

## LITHUANIAN – RUSSIAN NEGOTIATIONS IN 1990-1993

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### **Lithuanian negotiations attempts with the USSR in 1990-1991**

Having restored its independence *de jure* on March 11, 1990, Lithuania sought to eliminate the consequences of the fifty year-long occupation by the USSR and to re-establish interstate relations between Lithuania and the USSR.

On March 13, 1990, the Supreme Council of Lithuania addressed the Chairman of the Supreme Council of the USSR Mikhail Gorbachev proposing the negotiations on the withdrawal of the Soviet army. Meanwhile, Gorbachev demanded that the Act on the Re-establishment of the Independence of the State of Lithuania be immediately repealed. Later, the Government of the USSR issued a new ultimatum threatening to impose strict economic sanctions on Lithuania.

On April 18, 1990, the Lithuanian Parliament offered the USSR to commence consultations regarding interstate negotiations. However, on the same day, the Soviet Union launched an economic blockade of Lithuania – cutting the supply of energy resources – which lasted until early July.

On May 16, while the USSR was still continuing its blockade, Lithuanian leaders Vytautas Landsbergis and Kazimiera Prunskienė signed the Declaration of the Parliament and the Government of Lithuania, which stated that during the period of interstate negotiations with the USSR Lithuania agrees to suspend unilateral implementation of those decisions ensuing from the documents restoring independence which could be an item of negotiations.

Gorbachev stated that he “essentially does not object to the secession of Lithuania from the USSR” but that this would require negotiations. However,

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the suspension of the Independence Act of March 11 was a precondition for their commencement.

It must be emphasised that in seeking negotiations with the USSR Lithuania held the position that the Independence Act could neither be revoked nor suspended and that the independence of Lithuania could not be the subject of negotiations or depend on their results. Lithuania also sought the signing of the protocol to open negotiations, which would acknowledge two states – Lithuania and the Soviet Union – seeking the settlement of their relations.

On June 29, the Supreme Council adopted the resolution regarding the declaration of a 100-day moratorium for new legal actions implementing the independence of Lithuania from the opening of interstate negotiations between the Republic of Lithuania and the USSR, provided that a special protocol was signed regarding their opening, aims and terms. Although Gorbachev had appraised this resolution as insufficient, the energy blockade, which had inflicted substantial damage on Lithuania, was nevertheless terminated on July 2.

On July 5, the Lithuanian Parliament adopted a resolution regarding the political and legal preparations for interstate negotiations with the USSR and initiated the formation of the Lithuanian delegation for negotiations with the USSR. On July 9, President Gorbachev approved the composition of the delegation, headed by Chairman of the Council of Ministers Nikolai Ryzhkov.

The first meeting to discuss the preliminary issues took place in Kremlin October 2, 1990. The Lithuanian side sought that the goal of the negotiations would be the restoration of legal relations between two independent states.<sup>1</sup> However, at that time, the leadership of the USSR still hoped to retain Lithuania within the USSR by concluding a new “union agreement”. Therefore, the draft project for opening negotiations proposed by Lithuania did not correspond to its interests. The representatives of the USSR declared that Lithuania’s participation in the negotiations as an independent state was unacceptable because its status would allegedly become clear only after the negotiations.

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<sup>1</sup> Document No. 78, *The Road to Negotiations with the USSR*, Vilnius: State Publishing Centre, 1991, 160.

The first consultative meeting took place in Kremlin October 20, 1990. The delegation of Lithuania was headed by Chairman of the Supreme Council of the Republic of Lithuania Landsbergis, the USSR delegation - by Chairman of the Council of Ministers of the USSR Ryzhkov. It was agreed to commence negotiations at the end of November.

On December 1, the heads of the parliaments of Lithuania, Latvia, and Estonia issued the Statement to the Fourth Congress of the People's Deputies of the USSR, which started its work in Moscow. It was proposed to recognise the independence of Lithuania, Latvia and Estonia and start negotiations with them. However, the predominant mood in the Congress was different. Soviet Minister of Foreign Affairs Eduard Shevardnadze even warned about the threat of dictatorship in the USSR and announced his resignation.

