



COM M E N T A R Y
OF THE OMBUDSPERSON FOR CHILD'S RIGHTS
ON THE IMPLEMENTATION OF THE UNITED NATIONS
CONVENTION ON THE RIGHTS OF THE CHILD IN
LITHUANIA
(CRC/C/LTU/5-6)

About the Ombudsperson for Child's Rights

Ombudsperson for Child's Rights is an autonomous and independent state budgetary institution established according to the Constitution of the Republic of Lithuania (Article 73) by the resolution of the Seimas (Parliament) in 2000.

The Office is run by the Ombudsperson for Child's Rights, an independent official of the state, whose powers and activities are regulated by the Law of the Ombudsperson for Child's Rights of the Republic of Lithuania. The Ombudsperson for Child's Rights is appointed by the Parliament, upon recommendation of the Speaker of the Seimas.

The Ombudsperson exercises supervision and control of the implementation and protection of children's rights, investigates the cases of violation of children's rights and seeks to improve the situation of children in Lithuania. In his activities Ombudsperson follows principles of priority of the rights and legitimate interests of the child; participation of a child and listening to a child; freedom, independence, and autonomy of the activities; accountability; legitimacy, justice and impartiality; publicity.

The Ombudsperson for Child's Rights is empowered to investigate the submitted complaints and initiate investigation on his own. The decision adopted by the Ombudsperson after the investigation of child's rights violation is of a recommendatory nature the main purpose of which is to stop or (and) prevent violations of children's rights, eliminate violation of legal acts, the reasons and conditions of these violations, initiate improvement of the protection of children's rights and legitimate interests, etc.

This commentary is prepared considering the recommendations submitted by the United Nations Committee on the Rights of the Child (CRC/C/LTU/CO/3-4) and in the light of the outcomes of investigations carried out by the Ombudsperson for Child's Rights and proposals submitted to the competent authorities aimed to improve the protection and implementation of children's rights; etc. The commentary addresses just a some of the issues relating to the rights and interests of children in Lithuania. The range of issues identified by the Ombudsperson have been omitted due to the requirements for submission.

The Ombudsperson for Child's Rights hopes that following information and recommendations will be useful to the Committee on the Rights of the Child during the examination procedure of the report submitted by the Government of Lithuania and addressing comments on the implementation of the Convention on the Rights of the Child.

Edita Žiobienė

Ombudsperson for Child's Rights
of the Republic of Lithuania

List of abbreviations

CRC	Child Right Convention
Committee	United Nations Committee on the Rights of the Child
The Office	The Office of the Ombudsperson for Child's Rights of the Republic of Lithuania
The Ombudsperson	The Ombudsperson for Child's Rights of the Republic of Lithuania
Child Rights Service	State Child Rights Protection and Adoption Service and its territorial branches
Foster Care	Child's foster care (ages 0-14 years old) / custody (ages 14-18 years old)
Parents	Parents and other legal representatives of the child
MSSL	Ministry of Social Security and Labour
Law on CR	Law on Fundamentals of Protection of the Rights of the Child of the Republic of Lithuania
Law on PR	Law on Patients' Rights and Compensation for Health Damage of the Republic of Lithuania
SEN	Special education needs

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GENERAL MEASURES OF IMPLEMENTATION

Articles 4, 42, 44 (part 6)

LEGISLATION

- (1) During the reporting period, considerable attention was paid to the improvement of the child rights protection system in Lithuania.

In 2017, following the adoption of the new version of the Law on CR, ◦ the reformed (centralized) system¹ of child rights protection institutions began to operate (from July 1st, 2018); ◦ functions of specialists working in separate fields were refined; at the legal level, ◦ algorithms for responding to violations of children's rights, ◦ algorithms for assessing the need for services were set, ◦ corporal punishment, leaving young children unattended and foster care in institutions for children under 3 years of age (except for specified exceptions) were prohibited; ◦ the foster care of children in institutions such as health care facilities (homes for infants with developmental disabilities) was prevented; ◦ on-duty (professional) guardians and Foster Care Centers providing services to them appeared; ◦ new family assistance mechanisms (case management and complex services, a package of minimum services for families, the provision of which must be ensured by each municipality (basic service package), as well as legal institutes (court permission to take a child from legal representatives, temporary care/temporary fostering of a child, etc.) were established ensuring that in practice children are taken from legal guardians only in extreme cases, after exhausting all means to enable the family to take care of the children themselves.

- (2) However, Lithuania does not have a state-level strategy aimed at ensuring children's rights.

The State Policy Concept on Child Welfare² approved by the Seimas included social, health protection, law enforcement and other areas. For its implementation, the Government approved the State Policy Strategy of Child Welfare and the 2005-2012 Plan for its Implementation Measures³, which included measures in the areas of social services, education system, funding of children's leisure, protection of the rights of foreign children who received asylum, collection of statistical information about children and other areas.

Unfortunately, this plan of measures did not acquire a continuous nature, and the plans of measures in individual areas of ensuring the rights of the child were rather fragmented. For example, the Child Welfare Program for 2013-2018, the Child Welfare action plan for 2016-2018, although being significant for the diversity and development of social services, covered only the field of social services and were approved by the order of the MSSL, which is only of a recommendatory nature for municipalities (it is recommended to participate in the implementation of the planned measures)⁴.

- (3) After many years of debate, in 2017 the Seimas adopted amendments to the Law on CR and the Law on Education - they established the prohibition of all forms of violence against children (physical (including physical punishments), psychological, sexual violence, neglect), defined

¹ Amendment of the Law on CR No. I-1234, September 28, 2017, Nr. XIII-643; [https://vaikoteises.lt/protection-of-children/the-lithuanian-child-rights-protection-system/-/](https://vaikoteises.lt/protection-of-children/the-lithuanian-child-rights-protection-system/)

² Resolution No. IX-1569, May 20, 2003.

³ Resolution Nr. 184, February 17, 2005.

⁴ The Minister of Social Security and Labor order no. A1-547, "On Approval of Child Welfare Program for 2013-2018", December 3, 2021; The Minister of Social Security and Labor order No. A1-132 "On the approval of Child Welfare Action Plan for 2013-2018", March 10, 2016.

the concepts of forms of violence, determined the mechanisms of the response to violence against children⁵. It is important to mention that after violent parenting measures were recognized as a violation of children's rights and clear mechanisms for responding to violations of children's rights were established (after the reform of child rights protection institutions, CRPI), in 2018 some groups of society sought to narrow the concepts of violence against children, differentiate violence against children according to the severity of the consequences and the provision of assistance to the family and the child, to link the application of responsibility for violence against children only to the severity of the consequences for the child caused by the violence. There have also been initiatives to recognize the new version of the Law on CR as not valid, as denying the right of parents to choose parenting methods. In 2019 the legislator, having assessed the positions of some groups in society, adjusted the wording of the concepts of forms of violence defined in the Law on CR and introduced new institutes for ensuring children's rights.

- (4) The Law on protection against domestic violence⁶ has been improved several times, but the victims of this violence have not been adequately protected against repeated violence. In practice, not in all cases was the victim protected from direct contact with the abuser when dealing with issues related to children (for example, regarding communication with the child, determining his place of residence). Due to non-constructive cooperation between case managers and specialists of Specialized Help Centers, coordination of actions or lack of them, sometimes there were cases of excessive intervention in the family and duplication of assistance measures, but this problem was solved in the subsequent reporting period.

Insufficient dissemination of information about the provisions of the legal acts regulating the protection of child rights, the operating principles of the reformed CRPI system, new forms and goals of assistance provision to the family and the child among the specialists of the Specialized Assistance Centers caused and still causes antagonism between the specialists providing assistance to children and assistance to their mothers.

- (5) The problems of collecting detailed statistical information about children and publishing them in a timely manner remain relevant. The Committee's recommendation (CRC/C/LTU/CO/3-4) regarding statistical data collection has not been fully implemented.

After repeated calls by the Ombudsperson to update the list of statistical indicators on children, unreasonably long discussions were started, and the list of statistical indicators was updated only in 2023⁷.

However, the collection of data on the ethnicity of children, the collection of data of children between the ages of 16 and 18 who do not study and do not attend school, etc., has not yet been foreseen, arguing the complexity of the data collection process, the irrelevance of the

⁵ Recommendations for the implementation of violence prevention in schools by the Minister of Education and Science, order no. V-190, March 22, 2017 "On the approval of recommendations for the implementation of violence prevention in schools", entered into force on September 1, 2017.

