

---

## INSTITUTIONAL SYSTEM OF CHILDREN'S RIGHTS PROTECTION IN LITHUANIA

Agnė Margevičiūtė

*Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedra  
V.Putvinskio g. 70 LT-44211 Kaunas  
Telefonas 8 698 035 99;  
Elektroninis paštas [agne4444@gmail.com](mailto:agne4444@gmail.com)*

---

**Summary.** Undoubtedly the restoration of Independence of Lithuania in the last decade of the 20th Century has instigated democratic processes of paramount importance in the field of human rights, especially those of the children. Children's rights per se was a novelty because of long term social, cultural, political and also legal implications of the Soviet period, where a child was perceived as property of the parents or the family in general, the child was not the 'real' member of the society because of physical and intellectual immaturity. Situation changed very soon after Lithuania as a State has joined the greater community of democratic countries, ratified major human rights conventions.

Transition of the regimes in Lithuania (as well as some other Soviet states) in the end of the nineties purporting an immediate need for creating legal basis for protection of children's rights which served as an instrumental tool for creating the institutional system in the latter field. The process initiated after restoration of Independence of the state of Lithuania 1990. It was highly influenced by provisions and principles of international law, laid out in international conventions and other legal documents.

**Keywords:** children's rights, children's rights protection, institutional system.

### INTRODUCTION

All of the international legal acts that Lithuania has ratified or acceded call for assertive measures at a national level for protection of human rights. Every state is obligated to "take all appropriate measures to ensure that the child is protected"<sup>1</sup>. In light of human rights protection the duties of states under such conventions are usually grouped in three categories: 1) to respect, i.e., to not violate those rights; 2) to protect humans when their rights are violated; 3) to ensure the proper implementation of those rights<sup>2</sup>. The states' obligations under any named international legal instrument are carried out by appropriate national legislative and executive institutions. In other words the principles and norms laid out in international conventions are, by way of legislative process, incorporated in the national law and becomes binding to all the state nationals. A national institutional system is therefore created based on the legislature is created and carried out at an executive level.

In light of protection and implementation of children's rights Lithuania has acquired obligations and duties by ratifying and/or acceding to a different number of international

---

<sup>1</sup> Article 2.2 – Convention of the rights of the child; <http://www2.ohchr.org/english/law/crc.htm>;

<sup>2</sup> Thomas Hammaberg 'The UN Convention on the Rights of the Child-and how to make it work'. (1990) 12 HRQ 97.

conventions related to the rights of the children (the most important being the Convention of the Rights of the Child).<sup>3</sup> Since 1990 Lithuania has achieved tremendous progress in the field of human rights: in form of various social policies, laws, institutions, etc. Yet creation of a functional institutional system for protection of children rights remains one of the strategic objectives that has to be evaluated on a regular basis. This article seeks to present a purely formal point of view, by researching the current legal norms and framework, and presenting the actual institutional system for protection of children rights in Lithuania.

The first part of the article presents legal norms which serve as the legal foundation for creating the existing institutional system for protection of the rights of children. The first and most important step in implementing any kind of objectives to fulfill the obligations and duties under the international conventions is to effectively use the law making instruments, i.e., to pass appropriate laws which serve as measures for protection of children's rights. The scope of the norms presented encompasses those created in international and national levels, the latter being presented in more detail.

The second part of the article presents the actual existing national institutional system for protection of the rights of children in Lithuania. All levels of governmental levels of the State related to the topic of the article are presented and discussed.

The last part of the article provides certain conclusions that the author has observed, such as, for example, double functions at certain levels, overlapping functions and duties, accountability gaps, especially in the municipal level, lack of a holistic approach towards a child from the stand point of institutions at different managerial levels.

## **1. LEGAL BASIS FOR CREATING THE INSTITUTIONAL SYSTEM FOR PROTECTION OF CHILDREN'S RIGHTS IN LITHUANIA**

Children do not take direct part in any of the decision making levels where legal norms are adopted, nor in the later application of these norms at institutional levels. Such participatory 'disability' is legalized by law itself, therefore, children remain the only group in society that is literally excluded from policy making, legislative, executive processes. Therefore law-making

---

<sup>3</sup> in 1992 Lithuania has acceded the Convention on the Rights of the Child (ratified in 1995);

In 1992 Lithuania has ratified the Declaration of Children Rights.

In 1992 Lithuania has ratified International Covenant on Civil and Political Rights;

In 1995 Lithuania has ratified European Convention for Protection of Human Rights and Fundamental Freedoms;;

In 1996 Lithuania has ratified European Convention on the Legal Status of Children Born out of Wedlock;

In 1997 Lithuania has ratified the Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption.

In 2001 Lithuania has ratified the European Social Charter, excluding the provisions related to children and family, which in respect of children was undoubtedly unclear.

---

process plays a vital to ensure the proper protection of children rights by: a) forming an extensive legal background; b) building an institutional system.

Over the last two decades Lithuania has ratified the fundamental human rights conventions (internationally, at European level), that either were precisely drafted for the purpose of protecting the rights of the child, or related and significantly influenced the status of children worldwide. Other legal norms on a national level were in turn passed, that incorporated the international provisions into the legal system of Lithuania.