In early December, the USSR terminated negotiation consultations with Lithuania. During the first days of January in 1991, more Soviet troops were brought to Lithuania, Latvia and Estonia. On January 10, 1991 Gorbachev presented a new ultimatum to the Supreme Council of Lithuania demanding revocation of the main documents of Lithuanian independence, and "to immediately restore the USSR Constitution to full effectiveness."

On January 13, the military forces of the USSR began an armed aggression against Lithuania. The Soviet army murdered fourteen peaceful unarmed people in Vilnius, wounded many others, occupied the Lithuanian Television Station, the TV tower, other buildings, and held them in possession until the August putsch in Moscow in 1991.

Gorbachev approved a new delegation for the negotiations with Lithuania January 1, 1991. As previously, he continued treating Lithuania as a subordinate republic of the USSR – the mandate of the Soviet delegation allowed not more than "to discuss political, social and economic issues with the representatives of the Lithuanian SSR".

On April 4, 1991 an official consultative meeting of the delegations of both countries took place in Moscow. The principles and procedures of prospective negotiations were agreed upon and laid down in the protocol signed by the heads of the delegations – Vitalij Doguzhiev and Česlovas Stankevičius. Among the agreed principles were the following: equality of the parties, respect for the sovereignty of each country and respect for the

universally recognised principles of law. The protocol also established the goal of prospective negotiations: “regulating the relations between the Republic of Lithuania and the Union of Soviet Socialist Republics.” This was the first step toward achieving the conditions necessary for negotiations. Although it was agreed during the meeting that the expert groups would commence preliminary work for negotiations in April, Moscow was procrastinating the opening of negotiations.

Only after the failed coup in August, the State Council of the USSR recognised the independence of the Republic of Lithuania on September 6, 1991, “with reference to the concrete historical and political situation that had been existing before the entry of the Republic of Lithuania into the USSR”, and decided to held negotiations with Lithuania.<sup>3</sup> The note of 20 September of the Ministry of Foreign Affairs of the USSR sent to the Ministry of Foreign Affairs of Lithuania proposed to conduct negotiations regarding “the regulations of all consular relations arising from the *restoration* of the State independence of Lithuania”<sup>4</sup> [italics by author]. By these documents the USSR *de facto* recognised the forceful incorporation of Lithuania into the USSR and the continuity of the independent Republic of Lithuania.

### **Lithuanian - Russian negotiations on interstate relations in 1990-1991**

On June 12, 1990, the Supreme Council of the Russian Soviet Federated Socialist Republic (RSFSR) under the leadership of Boris Yeltsin announced the declaration of the sovereignty. Thus, an alternative to the imperial regime of the USSR emerged in Moscow. At the end of June Landsbergis received a proposal from Yeltsin to open negotiations between Lithuania and the Russian Federation. Since the leadership of the USSR was obviously avoiding the

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<sup>2</sup> The Council is referring to the 24 December 1989 Resolution of the Congress of People’s Deputies of the USSR on the Political and Juridical Appraisal of the Soviet Non-Aggression Treaty, which declared the secret protocols of Molotov-Ribentrop null and void.

<sup>3</sup> September 6, 1991 Resolution No. GS-1 of the State Council of the USSR “Regarding the Recognition of the Independence of the Republic of Lithuania”

<sup>4</sup> No. KY-1569.

regulation of relations with Lithuania, this proposal created an opportunity to open parallel negotiations on the same subject with the Russian Federation. At the inception of negotiations between Lithuania and Russia, the USSR was still a real and globally influential subject of international relations with great military and nuclear power. The RSFSR had just made an alternative entry into the international relations. Therefore, the conditions for the negotiations between Lithuania and Russia for establishing the foundations of interstate relations through a fully-fledged treaty were difficult. In autumn of 1990, the Russian Federation sent a draft of the treaty between the Republic of Lithuania and the Russian Federation where both republics were treated as former Soviet republics and the states that were being newly established. Lithuania was not satisfied with this draft. During the autumn of 1990 the parties have been exchanging opinions regarding the draft.

