

PUBLIC AUDIT REPORT

**EFFECTIVENESS OF ORGANISATION OF CHILD
RIGHTS PROTECTION**

31 December 2012, No VA-P-10-3-21
Vilnius

SUMMARY

Audit started 14 February 2012
Audit completed 31 December 2012

Full audit report in Lithuanian is available on the website
of the National Audit Office: www.vkontrole.lt

According to Statistics Lithuania, there were 611 thousand children in Lithuania at the end of 2011, which accounts for 20 per cent of the country's population. In 2011 there were about 11 thousand social risk families with 22 thousand children (3.6 per cent of the total number of children in Lithuania)¹. More than three thousand children in 2011 were suspected (accused) of criminal offences, the same number of children fell victims of criminal offences themselves.

According to the Lithuanian Constitution, the State shall protect and take care of childhood, children are protected by law². Child rights in the Republic of Lithuania are safeguarded by the State and its institutions, local authorities and public organizations whose activities are related to child rights protection³. The function of cooperation between public and local authorities and institutions in the field of child rights protection has been assigned to the Ministry of Social Security and Labour⁴. Child rights protection is the function delegated by the State to municipalities, and this function is exercised on municipal territories by respective Child Rights

¹ Data of the Information System of Social Assistance for Families (SPIS).

² Constitution of the Republic of Lithuania, Art. 38 and 39.

³ Law of the Republic of Lithuania on Fundamentals of Protection of the Rights of the Child, 14 March 1996, No. I-1234, Art. 58.

⁴ Regulations of the Ministry of Social Security and Labour approved by the Government of the Republic of Lithuania Resolution No. 892 of 17 July 1998 (version of 13 October 2010, No. 1463), paragraph 8.4.7 p.

Protection Divisions (agencies) (CRPDs) within the limits of their competence. Special targeted subsidies allocated to municipal budgets for 2010–2012 total LTL 488.4 million⁵.

The main objective of the audit was to assess effectiveness of organisation of child rights protection by answering the following questions:

- have municipalities properly organised protection of child rights in legal proceedings;
- has protection of children involved in biomedical research been properly organised;
- has work with social risk families and social risk children been properly organised.

The audit was conducted in the Ministry of Social Security and Labour and in the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, information was also collected from other entities: Prosecutor General's Office, National Courts Administration, Ministry of Justice, Ministry of Education and Science, Police Department under the Ministry of the Interior, public establishment *Vaikų linija* (Children's Help Line), and other institutions and non-governmental organisations. Audit procedures were performed in the municipalities of Vilnius, Kaunas, Klaipėda and Birštonas cities and in those of Vilnius, Zarasai and Trakai districts, interviews on organisation of child rights protection were taken in all municipalities.

Audit conclusions and recommendations were formulated upon assessment of audit findings:

Audit conclusions

1. Legal representation of the child and protection of child rights in legal proceedings has been organised improperly:

1.1. Not all municipal Child Rights Protection Divisions have lawyers, CRPDs have different work loads, they lack information and other resources, not all CRPDs have access to registers and information systems, there is no uniform practice of the moment of presenting conclusions to court to be followed by all Divisions therefore conclusions presented to courts are of insufficient quality. There are no criteria of assessment of family living conditions in place, which results in subjective or formal assessment of these conditions by officials. Due to shortcomings in legal regulation, Child Rights Protection Divisions provide redundant conclusions in lawsuits where the division is the plaintiff.

1.2. Due to failure to regulate the procedural position of CRPDs specialists in criminal proceeding, these specialists are not able to fulfil the functions assigned to the Division in a proper

⁵ Special targeted subsidies for exercising public functions: for the protection of rights of children and the youth, for social assistance to schoolchildren, for the surveillance of social risk families, for meeting special needs of schoolchildren.

manner. Children are usually interviewed in premises which are not specifically designed for such purpose, without participation of child rights protection specialists and psychologists, sometimes for a long time because of failure to fix the child's interview venue, meanwhile presence of a child rights protection specialist and, during interviews of victims and witnesses, of a psychologist, is mandatory. Inadequate interviews of children have a negative impact of the criminal proceeding on the child, often children are interviewed repeatedly.

