

ENSURING THE RIGHTS AND INTERESTS OF THE CHILD IN THE CHILD CARE AND ADOPTION

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No VAE-8

SUMMARY

The Relevance of the Audit

In 1995, Lithuania, having ratified the Convention on the Rights of the Child, recognised that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, and committed to providing the child with the protection and care necessary for his/her well-being, taking into account the rights and duties of his/her parents, guardians or other persons responsible for him/her by the law¹.

Since 2018, there have been major changes in the areas of temporary and permanent child care and adoption: the protection of the rights of the child was centralised - all child rights protection divisions of the municipalities of Lithuania have become subordinate to the State Child Rights Protection and Adoption Service. A uniform standard for dealing with possible violations of the rights of the child has been introduced, the response to violent violations of the rights of the child has accelerated, and the protection of child rights has been ensured 24 hours a day. New measures are being put in place to reduce the number of unjustified removals from the family - case management, mobile teams, followed by temporary child care. Community childcare homes have been developed, the institution of designated temporary carers has been established, care centres have started to operate in all municipalities, providing services to carers, designated carers, adopters and the ones wanting to become them, children in care and adopted children.

Between 2018 and 2021, the share of children in care institutions in the current year more than doubled - from 42% to 17% - and the number of children in child care institutions

¹ Convention on the Rights of the Child, Preamble, Art. 3(2) .

decreased every year from 29.3% to 22.6%, but the 2021 target reducing the number of children living in care institutions to 10% has not been reached. There is still a lack of carers and support for them, and services for families to take care of their children properly. More than 80% of families willing to adopt are ready to adopt children under the age of 4.

To assess whether the changes that have taken place to ensure the best interests of the child to grow safely in his/her family, for those who have no parental care - in families of close relatives, carers or adoptive parents, as well as children in care institutions, we carried out a public performance audit.

Objective and Scope of the Audit

The objective of the audit is to assess the effectiveness of the child care and adoption system to ensure the best interests of the child.

Key audit questions:

- whether the necessary support for the family and the child is ensured when children grow in a potentially unsafe family environment;
- whether the services for carers and adoptive parents ensure that as many as possible children would grow in a family environment;
- whether the objective to ensure the best interests of non-family fostered children is targeted;
- whether the need for properly trained carers and adoptive parents is met;
- whether the need for qualified professionals able to work with families and children is ensured.

Audited entities:

- The Ministry of Social Security and Labour, as it formulates, is responsible for, and coordinates the policy for the protection of the rights of the child;
- The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, as it implements a policy for the protection of child rights in the territory of municipalities and participates itself or through its territorial structural units in the formation of state policy in the field of child rights protection, responsible for supervising the quality of the activities of care centres;
- The Department of Supervision of Social Services under the Ministry of Social Security and Labour, as it is responsible for the licensing of care institutions, and supervision of the quality of the activities of care centres and care institutions.

During the audit, we collected information and cooperated with the Office of the Ombudsman for the Protection of the Rights of the Child, municipalities, care and social services centres, child care institutions, Lithuanian associations of carers and adoptive parents and designated and temporary carers.

The audited period is 2019–2021. To assess trends and changes, we have used data from the previous year and 2022.

The audit has been performed in accordance with the International Standards of Supreme Audit Institutions. The scope and methods of the audit are described in greater detail in Annex 2 *Audit Scope and Methods* (p. 58).

Key Results of the Audit:

The system of child care and adoption is not sufficiently efficient, as in 2021, 22.6 % of all children in permanent care grew in institutions (7.6% – in child care homes, 15 % – in community child care homes), although the overall target was 10%. There is a lack of more effective support for the family and the child when the child is potentially growing up in an unsafe environment, temporary, permanent carers and adoptive parents, and children fostered in families and child care institutions, are not provided with services according to needs.