Children rights in Lithuania are protected by international conventions and agreements, the Constitution of the Republic of Lithuania, laws of European Union, Republic of Lithuania, and other legal acts. Constitutional provisions and Law on International Treaties state that any national legal norm contrary to the norms of the ratified international conventions is invalid and the international legal provisions shall prevail. In essence, therefore, as long as there is a ratified international convention is should serve as a natural safeguard against neglect of rights of an individual. But in the scope of this article the importance of the national legal norms is emphasized – the latter, it is argued, are the outcome of the ratification and accession processes to the international conventions and agreements in combination with the constitutional provisions, that make it systematically possible to incorporate the international provisions into domestic law.

**1.1. The Constitution:** Constitution of Republic of Lithuania is not very extensive when it comes to provisions having to do with the rights of the child. The latter are very general: 2<sup>nd</sup> chapter of the Constitution guarantees natural human rights as well as other civil and social rights to all individuals; Article 38 states that family is the foundation of the society, the State is responsible for protecting childhood, parents have a duty to foster their children; Article 39 states that State protects families raising and fostering children at home<sup>4</sup>, and that children under age are protected by law. Constitution also provides certain duties for children: children have a duty to respect their parents, care for them in their old age (Article 38); and a duty to education till age 16 (article 41). These Constitutional provisions are further implemented by way of legal norms.

It is notable, that the Constitutional provisions related to children status are scarce and would otherwise leave little room for ‘interpretation’ by passing legal norms. This is why the international legal instruments became so vital in the field of protecting the rights of the child. The Constitution, in case of Lithuania, rather provides with the legal framework which, by way of legal norms, allows incorporating the principles and provision of international law into domestic, in such way making them explicit imperatives.

---

<sup>4</sup> While this provision supports up-bringing of the children in families, it excludes all other children that do not have families, or are separated from their families and are brought up in foster-care homes.

The Constitution also provides for the general State government framework. Constitutional provisions delegate legislative, executive and judicial functions to different state powers: the Parliament (Seimas), The Government, the Court, the municipal and other administrative units (the latter being the counties). In light of protection of children rights all levels, partly with an exception of the Courts (there is no specialized court institution for protection of children rights established, yet children rights are protected in courts based on general provisions of Civil, Criminal and Administrative Codes of the Republic of Lithuania) from an institutional stand point, take part in the process of protection of children rights.

In 1996 the Parliament of Lithuania (Seimas) has passed a Law on Fundamentals of the Protection of the Right of the Child<sup>5</sup>. The Law was in accord with the provisions of the Convention on the Rights of the Child and later served as an underlying basis for evaluation of all other law in respect of the rights of children. The objective of this law is to improve the legal protection of children in Lithuania by setting basic normative provisions (in accord with the provisions and principles of Constitution and international legal norms) for protecting their rights and freedoms.<sup>6</sup> The Law also provides that children freedoms and rights are established and protected by Constitution, the later Law and other laws and legal norms.<sup>7</sup>

Article 58 of the Law provides for the institutional system for protection of the rights of the child and its coordination principles. Protection of children rights in Lithuania is ensured by:

- 1) the State and its institutions;
- 2) municipal institutions;
- 3) public institutions whose activity is related to protection of children rights.<sup>8</sup>

**1.2. The Parliament (Seimas):** Among the powers<sup>9</sup> of the Parliament (Seimas) prescribed by Article 67 of the Constitution of the Republic of Lithuania, the important ones in light of protection

<sup>5</sup> The updated version of this law is not available in English language. Last amendment to the law was done in 2006.

<sup>6</sup> Law on Fundamentals of Protection of the rights of the Child. Art.3; Parliamentary record: 1996-08-01 Nr.8

<sup>7</sup> Law on Fundamentals of Protection of the rights of the Child. Art.5; Parliamentary record: 1996-08-01 Nr.8

<sup>8</sup> Law on Fundamentals of Protection of the rights of the Child. Art.58.1; Parliamentary record: 1996-08-01 Nr.8

<sup>9</sup> Article 67 of the Constitution provides, that the Seimas has such powers:

- 1) shall consider and adopt amendments to the Constitution;
- 2) shall pass laws;
- 3) shall adopt resolutions on referendums;
- 4) shall call elections for the President of the Republic of Lithuania;
- 5) shall establish State institutions provided for by law and appoint and dismiss their heads;
- 6) shall or shall not give assent to the candidature of the Prime Minister submitted by the President of the Republic;
- 7) shall consider the programme of the Government presented by the Prime Minister and decide whether to give assent to it;
- 8) shall, on the proposal of the Government, establish and abolish ministries of the Republic of Lithuania;
- 9) shall supervise the activities of the Government, and may express no-confidence in the Prime Minister or a Minister;

the rights of children are: consideration and adoption of amendments to the Constitution; passing of laws; establishing of State institutions provided for by law, appointment and dismissal of their heads; consideration of the program of the Government presented by the Prime Minister and deciding to its assent; establishment and abolition of ministries of the Republic of Lithuania, on the proposal of the Government; supervision of the activities of the Government; appointment of the State Controller (i.e., the Ombudsman); approval of the State Budget, its supervision and execution; establishment of State taxes and other compulsory payments; ratification and denunciation of international treaties of the Republic of Lithuania.