Recommendations for schools regarding the criteria for recognizing domestic violence and actions to be taken in case of suspicion of possible domestic violence, the Minister of Education and Science order no. V-625 August 3, 2017, "On Recommendations for schools regarding the criteria for recognizing domestic violence and actions in the event of a suspicion of possible confirmation of domestic violence".

⁶ Amendments of the Law on protection against domestic violence No. XI-1425, Amendment No. XII-474, July 2, 2013, No. XII-815 April 10, 2014, No. XII-1678 May 7, 2015, No. XII-1717 May 14, 2015, No. XII-2339 May 12, 2016, No. XII-2680 October 12, 2016, Nr. XIII-1295 June 26, 2018.

⁷ The Government of the Republic of Lithuania, Resolution No. 467, June 21, "On the amendment of the Government of the Republic of Lithuania decree No. 695, June 8, "Regarding the list of indicators of statistical information on children".

information, the assignment to the category of special data, the fact that such data are currently not collected and etc.

The volume of statistical data is very important for the timely identification of emerging problems, the assessment of the coverage and availability of services and support for the child and family, but there are reasonable doubts as to whether the intended volume of data to be collected will allow for the assessment and detailed investigation of the situation of all children. For example, it is increasingly important to assess and investigate the situation of children belonging to ethnic groups, the availability and effectiveness of services for ethnic groups, as well as the reasons why children aged 16 to 18 do not study and do not attend school, because they may be associated with greater vulnerability and other risks for this group of children, as well as with negative consequences when the child reaches adulthood (poverty, unemployment, etc.).

- (6) Due to technical obstacles, there is no public access to the SSIS (Social Services Information System) module "Protection of Child Rights", which published albeit fragmentary, but relevant data (e. g. number of children in general, data on foster care, social services, children removed from parental care) compared to the State Data Agency. In the absence of access to SSIS, and when the State Data Agency publishes last year's data in the middle or end of the current year, relevant statistical data on children are not available.

Recommendation



To strengthen cooperation with Specialized Assistance Centers that provide assistance to persons who have experienced domestic violence, focus on more than just financing but also to increase the awareness of the specialists of these Centers about the legal regulation of the protection of children's rights, the operating principles of the reorganized CRPI system, new forms and goals of providing assistance to the family and the child, teamwork and the advantages and significance of complex assistance.

To consider the expediency of preparing a comprehensive state-level long-term strategy for ensuring and implementing children's rights.

Expand the scope of the collection of statistical data on children, ensuring the availability and sufficiency of these data, which are significant for a detailed and comprehensive analysis of the situation of children, make it possible to identify problems in a timely manner and provide appropriate measures to solve them.

INDEPENDENT HUMAN RIGHTS INSTITUTIONS

- (7) The Committee's recommendation "to strengthen the Office of the Ombudsman for Children, including by providing sufficient human and financial resources to the Office to enable it to effectively carry out its mandate and monitor the fulfilment of children's rights under the Convention" remains unimplemented.

Although the funding allocated to the Office increases by almost 10% every year on average, this increase in funding is not associated (allocated) with the development of the Office's activities, but with the compensation of the increased maintenance costs of the institution (compensation of the increase in inflation-related goods and services, the increase in utilities service costs, the increase in the basic salary).

Although about 85% of allocations are allocated to the salary fund, there are no positive changes in the development of human resources due to the already mentioned lack of allocated allocations. In 2008, the Seimas Board⁸ approved 23 positions (excluding the Ombudsperson) starting from 1 January, 2009. Despite this fact, only 16 positions (including the Ombudsperson) are filled due to the lack of financial resources (in comparison, 22.5 positions filled in 2013 and 16.5 in 2018).

When planning the budget, the Office, unlike Governmental institutions, does not have real opportunities to participate in negotiations with the Government regarding the allocations, and the presented real need for funding is not taken into account.

IMPLEMENTATION OF THE RIGHTS OF THE CHILD ACCORDING TO THE ARTICLES OF THE CONVENTION ON THE RIGHTS OF THE CHILD:

AN OVERVIEW

GENERAL PRINCIPLES

THE BEST INTERESTS OF THE CHILD

Article 3

(8) The concept of the best interests of the child is enshrined in the Law on CR. Amendments to other laws and by-laws have also been made, obliging every person to assess the best interests of the child when making decisions, related to children.

However, the Ombudsperson, while monitoring the assurance of the protection of children's rights, conducting investigations and examining the complaints, notices and draws attention to the fact that this principle has not become a rule of procedure in practice and it is often followed only formally when making administrative decisions, related to children.

There is a lack of procedural guarantees for the assessment of the best interests of the child, the decisions adopted do not indicate justification and explanation of how the decision ensures a specific right of the child, what criteria were used and how the child's best interests were assessed. This problem has become particularly relevant when illegal migration flows and the implementation of the reverse migration policy intensified.⁹

Recommendation



Formalize processes and procedures for assessing the best interests of the child.

RESPECT FOR THE CHILD'S VIEWS, THE CHILD'S OPINION AND PARTICIPATION IN DECISION MAKING ON MATTERS RELATED TO HIM / HER

⁸ The Board of the Seimas of the Republic of Lithuania, November 12, 2008, Decision No. 2473 „Amendment on the Board of the Seimas Decision No. 233, April 22, 2005“

⁹ Investigation conducted by the Ombudsperson regarding a possible violation of the rights and interests of children, who were not admitted to the territory of the Republic of Lithuania on June 11, 2021, and January 12, 2021 (January 13, 2022, Decision No. (6.7.-2021-51/53)PR-3).

Article 12

(9) The child's right to be heard, to be listened and to participate in the decision-making processes on the issues affecting him is regulated in the Civil Code, the Law on Education, the Code of Criminal Procedure, etc.

Although the situation is improving, various challenges are still encountered in practice – the implementation of this child's right is sometimes approached formally, the necessary attention is not always paid to its content and proper implementation. For example, situations involving children with problematic behavior and children in contact with the justice system require change. In practice, a negative attitude towards these children still prevails, the necessary attention is not paid to clarifying their opinion about the circumstances and reasons that influenced their behavior, conversations with children are in some cases formal, with an undertone of prejudice, attention is not always paid to establishing contact, despite children often having traumatic, negative experiences in relationships with adults (family members, representatives of various institutions).

(10) The investigations carried out by the Ombudsperson reveal that there are still cases when decisions relevant to the school community are made without consulting its members, without looking for opportunities and the most child-friendly ways to listen to the opinion and suggestions of individual groups of children; not ensuring sufficient communication with interest groups and children's participation in the decision-making process related to their well-being. This practice is especially common when municipal councils make decisions on the liquidation or reorganization of non-formal educational institutions of the municipality.

(11) The practice of the Office shows that when specialists of the Child Rights Service examine a case related to a possible violation of the child's rights and ensure listening to the child's opinion, this procedure is not always of high quality, and the child's opinion (submitted data) not every time is given the necessary (weighty) attention.

In addition to the above, there are cases when parents do not create conditions for the Child Rights Service specialists to listen to the child's opinion, but the latter do not always take additional measures to implement this (for example, involving a psychologist in the decision making process of the case).

Recommendation



To ensure continuous improvement of competences of Child Rights Service employees and other specialists (healthcare, education, social, justice, etc.) in the field of communication with children.

Take measures for the mandatory involvement of members of the school community, especially children, in decision-making process on all relevant issues related to organizing formal and informal education.

Encourage and support public awareness and other initiatives that ensure the opportunity for children to express their opinion and effectively participate in discussions on all relevant issues of public life.

VIOLENCE AGAINST CHILDREN

PROTECTION AGAINST EXPLOITATION, NEGLECT OR MALTREATMENT

Article 19

(12) In Lithuania, it is still necessary to strengthen the implementation of measures aimed at preventing violence and bullying.

The prevalence of bullying among Lithuanian schoolchildren is one of the highest in Europe, and this indicator has remained stably high for more than a decade.

An international HBSC study¹⁰ conducted in 2018 revealed that 28% students are bullied at school (41% in 1994); fairly frequent cases of physical violence among students (9% of students participated in fights). The fact that the level of bullying remains too high, and that active measures are in need to solve this situation, is also recognized in national documents – the National Agenda on Drug, Tobacco and Alcohol Use Prevention and Harm Reduction until 2035¹¹.

