BALTIC JOURNAL OF LAW & POLITICS
A Journal of Vytautas Magnus University
VOLUME 8, NUMBER 1 (2015)
ISSN 2029-0454

DE GRUYTER OPEN

Cit.: *Baltic Journal of Law & Politics* 8:1 (2015): 106-138
http://www.degruyter.com/view/j/bjlp
DOI: 10.1515/bjlp-2015-0013

CHALLENGES TO THE IMPLEMENTATION OF INSTITUTIONAL REFORM IN THE LITHUANIAN GENERAL EDUCATION SYSTEM

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Received: April 19, 2015; reviews: 2; accepted: July 27, 2015.

ABSTRACT

The educational system of Lithuania has undergone transformation conditioned by the radical change of the political situation in the region after the restoration of independence on March 11, 1990. The new educational system was gradually developed, changing and denying the former Soviet educational framework. The main goal of the new educational

system is to provide education compatible with the newly applicable international standards and create an effective network of schools. The article aims to present an overview of the reform of the institutional system of general education of Lithuania that began in 1988 and was to be completed in September 2015; however, the completion of the reform was recently postponed until September 2017. The article also reviews key challenges to the reform implementation and discusses the compatibility of the reform with societal expectations and standards of international educational law.

KEYWORDS

System of education, right to education, education reform, institutional reform of general education, general education

INTRODUCTION

The Right to general education is one of the most fundamental rights and its proper implementation is essential to the well-being of any society. Education is perceived not only as a human right but also as a force for social change—it is described as the single most vital element in combating poverty, exploitation, and promoting democracy and human rights[1]. The educational system of Lithuania has undergone transformation over the last three decades. This transformation was conditioned by the radical change of the political situation in the region due to the restoration of independence in 1990. Lithuania was influenced by on-going globalization processes and had to adjust structurally, and review policy implementation.[2] As an ex-communist Central-Eastern European state it had to create a new philosophical concept of educational goals, objectives, structures, qualitatively revisit the content of education, its methods, strategies, re-training of teachers, and ensure stable public expenditure of education.[3]

The reform of the educational system of Lithuania is in its final stages and its institutional reform was to be completed in September 2015; however, as of the latest amendment, which was passed on June 30, 2015, of the Law on Education[4], the completion of the institutional reform has been prolonged until September of 2017. The reform (as was the case in most of the post-communist countries) was by and large inspired by vast changes to the political climate. Given the changed circumstances in the modern world affecting many newly emerging democracies, education carried a vital role in providing answers to the challenges of global developmental changes[5]. Important aspects of education reform were reform of the content (such as, revision of textbooks, programs, teaching tools, other re-occurring issues) as well as the structure of education.[6] In order to achieve the above-mentioned objectives, a thorough reorganization of the system providing educational services needed to be implemented.

The reform of the system of general education encompasses a period of highly inspirational and spontaneous transformations in the early 1990s to more

[1] UNICEF, "State of the World's Children" (1999) // http://www.unicef.org/sowc99/sowc99a.pdf.
[2] Ayyar R. V. Vaidyanatha, "Educational policy planning and globalization," *International Journal of Educational Development* Vol. 16, No. 4, 1996: 347.
[3] Sjoerd Karsten and Dominique Majoor, *Education in East Central Europe: Educational changes after the fall of communism*, ed. Sjoerd Karsten and Dominique Majoor (Munster, New York: Waxmann, 1994), 157.
[4] *The Law Amending the Law on Education*, Official Gazette (2011, no. 38-1804), Art. 3, Sec. 3.
[5] Jovana Milutinovic and Sladana Zukovic, "Educational Tendencies: Private and Alternative Schools," *Croatian Journal of Education* Vol. 15, Sp. Ed. No.2 (2013): 241.
[6] Rita Dukynaitė, "Gimnazijų kūrimo teleologinio diskurso ypatumai" [Distinctive Features of the Teleological Discourse on the Establishment of Gymnasia], *Pedagogika* 95 (2009): 81.