During the events of January 13, 1991 Yeltsin was acting resolutely. He arrived in Tallinn on the same day and signed, together with the heads of three Baltic States, the declaration to the United Nations and other international organisations. It was declared that the parties recognise each other's state sovereignty. All states of the world were urged to condemn decisively the military coercive actions against the independence of the Baltic States. After that the intense negotiations regarding the treaty on the foundations of interstate relations were commenced between the Lithuania and the Russian Federation.

The differences in the status of the negotiating parties and the formula of mutual recognition, which would be acceptable to both parties, were one of the main problems during the negotiations. The representatives of the RSFSR proposed to treat the parties as former Soviet republics that had legitimately declared their sovereignty and now were new sovereign states. This definition was suitable in Russian case, but was inadequate for Lithuania. The Lithuanians sought that Russia recognised the Republic of Lithuania not as a new state but as a state, which had lost its independence because of the occupation and restored its sovereignty on March 11, 1990.

As the parties had different status, it was difficult to find a symmetrical definition of mutual recognition, which would not diminish the status of the Republic of Lithuania to the status of the then RSFSR. As a result of difficult negotiations, the symmetrical formulation of the first clause of the treaty

proposed by Lithuania was adopted. This clause declared that the parties under agreement recognise each other as sovereign states in accordance to the status of their state, which is established in their constitutional acts, adopted respectively by the Russian Soviet Socialist Republic on 12 June 1990 and by the Republic of Lithuania on 11 March 1990.

The Russian delegation disagreed with the proposal of Lithuania that the treaty contained reference to the 1920 treaty between Lithuania and Russia. The Russian side did not question this treaty but objected reference to it arguing that this could give rise to territorial and border issues related to Belarus and thereby stall negotiations. The Russian side also for a long time hesitated over accepting another important Lithuanian proposal that the preamble of the treaty would reflect the fact of the annexation of Lithuania performed by the USSR in 1940 and the necessity to eliminate its consequences. In order to complete negotiations successfully, the Lithuanian delegation had to accept a compromise. Lithuania agreed to drop demands that the new treaty directly mentions the treaty of 1920. In turn, Russia agreed to state the fact of the annexation of Lithuania by the USSR in 1940 and pronounce that the USSR must eliminate the consequences of the annexation. The negotiated preamble and the first clause of the treaty meant that Russia unreservedly recognised the continuity of the Republic of Lithuania that existed prior to 1940.

On July 29, 1991, an official meeting of the state delegations of both countries under the leadership of the heads of the Republic of Lithuania and the Russian Federation Landsbergis and Yeltsin took place in Moscow for the signing of the Treaty.

The Lithuanian Parliament ratified the Treaty between Lithuania and Russia on August 19, 1991, i.e. on the day when the radical forces of the USSR attempted a coup in Moscow. The Supreme Soviet of the Russian Federation ratified this treaty half a year later – on January 17, 1992. The Russian Federation and the Republic of Lithuania established official diplomatic relations October 9, 1991.

### **Negotiations on withdrawal of the ex-Soviet troops from Lithuania**

On December 24, 1991 the USSR formally ceased existing, and the Russian Federation declared itself the successor of its rights and duties.

Therefore, the duty of the USSR to eliminate the consequences of the annexation of Lithuania had devolved upon it as well. Accordingly, the withdrawal of the Soviet army, as one of the main elements in the elimination of the stated consequences, had to become the subject of new negotiations between Lithuania and Russia. The issue of reparation for damages was also to enter the agenda of negotiations. On the same day when the USSR ceased existing, the Government of Lithuania addressed the Government of the Russian Federation, proposing to resolve the issue of the withdrawal of the Soviet army from Lithuania.

On January 22, 1992, a draft copy of a standard agreement “Regarding the Legal Status and the Procedure for Withdrawal of the Armed Forces of the Former USSR Temporarily Present on the Territory of the Republic of (...)”, prepared by the Russian Federation for both the CIS and the Baltic States, was received from Moscow. The draft proposed the following: to make the temporary presence of the Soviet army units legal (until their withdrawal); allow the Soviet troops the freedom of their operations under Russian jurisdiction; guarantee the property rights of Russia to Soviet military objects; ensure the right of soldiers to citizenship of the country of their presence; provide Soviet officers with apartments, etc.