The Parliament, through its powers and parliamentary control, executes a vital role in programming the incorporation of children rights into the state institutional system. Therefore, the processes of initiation, consideration and adoption of laws related to the protection of children rights poses a complex of issues: are children properly represented in the process of law-making; will the law carry out its goal and purpose; does the law cover the actual problematic area or is intended to solve the problems at stake related to children; are there appropriate human resources allocated to present the issues at stake; does the law foresee the appropriate and affective implementation organization of the law by providing clear functions for institutional system, etc..

The Parliament is not only responsible for instigation of children related policies (in form of drafting state policies, strategies, conceptions, etc.), but, at large, has the power to prescribe certain imperatives to the executive state and local institutions, in order to turn these policies in an effective practice. The Parliament, in other words, portrays the actual status of a child. Therefore, the effective legal measures taken by the Parliament can be in form of: laws, policies, conceptions, strategies.

**1.3. The Government:** Article 94 of the Constitution states the powers of the Government of the Republic of Lithuania<sup>10</sup>. As an executive branch of the state government, it is responsible for

- 
- 10) shall appoint justices and Presidents of the Constitutional Court and the Supreme Court;
  - 11) shall appoint and dismiss the State Controller and the Chairman of the Board of the Bank of Lithuania;
  - 12) shall call elections of municipal councils;
  - 13) shall form the Central Electoral Commission and alter its composition;
  - 14) shall approve the State Budget and supervise its execution;
  - 15) shall establish State taxes and other compulsory payments;
  - 16) shall ratify and denounce international treaties of the Republic of Lithuania and consider other issues of foreign policy;
  - 17) shall establish administrative division of the Republic;
  - 18) shall establish State awards of the Republic of Lithuania;
  - 19) shall issue acts of amnesty;
  - 20) shall impose direct rule, martial law, and a state of emergency, declare mobilisation, and adopt a decision to use the armed forces.

<sup>10</sup> 1) shall administer the affairs of the country, protect the inviolability of the territory of the Republic of Lithuania, guarantee State security and public order;

implementation of the laws and resolutions passed by the Parliament (Seimas), oversees the general affairs of the State. The Government has the power to also draft laws and propose them to the Parliament (Seimas). The Government executes the administration via resolutions and orders adopted on ministerial level.

Protection of the rights of the child, as of beginning of the year 2003, falls under competence of Ministry of Social Affairs and Labor. In light of measures that can be taken in order to protect the rights of the child are resolutions, orders, programs, initiatives, projects precisely drafted to serve their purpose and function. The Ministry has drafted a concept of the State Family Policy,<sup>11</sup> which was adopted by the Parliament in 2008, there are numerous inter-institutional programs implemented dedicated to protect the rights of the child, integration of children into society, against abuse against children, etc. However, such measures should contain clear division of functions to the institutions implementing such measures, their social effectiveness should be foreseen methodically, application of the measures should be applied methodically in order to serve their function, and most importantly, the feed-back mechanism should exist, in order to determine the necessity for continuity of the measure for protection of the rights of the child.

**1.4. Children's Rights Ombudsman's Institution:** Article 73.1 of the Constitution states that the Ombudsman's institution is established for controlling the complaints of citizens, related to abuse of office and law by municipal and state officers. Article 73.3 of the Constitution states that in certain cases the Parliament (Seimas) may establish other bodies of control by passing an appropriate law. The latter article gave way in 1999 to establish The Office of Equal Opportunities Ombudsman, and in 2000 to establish the Ombudsman's institution for protection of children rights – Children's Rights Ombudsman's Institution of Republic of Lithuania<sup>12</sup>.

The Ombudsman is responsible for: control and supervision on how the provisions of the Constitution, international treaties, legal acts of the European Union, laws and other legal acts of the Republic of Lithuania regulating the protection of the rights and legitimate interests of children are implemented in Lithuania; investigation of complaints by individuals regarding breach of children rights; referral the investigation material to a pre-trial investigation institution or the prosecutor if

- 
- 2) shall execute laws and resolutions of the Seimas on the implementation of the laws as well as the decrees of the President of the Republic;
  - 3) shall co-ordinate the activities of the ministries and other establishments of the Government;
  - 4) shall prepare a draft State Budget and submit it to the Seimas; execute the State Budget and submit to the Seimas a report on the execution of the budget;
  - 5) shall prepare draft laws and present them to the Seimas for consideration;
  - 6) shall establish diplomatic ties and maintain relations with foreign states and international organizations;
  - 7) shall discharge other duties prescribed to the Government by the Constitution and other laws.