pragmatic and economically grounded reforms in the late 1990s and early 2000s[7]. Gradually, Lithuania became a member of various international organizations and joined many international conventions, such as International Convention on the Rights of the Child, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, The International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of Persons with Disabilities and its Optional Protocol[8]. Joining conventions such as these has influenced Lithuanian education reform. Overall, the international legal framework, along with the European-wide education law and policy makers, have created certain "common constitutional principles"[9]. The harmonized "translation" of this into the national legal systems of the states in light of the right to education remains essential. In other words, coherent harmonization of international and national law was one of the main factors providing a balanced set of legal norms that regulate responsibilities of parents and children on the one side and the state on the other.

The new reform, while it promises a modern structure of general education, effective school systems, accessibility, and quality of education, it seems to have the opposite effect upon Lithuanian students. Newly passed regulations[10] have caused many schools to close down due to the optimization of the school network and a decreased number of school aged children. This especially hurt pupils from rural areas, where they are now faced with the issue of having to go a long way just to be able to attend school, as well as children from urban areas, who have to find new schools after the old ones get shut down. In addition, such changes have made access to education even more difficult for disabled students, as there are very few schools available for children with special needs, because the majority of schools have not been adapted for students with special needs. The issues related to the right to education of children with disabilities are, in fact, numerous and requires greater attention and research than what the current article allows. Therefore, this article evaluates only a small fraction of the obvious discrepancies of

[7] Rimantas Zelvys, "Development of education policy in Lithuania during the years of transformations," *International Journal of Educational Development* 24 (2004): 559.
[8] Lithuania has consecutively ratified - International Universal Declaration of Human Rights in 1991, Covenant on Civil and Political Rights in 1991, The International Covenant on Economic, Social and Cultural Rights in 1991, International Convention on the Rights of the Child in 1992, Convention on the Rights of Persons with disabilities and its Optional Protocol in 2010.
[9] Charles L. Glen and Jan De Groof, "Introduction to Volume Two": V; in: Charles L.Glen and Jan De Groof, eds., *Balancing Freedom, Autonomy and Accountability in Education*, Volume 2 (Wolf Legal Publishers (WLP), 2012).
[10] Below authors provide a couple of examples of legal regulations of the municipal level (that carries out the state delegated function of ensuring the right to compulsory education), that serve as legal background of the educational reform: *Decision No. 18 of Kaunas City Municipality Council Regarding Amending the Decision of January 26, 2012 of Kaunas City Municipality Council Regarding the Plan of 2012-2015 of Reorganization of the Network of Municipal Secondary Schools*, Legal Acts Registrar (2015, no. T-214); *Decision No. 1-63 of Panevežys City Municipality Council Regarding Amendment of the December No. 1-44-3 of 29, 2009, Decision of Panevežys City Municipality Council Regarding the Distribution of General Territory to Basic Schools (assembling classes of student under 16 years of age)*, Legal Acts Registrar (2015, no. 4593).

inclusive education that are related to the reform of the educational system, based on current circumstances. Arguably, inclusive education as well as the needs of disabled children in general, are becoming increasingly prioritized. However, it took nearly four years for Lithuanian Parliament to ratify the Convention on the Rights of Persons with Disabilities after it was signed.[11] Even after the ratification of this Convention, adoption of the national legal acts still does not ensure creation of the proper infrastructure in order for the children with disabilities to exercise their right to education in its full extent. As the former Ombudsman of Children's Rights and currently the Minister of Health Rimantė Šalaševičiūtė points out, another extremely important aspect of why education of children with disabilities remains problematic is that up to this day there is no accurate number of how many children with disabilities there actually are. The statistical numbers provided by different institutional bodies that somehow deal with disabled children are "cardinally different".[12] It is estimated that the actual number of children with disabilities is double that provided by the statistics. Besides, the situation is such that school buildings are old and unfit for children with special needs. Yet another paradox is that even after renovating some of the schools they still remain inaccessible for the children with disabilities. Again, based on the current situation, only a few schools are partially adapted to the needs of children with disabilities. For example, a case described in the media shows that only few out of the 82 schools in the second largest city of the country are partially adapted for students with special needs.[13]

