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## protection and Regulation of Children's Non-Property Right in Lithuania and Poland

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## PROTECTION AND REGULATION OF CHILDREN'S NON-PROPERTY RIGHTS IN LITHYANIA AND POLAND

### 1. INTRODUCTION

Today, a child, as well as an adult, benefits from all the universal human rights defined in the provisions regarding human rights, however, this is still not enough. It is important to understand the rights of the child considering his/her independent interests, which are not automatically included in human rights. As a young, still immature personality, the child is much more vulnerable than an adult, and, at the same time, finds it more difficult to defend his/her rights and interests. Moreover, as a developing personality, the child must be guaranteed specific rights typical only for this group of persons, such as the right to education or the right to rest and leisure.

The child's rights only started to be considered as a separate field of human cognitive and social activity after the lapse of several hundred years since the emergence of the concept of "human rights."

The first change in attitude in the discussion and evaluation of the child's position in the family and society came at the beginning of the twentieth century. The adoption of the Convention on the Rights of the Child by the United Nations Organisation marked a milestone in the changes. Nearly all the countries in the world signed the Convention, thereby recognising the need for the protection of children. The UN

Convention on the Rights of the Child defined two key provisions – first, the child was recognised as an independent legal entity, secondly, the child was given the right to participate actively in the implementation and protection of his/her rights. Lithuania acceded to the Convention on the Rights of the Child in 1992. By observing its international obligations Lithuania has set up a child protection system, adopting national legislation to enforce and protect the rights of the child; and establishing state and local authority institutions as well as non-governmental organisations engaged in child protection. Consequently, the legal preconditions needed for a change of attitude to children, the way they are treated, and their status in the family and society have emerged.

The aim of this paper. Analysis of the theoretical and practical aspects of the regulation and protection of children's non-property rights.

To achieve this, the following objectives were set:

1. to analyse the concept and legal status of the child;
2. to analyse children's basic moral rights and freedoms;
3. to analyse the legal regulation of the protection of children's moral rights.

The subject of research – the legal regulation of children's moral rights.

The research methods can be divided into three groups: data collection, processing and summary of results. The data collected were applied in a series of analytical, logical, theoretical, and systematic research methods to examine and process information on the child's legal position as presented in various publications, books, scientific works and websites, and formulate basic statements and concepts.

## 2. THE CONCEPT OF THE CHILD'S LEGAL STATUS

The UN Convention on the Rights of the Child, ratified by 192 countries,<sup>1</sup> defines a child as a person under the age of 18, unless the

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<sup>1</sup> The Republic of Lithuania ratified this Convention on 3 July 1995.

age of majority is defined at an earlier age under other laws in force in a particular signatory state.<sup>2</sup> In the Republic of Lithuania the Protection of the Child's Rights Act and the Act on Protection of Minors against the Detrimental Effect of Public Information define the child (minor) in the way formulated in the UN Convention, the criterion for the concept of "the child" being his/her age. Most of the Lithuanian legislation relating to children is guided by this criterion. The setting of an age to distinguish the child from adults reflects the child's lack of physical and psychological maturity, and the need to protect him/her from abuse and any harmful effects which could be caused by his/her social environment.<sup>3</sup>

Contemporary Lithuanian dictionaries define the concept of "the child" as 1) a son or daughter; 2) a boy or a girl; 3) a person with features characteristic either of childhood or of the specific age of childhood.<sup>4</sup> According to J. Žukauskienė and A. Širinskienė, in biological terms, every person is someone's child. In social terms, a child is a person who has a certain social relationship with his/her parents. The term also implies a certain age limit.<sup>5</sup>

Under the Civil Code of the Republic of Lithuania and the Code of Civil Procedure of the Republic of Lithuania, minors are divided into two groups: under 14 – individuals who do not have legal capacity, and the 14 – 18 age-group – persons with a partial capacity. The Code of Administrative Offences and the Criminal Code of the Republic of Lithuania use a wider range of concepts distinguishing between various groups of minors ("child," "juvenile," "minor," "infant," "baby"). In the Lithuanian Republic Code of Administrative Offences, the term "Juvenile" is mostly used to describe individuals in the 14 to 16 age-group (Art. 175, Art. 178 Part 4, Art.183 Part 3); "the Child" is used for individuals from 5-7 to

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<sup>2</sup> UN Convention on the Rights of the Child, Žin. (No. 60-1501,1995). Art.1.