2. Child rights protection in biomedical research involving children has been organised improperly:

2.1. Participation of CRPDs in biomedical research is redundant because there are other authorities which have to ensure protection of children's interests in biomedical research (Lithuanian Bioethics Committee, Regional Biomedical Research Ethics Committees, State Medicines Control Agency), also, consent of legal representatives has to be obtained.

2.2. The procedure of the child's consent has not been regulated therefore it is not always that researchers hear and record the child's opinion.

2.3. The Lithuanian Bioethics Committee, Regional Biomedical Research Ethics Committees and the State Medicines Control Agency did not check any trial involving children during 9 months over the period 2009–2012, which demonstrates insufficient control of biomedical research.

3. Work with social risk families and children growing in such families is insufficiently effective:

3.1. Child Rights Protection Divisions do not always receive information from health institutions about possible violations of child rights, because of different interpretation of legislation by these institutions.

3.2. Not all data about social risk families is accumulated centrally: more than half of municipalities compile two lists – a list of social risk families and a list of signal families hence the actual number of social risk families in these municipalities may be 25 per cent higher. There is a delay in entering families in the accounts. Families are not differentiated by the level of problem complexity and nature.

3.3. Threats to the child's life, health and safety are assessed inadequately since no threat assessment criteria have been laid down and no procedure for taking the child into care has been established. As a result, there were cases when children died when left in the family or were taken into care and then returned back to the family several times during a short period of time.

3.4. Municipalities have been inadequately drawing up and implementing plans of individual work with the family, with these plans including tasks that are vague, insurmountable for

parents, or unrelated to the solution of family problems; social workers have not been coordinating these plans with Child Rights Protection Divisions, high work loads of the staff result in only formal organisation of work with families. Some of the tasks provided for in the plan have not been carried out because families lack motivation to change.

3.5. Not all municipalities have a developed network of social services, with the existing network being able to meet the demand of only 19 per cent of children in social risk families; however, the Ministry of Social Security and Labour has been allocating funding for child day care centres without giving priority to municipalities which lack services of such centres. Social risk families have been taking part in projects on help in case of crisis without having been directed to such projects by a child rights protection specialist or social worker.

4. Work with social risk children has been organised insufficiently effectively due to the following reasons:

4.1. Legislation does not obligate municipalities to accumulate data on social risk children living within their respective areas, therefore such children are entered in the accounts only in half of the municipalities.

4.2. Some minimum child care measures (obligation to attend a children's day care centre, open youth centre or other social service institution, etc.) have not been introduced because there are no possibilities to apply them or it is not clear for specialists how to apply them (obligation to do educational work if the child agrees); time frames set for implementing some measures (obligation to be at home at specified time, etc.) are too short to be able to achieve the desired result. Introduction of minimum child care measures in municipalities has been subject to insufficient control because no responsible implementers have been appointed and no respective control measures have been established. As a result, some children do not implement these measures.

4.3. Help provided to children on telephone 116111 is not sufficient: calls not taken amount to more than 3.6 million, help over the phone is provided less than 24 hours a day.

Recommendations

To the Ministry of Social Security and Labour of the Republic of Lithuania:

1. With a view to create preconditions for more effective work with social risk families and social risk children, to initiate legislative amendments which would:

1.1. provide for a deadline for conducting an inquiry and taking a decision on entering a family in the accounts of social risk families from the moment of the receipt of information about

potential violation of child rights; provide for respective criteria for differentiating families by the level of problem complexity and nature; establish a procedure for accounting social risk children;

1.2. regulate the taking of children into care and set criteria for assessing threats to the child's life, health and safety, criteria for assessing deterioration/improvement of the family situation, and establish a minimum period for monitoring the family situation after having taken the child into care, which would be uniform for all municipalities;

1.3. set the maximum number of social risk families per one social worker;

1.4. improve assessment of the demand of social services and planning of social work with the family so that methodological guidelines are developed for comprehensive assessment of the family situation and selection of the most suitable services for the family in question; also, trainings should be organised for social workers and staff of CRPDs.