<sup>11</sup> Concept of the State Family Policy Parliamentary Record, 2008-06-17, Nr. 69-2624

<sup>12</sup> Parliamentary Record, 25 May 2000 No VIII-1708

features of a criminal act have been established; submission of proposals to the President of the Republic, the Parliament (Seimas) and the Government concerning the measures that could improve the protection of the rights and legitimate interests of children, the amendments to valid legal acts and the adoption of new legal acts as well as formulation and implementation of the policy related to the protection of the rights and legitimate interests of children; information of the society.<sup>13</sup> The Ombudsman has a duty to annually present a report to the Parliament (Seimas) on the state of children rights affairs in Lithuania<sup>14</sup>. The yearly report of the Ombudsman is one of the measures of the Ombudsman's Institution for protection of children rights. Although it is not legally binding and merely is a detailed presentation about the protection of the rights of the child, but it does pose a strong moral obligation to take into account the developments in the field of children affairs. Based on the report of the Ombudsman, both the Parliament and the Government have powers to amend laws, policies, strategies, concepts, initiate new laws, etc..

However, the Ombudsman's Institutions does carry certain binding character when carrying out its functions. Article 14 of the Law on the Ombudsman for Children provides, that persons must provide the Ombudsman requested information, documents and any other material required for the performance of his functions, give him access to the requested documents and any other material as well as ensure the possibility of freely communicating with children and exercising other powers granted to him by legal acts; Ministries, Government agencies, other state and municipal agencies, enterprises and organisations must provide information and any other material on issues at stake; the decision of the Ombudsman for Children must be considered by the persons to whom the decision is addressed and inform the Ombudsman for Children about the results of the consideration and execution of the decision.

The competence of the Institution, hence, is rather broad and important. The importance in light of protection of children rights lies in another provision of the Law on Ombudsman for Children – the complaint can be brought to the Institution by adults (provisions of Article 16 of the Law would apply), but it can be also brought by children themselves (Article 17.2 of the Law), in which case a more simplified compliant requirements shall be applied. Bearing in mind, that the investigation of a complaint by the Ombudsman's Institution may conclude in an Ombudsman's decision to initiate a prosecution, this Institution should become more accessible not only at a state level, but most importantly at local level, or where the concentration of children is the largest (larger cities, regions).

---

<sup>13</sup> Art 11., Law on Children's Rights Protection Ombudsman's Institution

<sup>14</sup> Art 6., Law on Children's Rights Protection Ombudsman's Institution

---

**1.5. The municipal level:** On the municipal level protection of the rights of the child are carried out by Children Rights Protection Services. Such services are established at every municipality and are responsible for implementing provisions of the United Nations Convention on the Rights of the Child, ensuring protection of children rights, protecting the rights and legitimate interests of children, organization and supervision of foster care provided to children who have lost parental care.

Law outlining foster care of children is the Law on Foster care of the Child which was passed in 1998. The Law states that the goal of fostering a child is to ensure that proper care in the environment, where a child could grow, develop and improve<sup>15</sup>. The Law prioritizes certain important aspects, such as, placing the child with his or her family, relative, not separating siblings, taking into account the opinion of the child. Children may be placed in permanent or temporary foster care in families, family community, institution.<sup>16</sup> Foster care is established, organized and controlled by municipal level institutions (municipality councils, services of children rights protection, mayors). The Law lays ground for cooperation between governmental and non-governmental institutions.<sup>17</sup> That is an important factor, because non-governmental sector globally has been a major advocate and best expertise in the field of children rights, therefore provisions foreseeing institutional cooperation between governmental and non-governmental sector were extremely plausible and innovative, since non-governmental practice in Lithuania was rather insignificant and recognition by law was very supportive.

**1.6. Other laws:** Besides the Law on Foster Care of the Child, a number of laws govern this sphere: Code of Marriage and Family (Chapter 14); Law on Citizenship; Law on Education; Law on Emigration; Law in International Agreements; Adoption Accountability Order; Order of Children Rights Protection Service of Social Affairs and Labor Ministry; General order of Children Rights Protection Services in Regions and Cities. Other important aspects of a child's life are living conditions (standards), social and health care, which are ensured by the following laws: Law on Social Services; Law of State Subsidies to Families Raising children; Law of Social Security. Provisions related to protection of the rights of a child were incorporated into Civil Code, Criminal Code, Code of Administrative Law and Process, Labor Code.

This article does not discuss a plethora of other aspects in our society that are potentially harmful to children, and that could be prevented by amending certain laws, or adopting new ones. For example, mass media has been extremely liberal; toxic substances; juvenile delinquency; abuse

---

<sup>15</sup> Art. 3.1 Law on Foster Care of the Child.

<sup>16</sup> Art 4-5 , Law on Foster Care of the child.

<sup>17</sup> Art 6,19, 20 . Law on Foster care of the child.



against children and by children (for the past several years Lithuania has been amongst leading countries with the highest rate of physical abuse against children). There are laws and regulations that were designated to solve and confront many of the issues related to children rights, but they create an institutional system which, in some cases, lacks conjuncture, holistic approach, proper subordination and control mechanism. The institutional system is presented and discussed in the next part of the article.