It is important to understand the current outcomes of the education reform while it is still in progress, as the above-mentioned changes can still be adjusted in order to cause good rather than harm. Although we are approaching the finish line of the reform, describing and understanding Lithuania's education reform journey and its positive and more importantly negative experiences may help other post-soviet countries to progress in ways that are more efficient. Furthermore, explaining the current situation with regards to Lithuania's education system may inspire dialogue within society, which may result in positive outcomes for both the people and the state.

This article presents description and analysis of the general education reform in Lithuania that took place after the restoration of independence. Since any reform

[11] *Convention on the Rights of Persons with Disabilities*, Official Gazette (2010, 71-3561).
[12] "Nesugebama suskaičiuoti, kiek Lietuvoje yra neįgalių vaikų" [Inability to account for the number of disabled children in Lithuania], *www.tv3.lt* (April, 2013) // http://www.tv3.lt/naujiena/730640/nesugebama-suskaiciuoti-kiek-lietuvoje-yra-neigaliu-vaiku.
[13] Kristina Kučinskaitė, "Neįgaliems vaikams mokyklos neprieinamos" [Schools are inaccessible for children with disabilities], *lzinios.lt* (January, 2014) // http://lzinios.lt/lzinios/Mokslas-ir-svietimas/neigaliems-vaikams-mokyklos-neprieinamos/172446 (an interview with a mother who was moving to a different town and was trying to place her son, who had special needs with a school in the new city. However, she discovered, that there were only few school that were only partially adopted for children with special needs. And she was not able to place her son with any of the schools that she actually preferred for her son).

is inspired with political ideas that are transformed into legal ideas and subsequently legal norms, this article focuses on the analysis of the legal acts that are the legal background of the Lithuanian education reform, their impact on individual rights and duties of those affected by the reform, as well as the compatibility of the education reform with regards to some international education standards.

Methods of systemic, analytical-critical, and statistical analysis were applied for the research of the paper. In addition, methods of documentary analysis and generalization were used. A thorough analysis of the topic as related to political guidelines, legal acts (and their supplement documents) and jurisprudence was made, and statistics from institutional bodies such as Ministry of Education and Science, municipal bodies, Children's rights Ombudsman were analyzed to back up the findings of the article. Since the jurisprudence of Lithuania on education issues is not abundant and, thus, it does not reflect the overall factual situation, a method of analysis of reports, reflections and discourses on the issues of education reform in the Lithuanian media was used. A historical approach helped to determine the process of development of the educational system and changes in the legal regulations.

1. THE LEGAL BACKGROUND OF THE REFORM OF THE LITHUANIAN EDUCATIONAL SYSTEM

The reform of the general educational system of Lithuania has been carried out in several stages: stage 1 was implemented from 1988 until 1997; stage 2 from 1998 until 2002; stage 3 from 2003 and is to be completed in 2022[14] (initially the time period of the 3rd stage was programmed until 2012, but was later prolonged until 2022). It remains an ongoing process today.

1.1. STAGE 1: FROM 1988 TO 1997

The reform started in 1988, before Lithuania became an independent state, by adopting the Concept of Lithuanian Secondary General Education School, which was called the National School (further referred to as the National School Concept). The National School Concept has initiated changes in the Soviet educational system that existed at that time and was an instrument adopted by the Soviet system. However, it happened historically that the first period of the educational system reform (which initially started during the Soviet regime and was intended for the

[14] *Valstybinė švietimo 2013-2022 metų strategija* [State education strategy 2013-2022], Official Gazette (2013, no. 140–7095).

Soviet school system) carried over well into the period of Lithuania's independence, i.e., until 1997 (whereas Lithuania regained its independence in 1990).

