

**OMBUDSPERSON FOR CHILD’S RIGHTS OF THE REPUBLIC OF LITHUANIA to** **UN Committee on the Rights of the Child**

**Written submission for the DAY OF GENERAL DISCUSSION 2021 "CHILDREN’S RIGHTS AND ALTERNATIVE CARE"**

1. INTRODUCTION

The Office of the Ombudsperson for Child’s Rights of the Republic of Lithuania is an autonomous and independent state institution established according to the Constitution of the Republic of Lithuania by the resolution of the Parliament.

The Ombudsperson for Child’s Rights (an independent official of the state):

* exercises supervision and control of the implementation and protection of children’s rights,
* investigates violation of children’s rights,
* submits proposals on the protection of children’s rights,
* promotes children’s rights,
* provides information about the situation of children’s rights in the country,
* cooperates with children, institutions and organizations, other persons working in the field of children’s rights protection.
1. **ANALYSIS OF THE ENVIRONMENT**

The reorganization of child care institutions (division into smaller entities by creating community child care homes, etc.), without strengthening other areas responsible for the protection of children's rights and assistance for family, without increasing or investing in increasing competencies of specialists working in these areas, gives insufficient results.

For several decades, Lithuania has been implementing child care reforms of various scales and contents, developing and implementing strategies and action plans at various levels [[1]](#footnote-1). In the first stages, the focus was on improving the infrastructure of child care institutions and children's living conditions: reducing the number of places in children's care homes (previously several hundred children could have been accommodated in one institution), redeveloping care homes to create an environment similar to living in a family, requirements for the professional skills and qualification of specialists working with children were set and constantly reviewed. Social work with families has been started and is constantly being improved, however, due to insufficient development of social and other services necessary for the family [[2]](#footnote-2), uncoordinated provision of services, lack of co-operation and co-ordination among child’s rights protection institutions and other specialists and institutions, also different implementation practices of the same issues or legal provisions in municipalities (the system of institutions for the protection of child’s rights was decentralized, it was quite difficult to find a consensus for government and municipal institutions on the development of services for family, uniform standards for ensuring child’s rights), the statistical indicators of the recurrence of children entering an alternative care system and placed in a child care institution, separation of children from parents, were not satisfactory.

For many years, the number of children deprived of parental care did not decrease significantly, the reasons for establishing child custody did not change, and a very large proportion of children deprived of parental care were accommodated in institutions.

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| For example: |
|  691 793 children lived in Lithuania in 2006. 10 542 children were deprived of parental care, of which 6 210 were in institutional care. There were 111 childcare institutions with 5 819 places, i.e. institutions were overcrowded, with more children than they could accommodate. |

The Ombudsperson for Child’s Rights was particularly concerned about the fact that infants and children under the age of 3 who had been deprived of parental care were accommodated in institutions. Such children were cared for in health care institutions - the Home for Infants with Development Disorders (Hereinafter – HIDD). Research conducted by the Ombudsperson for Child’s Rights [[3]](#footnote-3) showed that the absolute majority of children were accommodated in these institutions not due to their health condition but their higher need for care due to their age, peculiarities of financing (municipalities did not incur costs for the provision of social care services for these children), undeveloped system of child care services in the family.

After Lithuania started the process of deinstitutionalisation [[4]](#footnote-4), the focus was on the design and development of a system of comprehensive family services, ensuring their individualisation, availability in the community, promotion of care in the family and adoption of children who cannot be returned to their biological family.

The system of institutions for the protection of child’s rights has also been reformed [[5]](#footnote-5), the functions of specialists in different fields have been defined; algorithms for responding to violations of children’s rights, also for assessing the need of services have been established in laws; custody in institutions (with some exceptions) for children under 3 years of age has been prohibited; child care in health care-type institutions (HIDD) has been prevented; professional foster care and Foster care centers providing services to them have been introduced; new mechanisms of assistance for family, a package of minimum services for families provision of which must be ensured by each municipality (basic package of services) have been established; as well as legal institutes (e.g. permission issued by the court to take a child from legal representatives, case management, temporary custody of a child, etc.), ensuring that in practice children are taken from legal representatives only as a last resort, after all means have been exhausted to enable the family to take care of the child (children).