## 2. INSTITUTIONAL SYSTEM

Article 58 of the Law on Fundamentals on Protection of the Rights of the Child states that children rights are protected by State and its institutions; at municipal level, and by public institutions related to the protection of the rights of a child. It is further provided that on a State level these institutions are involved: the President, the Parliament (Seimas), Government, ministries, courts, prosecutor's office, and other State institutions implement measures according to their competence described by law in order to protect the rights of the child. The same Article provides that special institutions (services) are to be set up in order to coordinate, organize, control and oversee the implementation of legal norms related to children rights at a State level; it also states that specialized judges or specialized courts established by law are to hear cases related with the infringement of the rights of the child and also cases related to crimes committed by minors.<sup>18</sup>

**2.1. The Parliament (Seimas):** institutionally The Parliament carries out its functions through certain parliamentary bodies each having clear set of functions as it is so prescribed by the Statute of the Parliament (Seimas) of the Republic of Lithuania. There are parliamentary committees (sub committees), parliamentary commissions, political and parliamentary groups. In light of protection of children rights attention should be focused on committees<sup>19</sup> and commissions<sup>20</sup>. The

---

<sup>18</sup> Law on Fundamentals of Protection of the rights of the Child. Art.59; Parliamentary record: 1996-08-01 Nr.8

<sup>19</sup> Article 49 of the Statute of Seimas provides these powers of the committees:

1) to debate draft laws, prepare conclusions, and discuss issues referred to the committee for consideration; 2) on their own initiative or under the instruction of the Seimas, to prepare drafts of laws and other legal acts subject to enactment by the Seimas, and to analyse the necessity of new laws or the amendments to laws in effect; 3) to prepare and submit to the Seimas drafts regarding the harmonisation, supplementing or elimination of contradictions in laws; 4) to consider the Government Programme; on their own initiative or under the instruction of the Seimas, to consider programmes of activities of Government or other State institutions, each within its specific field, and to submit their conclusions to the Seimas; 5) to consider, within the limits of their competence, candidates for heads of state institutions who are appointed by the Seimas or for the appointment whereof the approval of the Seimas is necessary, as well as candidates for deputy heads, and to consider the dismissal from office of said officers; 6) to consider preliminarily a draft of a law of the Republic of Lithuania pertaining to the approval of the financial indicators of the State Budget and municipal budgets, and budget performance account; 7) to analyse and control the economic efficiency of the funds of the State Budget of the current year, consider and submit conclusions and proposals on the items and programmes of a draft State Budget for the next year, presented by the Government, on the issues within the competence of the committees, to seek rational choice of programmes and distribution of allocations for it; 8) consider proposals to form and abolish ministries and other State institutions; 9) while performing parliamentary supervision, to hear information and reports furnished by

committees and commissions, as per their powers and functions should concentrate the greatest amount of expertise and knowledge in the particular field that are designed to operate in. The rights of the child should pose no exception. There are currently 14 standing Committees<sup>21</sup>, and 10 commissions<sup>22</sup>, most relevant in light the rights of children being Committee on Social Affairs and Labour, Committee on Health Affairs, Committee on Education, Science and Culture, Commission for Youth and Sport Affairs. It is evident that there are other committees where children rights approach must be practiced, such as, for example, Committee on Budget and Finance; Committee on Economics or Commission for Prevention of Drug and Alcohol Addiction, but in light of general scope of issues and affairs that the Parliament encompasses, it is not rather realistic to think that every relevant committee shall always put children as a priority first. This gap should be filled by exercising the provisions of the laws where cooperation with governmental, public and non-governmental institutions working in the field of children rights protection can apply. Therefore the lack of expertise or appropriate focus on children's issues in the related field could be compensated by expert know-how both form the institutional and form the actual stand point.

For three consecutive terms, in the period 1996 – 2008, the Parliament has exercised its power to establish a Commission for Family and Child affairs. The objectives of this Commission were to: 1) participate in shaping the NATIONAL policy of child and family, the policy of protection of children rights, strategy for solving the demographic issues; 2) seek a comprehensive implementation of United Nations Convention on the Rights of the Child, European Union, laws of Republic of Lithuania, other legal acts, that govern the rights of the child, his interests; 3) seek that requirements for instituting equal opportunities for all persons implied in Conventions of the United

---

ministries and other state institutions on the manner by which the laws of the Republic of Lithuania and other acts passed by the Seimas are being implemented; on their own initiative or by the advice of the Seimas, to consider yearly reports on the activities of the State institutions accountable to the Seimas, and to present their conclusions to the Seimas; 10) to consider proposals of voters and public organisations; 11) to prepare a work plan of the committee coordinated with the work programme of the Seimas session; 12) prepare the estimate of the committee expenditures within the amount appropriated for the committee; 13) to take part in the interparliamentary relations of the Seimas.

<sup>20</sup> In certain cases, for resolving short-term or limited assignments, the Parliament (Seimas) may form standing commissions to examine special problems or to form ad hoc investigatory, control, revision, preparatory, editorial and other commissions to examine and prepare or fulfill another mission of the Parliament (Seimas).