The National School Concept was referred to as the first concept that denied the co-dependence of the Lithuanian educational system with that of the entire USSR, which modeled the national school.[15] Chronologically, the National School Concept was to be legitimized by adopting a Draft of the Education Law of Republic of Lithuania of 1990. However, the political climate had postponed the adoption of this law, and later, after Lithuania regained its independence, the law had to be amended in a way that it would legalize the creation of an independent system of education.

In 1991 the Law on Education of the Republic of Lithuania[16] was adopted, which became the legal foundation of the education reform in Lithuania. It is obvious that the education reform did not start from 'scratch', because there was already a system of education in place at that time; however, it needed to be legitimized, revised and amended where needed. To make the implementation of the Law on Education more effective in the future, certain guidelines were needed for both policy and law-makers to shape and finalize the structure of the educational system.

Therefore, in 1992 the Concept of Education of Lithuania was adopted by the Ministry of Education and Culture, and offered an entirely independent model of Lithuanian educational system by thoroughly expanding and supporting the educational system embedded and legitimized by the Law on Education.[17] This particular Concept provided reasoned guidelines for building the educational system, as well as a very clear action plan until 1997, which defined the timeframe of the first stage of reform of the educational system.

The reform of the system of education was slowly moving forward with certain tangible changes in the system of education both in its structure and, of course, content (due to the vast changes that were made, the latter shall not be in detail discussed within the context of this article). Article 2 of the Law on Education[18] defined the structure of the system of education, which encompassed:

- pre-school educational institutions;
- secondary general educational institutions (Article 4 of the same Law describes that secondary general education was acquired during a twelve year,

[15] "Tautinė mokykla" [National School] (1989) // http://www.smm.lt/uploads/documents/Veikla_strategija/svietimo_reformos_pradzia/tautine_mokykla.pdf.
[16] *Law on Education of the Republic of Lithuania*, Official Gazette (1991, no. 23-593).
[17] "Nacionalinis švietimo plėtotės raportas" [National Report on Education Development] (1993) // http://old.smm.lt/svietimo_bukle/docs/apzvalgos/RAPORTAS__taisymai_.pdf.
[18] *Law on Education of Republic of Lithuania*, *supra* note 16.

three stage period, which can form separate administrative educational units, such as, primary, basic, and secondary schools.);

- vocational schools (Article 5 of the Law provided that vocational education was provided by vocational and higher schools, they can provide education in several levels for students not younger than 14 years of age);
- higher schools (Article 6 of the Law described higher schools as educational institutions providing specialized education for students with secondary education);
- additional education institutions.

Article 13 stated that education in secondary general, vocational, and higher education schools was provided by the State free of charge. Another important aspect of this particular Law on Education is that, for the first time, it granted the right of self-governance to all levels of educational institutions (the right was granted by Article 35 of the Law on Education), which was a total novelty at that time.[19]

During the so-called first stage of educational reform another important structural change occurred after the Concept of Gymnasiums was adopted in 1995,[20] which allowed secondary general schools (if they wanted) to be reorganized as gymnasiums in a way that the education was still provided in a twelve-year, three-stage period, but with a very strong academic focus during the last four years of education (the later change shortened the period of basic education by two years, making it 4 years in length, as opposed to 6 years in a regular secondary general school).

Even though post-soviet states have been largely excluded from the dialogue about a private schooling sector,[21] some advances in that area have been made. During the first stage of the reform the new Constitution of 1992 was adopted, which determined the main aspects of structure and operation of the educational system of Lithuania. The Constitution of the Republic of Lithuania ensures and protects the right to education. Article 40 determines that there are state and non-state educational institutions. The State, according to this article, carries an obligation to oversee the activities of such institutions; other subjects (this is the right not only of public, but also of private entities) retain the right to establish non-state institutions of science and education. Article 41 of the Constitution provides that: "education shall be compulsory for persons under the age of 16; education at State and municipal schools of general education, vocational schools

[19] National Report on Education Development, *supra* note 17.
[20] Rita Dukynaitė, *supra* note 6: 83.
[21] Maia Chankseliani, "Are we using Friedman's roadmap? A comparative analysis of stimuli of private school enrolments in post-Soviet countries," *International Journal of Educational Development* 38 (2014): 13.

and schools of further education shall be free of charge; higher education shall be accessible to everyone according to his / her individual abilities. Citizens who are good at their studies shall be guaranteed education at State schools of higher education free of charge."[22] This makes secondary education not only a right, but also a duty—i.e., children are required to attend school until they are 16 years of age. After adoption of the Constitution, the right to education received the status of a constitutional right.

