Such a legal force of ratified international agreements has also been endorsed by the Constitutional Court in its Decision of 17 October 1995 on the Conformity of Article 7 para. 4 and Article 12 of the Law of the Republic of Lithuania on International Treaties to the Constitution of the Republic of Lithuania.[8] However, Lithuanian law has neither a general nor a special norm establishing the supremacy of the European Agreement over domestic acts of law, which may have negative consequences because of the following reasons: first, the decisions of the Association Council that has been instituted for the purpose of supervising the implementation of the Agreement are mandatory for Lithuania and other the parties to the Agreement, the same applies to its decisions in case of a dispute over the application or interpretation of the Agreement; second, in the case of a failure in settling a dispute in the Council, an arbitration may be set up and its decisions are mandatory; third, under Article 124 of the Agreement, in the case of the failure to fulfil an obligation under the Agreement, Parties may take countermeasures in respect of the violating Party.

[7] Valstybës Þinios, 1995.01.27, No. 9 -199.
[8] Valstybës Þinios, 1995.10.20, No. 8 -1949.

A norm establishing this type of supremacy of international agreements over
18 domestic acts of law is also necessary for the implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms because the European Court of Human Rights may award a reparation to the injured party to be paid by the State in the event of violations of this Convention. Article 42 (former 50) of this Convention stipulates:

19 "If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the present Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

20 The analysis above shows that it seemed necessary to include a principle in the law of the Republic of Lithuania stipulating that international agreements and agreements of certain categories (e.g., those ratified by the Seimas) have supremacy over statutory acts and other acts of law. On 22 June 1999 the Seimas enacted the new Law on International Treaties which indeed establishes supremacy of ratified treaties over domestic law. Article 11 of the Law stipulates:

21 *"Article 11. Binding force of international treaties of the Republic of Lithuania*

1. International treaties of the Republic of Lithuania shall be executed in the Republic of Lithuania.
2. If a ratified international treaty of the Republic of Lithuania contains provisions contrary to laws or other legal acts of the Republic of Lithuania, irrespective of whether they are in force at the moment of the conclusion of the treaty or enter into force after the conclusion of the treaty, the provisions of the international treaty of the Republic of Lithuania shall apply.
3. If the execution of an international treaty of the Republic of Lithuania requires that a law or other legal act should be enacted, the Government of the Republic of Lithuania according to the legal procedures shall either submit a draft law to the Seimas, issue a directive or ensure the inplementation by other legal acts under its competence."

22 Nevertheless, the Law on International Treaties by its legal nature is an ordinary law. Therefore, the question whether the supremacy of ratified international treaties should be established also on constitutional level is still relevant.

III. The Constitution and accession to the European Union

1. Delegation of competences

23 The Membership in the European Union calls for the transfer by a Member State of a certain number of its competences in the areas defined by the treaties establishing the EU (Art. 249 ex 189). The practice of the European Court of Justice is unequivocal about the meaning of this provision: Member States delegate to the EU bodies a part of the competences of their State bodies, agreeing at the same time to limit their sovereign rights to pass binding legal acts in some areas defined by the treaties of the European Union. In *Costa v. ENEL (1964)* the Court argued:

24 " By (…) a transfer of powers from the States to the Community, the Member States have limited their sovereign rights (…)."[9]

25 In these circumstances it is necessary to determine whether the Constitution of the Republic of Lithuania does prohibit the delegation of issues which are within the competence of State bodies to the international organisations. Article 1 of the Constitution provides:

26 "The State of Lithuania shall be an independent and democratic republic."

27 The transfer of a part of the competences of the State bodies to EU bodies by accession does not at all mean that this state loses its independence or features of its democratic system. It has been universally recognised and is beyond any doubt that Member States of the European Union are full-fledged actors in international relations and organisations. On the other hand, under the Maastricht Treaty on European Union, through the implementation of its Common Foreign and Security Policy the Union might in future ensure the common defence of its members (Article 17 EU-Treaty) and in this way protect the independence of its members; Article 6 para. 3 EU-Treaty says:

28 "The Union shall respect the national identities of its member States."