(13) It is important to observe an improving trend. This was influenced by changes in legislation. On September 1, 2017 the amendments to the Law on Education entered into force, and by-laws were also adopted, which: ◦ consolidated the concepts of violence; ◦ defined the system of school, municipal and national level prevention and intervention measures for creating an environment safe from violence and bullying in schools; ◦ provided for the improvement of qualification of teachers in the field of the development of social-emotional competences of students; ◦ established the obligation to ensure students' participation in the preventive program, etc.

(14) On the other hand, there are practical problems on implementing the child's right to a safe educational environment.

For example, the Office's practice shows that, despite the requirements set out in the above-mentioned legal acts, ◦ not all educational institutions have detailed procedures for investigating reports of violence or bullying and response actions; ◦ schools do not comply with the obligation to record all cases of violence and bullying; ◦ a known case of violence against a child is not always reported to the competent authorities - the police, the Child Rights Service; ◦ insufficient competence of teachers in recognizing a child experiencing violence or bullying, as well as in developing students' social-emotional competences, thus ensuring effective prevention of violence and bullying. In addition to the above, children do not always trust school personnel when reporting cases of violence and bullying – there are known cases when a school primarily finds out about a case of violence that occurred in the institution from media, after the latter publicized scenes of violence filmed by children.

(15) Psychological violence by teachers against children (including children with SEN) is still encountered. The Code of Ethics¹² for Educators stipulates that the teacher must follow the principle of recognition of human rights in his activities, but this principle is not always followed.

¹⁰ <http://hbsc.lt/wp-content/uploads/2020/04/2018reportLT.pdf>

¹¹ Approved by the Seimas of the Republic of Lithuania on May 23, 2023, by Resolution No. XIV-1982.

¹² Approved by the Minister of Education and Science of the Republic of Lithuania in June 11, 2018 by Order No. V-561

School administrations, responding to children's rights being violated by teachers, usually impose only minimal disciplinary sanctions on them, avoiding treating teachers' violent actions as a gross violation of work discipline and children's rights.

Recommendation



Increased attention to raising the qualifications of teachers and to increasing public understanding of the importance of a child's emotional life and its influence on his daily functioning is in need. Prevention of violence and bullying should continue to remain one of the prioritized areas for the comprehensive well-being of the child.

SEXUAL EXPLOITATION AND SEXUAL ABUSE

Articles 8, 9 (part 3)

(16) The Law on CR in 2015 was supplemented by a prohibition on persons found guilty of sexual offenses, regardless of whether the conviction has been expired, to work or engage in activities related to children. In 2017 the range of persons subject to the prohibitions on working with children has been extended to include persons convicted of premeditated serious or grave crimes against children¹³.

In 2019, the provisions of the Law on CR were improved once again by establishing prohibition to work or engage in voluntary activities in institutions, companies and organizations, providing children's rights protection, children's social, educational and sports, health care services. The Government or its authorized institution approves a list of other jobs, activities or services that listed persons do not have the right to work, perform or provide due to direct and regular contact with children.

(17) Since the adoption of the Law on CR, the provisions of it have not been properly implemented for various reasons: ◦ the prohibition is not widely known to the persons who have to apply it (employers, service providers and recipients) and to the society itself; ◦ awareness raising and informative activities are not carried out; ◦ the provisions on working with children are interpreted in various ways; ◦ consistent supervision and control of the implementation of provisions is not carried out, and one of the reasons of this situation is that there are no specified institutions to perform this function; ◦ discussions on the implementation of the ban and, accordingly, the protection of children from sexual violence arise in response to resonant situations, but real, effective changes are not observed. The conditions for ensuring the safety of children would be better if, in practice, the institute of suspension from duties or temporary suspension of the right to engage in certain activities was used more often during the investigation of a criminal act. It should be mentioned that discussions on the possibility of amending and implementing the Law on CR are currently ongoing.

¹³ Prohibitions on working with children apply to persons who have been found guilty by the judgment of conviction for crimes against freedom of a person's sexual self-determination and inviolability, exploitation of a child for pornography, profiting from the prostitution of a child, involvement of a child in prostitution or possession of pornographic material displaying a child or presenting a person as a child, purchase or sale of a child, as well as other premeditated serious or grave crime or similar acts provided in the criminal laws of other states, regardless of whether the conviction has expired or has been expunged.

- (18) When assessing the situation of protection of children from sexual violence, it is important to mention that there are no implemented provisions¹⁴ on preventive intervention programs or measures that could be used by persons who fear that they may commit a sexual crime against a child, or have committed it yet, etc.
- (19) A complex situation regarding the provisions on the education of children on the questions of sexual exploitation and sexual abuse. Starting from the 2023 academic year, the Program of Life Skills (social, emotional, health, sexuality, family preparation, education and human safety) had to be implemented in certain classes. In the stage of preparation of this program, the Office expressed doubts about the planned (program) changes, noting that this will not create conditions for effectively solving long-standing problems of sexuality education, ensuring high-quality, consistent, comprehensive sexuality education, etc. However, the provisions of this program on the subject of sexuality education have caused extremely negative reactions at various levels, including among parents who initiated various measures to stop children's education on this issue, leaving children's education on this subject to the competence of parents (family).
- (20) While observing positive changes regarding strengthening of the protection of the rights of children who have been victims of sexual crimes in the criminal proceedings, one of the remaining problems is the provision of assistance and support to the child victim and his/her relatives. In Vilnius (the capital of Lithuania) there has been opened a Support Center for children who have become victims of sexual abuse since 2016 (established under the Barnahus ("children's house") model), which should provide all the necessary services for the child and his/her relatives, as well as to implement examination and questioning of the child. Centers of this type are considered to be an example of good practice, but, regardless of this, they are not further developed in the country. Considering the geographic location of the Center and the situation as well as vulnerability of the child who may have experienced sexual violence, not all children purposefully are provided with the services of this Center; the services provided are short-term. The issues of ensuring assistance and support (especially long-term) for the child and his / her relatives, as well as quality, timeliness and flexibility of proper help and support were and remain extremely relevant. Both legislative and implementation measures are necessary to ensure implementation of the obligations undertaken by the state regarding assistance to child victims.

Recommendation



Ensure consistent, continuous, and coordinated prevention of violence against children at various levels (state, municipal, institutional), to inform children by strengthening their abilities and skills to recognize and respond to violence.

Implement the measures to strengthen the protection of children from sexual violence, including effective intervention programs or measures which could be used by individuals in order to assess the risk of possible criminal behavior, to prevent it and to reduce the risk of recurrence of such behavior; develop a model

¹⁴ The Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse; Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA

of help centers for child- victims of sexual violence, to ensure the provision of short-term and long-term assistance.

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

PRESERVATION OF IDENTITY

CHILD RIGHT TO HAVE CONTACT WITH PARENTS LIVING SEPARATEL

Articles 8, 9 (part 3)

(21) In the foster care and adoption processes, when choosing a guardian or adoptive parents for a child, the child's ethnicity, religion, language, and other aspects related to the preservation of the child's identity are not evaluated (due to the lack of guardians and adoptive parents). This is especially relevant in cases of appointment of on-call guardians.

There are cases when the competent authorities do not assess whether a child placed in care or adopted will be able to continue education in the native language (if education in the native language has been started), continue belonging to a certain religious denomination and confess his faith. The implementation of this right is also not assessed in the foster care process.

(22) In the process of foster care supervision, specialists visiting the child do not evaluate or do it passingly how the guardian ensures the right of the fostered child to communicate directly with parents and other close relatives, including brothers and sisters. It is usually limited to the guardian's assurance that communication is taking place, although it is not explained in what way and/or how often, the child's opinion on this issue is not heard.¹⁵

(23) Insufficient attention is still paid to the restoration of family ties in cases where a child is legally taken from the family and placed under care.

There are cases when the authorities do not agree to ensure visits of the parents (one of the parents) with the children, even in cases where the court declares that such a situation is intolerable, because there is a risk that the relationship between the parent and the children may not be restored, which would threaten the full development of the children, for their psychological and emotional condition in the long term, and a long-term ban on communicating with children is a disproportionate measure¹⁶.

The analysis of the conducted research allows to state that the passivity of the institutions without implementing measures to restore the relationship between children and parents, uncoordinated and inconsistent actions of the institutions do not ensure the proper implementation of the functions of the institutions, in order to achieve the goal of temporary care - to return children to the family - and tasks. In frequent cases, the lack of contact between children and their parents assessed by the Child Right Service becomes a key factor in not returning children to their families.