On January 31, 1992, the first negotiation meeting between the delegation of the Russian Federation under the leadership of Deputy Prime Minister Sergei Shakhrai and the Lithuanian delegation headed by Stankevičius took place in Vilnius. The Russian side proposed to discuss the possibility of leaving certain military objects, which it considered important, on the territory of Lithuania for certain time. The Lithuanian delegation refused to discuss this option. It asserted that all army contingents must be withdrawn and all military objects must be transferred to Lithuania by the end of 1992. The Russian delegation considered this deadline unrealistic and proposed to discuss a date of 1994. Only the agreement that the withdrawal of the Soviet army from Lithuania would begin in February of 1992 and that the procedure and the final date of withdrawal would be subject to further negotiations was achieved.

From the start of negotiations with Lithuania until August of 1992, the Russian delegation was holding on to the provisions formulated in the above-mentioned “standard” draft, which was completely unacceptable to

Lithuania. There were expert meetings organised on this issue from February till April. Although negotiations were intense at that time, the Russian negotiators refused to accept Lithuanian proposals.

President Yeltsin appointed a new head of the Russian delegation on March 18, 1992 - Ambassador for Special Missions Viktor Isakov. However, it soon became clear that Russia was not ready to adjust its position and was simply deferring negotiations.

With regard to the abundant cases of the licence by Russian soldiers, the Baltic Council made a declaration on March 16, 1992. The Council stated that “the army of the former USSR continues to act as a subjugator, disregards the laws of Lithuania, Latvia and Estonia <...>, and continues artillery fires and bombardments on the land and in the sea. Army units continue polluting the environment and causing damages. Illegal activities by the army, such as the sales of weapons and assets and the cutting of wood, are intensifying.” The Council demanded that Russia undertook the strictest measures to prevent the occurrence of such actions.

In May 1992, the negotiations stalled at all. Russia tried to use the same model of the relations between the “secessionist republics of the former USSR” and the Russian Federation as the successor of the rights of the USSR.

Whereas the Lithuanian position was grounded on the fact that Lithuania had never joined the USSR but had been occupied and forcibly incorporated by the USSR, therefore, all problems ensuing from it had to be resolved through the application of the principles and norms of international law.

The position regarding the Russian obligation to withdraw Soviet army from Lithuania was also diverging. The Lithuanian delegation was presuming that the immediate withdrawal of the troops from Lithuania was the duty of Russia deriving from international law and independent from the prospective agreement. Meanwhile, the Russian representatives were asserting that the obligation to withdraw the army would result from future agreements.

During the negotiations, when discussing the problems related to the withdrawal of the troops or the issues of eliminating particular consequences of the occupation, the question of responsibility was present. In the Russian view, the cause of all problems and the effects harmful to Lithuania was the totalitarian communist regime of the USSR and its institutions, which were therefore responsible for it. Russia had allegedly suffered from this regime



as well. Lithuania maintained that what had been done in Russia because of its criminal regime was a matter for its internal amenability, whereas the criminal or harmful actions of the USSR against Lithuania were a question of international amenability to another state.

Russia sought that its army be given a temporary legal status and that this army be recognised as a legal subject. Lithuania was adhering firmly to the position that the army of the USSR may not acquire a legal status of presence because it had been and continued to be an illegally present army which was the subject of the negotiations and which could not be recognised as a juridical subject. However, Lithuania recognised the fundamental human rights of the people serving in this army. Therefore, the negotiations further considered only the issues of the rights of Russian soldiers and their families but not the rights of troops.

The representatives of Russia wanted the territories controlled by the Russian troops prior to their withdrawal to be under the jurisdiction of Russia. The representatives of Lithuania did not recognise any extraterritoriality and held the position that only the laws of Lithuania and the authority of the Lithuanian government were effective on the whole territory without any exceptions.