29 The accession to the European Union does not mean loss of independence or its limitation; it means delegation of a part of one's State competences to the EU bodies along with the consent to transfer one's sovereign rights in certain areas defined in the treaties establishing the European Union. Reference to Articles 2 and 3 of the Constitution is appropriate at this point:

[9] Common Market Law Reports 1964, p.425.

30 "Article 2

The State of Lithuania shall be created by the People. Sovereignty shall be vested in the People.

Article 3

No one may limit or restrict the sovereignty of the People or make claims to the sovereign powers of the People.

The People and each citizen shall have the right to oppose anyone who encroaches on the independence, territorial integrity, or constitutional order of the State of Lithuania by force."

31 Similar provisions were made in the constitutions of France, Italy, Spain, Portugal and some other states but they have not prevented those countries from becoming members of the European Communities, subsequently the European Union.[10] The Lithuanian and similar constitutional provisions do not prohibit the transfer of certain competences to international organisations; there main aim is to establish the people as the source of sovereignty and prohibit usurpation of sovereignty in the hands of individuals or groups. On the contrary, Article 136 stipulates that Lithuania shall participate in international organisations. The above mentioned provisions (Art. 2 and 3 of the Constitution) were not an obstacle for Lithuania when in 1991 it became a member of the United Nations; one of the bodies of the UN, the Security Council is empowered to adopt resolutions for the maintenance of international peace and security which are binding on the UN Member States (Article 24 of the UN Charter); nor were those provisions an obstacle when in 1995 Lithuania ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms which provides that decisions of the Committee of Ministers of the Council of Europe and of the European Court of Human Rights are binding on the High Contracting Parties (Articles 46 [ex 32] and 44 [ex 53] of the Convention).

32 In the case of the EU, regard should also be made of the objectives by which the Republic of Lithuania is guided in its foreign policy (Article 135 para. 1 of the Constitution):

33 "In conducting foreign policy, the Republic of Lithuania shall pursue the universally recognised principles and norms of international law, *shall strive to safeguard national security and independence as well as the basic rights, freedoms and welfare of its citizens, and shall take part in the creation of sound*

[10] See: D. Kriauèiûnas. Konstitucinës Lietuvos narystës Europos Sàjungoje problemos. - Lietuvos integracija á Europos Sàjungà: bûklës, perspektyvø ir pasekmiø studija. Vilnius: Europos integracijos studijø centras, 1997, p. 167-168.

international order based on law and justice."[11] (our emphasis added)

34 Those interests and objectives fully conform to those set out in Article 2 EU-Treaty, i.e.:

35 "to promote economic and social progress", "to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy", "to strengthen the protection of the rights and interests of the nationals of its Member States", "to develop close co-operation on justice and home affairs",

and in Article 2 EC-Treaty, i.e.:

"...to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth respecting the environment, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvment of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States".

36 The objectives "to strive to safeguard national security and independence" and "to take part in the creation of sound international order based on law and justice" set out in Article 135 of the Constitution correspond to the objectives of the Common Foreign and Security Policy established in Article 11 para. 1 EU-Treaty:

37 "to strengthen the security of the Union in all ways" and "to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter."

38 The Common Foreign and Security Policy is based on inter-governmental co-operation, and decisions of the Council on joint action are taken, in accordance with Article 23 para. 1 EU-Treaty, in general by unanimity. Common Foreign and Security Policy "is to be built up and given specific content gradually, in the pursuit of defined objectives through co-operation and joint action, within a potentially broad scope."[12] The Treaty of Amsterdam (Article 12 EU-Treaty) introduced a new instrument of the Common Foreign and Security

[11] See comments of V. Vadapalas, Die verfassungsgerichtliche Kontrolle der auswärtigen Gewalt in Litauen, in: J.Abr. Frowein/T. Marauhn (Ed.), Grundlagen der Verfassungsgerichtsbarkeit in Mittel- und Osteuropa, Berlin, 1998, p. 537 (543).
[12] I. MacLeod/I.D. Hendry/S. Hyett.,The External Relations of the European Communities. A Manual of Law and Practice, Oxford, 1998, p. 416.