¹⁵ Case review on the most frequent inaction and/or improper performance of official duties by the Child Rights Service; conducted by the Ombudsperson during the period 2020, January 22, 2021 decision No. (6.7.-2020-51)PR-5.

¹⁶ Case review on the most frequent inaction and/or improper performance of official duties by the Child Rights Service; conducted by the Child Rights Ombudsperson during the period 2022, March 17, 2023, Decision No. (6.7.-2023-11)PR-74.

(24) The Guidelines on Alternative Care of children¹⁷ note that regular and appropriate contact between the child and his/her family specifically for the purpose of reintegration should be developed, supported and monitored by the competent body (Guideline 51); once decided, the reintegration of the child in his/her family should be designed as a gradual and supervised process, accompanied by follow-up and support measures that take account of the child's age, needs and evolving capacities, as well as the cause of the separation (Guideline 52); when a child is placed in alternative care, contact with his/her family <...> should be encouraged and facilitated, in keeping with the child's protection and best interests; the child should have access to information on the situation of his/her family members in the absence of contact with them (Guideline 81).

When children are placed in care and family environment is sought, it is not uncommon for children to be separated (placed with different guardians on-duty, guardians), motivating by the interest of children up to the age of 3 to grow up in a family (other children are left in an institution), different needs of children, unformed emotional connection between children, etc.

Recommendation



To foresee and implement measures aimed at preserving the identity of a child who has lost parental care.

STATE RESPONSIBILITY AND JOINT PARENTAL RESPONSIBILITY

Article 18

(25) After Lithuania started the deinstitutionalization process¹⁸, attention was focused on the creation and development of a system of complex services for the family, in order to ensure individualization of services, their availability in the community, family care and adoption promotion of children who cannot return to their biological family.

(26) The implemented measures allowed a significant reduction in the number of children without parental care and children in institutional care, but due to the insufficient development of community services and the spectrum of social services, coordination and cooperation problems, the quality, efficiency and individualization of services that meet the individual needs of the child and family remain relevant, the service infrastructure is developed differently (in some - insufficiently) in the regions.

(27) Problems of the consistency of municipal social service planning and the real needs of the residents remain relevant.

When planning social services, municipalities should evaluate and analyse the social service needs of the residents and accordingly forecast and determine the extent and types of social

¹⁷ United Nations General Assembly resolution 64/142, Guidelines for the alternative care of children, February 24, 2010; A/64/434.

¹⁸ Strategic Guidelines for Deinstitutionalization of social care homes for children who have disabilities, children without parental care, and adults with disabilities, adopted by Minister of Social Security and Labor of Lithuania, November 16, 2012 decree No. A1-517; Action Plan for Transition from institutional care to family and community-based care for persons with disabilities and children without parental care over 2014-2020, Minister of Social Security and Labour of Lithuania, February 14, order No. A1-83; https://socmin.lrv.lt/uploads/socmin/documents/files/pdf/9950_a1-83order.pdf.

service provision, assess and determine the need for financing social services. When examining individual cases (complaints) and conducting monitoring, the Ombudsperson notices that often the spectrum and extent of the planned services are determined not by the real needs of the residents, but by the availability of services in the municipalities. Due to the insufficiently developed infrastructure of social services, problems arise in the assessment (individualization) of the need for social services. There are cases where the assessed need for social services is not determined by the real needs of the child (family), but by the services available in the municipality.

The quality of social services is relevant issue, which causes problems with the effectiveness of services, the protection of children's rights, and the effective use of financial resources. There is a lack of real mechanisms for evaluating the effectiveness of social services.

- (28) In the context of the development of social services and complexly provided services, the problems of complexly provided services (according to MSSL documents) and the complexity of services (coordinated provision) are important.

According to documents of MSSL, positive parenting training, psychosocial support, family skills development and socio-cultural, mediation, childcare services and transportation services for persons participating in the specified activities are considered complex services and are financed. These services and their development are important, but in order to achieve effective and efficient help for the child and family, these services alone are not enough. It is very important that the services required for a specific child are compatible with education, health care and other needs of the child and his family (the problem is particularly relevant for children with disabilities).

- (29) The issue of the availability and quality of support measures (due to the nature of service provision) was especially relevant during the period of the COVID-19 pandemic and the quarantine caused by it. Greater attention was required to guarantee the protection of children's rights by applying isolation measures to children, housing them in premises determined by municipal administrations during quarantine.

- (30) The monitoring carried out by the Ombudsperson shows that the activities of the Child Rights Service, regardless of the functions established by the Law on CR, may become focused only on responding to reports of a possible violation of the child's rights in the family and cases of violence, ignoring the duty to take action to protect and ensure all the rights of the child in all areas of his life.

The analysis of the Ombudsperson's research allows us to affirm that the employees of the Child Rights Service do not always properly assess and understand their role in the process of case management and provision of assistance to the child and family.

The information collected by them about the child and his / her family, the analysis and evaluation of this information in time, as well as the professional competence of the employees, their experience are extremely important in the individualization of services and assistance, and this factor is significant for the results of social work with the family. The participation of the Child Rights Service specialists in the family case management process cannot be understood only as a passive observation of the decisions and their respective actions of the manager coordinating the management process and other specialists participating in the meetings organized by them.

Recommendation



Aim for greater inclusion of municipalities in the development of the service network, ensuring the availability of the necessary services for the child and family closest to their place of residence, individualization of services, quality and efficiency.

CHILDREN DEPRIVED OF FAMILY ENVIRONMENT

Article 20

(31) For several decades, Lithuania has carried out child foster care reforms of various extent and contents, created and implemented strategies and action plans at various levels¹⁹.

In the first stages, attention was focused on improving the infrastructure of care institutions and the living conditions of children (reducing the number of places in children's care homes, reorganizing the premises of care homes to create an environment close to the family environment, establishing and constantly reviewing requirements for the professional composition of specialists working with children and qualifications, etc.).

Social work with families has started and is constantly being improved, but due to insufficient development of social and other services needed by the family²⁰, uncoordinated provision of services, lack of cooperation and coordination of child rights protection institutions and other specialists and institutions providing services and assistance to the family, for many years there has been no significant decrease in the number of children, the number of parents who have lost custody repeatedly, the reasons for establishing foster care did not change, a very large proportion of children who have lost parental care were accommodated in institutions.

(32) After Lithuania began the process of deinstitutionalization²¹, reformed the system of institutions for the protection of children's rights and refined the functions of specialists in separate fields, established algorithms for responding to violations of children's rights, assessment of the need for services at the level of laws, established the ban on institutional care for children under 3 years of age (except for specified exceptions), it was prevented foster care in institutions of health care facilities (homes for infants with developmental disabilities), on-call (professional) guardians and Foster Care Centers providing services to them appeared;

¹⁹“Network optimization plan for child foster care facilities” approved by the Minister of Social Security and Labour order of October 11, 2007, decree No. A1-282. It sets the goal of reducing the number of places for children in care institutions to 60 from 2010.

The Government of the Republic of Lithuania approved “The Strategy for the reorganization of the foster care system and the 2007-2012 plan of measures for the implementation of this strategy” (October 31, 2007 decree No. 1193), the purpose of which is to promote alternative forms of foster care, to reduce the number of children taken from families and placed in the institutional care system.

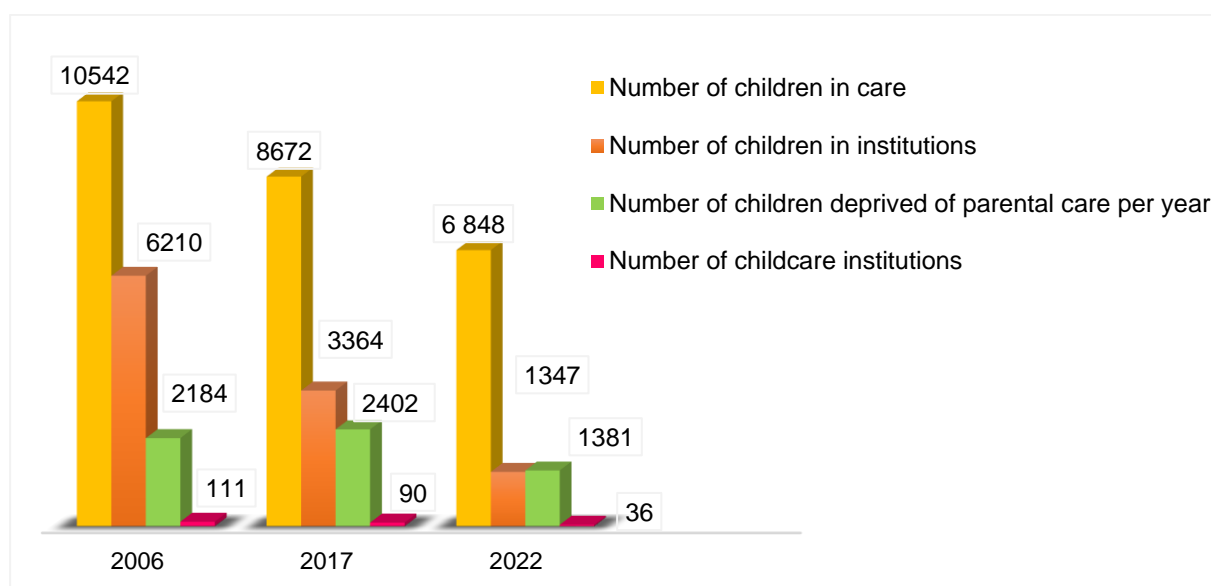
²⁰ Investigation (decision) carried out by the Ombudsperson „Regarding the issues of organization and provision of social services to families experiencing social risks and their impact on ensuring the protection of children's rights“, September 11, 2012;