1. More effective family and child support is needed when children grow up in a potentially unsafe environment.

- We found that the State Child Rights Protection and Adoption Service receives reports of possible violations of the rights of the child from the responsible institutions, meets with the child, carries out an assessment of the situation, and children in care meet their families if this is in line with their best interests. This allows for the identification of children growing up in an unsafe family environment and for them – to meet their families (Section 1.1, p.15).
- The Service does not systematise the available data on the number of children provided with temporal care by relatives, for which part of the care is not determined according to the place of residence of their parents. In almost half (49%) of municipalities, less than 90% of children in temporal care enter carers families. In two municipalities, 56% of children are fostered not in families, and 30% of municipalities lack designated carers. Temporary care of 27% (222 out of 937) of children, aimed at bringing the child back to the biological family by providing support to the child and his/her parents, lasted for more than 12 months, mainly due to protracted legal proceedings, and in 2011–2021, (281 out of 1,915) children received temporary care 2 or more times. This harms the best interests of the child, as a change of carers and repeated removal from the family psychologically traumatises the child. The problem of repeated care is highlighted by the Lithuanian Association of Carers and Adopters, as well as the Association of Designated and Temporary Carers. Prolonged or repetitive temporary care does not resolve the child's legal situation for a long time. If the biological family does not cooperate, decisions on child care should be taken more quickly so that, in the absence of the possibility for the child to grow up in the biological family, there is no delay in adopting or providing a child with care in a carers' family, because the older the child, the less likely the child to enter the family (Section 1.1, p. 15).
- 75% (45 out of 60) of municipalities do not analyse information about the need for the development of services for families for whom the need for child protection or support to the family and the child has been identified. 28% (16 out of 60) of municipalities do not have data on families living in their territory where at least one of the parents has a disability. Not all social services for the family are analysed in the social services plans in 8 out of 10 selected municipalities. 27% of all municipalities did not provide

part of basic services to a child or family: 5 municipalities did not provide mediation, 2 – day care services for children, 4 – early rehabilitation of children’s developmental disorders. There is a lack of services to facilitate household and childcare for families where parents have disabilities. Municipalities point out that these services are not provided due to a lack of funding and lack of infrastructure. 1 out of the 9 social service centres selected indicated that they did not assess the effectiveness of the services provided to the family. In 92% of all municipalities, inter-institutional cooperation coordinators did not monitor the availability and quality of support to the family and the child according to the indicators, as they were not approved. In 2020, the implementation of 36% of case management plans for family support took longer than 12 months. If the municipality is unable to provide the service or the parents do not agree, such a service is not allocated. Without knowing the need for services, without providing them, and without analysing the effectiveness of the services, the implementation of case management plans for family support is not ensured. This does not guarantee the principle of access to quality support² so that services meet the needs and legitimate interests of the child and his/her parents (Section 1.2, p. 19).

- Workloads of case managers working with families and children increased in 2021 in 31% of municipalities (31–49 families per case manager instead of 25–30), as well as of social workers in 9% of municipalities (18–22 families instead of 15). 30% of all care centres reported a shortage of social workers and 2 out of 9 social service centres had a shortage of case managers. Between 2019 and 2021, the Departments of the State Child Rights Protection and Adoption Service lacked a mobile team of specialists, in particular psychologists and specialists working with persons with addiction or having its symptoms. Due to the uneven distribution of professionals, adequate availability of quality services is not ensured (Section 1.2, p. 19).
- One of the reasons for children being deprived of parental care is violence against children and therefore preventive support is important, however, the Ministry of Social Security and Labour did not reach 2 out of 4 criteria for measuring the implementation of a preventive measure related to violence, did not prepare an information package on support and assistance in all cases, including violence in close relationships. 92% of municipalities did not assess the need for preventive measures in 2019–2021, 25% did not foresee preventive measures in their action plans, and 40% of municipalities – long-term (continuous) measures. 30% of municipalities did not provide positive parenting courses on demand and 88% did not assess the effectiveness of preventive measures. Without planning or implementing planned preventive measures, without assessing their need and effectiveness, it will not be clear whether the measures most contributing to the reduction of violence against children have been chosen (Section 1.3, p. 24).