<sup>17</sup> Committee on Environment Protection; Committee on Audit; Committee on Budget and Finance; Committee on Economics; Committee on European Affairs; Committee of the Development of Information Society; Committee on Rural Affairs; Committee on National Security and Defence; Committee on Social Affairs and Labour; Committee on Health Affairs; Committee on Education, Science and Culture; Committee on Legal Affairs; Committee on Foreign Affairs; Committee on State Administration and Local Authorities; Committee on Human Rights.

<sup>22</sup> Anticorruption Commission; Nuclear Energy Commission; Commission for Ethics and Procedures; Commission for Youth and Sport Affairs; Commission for Maritime and Fishery Affairs; Commission of the Seimas of the Republic of Lithuania and the Lithuanian World Community (LWC); Commission for Prevention of Drug and Alcohol Addiction; Commission for Parliamentary Scrutiny of Intelligence Operations; Commission for the Rights and Affairs of Participants of Resistance to Occupation Regimes and Victims of Occupation; Petitions Commission.

Nations, European Union, laws of Republic of Lithuania, and other legal acts were applied<sup>23</sup>. The functions of the Commission were to:

This particular Commission had rights to: analyze and present proposals to the Parliament and Government regarding formation of policy regarding protection of the rights of the child and family, preparation of laws and other legal acts intended to prevent crimes of physical and sexual abuse; initiate and participate in drafting laws to improve the protection of children rights, gender equality, family policy, and their legal regulation; give reports to Committees and the Parliament regarding other subordinate institution of the Parliament, laws etc., that are related to protection of children rights, family, gender equality policies; cooperate with parliamentary Committees, governmental institutions, municipal, public and other related institutions while drafting laws and forming policies; seek, by way of legal norms, that all governmental and municipal institutions, companies, organizations abide to provisions of United Nations Conventions, laws of European Union, Republic of Lithuania, and requirements of other legal acts.<sup>24</sup> The Commission also had rights to: initiate and draft laws; present opinions regarding laws proposed by the Government and other law proposals; cooperate with all other institutions related with the protection of child and family rights; carry out parliamentary control, etc..<sup>25</sup>

The Commission, as parliamentary institution, based on its objectives, functions and rights, was a clearly exclusive organ dedicated to the issues of the protection of the right of the child and family. IN such a way, there was an institutional component representing children at the parliamentary level. During the current term of the Parliament (2008 – 2012), the Commission for Family and Child Affairs was not formed. Its functions were incorporated into the functions of other Committees, Commissions (such as for example Committee of Social affairs and Labor; Committee on Education, Science, and Culture, etc.). Therefore, in light of the protection of children rights, such step was a setback, because the issues related to the status of a child was dispersed among number of institutional parliamentary units.

**2.2. The Government:** The Government consists of the Prime Minister and Ministers. There are currently 14 ministries<sup>26</sup> governing the applicable spheres of the state affairs. As per February

<sup>23</sup> Art. 4; Regarding Parliamentary Decision „Regarding Family and child issues commission articles”; Parliamentary record; 1997, Nr. 65-1562; 2000, Nr. 104-3281.

<sup>24</sup> Art. 5; Regarding Parliamentary Decision „Regarding Family and child issues commission articles”; Parliamentary record; 1997, Nr. 65-1562; 2000, Nr. 104-3281.

<sup>25</sup> Art. 6; Regarding Parliamentary Decision „Regarding Family and child issues commission articles”; Parliamentary record; 1997, Nr. 65-1562; 2000, Nr. 104-3281.

<sup>26</sup> Ministry of Environment; Ministry of Energy; Ministry of Finance; Ministry of National Defence; Ministry of Culture; Ministry of Social Security and Labour; Ministry of Transport and Communications; Ministry of Health; Ministry of Education and Science; Ministry of Justice; Ministry of Foreign Affairs; Ministry of Economy; Ministry of the Interior; Ministry of Agriculture.

6<sup>th</sup>, 2003 Resolution of the Government the sphere of control of protection of children rights was assigned to the Ministry of Social Affairs and Labor of Republic of Lithuania. Other ministries that are related to affairs of children are Ministry of Health, Ministry of Education and Science, Ministry of Justice, Ministry of the Interior. Therefore at the executive level, the administration and overseeing function of the state of the protection of children rights fall under the competence of one ministry, although, there are component issues at large related to other important ministries. As the overseeing institutions at the Governmental level (Ministry of Social Affairs and Labor) is responsible for other affairs of the state (all social spheres and labor related issues), it is apparent that children rights and child affairs constitute only a component part of its affairs. Other child related issues (right to education, right to proper healthcare, juvenile delinquency, etc.) are yet solved at other institutions of the same level. And although, there is the inter-institutional cooperation mechanism, the question of whether a dispersed institutional approach toward child affairs adds to efficient protection of the rights of the child can be raised.

**2.3. The municipal level:** Article 60 of the Law on Fundamentals of Protection of the Rights of the Child describes the organization and coordination of the protection of children rights on a municipal level. It is provided that municipality boards, local executive institutions, children right protection institutions (services), police, educational and other institutions that are responsible for creation and implementation of protective and preventive measures of children rights.