<http://vtaki.lt/lt/teisine-informacija/vaiko-teisiu-padeties-vertinimas/atlikti-tyrimai-ir-apibendrinimai>.

²¹ Strategic Guidelines for Deinstitutionalization of social care homes for children who have disabilities, children without parental care, and adults with disabilities, adopted by Minister of Social Security and Labour of Lithuania, November 16, 2012 decree No. A1-517; Action Plan for Transition from institutional care to family and community-based care for persons with disabilities and children without parental care for 2014-2020, Minister of Social Security and Labour of Lithuania, February 14, decree No. A1-83; https://socmin.lrv.lt/uploads/socmin/documents/files/pdf/9950_a1-83order.pdf.

new family assistance mechanisms, a package of minimum services for families, the provision of which must be ensured by each municipality (basic service package), as well as legal institutes (for example, court permission to take a child from legal representatives, case management, temporary fostering of a child, etc.) were established, ensuring that, in practice, children are taken from the representatives in accordance with the law only in extreme cases, after exhausting all means to enable the family to take care of the child(ren) themselves.

- (33) After the implementation of the measures of the specified stage, the number of children without parental care, children cared for in institutions and care institutions decreased significantly. A special breakthrough has been achieved in the field of care for children under 3 years of age.



Out of the total number of foster care established in 2022, 20 percent of children who have lost parental care, foster care was established in institutions; 71 percent – in families; 1 percent – in family type household; 8 percent – in Foster Care Centers (children are referred to the care of guardians on-duty).

- (3) There remain pressing issues related to the selection and assessment of individuals who wish to become a child's guardian; selection of the guardian who can best meet the child's needs; assessment of foster care and proper performance of the guardian's duties, which constitute prerequisites for violations of the child's rights.

When implementing the goal of preparing as many persons (families) as possible who are willing and able to care for or adopt a child, it is necessary to focus not only on quantitative but also on qualitative indicators. Otherwise, the number of unsuccessful foster care or adoption cases may increase and this extremely vulnerable group of children – children who have lost parental care – may experience negative consequences.

There are still cases where not the guardian who is most able to provide for the needs of the children is chosen for the children, but the person who expressed his desire to care for the children is chosen for the children he wants to care for.

- (35) It is important that most of children in foster care are related to their guardians by family ties, but fostering a child in a family that is not related to the child by family ties does not gain

popularity. It can be assumed that such a situation and the development of family care are hindered by the different financing practices compared to on-call guardians and the fact that, when popularizing alternative forms of child care, the main focus is not on child care, but on custody (on-call guardians) in the family.

(36) MSSL, recognizing that alternative forms of child custody have not been developed, that the following groups of children in low likelihood can experience permanent family care: ◦ a group of brothers and sisters (3+), children from 10 years old; ◦ teenage father (mother) of together with the child; ◦ children with unsuccessful caregiving experiences (suspension of the guardian, dismissal); ◦ children with unsuccessful adoption experiences (restriction of parental authority over adoptive parents); ◦ children with severe curable and incurable developmental and (or) mental disorders, various disabilities; ◦ children suffering from psychotropic diseases or having addictions; ◦ children suffering from functional difficulties (maladaptive behavior, social exclusion, difficulty adapting to school, absenteeism, suicidal tendency, etc.), had presented the initiative to establish a new form of child care environment at the level of the law – permanent guardians.

(37) After assessing this MSSL initiative, the Ombudsperson expressed doubts about the compliance of the proposed regulation with the set goals and expected changes²².

Attention was drawn to the fact that the permanent guardian will be a person providing care services, who will be able to terminate the service contract with the child's guardian - the Foster Care Center at any time. Therefore, there remains a very high probability that the principle of the permanence of the child's place of care²³ will not be maintained, the persons looking after the child will change, which will have a negative impact on the child who has already had an unsuccessful experience of care or adoption (dismissal or suspension of the guardian from his/her duties, restriction of the parental authority of adoptive parents), will not create prerequisites to create a relationship of trust with the guardian (supervising person). It is also important that the change of the child's place of care and the person supervising will not be reflected in the statistical indicators, as the guardian will remain the same (Foster Care Center).

(38) Examples are observed in practice when care institutions cannot ensure the provision of individualized services for a child, especially for a child with a disability, and the lack of the latter is tried to be justified by the lack of services, help and/or specialists. The "travel" of children from one municipal children's social care institution to another, the constant change of guardians can be exclusively related to the lack of services for a child with a disability (especially a mental disability), as well as the unwillingness or inability of competent institutions to effectively deal with emerging situations, non-cooperation, etc.

Recommendation



Constantly review the achieved results in the areas of alternative foster care development, children's incoming into the care system and, if necessary, change implemented measures and constantly set new goals.

²² The Office letter of November 9, No. (1.19.-2022-504)2-817, etc.

²³ Enshrined in the Law on CR, article 4, particle 18: when choosing the place of care of the child, the aim must be to ensure that it is the only place of care of the child, which is as close as possible to the child's place of residence and can be changed only if it is in the best interests of the child.

When implementing systemic solutions and measures, involve specialists from various fields, consolidate the resources and efforts of the law-making and executive authorities, municipal institutions, communities, and non-governmental organizations.

Focus on supporting the family to avoid child removal from the family.

Constantly assess and improve the established (developing) practice, eliminating the causes of violations of children's rights.

PERIODIC REVIEW OF PLACEMENT

Article 25

(39) The constant assessment of the situation of the child under care (care supervision process), which is carried out by the Child Rights Service, requires greater attention.

Monitoring and research results show that there are still cases where the performance of guardian duties (including Foster Care Centers and on-call guardians) is formally assessed. Especially formal performance of this function is observed in cases where children have behavioral problems or special needs. A detailed assessment of ensuring the child's needs is not carried out (what services the child needs, whether the child receives them, etc.).

(40) In the foster care supervision and review process, the guardian's duty to ensure the child's financial interests, not to prevent the fostered child from communicating with his / her parents, and to enable the child to communicate with his / her relatives and other relatives and persons with whom the child has emotional ties is not or is not properly assessed. Even in the presence of reports and confirmed facts regarding improper performance of this guardian's duty, it is considered that the guardian is performing his / her duties properly.

(41) The supervision is usually limited to the guardian's assurance that communication is taking place, although it is not explained in what way, how often, the child is not heard in this matter.

There are cases where, for example, a 4-5-year-old child is considered too young to express an opinion and is not listened to during care supervision (visits) (whether communicates with close relatives, or violent parenting measures are not applied, etc.).

(42) Cases are identified when the guardian (natural or legal person) is not interested in maintaining or strengthening the relationship between the parents and the child taken from them, actively seeking maximum, high-quality communication between the child and the parents, helping to solve emerging problems, etc. For example, in one of the examined cases, it turned out that the care institution had determined that the children accommodated in this institution can communicate with their parents once a week for one hour.

Recommendation



Create and ensure transparent and objective mechanisms for assessing the situation of a child under care.