1. **RESULTS ACHIEVED**

After the implementation of the measures of the indicated stage, the number of children in institutional care, children deprived of parental care has significantly decreased, as well as the number of child care institutions. A special breakthrough was achieved in the care of children under 3 years of age.

1. **MEASURES TO STRENGTHEN AND ASSIST THE FAMILY TO PREVENT CHILDREN FROM entering THE CARE SYSTEM**
* The *early rehabilitation* of children with development disorders and the a*vailability of health care services* for disabled or special needs child is strengthened (in the context of deinstitutionalisation); a system of temporary *“respite”* *services* for families (including guardians and foster care professionals) is introduced.
* To achieve the efficiency, coordinated and comprehensive provision of services for the child and family, the *case management* institute is introduced - organization and provision of comprehensive assistance to the child and his or her legal representatives, coordinated by the case manager (social worker of the municipal social service institution).

Case management enables the provision of preventive assistance to families, which helps to prevent possible social risk factors in the family, as well as early intervention (aiding the child and family before the problems in the family become entrenched), providing intensive intervention assistance - complex intensive and emergency support for child and family by identifying areas where social risk factors in the family are present. The case manager assesses the needs of the child and family and its environment, mobilizes community members and specialists to provide the necessary support and coordinates the child and family support process. The assistance plan is drawn up by the specialists involved in the case management process with the help of the child's parents or other legal representatives (for a maximum period of 12 months, the duration being determined considering the recommendations of the specialists involved in the case management process). Specialists from the institutions identified in the assistance plan must be involved when implementing the actions and measures specified in the assistance plan.

* Measures have been implemented creating a *system of comprehensive services* that would enable each child, disabled person, or his/her family (guardians, caregivers) to receive individual (according to needs) services and necessary assistance in the community, and each child deprived parental care to grow up in a safe and development-friendly environment (in a foster or caregivers’ family). Comprehensive assistance is a combination of social, health care, educational, psychological, and other assistance measures that enables child's legal representatives to ensure safe environment for the child, quality family functioning and its well-being. The organization and delivery of comprehensive assistance is coordinated by the case manager.

To ensure the most equal possible access to services and support for families, a basic package of services has been approved, its range and scope of services must be ensured by each municipality.

* To ensure the provision in practice that taking a child from the parents or other legal representatives is used as a last resort, the institute of temporary child custody became operational on 1 January 2020 [[6]](#footnote-6).

Temporary custody includes ensuring a safe environment for the child (when the need for child protection is identified):

1) putting a child to the care of relatives, persons with emotional ties to the child or other persons designated by child’s parents or legal representatives who can temporarily take care of the child, at the place of residence of the child and his/her parents or other legal representatives;

2) organizing temporary custody of a child with relatives, persons with emotional ties to the child or other persons designated by child’s parents or legal representatives who can temporarily take care of the child, at the place of residence of the temporary custodians (by mutual consent of one of the child's parents (or both parents) or other child's legal representative(s) and the persons exercising temporary custody of the child);

3) organizing temporary custody of a child, accommodating him or her together with his or her parents or one of them, or other legal representatives (representative) of the child, which do not endanger the child's physical or mental safety, in an institution providing social care.

The temporary child custody measures referred to in points 1 and 2 may be applied for up to 30 days and in point 3 - as needed, but no longer than 12 months. If during the child's temporary custody all possible family support measures are exhausted and ineffective, and the child's parents or other legal representatives do not make an effort, don’t change their behaviour and continue to pose a real danger to the child's physical or mental safety, health or life, the process of establishing care is initiated after obtaining a court permit to take a child from the parents).

In 2020, temporary child custody was applied in 1605 cases.