2. With a view to develop the network of social services and to improve accessibility of services in municipalities, to take relevant measures so that:

2.1. priority is given to projects in municipalities with the biggest shortage of social services for families (children);

2.2. social services are provided to families (children) specified by CRPDs.

3. To take measures in order to make the phone line 116111 available 24 hours a day 7 days a week.

4. With a view to facilitate the work of courts and Child Rights Protection Divisions, to initiate amendments of Art. 3184 of the Civil Code in order to establish that the Divisions do not present their conclusions in respect of a dispute regarding restriction of parents' power or separation of the child from his parents, which is being considered, in cases when the Division has filed a lawsuit to court.

To the Ministry of Social Security and Labour of the Republic of Lithuania, in cooperation with the Prosecutor General's Office:

5. With a view to safeguard child rights in criminal proceedings, to prepare and approve methodological guidelines on participation of child rights protection specialists in criminal proceedings.

To the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour:

6. With a view to ensure better representation of the child's interests and safeguard his interests and form uniform practice in all municipalities:

6.1. to revise methodological guidelines regarding presentation of conclusions to courts – to provide for criteria for assessing the child's needs, to agree the guidelines on the conclusions presentation moment with the provision of Art. 252(1) of the Civil Procedure Code;

6.2. to initiate regular meetings (discussions) of court chairpersons and representatives of Child Rights Protection Divisions, which would cover involvement of these Divisions in the proceedings, presentation of conclusions and other issues arising in cases related to children;

6.3. to initiate legislative amendments in order to establish the right for Child Rights Protection Divisions to receive, free of charge, data from state registers for the performance of their functions laid down in legislation;

6.4. to organise meetings/trainings for child rights protection specialists.

To the Ministry of Justice of the Republic of Lithuania:

7. With a view to reduce a negative impact of criminal proceedings on the child and to better safeguard child rights during the proceedings, it is appropriate to initiate legislative amendments which would:

7.1. clearly define the procedural position of child rights protection specialists in criminal proceedings;

7.2. obligate the presence of a child rights protection specialist and, during interviews of child victims and witnesses, of a psychologist, and fix a mandatory venue for the child's interview.

To the Ministry of Health of the Republic of Lithuania:

8. To initiate legislative amendments which would:

8.1. in the Law of the Republic of Lithuania on Ethics of Biomedical Research: delete the provision on the consent of Child Rights Protection Divisions, introduce a requirement to obtain the child's consent to take part in biomedical research; provide for a more detailed procedure for the hearing of the child's opinion and for consent and presentation of information about children taking part in research to Child Rights Protection Divisions in legislation;

8.2. establish that health institutions shall provide information about their patient to Child Rights Protection Divisions on their own initiative and without patient's consent in all possible cases of child rights violation.

To the Ministry of Education and Science of the Republic of Lithuania:

9. With a view to create preconditions for more effective application of minimum child care measures:

9.1. to initiate legislative amendments which would provide for a longer period for the implementation of the measures – obligation to be at home at specified time or not to communicate with people having a negative impact;

9.2. to develop and publish guidelines on how to implement the minimum child care measure – obligation to do educational work if the child agrees.

To Lithuanian Bioethics Committee and Regional Biomedical Research Ethics Committees:

10. With a view to conduct more effective control of biomedical research involving children, to draw up a plan of inspections of biomedical research, to establish screening procedures, criteria and scope, and to carry out scheduled inspections in research centres.