DISABILITY, BASIC HEALTH, AND WELFARE

CHILDREN WITH DISABILITY

Article 23

(43) Lithuania has chosen the model of inclusive education. Legal acts provide for the right of a child with special needs to be educated in any educational institution, the obligation of state institutions to adapt the environment to him and provide comprehensive assistance. However, some provisions of the Law on Education were incompatible with the international obligations of the state, as they made it possible to segregate students due to their disabilities or SEN, i. e., the school, if agreed with the child's parents, the pedagogical psychological service and the Child Rights Service, could offer the student to study in another school, if it could not provide psychological, special pedagogical, special or social pedagogical assistance. Such provisions of the Law on Education allowed students to be directed to other schools but did not oblige to remove obstacles and create suitable conditions for children with various educational needs to learn together with their peers.

In 2020, the Law on Education was amended, establishing the principle of inclusion, which means that the education system must provide conditions for every person to learn, develop their powers and abilities, and receive the necessary help.

In September 2024, an amendment²⁴ to the Law on Education will enter into force, which stipulates that every child must be given the conditions to be educated in the nearest educational institution (kindergarten, school) together with his peers.

Lithuanian Center for Inclusion in Education began to operate, as well as regional consultation centers were established in 2023; state-wide measures were foreseen for increasing the number of educational support specialists (improving working conditions, scholarships for those choosing to study, financing the acquisition of competences in other specializations), measures for shifting public attitudes.

(44) Unfavourable attitudes towards children with special needs are still encountered, society lacks tolerance towards "different" children. In practice, there is a stigmatizing attitude, the desire to "get rid" of care and education of an inconvenient child.

Another aspect related to this is that parents also tend to hide difficulties, the need for help, are afraid of negative attitudes, so they do not turn to specialized institutions for the determination of difficulties and the need for help, or, after receiving the findings, do not notify educational institutions and thus prevent children from receiving services according to their needs.

(45) Although there is rapid progress in the direction of inclusion, schools face difficulties: ◦ the school environment is not or only partially adapted to children with different educational needs; ◦ there is a lack of methodological teaching tools; ◦ there is a great shortage of educational support specialists, teacher assistants, their turnover is big; ◦ teachers of general education schools do not have sufficient competences to educate students with SEN, but proactively do

²⁴ Amendment of the articles 5, 14, 21, 29, 30, 34 and 36 and the addition of Article 45-1 of the Law on Education of the Republic of Lithuania No. I-1489;
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/a396c630c07711eaae0db016672cba9c>

not actively seek the necessary educational methodological and consulting help from specialized schools – centers.

- (46) Municipalities, which are usually responsible for the quality of education, do not actively delve into the problems caused by low-quality education, do not look for solutions to improve the situation, the allocate insufficient resources for the provision of educational assistance, and the allocation of funding to schools is delayed.

Recommendation



Implement measures that increase the availability and effectiveness of inclusion in education, creating comprehensive conditions for the assessment of students' educational needs and quality education, ensuring timely financing and provision of the necessary educational assistance, adaptation of the environment, increasing the competences of pedagogical and other personnel.

To increase the awareness of the whole society about the diversity of students with SEN.

CHILD'S RIGHT TO HEALTH CARE

Article 24

- (47) Back in 1996, with the adoption of the Law on PR, the right of a child patient to decide on health care services was established. After the last changes in 2009, the law establishes²⁵ that: (1) health care services are provided to patients over the age of 16 only with their consent; (2) health care is provided to a patient under the age of 16 only with the consent of his/her representatives (in cases of disagreement - diagnostic and treatment methods are chosen by the council of doctors, taking into account the interests of the child); (3) a patient under the age of 16 who, in the doctor's reasonable opinion (expressed in medical documents), can correctly assess his health condition, has the right to independently apply and decide on the provision of health care services he needs; (4) his representatives have the right to get acquainted with the medical documents of a minor patient under the age of 16. The provisions of the Civil Code²⁶ also establish a conditional age limit of 16 years, from which a minor can enter into a contract for personal health care services on his own behalf, as well as exceptions when even a younger person can express an opinion on his treatment, if he / she can correctly assess his health condition and the proposed treatment according to his/her age and development.

- (48) After the start of vaccination of children during the COVID-19 pandemic, it became obvious that the provisions of the Law on PR are not only not known to the public (as well as to parents and children), but also are not and cannot be properly implemented in practice.

Discussions in the political, public space and other contexts revealed the attitude of adults towards the child as a subject of rights (the child's right to decide on vaccination and other health care services was contested, there were initiatives to raise the established age limit of 16 up to 18, etc.). Cases have become known from the media, when parents and other family

²⁵ Law on PR also regulates how health care services must be provided to the child in exceptional cases provided for by laws.

²⁶ The provisions of the Civil Code, which regulate the provisions of personal health care services, do not apply to personal health care services, the costs of which are paid (reimbursed) from the budget of the compulsory health insurance fund, state or municipal budgets (Article 6.275, Paragraph 3).

members learned (could have learned) about the child's self-made decision to get vaccinated not from the child himself, but from the Electronic Health Services System (eHealth Digital Services), although children – patients of this age are guaranteed the right to confidentiality and privacy. As a result of the debates, the Law on PR was supplemented with the provisions on the expression of consent to vaccination against a contagious disease that caused a pandemic, due to which a state-level emergency and/or quarantine was declared.

- (49) However, in the Ombudsperson's²⁷ opinion, this did not solve the problems that emerged during the pandemic, which were and are relevant outside of the pandemic, for example, ◦ the provisions of the Law on PR (and Civil Code), which are valid for more than a decade, regarding the legal status of child patients, the rights, duties and responsibilities of children and parents and their change due to child's age and maturity, bearing in mind the diversity of health care services and situations, are not (well) known and understood by parents and children themselves as well as by the society, health care and other specialists involved in solving issues related to children; ◦ high - quality participation of children, especially children under 16 years of age, is not ensured in the decision-making process; ◦ there is no or there is a lack of information for children, prepared in clear and understandable language, taking into account their age and maturity, cultural, health, educational needs and other aspects; ◦ children do not have (have extremely limited) opportunities to receive (personal) specialist consultations, answers to their sensitive, relevant questions; ◦ legal provisions, regarding the right of a child as an independent patient to the protection of private life and medical documents, are not properly ensured; ◦ in practice it is doubtful that a child under 16 years old could independently apply to a health care institution (specialists) in order to have his / her maturity assessed so that he / she would be able to make independent decisions about health care services; ◦ there is a lack of cooperation between institutions (specialists), especially in resolving conflict cases the *ad hoc* institute²⁸ is not used and etc.

Due to all the above mentioned, adequate, stable protection and implementation of the child's rights and interests cannot be ensured in practice.

- (50) In the Ombudsperson's practice, not only the aforementioned problems of the practical implementation of the provisions of the Law on PR, regarding the restriction of the legal access of the child's representatives to the medical documents of the patient from the age of 16 and the problem of children's awareness (among other aspects) related to the Electronic Health Service System, but also another issue of health data processing in the Electronic Health Service System occur – the newborn's health data is not stored in one account.

For example, in one case it became known that a newborn's account was created in the mother's name after the child's birth; child's father did not have access to the "newborn's account"; after registering the child, all data (about the health care services provided) was not transferred from the "newborn's account" to the account created in child's name (the merging of accounts is not of high quality); doctors stated that they have no access to the "newborn account" or cannot follow the data in it, because they are not sure whether the data in both

²⁷ Opinion of the Ombudsperson for Child's Rights of the Republic of Lithuania, regarding vaccination of children against the COVID-19 disease (coronavirus infection) October 13, 2021 official document No. (6.5-2021-43)2-768; <http://vtaki.lt/lt/teisine-informacija/vaiko-teisiu-padeties-vertinimas/atlikti-tyrimai-ir-apibendrinimai>

²⁸ Article 3.163 of the Civil Code establishes that, if a conflict of interests arises between the child and his parents (guardian, carer) or a conflict of mutual interests between the child's parents, the court ex officio or any of the child's parents (guardian, carer) or the state at the request of the child rights protection institution, may appoint an ad hoc guardian to represent the child in resolving a specific dispute.

accounts ("Newborn (mother's name) account" and the account of the registered child) are of one and the same person).

It is an obligation to register the birth of a child within 3 months. Due to the lack of the newborn's first health data, the child may not be provided with health care services (on time), or their receipt may be complicated (e. g. vaccinations). To record all the data, parents' ought to check the transferred data and apply independently with the request to add additional data to child's account. In this way, the child's right to proper health care and the duty of each parent to take care of the child's health and the right to receive information about the health care services provided to the child cannot be adequately ensured.