2. Carers and adoptive parents need more and more diverse assistance in creating a family environment for children

- In the period 2019–2021, 72% of all municipalities did not assess the need for support for carers and adoptive parents, 34% of care centres did not assess the need for support for carers, and 75% – the need for adoptive parents. 21% (12 out of 56) of care centres that responded to the survey did not provide services to carers, although there was a need for, e.g., respite, specialised psychologist, psychiatrist, psychologist for

² Ibid., Article 4(10).

older children in care institutions. 39% (39 out of 99) of the carers surveyed indicated that there were services that they have not received in the care centres, although there was a need. 9% (12 out of 138) of carers and adoptive parents indicated that they did not know to what extent and what services they were entitled to. 80% (48) of municipalities do not offer social services for permanent carers, and 87% of them (52) – a list for adoptive parents. 68% of care centres did not assess the effectiveness of the services provided. Insufficient provision of services to carers and adoptive parents based on their needs and failure to provide information on the availability of services makes it more difficult for them to fulfil their responsibilities and does not motivate future carers to provide care. Without assessing the effectiveness of the services, it is more difficult for care centres to choose the most appropriate services that meet the needs of the child, his/her carers, and adoptive parents (Section 2.1, p. 27).

- Municipalities may provide additional financial assistance to carers and designated carers, but 2 out of 60 have not allocated it. 13% of all municipalities provided a lower amount of support money than the 3 basic social benefits. We found significant differences in support rates between municipalities, e.g. in 2021, benefits for carers, designated carers varied from EUR 80.00 to EUR 400.00; remuneration to designated carers – from EUR 642.00 to EUR 1,926.00; one-off material support to a carer – from EUR 100.00 to EUR 5,200.00; for a designated carer – from EUR 40.00 to EUR 1,500.00. Without granting additional financial assistance or providing differentiated support, municipalities do not promote care in the family environment (Section 2.1, p. 27).
- Care in childcare institutions is rather a temporary than the best solution for the child, therefore, the aim was that in 2021 no more than 10% of children would receive permanent care, but in fact, only 22.6% of children have received it. The older the age group, the higher the proportion of children who are in permanent care, e.g. 31.6% of children aged 15–17. At the end of 2021, 69 (out of 887) children under the age of 7 were still in care institutions. Families (persons) are ready to adopt children under 3 years of age, and about 97% of children aged between 4 and 17 are on the list of children to be adopted. Care centres stressed the lack of adopters, carers for older children (from 10 years), children with disabilities or special needs, and few families agree to provide care for 2 or more children from one family. For these reasons, some children remain in care institutions and are deprived of the opportunity to grow up in the family environment (Section 2.2, p. 35).
- There are no cases where the child's opinion on the desire to be adopted would not be heard in the absence of valid reasons, but when choosing a permanent carer, the opinion of 11 children (out of 55) was not presented, because close relatives were designated as permanent carers, or because the child had health problems. Failure to hear the child's opinion ignores his/her best interests in the appointment of a permanent carer (Section 2.2, p. 35).
- 16 out of 40 care centres did not implement, and 36 out of 40 partially implemented recommendations on improving services for children, carers, and adoptive parents provided by the State Child Rights Protection and Adoption Service and the Department of Supervision of Social Services after the assessments of the centres. In 2021, the most misstatements were identified regarding the organisation of training courses under the training and counselling programme (GIMK) for carers (curators), designated carers, adoptive parents and community child care home workers, the preparation of conclusions, and the search and selection of a carer. The Service does not monitor the implementation of the recommendations until the next assessment.

The methodological support for the improvement of its services is satisfactorily or negatively assessed by 19% of municipalities and the Department's support by 10% of municipalities. In the absence of relevant information on the progress of the implementation of the recommendations, it is not possible to assess whether the care centres have implemented the recommendations for improvement in a timely manner (Section 2.1, p. 27).