Following international law, Lithuania issued a law on November 28, 1991, which stipulated that, the buildings and constructions used by the Soviet army belong unconditionally to the Republic of Lithuania. In the meantime, Russia was still claiming this property. Russia sought Lithuania to pay compensation for it or that it subsequently be conjointly controlled with Russia. Among other things, the Russian delegation was grounding these claims on the documents of the administration of the LSSR, treating it as a legitimate government of Lithuania. The Lithuanian delegation held the position that the government institutions forcibly imposed during the occupation by the USSR in 1944-1990, including the so-called government of the LSSR, were illegitimate. Their decision could not oblige the Republic of Lithuania and could not have any legal consequences. The USSR, as an occupying state, could not have legally acquired any property or gained any benefits in Lithuania.

Lithuania sought that the negotiations on the procedure for the withdrawal of the Russian army would also resolve the issues of reparation for damages. Among other things, Lithuania proposed that the armaments

and the military assets seized from the Lithuanian army in 1940 could be compensated with new armaments and military equipment necessary for rebuilding the defensive capacity of Lithuania. The Russian delegation did not deny the reasonableness of these claims during the negotiations.

New impulses were needed to set the stalled negotiations in motion. On April 27, 1992, the Supreme Council of the Republic of Lithuania passed a resolution to organise a referendum. Ninety percent of those who voted in the referendum endorsed the demand “that the withdrawal of the army of the former USSR from the territory of the Republic of Lithuania would start immediately and be completed in 1992, and that the damages done to the Lithuanian people and the Lithuanian state would be compensated”. On June 30, the Lithuanian delegation officially presented to Russia a detailed schedule for the withdrawal of all the troops of the former USSR from the territory of Lithuania by December 31, 1992.

On July 10, 1992, the OSCE Helsinki Summit Declaration regarding the withdrawal of the Soviet army from the Baltic States contained the special article 15, which demanded “to form agreements and schedules, so that the foreign army is speedily, fully and orderly evacuated from the territory of the Baltic States”. The Interpretative Statement of Lithuania regarding article 15 of the Summit Declaration, which reminded Russia that, as the successor of the rights and duties of the USSR, it had the duty of fully eliminating the consequences of the occupation of 1940, including the reparation for damages, became an official document of the Helsinki Summit.<sup>5</sup>

On August 6, 1992, the Russian Minister of Foreign Affairs Andrei Kozyrev posed to the ministers of foreign affairs of the Baltic States in Moscow eleven preconditions for the withdrawal of the Soviet army. Lithuania considered these requirements to be coercive, illegitimate and ungrounded, and therefore, unacceptable.

In August 1992 the parties succeeded in reaching a compromise on most of the clauses of the agreement. The first article was formulated as follows: “the Russian Federation acknowledges its international duties to withdraw the army and will carry out an organised and full evacuation of the armed forces

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<sup>5</sup> OSCE Helsinki Summit 1992, Interpretative Statement of the Delegation of Lithuania, Helsinki, July, 1992.

of the Russian Federation from the territory of the Republic of Lithuania by August 31, 1993 at the latest.” The Russian delegation also agreed with the clause of the agreement that provided compensation to Lithuania for the armaments and assets of the Lithuanian army seized by the USSR in 1940 and compensation for the ecological damages done by the Soviet army after December 24, 1991, when Russia assumed responsibility for the armed forces of the USSR. In the context of the entire agreement, Lithuania was entering into a compromise regarding the final date for the withdrawal of the Russian army – August 31, 1993. It also conceded that the procedure for compensation of the other part of damages inflicted by the USSR would be subject to later negotiations.

The last stage of intense negotiations with the representatives of the Ministry of Foreign Affairs was completed in the Embassy of Lithuania in Moscow in the early morning of September 8, 1992. Seven separate agreements were fully co-ordinated and prepared for signing, including the agreement on the schedule for the withdrawal of the army. However, during the final meeting in Kremlin on the evening of September 8, Russia decided to sign only three documents.<sup>6</sup> All agreements came into effect from the moment of their signing. As had been agreed by the parties, they were later registered in the Secretariat of the United Nations.

Four initial agreements remained unsigned. Russia declared that they could be signed in October. Lithuania conceded to this. However, on September 21, the Foreign Affairs Committee of the Russian Parliament decided to advise the President of Russia to defer the signing of the remaining agreements “until they are duly prepared with regard to the rights and interests of Russia and its citizens on the territory of Lithuania”. On October 8, the Ministry of Foreign Affairs of Russia presented proposals that essentially revised the agreements of September 8.