<sup>3</sup> ILONA TAMUTIENĖ, *Institutes of the Child's Rights Protection and Their Interface in the Cases of Violence against the Child* (PhD Thesis. Vytautas Magnus University, Kaunas, 2004), p. 13.

<sup>4</sup> Dictionary of Contemporary Lithuanian. Vilnius. 2000. P. 903.

<sup>5</sup> J. ŽUKAUSKAITĖ, A. ŠIRINSKIENĖ, *The Confidentiality Issue for Children in Drug Prevention Programmes*, «Magazine of Religious Science SOTER» 22(50)/2007, p.148.

16 (Art.138, Art.140, Art. 142.); and “a Minor” for individuals in the 16 to 18 age-group (Art. 13, Art. 21).<sup>6</sup> Differentiation between the various juvenile groups is appropriate and necessary, as it provides for the level of maturity the given child has reached to be taken into account and appropriate measures to be implemented.

The child’s legal status is defined by age – in most countries children are those who are under 18. Children have all the general human rights and freedoms, however, depending on the child’s age, and the physical, emotional, and social maturity determining the child’s interests and needs, some children’s rights can be extended or limited with respect to the rights of adults.<sup>7</sup> The features of a child’s physical, mental, and social development determine his/her special needs, thus, children have rights which are not held by adults: the right to custody, the right to be raised by their parents, the right to communicate with their brothers and sisters, the right to healthy development, the right to express their views and to be heard on matters relevant for their situation, etc.

The legal personality of the child has been analysed by J. Stripeikienė<sup>8</sup> and G. Sagatys;<sup>9</sup> E. Krivka has examined problems connected with the concept of the child’s interest;<sup>10</sup> A. Bilson, S. White,<sup>11</sup> D. Archard,

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<sup>6</sup> GINTARĖ LUKŠIENĖ, *Multidimensional Aspect of the Child Rights Concept in the Media* (MA Thesis, Vilnius, Mykolas Riomeris University, 2008), p. 11; [http://vddb.library.lt/fedora/get/LT-eLABa-0001:E.02~2009~D\\_20090120\\_140118-46110/DS.005.0.01.ETD](http://vddb.library.lt/fedora/get/LT-eLABa-0001:E.02~2009~D_20090120_140118-46110/DS.005.0.01.ETD) accessed 17 Apr. 2016.

<sup>7</sup> G. SAGATYS, *The Child’s Right to Family Ties: Implementation of the European Convention on Human Rights in Lithuania*. Vilnius: Legal Information Center, 2006, p. 11.

<sup>8</sup> J. STRIPEIKIENĖ, *The Problem of the Child as an Independent Legal Entity*. «Jurisprudencija» 42(34)/2003, p. 12-17.

<sup>9</sup> G. SAGATYS, *The Child’s Right to Family Ties: Implementation of the European Convention on Human Rights and Basic Freedoms in Lithuania*, Legal Information Center, Vilnius, 2006.

<sup>10</sup> E. KRIVKA, *Issue of Interest in the Civil Procedure Law*, «Jurisprudencija» 5(95)/2007, p. 25-31.

<sup>11</sup> A. BILSON, S. WHITE, *Representing Children’s Views and Best Interests in Court*, «An International Comparison. Child Abuse Review» 14/2005, p. 220-239.

and M. Skivenes<sup>12</sup> have looked at issues involving the child's opinion; D.W. Brock has examined the exercise of parental authority in the best interests of the child;<sup>13</sup> and J. Lind has studied problems arising in the relationship between parental authority and the rights of the child.<sup>14</sup>

As Article 2 of the Protection of the Child's Rights Act of the Republic of Lithuania provides, "a child is a person under 18, unless the law provides otherwise."<sup>15</sup> The opportunity for the law "to provide otherwise" is essentially based on the third criterion - the age groups into which childhood has been sub-divided under Lithuanian law.