Policy – common strategies which define the objectives of the Union and the means to achieve theses objectives and are implemented in areas where the Member States have important interests in common.[13]

39 The above analysis shows that the Constitution of the Republic of Lithuania does not prohibit accession of Lithuania to the European Union and does not create obstacles for the respect of the obligations which Lithuania would assume in connection with its membership in the European Union. However, it is not clear on what grounds Lithuania could delegate a part of the competence of its State institutions to the bodies of the EU.

2. Direct applicability of EU law

40 Article 138 para. 3 of the Constitution could be regarded as providing for a direct application in future of the treaties establishing the European Union and treaties on its functioning:

41 "International agreements which are ratified by the Seimas of the Republic of Lithuania shall be the constituent part of the legal system of the Republic of Lithuania".

42 When Lithuania becomes a party to the Treaties establishing the European Union, according to Article 11 para. 2 of the new Law on the International Treaties, already mentioned above, these treaties would have supremacy over Lithuanian laws. Thus, it may also be presumed that under the provisions of Article 138 para. 3 of the Constitution and Article 12 of the Law on the International Treaties, legal acts passed by the bodies of the EU with direct applicability such as regulations and decisions would become a part of the legal system of the Republic of Lithuania because this would stem from the treaties ratified by the Seimas and having the force of law. However, this legal presumption is hardly a sufficient ground for solving this fundamental issue. In preparing for the membership in the EU, the Republic of Lithuania should therefore include in its Constitution a constitutional provision that the binding legal acts adopted by the bodies of the European Union are directly applicable in the legal system of the Republic of Lithuania and have precedence when the laws and other legal acts of the Republic of Lithuania are contrary to them.

3. Cooperation of the Government and Parliament in EU affairs

[13] See: G. Glockler et al. Guide to EU Policies, London, 1998, pp. 303-304.

43 The membership in the European Union gives every Member State the right to take part in the adoption of EU legal acts and at the same time a possibility to protect its national interests. This applies, in particular, to the participation of the Member State in the adoption of such binding legal acts as Council regulations. In this regard, the legislative bodies of the Member State must be informed about the drafts (draft new regulations and directives, etc.) giving them the possibility to express their position on such acts, especially when these acts concern the national interests. Because the interests of a Member State in the Council are represented by the representatives of the government of this state, the government has a possibility to inform the Parliament about the proposals for the binding acts. One of the most modern legal solution of this problem is Article 88-4 of the Constitution of the French Republic adopted on the basis of the Constitutional Law of 25 June 1992:

44 "The Government shall lay before the National Assembly and the Senate any proposals for Community instruments which contain provisions which are matters for statute as soon as they have been transmitted to the Council of the Communities.

Whether Parliament is in session or not, resolutions may be passed under this article in the manner laid down by the rules of procedure of each assembly."

45 In order to ensure an appropriate protection of the interests of the Republic of Lithuania after its accession to the European Union, a similar provision should also be laid down in the Constitution of the Republic of Lithuania.

IV. Constitutional reform in the light of European experiences

46 The above analysis shows that it would be reasonable to supplement the Constitution of the Republic of Lithuania with the provisions allowing the solution of the issues outlined above. It would be advisable to take into account the constitutional experience of the European countries which in an analogous situation, decided to amend their constitutions.

47 The 1958 Constitution of the French Republic was amended in connection with the ratification of the 1992 Maastricht Treaty. The Constitutional Law of 25 June 1992 was adopted for this purpose. It supplemented the Constitution of the Republic of France with a new Title XV "On the European Communities and the European Union"; the new Articles

88-1, 88-2, 88-3, and 88-4 have the following wording:

48 "Article 88-1. The Republic shall participate in the European Communities and in the European Union constituted by States that have freely chosen, by virtue of the treaties that established them, to exercise some of their powers in common.

Article 88-2. Subject to reciprocity and in accordance with the terms of the Treaty on European Union signed on 7 February 1992, France agrees to the transfer of powers necessary for the establishment of European economic and monetary union and for the determination of rules relating to the crossing of the external borders of the Member States of the European Community.