- (51) The state has been facing a shortage of health care specialists in various fields for many years, and this problem is becoming more and more complicated in the long term, especially in the regions. In the Office's practice, the problem of ensuring the availability of psychiatrists and psychologist services for children is mainly raised due to the lack of these specialists.

An alarming problem is the initiative to decline (eliminate) services provided by pediatricians in the primary health care chain. With the increasing number of challenges due to negative changes in children's health, shortcomings in the field of children's health care (vaccination volumes, vision and posture disorders, overweight, etc.), these decisions can lead not only to even greater problems in children's health care, but also influence negative consequences for the health care system itself in the long term in perspective.

- (52) During the COVID-19 pandemic, access to health care services was complicated for an unreasonably long time, remote education was carried out²⁹, and this had a negative impact on the physical (obesity, posture problems, etc.) and mental health of children (adolescents' emotional well-being worsened in 38-40% of cases³⁰; children mostly contacted help lines due to psychological violence experienced in families³¹). In response to the negative consequences of the pandemic, measures³² were provided, including additional funds to ensure assistance to pupils experiencing psychological difficulties.

In practice, it is difficult for children to get help from a psychologist, especially a psychiatrist, both in terms of time and specialization in children and adolescents.

- (53) The need for psychological support for children (family) and psychologists is emphasized in the fields of health, social security, education and law enforcement, so it is very important to ensure the quality of services. In some sectors, the requirements for these specialists are regulated, but at the legal level, the practical activities of psychologists, their licensing and other aspects, important for ensuring quality services, are not regulated. Since 2008 the Seimas periodically holds discussions on the draft law on the practical activities of psychologists, but no decision is made.

²⁹ Due to the COVID-19 pandemic, a quarantine was announced on the territory of the Republic of Lithuania from March 16, 2020, until June 17, 2020, and from November 7, 2020, until July 1, 2021.

³⁰ Research by Vilnius University academics "Remote education of children during the pandemic due to Covid-19: threats and opportunities from an ecosystem point of view".
https://www.fsf.vu.lt/dokumentai/Nuotolinis_vaiku_ugdymas_pandemijos_del_COVID-19_metu.pdf

³¹ Annual Activity Report of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labor of the year 2020.
<https://vaikoteises.lt/media/file/ataskaitos/nauja%20VVTA%C4%AET%202020%20m.%20veiklos%20ataskaita.pdf>

³² Minister of Health Protection of the Republic of Lithuania July 3, 2020, Order No. V-1596 "On the Action Plan for Reducing the Long-Term Negative Consequences of the COVID-19 Pandemic on Mental Health"

(54) Efforts are being made to address issues of providing help and services to children with psychoactive substances or other addictive factors when dealing with the problem of addictions.

In practice, the lack of specialized services and support for children and their families is especially noticeable. The urgency of the problem of lack of services, help and specialists is particularly sensed when children's inclinations change – psychoactive substances, substances that children use (experiment), children's age, conditions of distribution of substances and children's participation in these processes. In response to negative trends, there are initiatives to lower the age of criminal responsibility for children (from 16 to 14 years) for certain criminal acts related to illegal possession of drugs or psychotropic substances and their distribution.

Recommendation



Ensure consistent and detailed legal regulation that would guarantee the possibility for the child (considering his/her age, maturity) independently or together with parents or other representatives in accordance with the law to participate in the health care process, as well as the actual implementation of these provisions.

Provide for: (1) measures for informing children and parents or other legal representatives of target groups, as well as the society about children's rights in the field of health care; (2) measures that would enable children, considering their age and maturity, to receive information about health, health care services and participate in decision-making process (make decisions); (3) measures that would guarantee the child patient's right to privacy when the child can independently make decisions about health care services, etc.

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

CHILD'S RIGHT TO EDUCATION (QUALITY OF EDUCATION)

Articles 28 and 29

(55) The CRC and national legal acts emphasize the individual and subjective child's right to a specific quality of education, but in Lithuania quality and effective education is not guaranteed to all students in the same way. The opportunities and access to quality educational services of children studying in rural and urban schools differ, and, at the same time, differ children's learning results³³. This also affects the overall achievements of the students of the entire country, when evaluating student's capabilities at the international level (for example, the OECD PISA results³⁴ show, that the number of students who have reached the highest levels in Lithuania, when assessing their reading abilities, is 1.5 times lower compared to the OECD average). Deficiencies in the quality and efficiency of the education and training system, related to large differences between the achievements of students in the country, insufficient usage of pre-school education in reducing the differences in student achievements, insufficient provision

³³ https://www.nsa.smm.lt/wp-content/uploads/2022/01/7877_NMPP_2018_ATASKAITA.pdf

³⁴ <https://www.nsa.smm.lt/wp-content/uploads/2023/11/ebpo-pisa-2018-2019-12-03.pdf>

of schools with modern educational tools, etc. was also determined by the State Audit Office³⁵. The corresponding problems (uneven quality of education, fragmented system of ensuring it, etc.) are also recognized by the state itself in the Educational Development Program for 2021-2030³⁶.

(56) The "Millennium Schools" program³⁷ was approved in 2022 as one of the measures to solve the above mentioned situation, that is: to strengthen general education, to improve the quality of education and to reduce the achievement gap of students in municipalities.

However, this project is viewed with skepticism in the community of teachers and society, taking into account the fact that the funding is intended for approximately 150 general education schools, when there are more than 900 such schools throughout Lithuania.

(57) In the practice of the Office, some negative aspects of quality assurance of education also emerged.

It is noteworthy that in some municipalities, due to the decrease in the number of students and classrooms at schools, joint classes are still being formed in which children of different ages are taught according to programs of different levels, which is incompatible with quality education and the effective use of educational resources. Though the situation is changing. Namely, following the adoption of the amendments to the Rules for the Creation of a Network of Schools Implementing Formal Education Programs³⁸, starting the 2022-2023 school year no funds will be allocated from the state budget for joint classes of grades 5-8. This made it possible to reduce the number of joint classes, but some children still study in them (in the 2021-2022 school year, the number of students, studying according to the basic education program, was 2,11% in joint classes in comparison to all students studying under the basic education program throughout Lithuania; in the 2022-2023 school year – 0,86%³⁹). There is also the remaining possibility of combining the classes of children studying according to the primary education program (grades 1-4, no more than 2 grades each), which does not create conditions for quality education for all children.

(58) To achieve higher quality education, the system still lacks: ◦ educational flexibility, when education is adapted to the individual needs of the student, the different characteristics of each child are assessed and each child is given an unlimited opportunity to fully participate in the educational process; ◦ stronger interactions between students and teachers; ◦ orienting the educational process not only to children's academic results, but also to their personality development; ◦ the development of digital innovations, ensuring the provision of all schools with modern teaching and learning tools, and the strengthening of teachers' competences in this field.

(59) Challenges in ensuring the implementation of students' right to quality education are caused by the rather rapidly growing problem of shortage of teachers, which, at the same, lacks

³⁵ <https://www.valstybeskontrolė.lt/LT/Product/23933/ar-pokyciai-svietime-lemia-geresnius-mokiniu-pasiekimus>

³⁶ The Government of the Republic of Lithuania December 1, 2021, Resolution No. 1016 „Approval of the Education Development Program of the Ministry of Education, Science and Sports of the Republic of Lithuania, the Manager of the Development Program“

³⁷ The Minister of Education, Science and Sports of the Republic of Lithuania January 31, 2022, Order No. V-137 "On approval of the "Millennium Schools" program"

³⁸ The Government of the Republic of Lithuania December 22, 2021, Resolution No. 1110 "On the Government of the Republic of Lithuania June 29, 2011, Resolution No. 768 "Approval of the Rules for the Creation of a Network of Schools, Implementing Formal Education Programs" amendment“

³⁹ Education Management Information System data; <https://www.svis.smm.lt/bendrasis-ugdymas-2/>

effective, long-term positive solutions - it is difficult to attract professional teachers to schools (due to unattractive working conditions and uncertainty) and to retain new specialists who have come to work in the education system.

Nor is the quality of the teacher training system guaranteed. It is possible to identify the formal approach of some teachers to professional development events. Thus, non-directional, one-day and non-result-oriented professional development of teachers does not have a greater impact on improving the achievements of their students. Considering that the integration of children with special educational needs into general education schools is increasing in Lithuania, it is still necessary for teachers to actively improve their professional competence in the education of children with special educational needs sphere.