To sum up, it can be said that the concept of the child cannot be separated from the general concept of the human being, although there are obvious differences between the two concepts relating to psychological, social, biological and legal circumstances. Childhood should be perceived as a stage of human development. This approach is most appropriate for the investigation of cases concerning the establishment of the child's legal position and the implementation of the applicable law. Therefore, a review of the child's rights, duties, and his/her social environment leads to the conclusion that every minor will be considered a child from birth (the moment a newborn baby takes its first independent breath) to adulthood (at the age of 18), or the acquisition of full civil capacity according to the law of the given country (through marriage or by emancipation).

The separation of children's property rights from their parents' property rights, the determination of the child's legal position in transactions, the defence mechanism designed to protect children against the

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<sup>12</sup> D. ARCHARD, M. SKIVENES, *Balancing a Child's Best Interests and a Child's Views*, «The International Journal of Children's Rights» 17/2009, p. 1-21.

<sup>13</sup> D.W. BROCK, *Shaping Future Children: Parental Rights and Societal Interests*. «The Journal of Political Philosophy» 13.4/2005, p. 377-398; L. DROMANTIENĖ, R. ŠALAŠEVIČIŪTĖ, *Protection of the Child's Rights in Lithuania: the Role of Social Workers*, «Social Work» 5.1/2006, p. 79-88.

<sup>14</sup> J. LIND, *The Best Interest of the Child as an Argument in Assessments of Parent Potential in Sweden*, «International Journal of Law, Policy and the Family» 22/2008, p. 1-21.

<sup>15</sup> The Child Rights' Protection Law of the Republic of Lithuania, Valstybės žinios 1996, No. 33-807.

violation of their rights not only by third parties, but also by parents, in civil legal relations, have established the child as an independent entity. The child possesses all the general human rights and freedoms, which are ascribed to them, just as they are to any individual, on the grounds of the concept of inherent human rights, notwithstanding the child's incapacity or limited capacity.

### 3. REGULATION OF CHILDREN'S NON-PROPERTY RIGHTS AND FREEDOMS

Moral values<sup>16</sup> are enshrined in the Constitution of the Republic of Lithuania in Chapter 2, "The Individual and the State." Non-material values and the need to guarantee moral rights are provided for in the European Convention on Human Rights, which establishes the basic non-property human rights ensuring a proper and full life: the right to life, liberty, and personal inviolability, freedom to choose one's place of residence, the right to privacy, freedom of thought, conscience and religion.

The consolidation of moral values and moral rights implies the duty of the state and the legislature to ensure their proper implementation, and to provide real guarantees to secure them. The legislative guarantee of the subjective rights of natural and legal persons means respecting the individual's legitimate activities. This increases public safety and guarantees the security of the individual's rights and freedoms under the European Convention on Human Rights and the Constitution of the Republic of Lithuania.

In legal theory moral values are classified in different ways. One of the generally accepted classifications gives the following groups of rights:

1) personal non-property rights, which ensure the individual's physical and mental integrity, life and health; the right to physical and mental integrity; the right to a safe environment; the right to freely choose a place of residence, etc.;

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<sup>16</sup> Health, honour, dignity, integrity of privacy etc.

2) the individual's right to dignity, social respect, honour, name, image, and business reputation;

3) rights guaranteeing privacy: notarial acts, the lawyer and client, confidentiality of the individual's medical data; the inviolability of private life: freedom, domestic inviolability etc.<sup>17</sup>

Article 1.115 of the Civil Code of the Republic of Lithuania states that persons who enjoy the protection of the law on civil rights hold personal non-property rights which have no economic content but are inextricably linked to the holder of those rights. Personal non-property rights may be related or unrelated to property rights.<sup>18</sup>

The child's moral rights entail a special feature which not only highlights the child's personal rights but also requires that the child's rights should defend the child regardless of other people's will.<sup>19</sup>

To sum up, the division of children's rights into the aforementioned categories suggests that the child is not a separate individual with exclusive rights. Examination of the documents which regulate the rights of the child shows that the child is a member of society and enjoys the same rights as others. Most children are too vulnerable to be able to defend their rights, so the state should guarantee the protection of their rights.