- 18% of all carers and adoptive parents in municipalities rate the attraction of carers and adoptive parents as either satisfactory or negative (lack of social advertisements, too few and episodic care promotion initiatives, as well as lack of a single national care promotion strategy). 45% of municipalities in their 2019–2021 action plans did not provide for measures aimed at finding carers and/or adoptive parents. Potential carers or adoptive parents cannot be attracted without ensuring the proper implementation of the attraction measures (Section 2.2, p. 35).
- 70–82% of carers, adoptive parents, designated carers and care centres assess the GIMK programme positively, however, it needs to be updated with more focus on the aims of the types of child care and the development of competencies of future carers. For relatives and persons living with them, training under this programme was optional until 1 July 2022. When organising the training, groups of participants are not formed, the training begins later, the preparation of the conclusion is delayed, therefore in the 14 selected care centres, 44% (115 out of 262) of persons were trained to become carers or adoptive parents for more than 5 months; 73 out of 262 (28%) – more than 7 months (Section 2.3, p. 38).

3. It is important to provide the necessary services to children growing up in care institutions

- In accordance with the restructuring plan³, child care homes are being restructured and the number of children under permanent care in that year decreased from 878 to 412 between 2019 and 2021. They are replaced by community child care homes that operate in a family-similar environment and are set up on separate premises (e.g. house, apartment). The number of care cases identified in them increased from 759 to 815 between 2019 and 2021. Community child care homes are also institutions, and the number of children in care should therefore also decrease to achieve⁴ at least 90% of children being cared for in a family environment by 2030. In 2021, 77.9% of children were cared for in a family environment; as of data 1 July 2022 – 79.2% of children. According to data from municipalities, 6 times fewer funds were used for care for one child in the family in 2021 than in institutions (childcare and community child care homes – EUR 18,600.00), in a family or households – about EUR 3,000.00. Failure to ensure that children receive care in families results in increased State spending on child care and deprives the child of a family environment (Section 3.1, p. 42).
- According to the data of the Department of Supervision of Social Services, 75% (21 out of 28) of childcare institutions do not adequately assess the needs of children living there. 68% (19 out of 28) of institutions do not pay sufficient attention to the planning and execution of measures to accompany the child to independent life (e.g. do not teach children how to handle household or financial affairs or get the job they want).

³ 2014–2023 Action Plan on the transition from institutional care to family and community services for disabled persons and children without parental care.

⁴ Development programme for strengthening family policy.

Only 15 municipalities provided an accompanying service for young people aged 16–24. We found that 8 children (out of 41) did not receive the services of sanatorium treatment, speech therapist, special educator, or psychologist. Child care institutions indicated that for some services institutions had to wait for up to 6 months, e.g. 23 institutions waited for a psychiatrist for up to 2 months, 21 institutions for up to 3 months for specialised doctors, 9 for up to 6 months for children’s development centre, and other services. Without a proper assessment of the needs of children in care institutions, it is not established what is most useful for the child, and without the necessary services for the child, the necessary support is not provided (Section 3.2, p. 45).

- 56% (49 out of 88) of childcare institutions were not assessed at least once every 5 years by the Department of Supervision of Social Services, 26% – have not been assessed at all. In the assessed institutions, there were shortcomings in the assessment of the specific needs of the child and in drawing up individual social care plans. Having performed the monitoring of child care, the State Child Rights Protection and Adoption Service does not systematise data on the issues identified and the recommendations made. The Department of Supervision of Social Services did not have summary information on all the assessments of childcare institutions carried out and their results, and the most common violations were reported in its annual activity reports. Nor did it systematise data on self-assessments of the activities of care institutions. All selected (21) childcare institutions did not publish the results of the Department’s assessment, and 17 – self-assessment data. In the absence of an assessment, childcare institutions lose the opportunity to improve their activities, and without compiling data on the recommendations provided, the supervising institutions do not have relevant information (Section 3.3, p. 48).

Changes during the audit

From 1 July 2022⁵, amendments to the Law on Social Services on increasing the availability of services to the family entered into force: a new type of social services is envisaged – preventive social services.