* Important role in strengthening the family and avoiding the separation of children from their parents is played by *mobile teams* (a group of specialists), that are functioning within the reformed (centralized) Child’s Rights Protection Institution providing intensive assistance to a family and child in crisis and cooperating with the case manager in identifying the need for child protection.
1. **MEASURES RESTRICTING THE PLaCING OF CHILDREN IN THE INSTITUTIONS**
* The Civil Code stipulates that a child deprived of parental care as of 1 January 2017 shall be accommodated in a state or non-governmental child care institution only in exceptional cases when it is not possible to take care of him or her in the family or social family.
* The Civil Code stipulates that from 1 January 2017, custody of a child under the age of three may be established in a child care institution only in exceptional cases and may last for a maximum of three months, with strict exceptions (e.g. the need of specialized services that cannot be provided for a child in the family or social family.
* On 1 January 2017, an order of the Minister of Health came into force[[7]](#footnote-7), approving the list of medical indications (diseases and/or health disorders) according to which inpatient personal health care services are provided for children in HIDD.
* From 1 January 2018, the institute (established in the Civil Code and the Law on Social Services) of professional foster parents, who can accept a child deprived of parental care at any time of the day came into force. Professional foster parents are trained, provided with services and assisted by the Professional foster care centers.
* ­In the consolidated version of the Law on Fundamentals of Protection of the Rights of the Child (entered into force on 1 July 2018) an algorithm (deadlines, procedures, powers) for responding to reports of possible violations of children's rights has been established, and criteria have been set for the child to be taken from parents or other legal representatives.

It has been established that permission to take a child from the parents or other legal representatives is issued by a court when there is a *real* danger to child's safety, health, life (satisfying or rejecting the application of a Child‘s Rights Protection Institution for permission to take a child from the family). The court is active in assessing whether the circumstances that posed a threat to the child have not disappeared.

1. **CONCLUDING REMARKS**

Assessing the tendencies and problems in ensuring the interests of children deprived of parental care in the field of institutional child care, the Ombudsperson for Child‘s Rights observes many positive changes (legal regulation created/improved, systems of services and support for child and family in various areas of life have been created, other measures have been implemented), but the process of deinstitutionalisation itself and its elements cannot be finite. The achieved results must be constantly reviewed, the implemented measures must be improved and, if necessary, changed, new goals must be set constantly. The goals can be achieved only by implementing systematic solutions and measures, involving specialists from various fields, consolidating the resources and efforts of the legislative, executive, municipal institutions, communities, non-governmental organizations.

1. Plan for Optimization of the Network of Child Care Institutions, approved by order of the Minister of Social Security and Labor 11 October 2007, No. A1-282, which sets the goal to reduce the number of places in child care institutions down to 60 starting from 2010. Government of the Republic of Lithuania (resolution No. 1193, 31 October 2007) approved the strategy for reorganization of the child care system and the plan of measures for the implementation of this strategy for 2007-2012, the aim of which is to promote alternative forms of child care and reduce the number of children taken from families and entering the institutional care system. [↑](#footnote-ref-1)
2. Research of the Ombudsperson for Child‘s Rights “On the Problems of Organizing and Providing Social Services to Families at Social Risk and their Impact on Ensuring the Protection of Child‘s Rights ” 11 September 2012, (<http://vtaki.lt/lt/teisine-informacija/vaiko-teisiu-padeties-vertinimas/atlikti-tyrimai-ir-apibendrinimai>) [↑](#footnote-ref-2)
3. Research of the Ombudsperson for Child‘s Rights of 16 November 2011 and 20 March 2015 on problems in organising care for children under 3-4 years in HIDD and other care institutions;

([http:/ vtaki.lt/lt/teisine-informacija/vaiko-teisiu-padeties-vertinimas/atlikti-tyrimai-ir-apibendrinimai](http://www.vtaki.lt/lt/teisine-informacija/vaiko-teisiu-padeties-vertinimas/atlikti-tyrimai-ir-apibendrinimai)). [↑](#footnote-ref-3)
4. „Strategic Guidelines for the Deinstitutionalisation of Social Care Homes for Disabled Children without Parental Care and for Adults With Disabilities“, approved by Minister of Social Security and Labour 16 November 2012, No. A1-517, „Action Plan on the Transition from Institutional Care to Family and Community Services for Disabled Persons and Children Without Parental Care for 2014-2020“, approved by Minister of Social Security and Labour 14 February 2014, No. A1-83, <https://socmin.lrv.lt/uploads/socmin/documents/files/pdf/9950_a1-83order.pdf>. [↑](#footnote-ref-4)
5. https://vaikoteises.lt/protection-of-children/the-lithuanian-child-rights-protection-system-/ [↑](#footnote-ref-5)
6. Law on Fundamentals of Protection of the Rights of the Child, Article 364. [↑](#footnote-ref-6)
7. Order of Minister of Health, 6 June 2016, No. V-715, „On the approval of the list of medical indications (diseases and/or related health disorders) according to which inpatient personal health care services are provided in the HIDD. [↑](#footnote-ref-7)