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<sup>6</sup> The following were signed:

- 1) the schedule for the evacuation of the Russian army with appendixes;
- 2) agreement regarding the organisational – technical issues of the evacuation of the army;
- 3) agreement regarding the functioning of military units prior to their evacuation.

In October, Lithuania and Russia started a dialogue on the new negotiations. Russia demanded revising agreements that had already been reached. Lithuania refused to negotiate them. As a matter of fact, the agreements signed on September 8 were sufficient and they were being implemented. On November 25, the General Assembly of the United Nations adopted the resolution “The Full Evacuation of Foreign Armed Forces from the Territory of the Baltic States”, which was initiated by the Baltic States. The United Nations thereby welcomed “the recent agreements on the full evacuation of the foreign army from Lithuania” and urged the formation of agreements, including schedules, on the withdrawal of the army from Latvia and Estonia. By this resolution, the United Nations *de facto* recognised that the agreements formed in September 1992 between Lithuania and Russia regarding the schedule and the procedure for the withdrawal of the army were sufficient. Therefore, the subsequent attempts by Russia to speculate on the sufficiency of the signed agreements were deprived of any formal basis.

On October 29, President Yeltsin signed a decree for temporary suspension of the withdrawal of the Russian army from Lithuania, Latvia and Estonia. However, on November 5, the president, in a letter to Landsbergis, “clearly and unambiguously” confirmed the Russian intention to withdraw the army from the territory of Lithuania. The Russian president explained that the decision to temporarily suspend the withdrawal of the army was dictated by the internal problems of Russia. He also suggested speeding up the co-ordination of the remaining unsigned agreements on the withdrawal of the army. In a reciprocal letter on November 12, Landsbergis noted that the agreements co-ordinated on September 8 contained “mutually acceptable and balanced solutions”. He also noted that new Russian proposals were “significant enough to essentially influence the whole complex of agreements that had been reached with great difficulty and may even exceed their confines”.

The withdrawal of the Russian army continued intensively during the last quarter of 1992. 78 per cent of the Russian armed forces planned in the signed schedule for withdrawal in 1992 were withdrawn from Lithuania by the end of 1992.

There were no real unresolved issues remaining between Lithuania and Russia in relation to the withdrawal of the army. Therefore, the adjustment

of the clauses of the so-called main agreement, which had been negotiated but unsigned, became irrelevant at the beginning of 1993. However, Russia continued demanding amendments, which would eliminate the reference to the international duty of Russia, to grant the legal status of presence to the withdrawn army prior to its withdrawal, to recognise Russian property rights to the real estate used by the former Soviet army etc.

On April 27, 1993, a new Lithuanian delegation was formed for the negotiations with Russia. Upon Moscow's request, a meeting between the delegations took place in Vilnius at the end of May. However, no agreement was reached regarding the amendments demanded by Russia. Therefore, the political pressure from Russia increased. In mid-July, the Minister of Foreign Affairs of Lithuania Povilas Gylys was invited and visited Moscow. On July

29, President Yeltsin invited the President of Lithuania Algirdas Brazauskas to visit Moscow on August 2. Russia desired that in the course of this visit the so-called main agreement regarding the withdrawal of the Russian army from Lithuania be signed with the amendments requested by Russia. However, it was virtually impossible to organise the proposed visit of the Lithuanian president within just a few days.

On August 20, the Russian Ministry of Foreign Affairs declared once again that Russia had decided to suspend the withdrawal of the Soviet troops from Lithuania. This was the last attempt pressuring the Lithuanian government to change its position. Moscow proposed a new date for the meeting of the presidents of both states in Moscow – August 23, i.e. the date of signing the Molotov-Ribbentrop protocols. The visit of the Lithuanian president did not take place.

On August 31, 1993, the last military echelon of Russia crossed the state border of Lithuania. Russia honourably fulfilled one of the two international duties that devolved upon it with regard to eliminating the consequences of the half-century occupation of Lithuania by the USSR – withdrawal of the occupation army. The second duty – reparations for damages inflicted on Lithuania and its population by the occupation – is still open for further negotiations.