Since 1 July 2022, GIMK training is mandatory for any natural person wishing to become a carer (curator)⁶ of a child, i.e. both relatives and their spouses or partners in a consensual union.

In January 2022, a risk assessment system for children’s care homes was launched⁷, which will establish a list of risky economic entities (child care institutions) for inspection by 10 January each year.

⁵ Law on Social Services, Article 6(1)(6¹).

⁶ Regulations on the Organisation of Child Care, p. 21, Civil Code, Article 3.269

⁷ Description of the Procedure for the Selection of Risk-based Inspections of the Activities of Economic Entities in the Provision of Licensed Social Care Services, approved by Order No V1-22 of the Director of the Department of Supervision of Social Services.

On 17 December 2021, the Department of Supervision of Social Services provided⁸ methodological recommendations and forms for the assessment of the needs of the child and the establishment of an individual social care plan.

On 16 December 2021, the Department of Supervision of Social Services approved⁹ a control questionnaire for routine inspections, which it recommends to be used in childcare institutions for self-assessment of the quality of activities.

From 1 July 2022, the Regulations on the Organisation of Child Care¹⁰ set out the procedure for selecting a carer.

On 20 April 2022, the State Child Rights Protection and Adoption Service for territorial divisions systematised¹¹ the provisions of legal acts regulating the procedural issues of hearing the child's opinion by examining the report on a possible violation of the rights of the child, during case management and judicial proceedings, by organising the child's care (curatorship) and adoption. The mandatory nature of the act of hearing the child's opinion is laid down in the Regulations on the Organisation of Child Care¹².

Recommendations

To the Ministry of Social Security and Labour

1. To systematically provide services to carers (curators) and adoptive parents and ensure the best interests of the child, educational, health and social services for carers (curators), adoptive parents and children fostered or adopted in their families need to be included in basic family services package and the provision of these services needs to be monitored (Key audit result 2).
2. For the policymakers to have comparable municipal data for decision-making, it is needed to develop monitoring indicators and prepare their monitoring methodological recommendations on the assessment of the need and effectiveness of services for municipalities (Key audit results 1 and 2).
3. To ensure that as many children as possible grow up in a close family environment, measures should be put in place to encourage people to take care of or adopt older children (aged 10 years or older), children with disabilities or health problems, as well as those with siblings (Key audit result 2).
4. To make data-based decisions, it is needed to systematise data on children placed in temporary care with relatives or persons related emotionally (Key audit result 1).

⁸ Internet access: <https://sppd.lrv.lt/lt/veiklos-sritys/licencijavimas/metodines-rekomendacijos> (accessed on 28/01/2022).

⁹ Order No V1-1002 of the Director of the Department of Supervision of Social Services of 16 December 2021 approving control questionnaires for routine inspections of social care institutions.

¹⁰ Government Resolution No 405 of 27 March 2002 (recast of 29 June 2022 No 688) approved the Regulations on the Organisation of Child Care.

¹¹ Overview of the legal acts governing the hearing of the child's opinion, No 6-277.

¹² Regulations on the Organisation of Child Care, p. 35.8.

To the State Child Rights Protection and Adoption Service

5. To achieve more effective prevention of violence against children, public education measures need to be planned and implemented taking into account the results of ongoing surveys of public opinion and media monitoring (Key audit result 1).
6. To better prepare individuals for child care or adoption, it is needed to improve the delivery of the training and counselling programme for carers (curators), designated carers, adoptive parents and **staff of community-based children's care homes** (Key audit result 1).

To the Department of Supervision of Social Services

7. To have relevant data on the quality of the institutions' activities received during the external evaluation of childcare institutions, it is necessary to systematise information on the weaknesses identified and the actions taken to remedy them (Key audit result 3).

Measures and deadlines for the implementation of the recommendations, the expected impact of the audit and indicators for measuring change are set out in the "Recommendations Implementation Plan" section of the Report (p. 51). Relevant information on the status of implementation of the recommendations, results and developments is published as open data on the National Audit Office's website <https://www.valstybeskontrole.lt/LT/AtviriDuomenys>.