The children rights protection services are the municipal institutions responsible for protecting the rights of the child. There currently are 60 children rights protection services in all the municipalities of Lithuania. According to the institutional structure at the municipal level, as it is provided by the Law on Local Self – Government and Government Decision Regarding the General Regulations of Children Protection Services,<sup>27</sup> the children rights protection services are directly accountable to the Administrator of the Municipality, they compose a structural subdivision of the Municipality Administration. The functions of the Services are oriented towards adoption and placement of children in foster care.

It could be argued, however, that such structure lacks conjunction between the appropriate functional level on the continuum scale of the municipal institutional structure and it should be revised, i.e., the accountability of the children right protection services should be to an institutional unit of the municipal level, that is, by its prescribed functions, directly responsible for protecting the right of the children. Thus the situation is such, that the issues and problems brought up by the

---

<sup>27</sup> Government Decision Regarding the General Regulations of Children Protection Services; Parliamentary record, 2002, Nr. 120-5415

children rights protection services at the municipal level before the head of the Municipality Administration, remain solely under the competence of one official.

It must be noted, however, that the municipal level, in general, through the range of the services that are provided (e.g., healthcare, primary, secondary education, kindergartens, extracurricular activities, etc.), and the functions of its institutional units, is the most accessible and influential towards the state of the children.

**2.4. The Ombudsman's Institution:** The Parliament (Seimas) has established Children Rights Ombudsman Institution in 2000 by passing an appropriate law, the aim of which is to create legal preconditions that would allow ensuring implementation of international and national legal norms regulating protection of children rights; control activities of the State, municipal, public institutions and private persons that might infringe the rights and freedoms of children. The Ombudsman's Institution carries out an important controlling function. Among other obligations by law the Ombudsman is required to provide yearly reports about the state of children rights in Lithuania and provide expert insight, suggestions and conclusions to the legislative body.

As it was describes earlier, the Ombudsman's Institution is the only institution 'directly' accessible to the child himself (this is due to the provision of the Law on Ombudsman for the Children, Article 17.2), and has a large scope of competence while carrying out an investigation after a grounded complaint is made. Since there is no special judicial institution exclusively established for protection of the rights of the child, the Ombudsman's institution, therefore, fills this gap (formally the Law on Fundamentals of Protection of the Rights of the Child provides for establishment of such institution) by its duty to accept the complaints, review them, and, if deemed acceptable, investigate them.

While certain children rights breaches may occur in the long term perspective due to dysfunctional institutional system (although that is to be determined on a more in depth analysis), the 'regular' breaches of the rights of the child occur locally, i.e., where the child is. Therefore, such controlling institution as the Ombudsman's Institution is, should operate locally and be accessible to where the most concentration of the object that is protected by law is. It is argued, that the Ombudsman's Institution should be expanded to at least municipal level, so that it would be more accessible to the municipal institutions related to affairs of the child, but also to the object at stake – children.

Based on the legislature, institutional system for protection of children rights was created. Children rights are protected at all governmental levels: the Parliament, the Government, the municipal and county level, an Ombudsman's institution for protection of the rights of the child was

---

established. Therefore, it is valid to say that formally, in essence, the institutional mechanism for protection of the rights of children is in place.

## CONCLUSIONS

Formally Lithuania has established a number of institutions in all governmental levels, including state, municipal and county levels, that could serve as protection system of children rights, but rather ambiguous provisions of legal norms that serve as basis of such institutional system for protection of children right, make their functionality and impact more ineffective than on the contrary. There is lack of a holistic approach between institutions towards a child – this results in dysfunctional coordination and general institutional approach.

Institutional system should provide a mechanism of a child sensitive legislative approach, where a child oriented conception would be triggered at initial stages of creating a law or a legal norm both at State and municipal level. Any legal norm (because it is either directly or indirectly influential to the status of a child) should be revised in light of the best interest of a child during its initial stages, not after it is passed. The institutional *mechanism* for protection of children rights, is there, but with certain gaps in its effective operation. In conclusion of this article it is suggested:

- All institutions, responsible adopting, implementing, controlling measures intended to protect the rights of children should ensure continuity of the strategies, policies, legal provisions related to children.

- Revision of legal norms should eliminate double functions of institutions. Legal norms clearly indicate organizational principles and clear functions of institutions involved in protection of children rights, i.e., each institution should precisely know its functions, responsibilities. This could be done by adopting post-legislative measures that would concretize rather ambiguous norms and principles of certain laws. A child must not be pushed around from institution to institution.

- Subordination and accountability among institutions should be clarified, although this could be achieved through a more in depth revision and, possibly, restructuring of the institutional system itself. In some cases the subordination and accountability rests in two levels (e.g., ministerial and/or municipal), and it is not clear whether the subordination between those levels itself should occur. This also burdens the mechanism of feed-back that is one of the main factors of evaluation the effectiveness of the carrying out of the functions at different levels.

- States, among measures to achieve the more qualitative results, have to provide for effective means and mechanisms to evaluate and measure the progress of those measures and tendencies that arise while implementing the measures.