#### 4. PROTECTION OF CHILDREN'S NON-PROPERTY RIGHTS

The concept of the child's legal protection means that children's rights are human rights. According to D. Kabašinskaitė<sup>20</sup> the basic principle of human rights is that every person is worthy of respect. The rights of the child include the guarantee of the individual child's security, and

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<sup>17</sup> S. CIRTAUTIENĖ, *Non-Pecuniary Damages as a Remedy of Moral Values*, «Jurisprudencija. LTU» 71 (63)/2005, p. 5-15.

<sup>18</sup> The Civil Code of Lithuania, Valstybės žinios 2000, No. 74-2262.

<sup>19</sup> M. ŠIMONIS, J. JANUŠKIENĖ, *Children's rights in the Legal System of the Republic of Lithuania*, «Teisės problemos» 4/2001, p. 72.

<sup>20</sup> D. KABAŠINSKAITĖ, *Sociology of Childhood, Children's Rights and Child Policy*, «Philosophy. Sociology. Science research. Demography, Vilnius: Lietuvos mokslų akademijos leidykla» 3/2002, p. 46.



the creation of an environment in which all children are guaranteed the development of their full potential. The rights of the child reflect the universal human rights as well as the special status of childhood.

The need to guarantee child protection on an international basis was provided for in 1959, in the Declaration of the Rights of the Child, the first international treaty adopted by the United Nations.<sup>21</sup> Lithuania acceded to the Declaration on 5 January 1992. The Declaration's preamble emphasises the duty of all humankind to give children the best possible conditions for their development. The Declaration of the Rights of the Child recognises children's political and civil rights (the child's right to non-discrimination, the right to a name and nationality; also children's rights to education, health care and special protection).<sup>22</sup>

The concept on which the Declaration is based is that what the child receives from the world he or she will return later, and will be guided by the principles established in his or her childhood. This means that, given the child's age and level of maturity, he or she may be accorded: 1) the right to express his or her views and to be heard; 2) the right to education; 3) the right to participate in cultural life; 4) the right to express his or her views; 5) the right to receive information from various sources, while also being protected against harmful information and materials; 6) the right to protection against violence and abuse. These rights of the child must be recognised and respected by the Lithuanian Parliament, government, and other institutions, public organisations, parents, men and women, i.e. every person.<sup>23</sup>

Article 33 of the United Nations Convention on the Rights of the Child provides that the national Parties to the Convention will take all necessary measures to protect children from unlawful trafficking

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<sup>21</sup> The United Nations Declaration on the Rights of the Child, [http://www.nplc.lt/nj/Dokumentai/Uzs\\_teis\\_aktai/vaiko%20teisiu%20deklarac.htm](http://www.nplc.lt/nj/Dokumentai/Uzs_teis_aktai/vaiko%20teisiu%20deklarac.htm); accessed 22 Mar. 2016.

<sup>22</sup> Ž. JONYNIENĖ, *Children's Approach to Children's Rights and Their Implementation*. Šiauliai. 2005, [http://www.gelbvaik.lt/download.php?file\\_id=153](http://www.gelbvaik.lt/download.php?file_id=153); accessed 22 Feb. 2016.

<sup>23</sup> The Government of the Republic of Lithuania, <http://www.lrvk.lt/main.php?id=vaikams/archyvelis.html&d=3004>; accessed 22 Feb. 2016.

in drugs and psychotropic substances, and will prevent the production and trafficking of such substances among children. In this case, the government must use all the means available – legal, administrative, social, and educational.

For example, under the Child Welfare Law of Japan, anyone who finds a child in need of protection must notify the local welfare authorities or child assistance centres.<sup>24</sup> When children's interests are concerned, the Japanese Child Abuse Prevention Act requires teachers, health professionals, and child welfare officials to make every effort to identify child abuse cases.<sup>25</sup> If necessary, the local authority sends children to child guidance medical centres, and provides psychological or other assistance.<sup>26</sup>

Since the beginning of the economic and social transformation in Lithuania drug addiction has become a more and more menacing social problem. In its Resolution of 2010 the Lithuanian Seimas (Parliament) adopted the National Drug Control and Drug Abuse Prevention Programme for the period of 2010-2016,<sup>27</sup> in which one of the components is the prevention of drug abuse at school. Earlier the Lithuanian government approved the State Tobacco Control Programme in its Resolution No. 954 of 30 July 1998,<sup>28</sup> and adopted the State Alcohol Control Programme in Resolution No. 212 of 25 February 1999.<sup>29</sup> These programmes address governmental challenges and provide solutions regarding tobacco, alcohol and drug control and prevention policy. It was on their basis that the Drug Abuse Prevention Programme for Educational Institutions was arranged.