Article 88-3. Subject to reciprocity and in accordance with the terms of the Treaty on European Union signed on 7 February 1992, the right to vote and stand as a candidate in municipal elections shall be granted only to citizens of the Union residing in France. Such citizens shall neither exercise the office of mayor or deputy mayor nor participate in the designation of Senate electors or in the election of senators. An institutional Act passed in identical terms by the two assemblies shall determine the manner of implementation of this article.

Article 88-4. The Government shall lay before the National Assembly and the Senate any proposals for Community instruments which contain provisions which are matters for statute as soon as they have been transmitted to the Council of the Communities.

Whether Parliament is in session or not, resolutions may be passed under this article in the manner laid down by the rules of procedure of each assembly."

49 It would be also appropriate to refer to the provisions of the Basic Law of the Federal Republic of Germany of 1949 which were laid down by the Law of 21 December 1992, in connection with the 1992 Maastricht Treaty on the European Union:

50 "Article 23 (European Union)

(1) With a view to establishing a united Europe, the Federal Republic of Germany shall participate in the development of the European Union which is committed to democratic, rule-of-law, social and federal principles as well as the principle of subsidiarity and which ensures the protection of basic rights comparable in substance to that afforded by this Basic Law. To this end the Federation may transfer sovereign powers by law with the consent of the Bundesrat. The establishment of the European Union as well as amendments to

its statutory foundations and comparable regulations which amend or supplement the content of this Basic Law or make such amendments or supplements possible shall be subject to the provisions of paragraphs (2) and (3) of Article 79.

(…)

(3) The Federal Government shall give the Bundestag the opportunity to state its opinion before it takes part in drafting the European Union laws. The Federal Government shall take account of the opinion of the Bundestag in the negotiations. Details shall be the subject of a law."

51 It should also be pointed out that the precedence of international law was established in the Basic Law of the Federal Republic of Germany already in 1949 when the Law was passed:

52 "Article 25 (International law and federal law)

The general rules of international law shall be an integral part of federal law. They shall override laws and directly establish rights and obligations for the inhabitants of the federal territory."

53 As regards the States which are preparing themselves for accession to the European Union, the Republic of Poland should be mentioned. Its new Constitution of 2 April 1997 contains provisions necessary for Poland's future membership in the European Union. Below are Articles 90 and 91 of the Constitution of Poland:

54 "Article 90

1. The Republic of Poland may, by virtue of international agreements, delegate to an international organisation or international institution the competence of organs of State authority in relation to certain matters.

2. A statute, granting consent for ratification of an international agreement referred to in Paragraph (1), shall be passed by the House of Representatives (Sejm) by a two-thirds majority vote in the presence of at least half of the statutory number of Deputies, and by the Senate by a two-thirds majority vote in the presence of at least half of the statutory number of Senators.

3. Granting of consent for ratification of such agreement may also be passed by a nation-wide referendum in accordance with the provisions of Article 125.

4. Any resolution in respect of the choice of procedure for granting consent to ratification shall be taken by the House of Representatives (Sejm) by an absolute majority vote taken in the presence of at least half of the statutory number of Deputies.

Article 91

1. After promulgation thereof in the Journal of Laws of the Republic of Poland (Dziennik Ustaw), a ratified international agreement shall constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of a statute.

2. An international agreement ratified upon prior consent granted by statute shall have precedence over statutes if such an agreement cannot be reconciled with the provisions of such statutes.

3. If an agreement, ratified by the Republic of Poland, establishing an international organisation so provides, the laws established by it shall be applied directly and have precedence in the event of a conflict of laws."

V. Conclusions

55 The accession of the Republic of Lithuania to the European Union and obligations deriving therefrom would not be contrary to the Constitution of the Republic of Lithuania. However, in order to prepare for the accession, the Republic of Lithuania should establish constitutional provisions which would clearly spell out:

56 1) on what grounds and to what an extent the Republic of Lithuania could delegate a part of the competences of its State institutions to the EU bodies;

57 2) on what grounds binding legal norms adopted by the EU bodies would be applied in the legal system of the Republic of Lithuania and have precedence over the laws and other legal norms of Lithuania;

58 3) the obligation of the Government to inform the Seimas about proposals to adopt binding legal acts of the EU and to take into account the resolutions of the Seimas relating to these proposals during the process of adoption of such acts.