Recommendation



Ensure the improvement of the quality of education by: (1) taking measures to reduce the achievement gap between children studying in rural and urban schools; (2) ensuring proper transformation of the school network; (3) individualizing the content of education according to the student's abilities; (4) ensuring the quality of the teacher training system and consistent orientation of professional development activities to long-term programs, etc.

NON-FORMAL EDUCATION

Article 28

(60) Non-formal children's education is an integral part of the Lithuanian education system, the proper (quality) implementation of which basically affects the achievements of general (formal) education. To ensure students' free participation in non-formal education activities organized by schools, state budget funds are allocated to each general education school, according to the number of class sets, and the state additionally allocates targeted funds to finance one non-formal children's education program for each student.

(61) Despite the funds allocated for the development of non-formal children's education (to increase diversity and accessibility), children's involvement in non-formal education programs is still too low.

In the 2021-2022 school year, there were 61,9% of all students in the country who took advantage of the opportunity to attend non-formal education activities at school or elsewhere (in comparison, 62,6% of students in the 2022-2023 school year)⁴⁰; the participation of children with special educational needs in non-formal education is even lower - in the 2021-2022 school year – 36.9% of all students in the country⁴¹.

(62) This situation is caused by several problems: uneven network of non-formal education, especially in small municipalities (in 2021-2022, 55% of municipal children were offered to attend programs in 3-4 areas on average, and the largest variety of areas was offered by non-formal education providers operating in big cities municipalities⁴²); favorable conditions have not been created for children with special educational needs to engage in non-formal education

⁴⁰ Data from the Lithuanian Non-formal Education Agency; <https://www.svis.smm.lt/neformalus-vaiku-svietimas-2/>

⁴¹ <https://www.lmns.lt/neformaliojo-vaiku-svietimo-rodikliu-stebesena/>

⁴² https://www.lmns.lt/upfiles4/2022%20ataskaita_SM.pdf

activities, ensuring the satisfaction of their needs; a sufficient offer of non-formal education activities for 17-18-year-old students has not been formed and this led to situation when only about 10% of them currently participate in non-formal education programs.

Recommendation



To promote children's involvement in non-formal education activities, increasing the diversity of activities according to children's needs, including specialists with the necessary competences for working with socially sensitive groups of children in the implementation of non-formal education programs, promoting the dissemination of good practices at the municipal and national level.

SPECIAL PROTECTION MEASURES

CHILDREN SEEKING REFUGEE PROTECTION

Article 22

(63) With the migration crisis of 2021 and the influx of migrants, there were challenges managing the situation due to the lack of experience, lack of accommodation places, staff and services in them, lack of preparation of employees. The reception conditions for the children of asylum seekers (including foreigners who crossed the border irregularly) were unsatisfactory, families were accommodated in overcrowded places, there was a lack of various services, and the opportunities for leisure time for children were limited. The problem of exchanging information on unaccompanied minors and family asylum decisions between the child rights protection service and the institutions responsible for managing migration flows was observed.

(64) Back in 2021, when the mass influx of foreigners to Lithuania began, attention was drawn to the practice that babies born to migrants illegally staying in the country were not registered if the parents did not have identity documents. The legal acts did not provide the prerequisites for registering a newborn for migrants who are illegally in the country, who do not apply for asylum and do not have personal identification documents. To confirm the identity of the asylum seeker, a foreigner's registration certificate could be presented if the asylum seeker did not have a travel document, however, the said certificates were issued only 6 months after the persons registration in the Lithuanian migration system, therefore the child's right to birth registration immediately after birth could not be implemented in practice. The problem of the registration of birth was solved by changing the Rules of Registration of Civil Status Acts, but in practice the challenges of birth registration of children remained.

(65) During the reporting period, the practice of detaining children in the migration process continued. In Lithuania, detention should be sanctioned by the court, but families with children were detained de facto by administrative authorities (housed without the right to move freely within the territory of the Republic of Lithuania), without any administrative decision being made. The mechanism of judicial verification of such accommodation was not provided for in the laws until the amendment of the Law on the Legal Status of Foreigners in April 2023. The Constitutional Court of Lithuania in its decision of June 2023 determined that the provisions of the Law on the Legal Status of Foreigners, related to the temporary accommodation of an asylum seeker during a state of emergency, without assessing the individual situation of the

person, without ensuring the validity and legality of the measure applied by the law, contradicted the Constitution⁴³.

The practice of pushbacks at the border, without assessing individual circumstances, limited the child's right to effectively request international protection, access to asylum procedures.

There is a prevailing negative attitude towards asylum seekers in society and the media⁴⁴.

(66) The issue of the situation of persons presenting themselves as unaccompanied foreign minors remained as relevant problem.

The investigations carried out by the Ombudsperson reveal that there are cases when this group of children is not always subject to procedures that meet their guarantees – the Child Rights Service is not notified; a guardian is not appointed "immediately" as required by law; after being accommodated at the border, they are not allowed to meet with a lawyer; NGOs working with foreigners; and the necessary specialist assistance is not organized.

The age determination procedure is performed exclusively on the basis of a medical examination, no multidisciplinary examination is performed, and there is no formal possibility to appeal the results of the age determination examination.

Recommendation



Implement measures to ensure that children who entered the country during the migration process, regardless of their legal status, receive reception conditions that meet the needs of children and international obligations, avoid de facto detention, provide the necessary assistance and ensure the availability of services.

Continuously improve the qualification of the officers of the State Border Guard Service in order to ensure that the reception process of unaccompanied minors meets international standards.

CHILDREN IN CONFLICT WITH THE LAW

Articles 37, 40

(67) Real and personalized assistance for children in conflict with the law, who have behavioral problems, remains a major challenge, despite ongoing positive changes.

The system of support and services is not developed to the extent that in each specific case the services and support are offered that are needed to achieve changes in the child's behavior, identifying and solving the causes of inappropriate behavior. In practice (especially in the regions), existing services and assistance are offered (allocated) to the child, which do not necessarily meet the needs of the child and are needed in a specific case.

It is not uncommon for children in conflict with the law to be demonized. Emotional reactions to children's inappropriate behavior, violations of the law, especially crimes, opinions about the

⁴³ The Constitutional Court of the Republic of Lithuania, ruling No. KT-53-A-N6/2023, June 7, 2023; <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta2861/content>

⁴⁴ Analytical Study: The Situation of Migrants and Asylum Seekers in Lithuania. Human Rights Monitoring Institute, 2023; <https://hrmi.lt/en/analytical-study-the-situation-of-migrants-and-asylum-seekers-in-lithuania/>

complete impunity of children are very common in the society, suggestions are expressed regarding the tightening of liability, the complete impunity of children is emphasized, especially when it comes to supporting the child, attention is drawn to the child's age, maturity, etc.

(68) One of the biggest challenges is the provision of assistance to children in specialized institutions – children's socialization centers, to which children from the age of 14 (in exceptional cases even younger) can be referred under the provisions of Criminal Code or the Law on Minimum and Medium Child Care. Children from all over the country are referred to these centers (one center for boys, one – for girls).

Theoretically, the term of a child's stay at the center should be determined individually in each case, but usually children are referred for a maximum term of one year (the term can be extended, the maximum term is up to 3 years; no longer than until the child turns 18).

The socialization center is a state specialized general education school, where the child should be provided with all the necessary assistance and services. Due to their subordination (to the Ministry of Education, Science and Sports) and nature, aspects of child representation (parents are the child's legal representatives), principles of organization and provision of services and lack of inter-institutional cooperation, during the accommodation of children in these institutions, they are not (they cannot be) provided with the assistance and services that are enshrined in legal acts and that they need (children have different levels of SEN, behavioral emotional disorders, the problems of addiction are also relevant). When dealing with health care services, participation in legal proceedings and other issues, there is a problem of active, consistent, and close cooperation with the parents, specialists of child's place of residence and other specialists whose participation is necessary addressing changes in the child's living environment, issues of changing child's behavior, continuity of assistance and reintegration upon return from the center. When changing the network of centers, their activities are planned in rural areas, which is why it is believed that the problem of maintaining relations with the child due to limited transportation, as well as problems of the availability of specialists and services, will be relevant.

There is a remaining attitude (especially in society) that isolating a child in a closed institution is the best solution of problems; that child's participation, hearing of a child opinion has a lot of formal aspects.

Recommendation



Address the need of expansion and availability of targeted services and support for children in conflict with the law. When referring a child to closed-type institutions, ensure conditions that are safe, necessary for development and are change-oriented, and ensure that the child is in these institutions only as a last resort and only for the minimum necessary time.



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