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<sup>24</sup> Jidō Fukushi Ho [The Law on the Child's Welfare], Law 1947, <http://www.loc.gov/law/help/child-rights/china.php>; accessed 26 Apr. 2016.

<sup>25</sup> Jidō gyakutai ne Boshi prie NI kansuru hōtitsu [Child Abuse Prevention Law], 2000 // <http://www.yesican.org/definitions/CAPTA.html>; accessed 26. Apr. 2016.

<sup>26</sup> Jidō Fukushi Ho [Child Welfare Law], 1947, <http://www.loc.gov/law/help/child-rights/china.php>; accessed 26 Apr. 2016.

<sup>27</sup> The National Drug Control and Drug Prevention Programme 2010-2016 [www3.lrs.lt/docs2/SSICAVXT.DOC](http://www3.lrs.lt/docs2/SSICAVXT.DOC); accessed 26 Apr. 2016.

<sup>28</sup> State Tobacco Control Programme, Valstybės žinios 1998, No. 954.

<sup>29</sup> State Alcohol Control Programme, Valstybės žinios 1999, No. 212

It should be noted that a negative social environment means the occurrence of alcoholism in the family and children's involvement in crime. In order to protect minors from involvement in crime, the Lithuanian Criminal Code<sup>30</sup> provides for the penalisation of persons who implicate minors in criminal acts. Article 241 of the Criminal Code contains provisions on the criminal liability of adults responsible for a minor's engagement in criminal activities, as well as for their involvement in alcohol abuse; Article 2411 defines the penalties for the involvement of minors in the production and use of non-medical drugs and other substances which cause narcotic intoxication. The incitement of a juvenile to commit a crime is considered an aggravating circumstance (Criminal Code, Art. 41).

Recently there has been concern for the legal protection of children from the negative influence of the media. The Act on the Protection of Minors against the Detrimental Effect of Public Information was adopted on September 10, 2002.<sup>31</sup> Its aim is to establish the order of and criteria for the publication and distribution of public information which has a negative impact on the physical, mental or moral development of children, as well as the rights, duties and responsibility of media producers, distributors and owners, journalists and institutions regulating their activities when dealing with such information.<sup>32</sup> The grounds for the protection of minors from public information harmful to their physical, mental and moral development, particularly relating to pornography and/or the gratuitous portrayal of violence, are set out in Article 18 of the Public Information Act.<sup>33</sup>

Article 17 of the UN Convention on the Rights of the Child encourages the development of appropriate guidelines for the protection of children

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<sup>30</sup> Criminal Code of the Republic of Lithuania // Valstybės žinios 2000, No. VIII-1968

<sup>31</sup> The Act on the Protection of Minors against the Detrimental Effects of Public Information of the Republic of Lithuania, Valstybės žinios 2002, No. IX-1067.

<sup>32</sup> The Act on the Protection of Minors against the Detrimental Effects of Public Information of the Republic of Lithuania, Valstybės žinios 2002, No. IX-1067.

<sup>33</sup> The Public Information Act of the Republic of Lithuania, Valstybės žinios 2006, No. X-752.

against information and materials detrimental to their well-being.<sup>34</sup> Article 46 of the Children's Rights Framework Act of the Republic of Lithuania bans the display, sale, donation, reproduction, and hire to children of toys, films, soundtracks and videos, literature, newspapers, magazines, and other publications that directly encourage or promote war, cruelty, violence, pornography or are otherwise harmful to children's spiritual and moral development.<sup>35</sup>

In conclusion, it can be said that children are very vulnerable and may easily be harmed in a social environment not conducive to their proper development. However, the State must take all the necessary measures to improve children's social environment and protect them from harmful habits and activity such as drugs, alcohol, crime etc., by imposing a variety of penalties for adult offenders and instigators. There are various children's aid centres in Japan and Lithuania. If necessary, the local authority sends the children to child guidance medical centres or provides psychological and other assistance.