- Establishing or increasing individual accountability and responsibility of the officers, who fail to properly execute or do not execute their functions and duties in relation to protections of the rights of children.

- One of the most important factors in trying to implement any state policy or strategy is the allocation of the funds. In Lithuania it is done by confirming a budget. The budget should set clear budget priorities and explicit financial allocations for protection of the rights of children in the state budgets; children must gradually become proximate benefactors of the state and municipal financial resources.

- A single coordinating institution should be supported, which would systematically control the institutional system for protection of the rights of the child. In case of Lithuania it could be an already existing Ombudsman's Institutions for Protection of the Rights of the Child (then its apparatus should be expanded to be more accessible at local levels, where coordination is mostly needed), or by establishing or restructuring some of the already existing institution at a ministerial level.

## REFERENCES

1. Constitution of Republic of Lithuania; Parliamentary record; 1992, No. 33-1014 (1992-11-30);
2. Law on Fundamentals of Protection of the rights of the Child; Parliamentary record: 1996-08-01 Nr.8;
3. Law on the Child's Rights Protection Ombudsman; Parliamentary record, 25 May 2000 No.VIII-1708;
4. Law on Foster Care of the Child;
5. Law on Fundamentals of Protection of the rights of the Child; Parliamentary record: 1996-08-01 Nr.8;
6. Statute of Seimas; Parliamentary record 1994, Nr. 15-249;
7. Regarding Parliamentary Decision „Regarding Family and child issues commission articles”; Parliamentary record; 1997, Nr. 65-1562; 2000, Nr. 104-3281;
8. Concept of the State Family Policy; Parliamentary Record, 2008-06-17, Nr. 69-2624 ;
9. Government Decision Regarding the General Regulations of Children Protection Services; Parliamentary record, 2002, Nr. 120-5415;
10. <http://www2.ohchr.org/english/law/crc.htm> - Convention on the rights of the child
11. Thomas Hammaberg 'The UN Convention on the Rights of the Child-and how to make it work'. (1990) 12 HRQ 97.

## VAIKO TEISIŲ APSAUGOS INSTITUCINĖ SISTEMA LIETUVOJE

**Agnė Margevičiūtė\***  
Mykolas Romeris universitetas

### Santrauka

Vaiko teisės, kaip žmogaus teisės, Lietuvoje, iš esmės, yra nauja tema integralaus pobūdžio tyrimams, kadangi šiuolaikinės žmogaus teisių nuostatos apskritai pradėtos integruoti į Lietuvos teisinę – socialinę visumą tik po Lietuvos nepriklausomybės atkūrimo. Kai buvo atkurta Lietuvos nepriklausomybė, „šiuolaikinės“ žmogaus teisės buvo iškeltos į vertybiškai naują požiūrio lygmenį. Tarptautinių šiuolaikinių

---

žmogaus teisių nuostatų, susijusių su vaiko teisių užtikrinimu, integravimas į nacionalinę teisę sąlygojo vaiko teisių įgyvendinimo ir kontrolės teisinės – institucinės sąrangos suformavimą nacionaliniame lygmenyje.

Vaiko teisinę padėtį Lietuvoje reglamentuoja nacionaliniai ir tarptautiniai teisės aktai. Po Lietuvos Nepriklausomybės atkūrimo 1990 m. Lietuva padarė didelę pažangą įtvirtinant vaiko teisių įgyvendinimą ir apsaugą, ratifikuojant tarptautines sutartis, susijusias su vaiko teisių įgyvendinimu bei apsauga, tobulinant esamas ir priimant naujas teisės normas, siekiant įgyvendinti tarptautinio lygio visuotinai pripažintus įsipareigojimus vaiko teisių srityje. Vaiko statusas, taip pat valstybės ir visuomenės pareiga rūpintis ir globoti vaikus yra įtvirtinti pagrindiniame šalies įstatyme, yra įsteigta kontrolieriaus įstaiga, atsakinga už vaiko teisių įgyvendinimo ir apsaugos priežiūrą, į vaiką orientuotos įstaigos yra inkorporuotos visuose valstybės valdymo administraciniuose lygmenyse. Šalyje aktyviai veikia ne viena dešimtis vaiko teisėmis ir vaiko statuso gerinimu besirūpinančių nevyriausybinų organizacijų. Apskritai, vaiko teisių tema yra nebe nauja visuomenėje.

Straipsnyje apžvelgiama šiuo metu Lietuvoje veikianti vaiko teisių apsaugos institucinė sistema, aptariami jos privalumai ir trūkumai.

---

**Pagrindinės sąvokos:** vaiko teisės, vaiko teisių apsauga, institucinė sistema.

---

**Agnė Margevičiūtė** \* Mykolas Romeris universiteto Viešojo saugumo fakulteto Teisės katedros lektorė. Mokslinių tyrimų kryptys: vaiko teisių įgyvendinimo ir apsaugos sistema.

**Agnė Margevičiūtė** \* Mykolas Romeris University, Faculty of Public Security, Department of Law, Lecturer. Research interests: children rights implementation and protection system.