## 5. CHILDREN'S RIGHTS IN THE POLISH LEGISLATION

In the Polish legislation children's rights are regulated in a similar way to the way they are regulated in Lithuania. The legal provisions in force in Poland resemble the Lithuanian ones. Children's rights are regulated primarily in the Constitution of the Republic of Poland, in the following articles:

Article 18 of the Constitution<sup>36</sup> states that marriage, which is the union of a man and a woman, as well as the family, motherhood and parenthood, are under the protection and care of the Republic of Poland.

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<sup>34</sup> The UN Convention on the Rights of the Child, Valstybės žinios 1995, No. 60-1501.

<sup>35</sup> The Act on the Protection of the Child Rights of the Republic of Lithuania, Valstybės žinios 1996, No. 33-807.

<sup>36</sup> The Constitution of the Republic of Poland, 2 April 1997 (*Dziennik Ustaw* 1997, No. 78, item 483, as amended)

Under Article 71 of the Constitution, in its social and economic policy the State takes into account the well-being of the family. Families in difficult material and social circumstances, particularly those with many children or with a single parent, have the right to special assistance dispensed by public authorities. Before and after the birth of a child, its mother has the right to claim special assistance from public authorities, within the scope specified by the law. Furthermore, in Article 72 of the Constitution the legislator guarantees the protection of children's rights, declaring that the Republic of Poland shall ensure protection of the rights of the child. Everyone has the right to demand that public authority institutions defend children against violence, cruelty, exploitation and moral corruption. A child deprived of parental care is entitled to care and assistance provided by public authorities. In the course of establishing the rights of a child, public authorities and those responsible for the child are obliged to listen to and, as far as possible, take the child's opinion into account. Moreover, the Polish Constitution specifies the powers and manner of appointing the Commissioner for Children's Rights.

Moreover, the legislator of the Polish Constitution also focuses on the family, regarding it as a constitutional value which should be protected. As K. Świąch has pointed out, "these provisions consider the relationship between parents and children particularly important and give them special constitutional protection. For development in the best possible social conditions, a child should have the right to be raised in a family, which is regarded as unquestionably the best environment for a child's development."<sup>37</sup>

Furthermore, in its statement of grounds for Judgement K 11/00 of 4 April 2001, the Polish Constitutional Court points out that "as regards the principle of protection of children's rights expressed in Article 72 section 1 of the Constitution, these rights are not subject to limitations resulting from Article 81 of the Constitution. According to Article 72 section 1 of the Constitution, 'The Republic of Poland ensures protection of

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<sup>37</sup> K. ŚWIĄCH, *Pozycja rodziny w polskim prawie podatkowym*, Warszawa, 2013, p. 12.

children's rights. Everyone has the right to demand that public authority institutions defend children against violence, cruelty, exploitation and moral corruption.” On the grounds of the Convention on the Rights of the Child adopted by the Republic of Poland (*Dziennik Ustaw* 1991, No. 120, item 526, as amended), pursuant to Article 3 section 1, the Polish state undertakes that in all actions concerning children, taken e.g. by legislative bodies, the primary consideration shall be the best interests of the child.<sup>38</sup>

Furthermore, in its Article 446 §1 the Polish Civil Code obligates parents to exercise parental authority<sup>39</sup> with due diligence and provides that after it is born a child may demand compensation for harm suffered before birth.<sup>40</sup> Moreover, this obligation is also confirmed in Article 75 § 1 of the Family and Guardianship Code.<sup>41</sup>

## 6. CONCLUSIONS

1. Under the Lithuanian legal system, a child means every minor person from the moment of birth (the neonate's first independent inhalation) until the age of majority (18), or the acquisition of full civil capacity according to the law (through marriage or emancipation). This regulation is consistent with the theory presented in this study and has been applied to define the concept of the child on the grounds of three criteria: the contents of childhood, the essence of age, and age groups in childhood.

2. The individual's non-property rights and the need to enforce them are laid down both by national and international legal acts, the most important of which is the European Convention on Human Rights, which establishes fundamental non-property rights to ensure the proper

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<sup>38</sup> Judgement of the Constitutional Court of 4 April 2001, K 11/00, «OTK» 2/2001, item 54.

<sup>39</sup> J. HABERKO, *Cywilnoprawna ochrona dziecka poczętego a stosowanie procedur medycznych*, Wolters Kluwer S.A. Warszawa, 2010, p. 10.

<sup>40</sup> The Act of 23.04.1964 (*Dziennik Ustaw* 2014, item 121, as amended)

<sup>41</sup> The Act of 25.02.1964 (*Dziennik Ustaw* 2015, item 583, as amended)

and full life for the individual: the right to life, liberty and personal inviolability, freedom to choose his or her place of residence, the right to privacy, freedom of thought, conscience and religion.

3. The Convention on the Rights of the Child has defined civil, economic, social, cultural and other types of children's rights, which signatory states undertake to respect and follow. However, theoretical approval does not always coincide with the way children's rights are treated in practice. Therefore, it is necessary to protect children against various abuses of their rights and to admit that children also have their own personal rights, freedoms and responsibilities.

4. Two of the fundamental non-property rights of the child enshrined in many national laws are the right to life and the right to good health. Nevertheless, in the context of this right we have to talk about abortion, which is the main and perhaps the greatest threat to and violation of a child's right to life. In the light of the statistics and case law, we may conclude that abortion has not been legalised in all countries, but may be allowed, with certain exceptions, when giving birth poses a direct threat to the life of the mother. Thus, priority is given to the woman, not to the child's life.

5. Children's right to an identity and individuality, as well as the preservation of the child's right to a name, the right to retain their nationality and citizenship are regulated in clear and detailed provisions. However, in Lithuania and Ireland, these rights are closely associated with the child's parents, as it is only on parental consent that a child can change his or her name, nationality, etc.

6. The child's right to privacy, liberty and personal inviolability is protected by law. The privacy of children who have broken the law must be ensured as well. Data on juvenile offenders should be accessible only to duly authorised persons; it should not be used during the investigation of the follow-up adult cases related to the same offender. For example, in Denmark, children's privacy is a highly protected value. However, even here the rights of children are all too often still being violated. Although the child's private life may be made public only with the consent of their parents, often such information is leaked without their knowledge.

## OCRONA I REGULACJA PRAW NIEMAJĄTKOWYCH PRZYSŁUGUJĄCYCH DZIECIOM NA LITWIE I W POLSCE

### Streszczenie

Każde dziecko, powinno korzystać z wszystkich powszechnych praw człowieka. Dziecko, musi mieć zagwarantowane określone prawa, typowe tylko dla tej grupy osób. Pierwsze zmiany związane z dyskusją i oceną sytuacji dziecka w rodzinie i społeczeństwie rozpoczęły się na początku XX wieku. Jednak jedna z najważniejszych zmian nastąpiła dopiero po przyjęciu Konwencji Praw Dziecka przez Organizację Narodów Zjednoczonych. Konwencja ONZ o prawach dziecka definiuje dwa podstawowe przepisy - po pierwsze, dziecko musi stać się niezależnym podmiotem prawnym, po drugie dziecko musi być wyposażone w prawo czynnego udziału w realizacji i ochronie przysługujących mu praw. W 1992 roku Litwa przystąpiła do Konwencji o prawach dziecka. Polska ratyfikowała Konwencję 7 czerwca 1991 r. Dzięki przestrzeganiu zobowiązań międzynarodowych, Litwa i Polska zbudowały system ochrony praw dziecka. Powstały warunki prawne do zmiany postawy wobec dziecka, leczenia ich oraz ich statusu w rodzinie i społeczeństwie. Celem referatu jest analiza aspektów teoretycznych i praktycznych w zakresie regulacji i ochrony praw niemajątkowych dzieci.

**Keywords:** protection; regulation; children; rights.

**Słowa kluczowe:** ochrona; regulacja; dzieci; prawa.

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