It can be concluded that the first stage of educational reform was spurred by the fall of the communist regime in Europe, and underwent a vast re-shaping of the educational system, including a reshaping of included policy, law, organization, structure, curricula, and, partially, personnel,[23] a shift towards educational and pedagogical pluralism[24], and an increase in school–parent partnerships.[25]

1.2. STAGE 2: FROM 1998 TO 2002

The second stage of educational reform started in 1998 and lasted until 2002. This particular stage was related to the period of accession to the European Union, 1999-2001, and was influenced by Lithuania's obligations to adopt requirements raised by the EU within the educational system and to ensure their proper implementation. Therefore, during this period all the legal documents (mainly the Law on Education) that regulated education were revised with regards to this aspect.[26] In 1999 the Second Edition of Concept of Gymnasiums[27] was adopted, which made the gymnasiums in general not so concentrated on academically capable students as accessible to students of all levels of academic ability and capacity.

In general, the second stage of educational reform was focused on creating a system of continuous education, which encompassed both formal and non-formal education, further developing the network of public and private educational institutions (the latter was a novelty within the system, because only public schools were allowed during the period of Soviet regime). The focus continued to be on the quality and the content of education, quality of the teaching staff, improving the material conditions of the educational institutions in general (obviously, it was

[22] *Constitution of Republic of Lithuania*, Official Gazette (1992, no. 33-1014), Art. 41.
[23] Hans W. Fuchs and Lutz R. Reuter, "Education and Schooling in Germany," *International Journal of Educational Development* 24 (2004): 529.
[24] Jovana Milutinovic and Sladana Zukovic, *supra* note 5: 241.
[25] Slavica Pavlovic and Milan Saric, "Partnership between School and Parents – Reality or Illusion of Inclusive Education," *Croatian Journal of Education* Vol. 14 (3/2012): 512.
[26] National Report on Education Development, *supra* note 17.
[27] *Order of the Ministry of Education on the Concept of Gymnasium (second edition)*, Official Gazette (1999, no. 45-1456).

extremely poor and the need for improving the conditions of school buildings, classrooms, and teaching equipment was immediate).

During implementation of the structural reforms of educational institutions, reform of the structure of financing of educational institutions was implemented in parallel. The centralized financing structure that was used before independence was reformed and replaced with the method of a so-called (in Lithuanian) student's purse, a voucher education system. The methodology of the Student's Purse[28] was adopted by the Government of Lithuania in 2001, and its implementation began in 2002. According to this particular Methodology, the resources of the student's purse are distributed (depending on the type of educational institution) to national , municipal and private schools, that provide general education, pre-school education, non-formal schools, educational schools supplementing the formal education and other providers of education.

Primary, main, and secondary education in Lithuania are financed from two main sources: by allocating a special subsidy, called the student's purse, from the national budget, and from municipal allocations, called the resources of educational environment. The resources from the student's purse are used solely for educational purposes, i.e., for expenses related directly to the education process of the student. Resources from the municipal allocations are used for the maintenance of the school buildings and the supporting staff, transportation of the students, furnishing the school and other educational inventory.[29]

Calculation and distribution of the resources of the student's purse is regulated by the Methodology of the Student's Purse[30], which determines the coefficient used to determine the amount of the resources of the student's purse (the coefficient in part resembles regional peculiarities of each municipality and depends on the education policy implemented in each municipality).

Structure of financing of education (primary, basic, secondary levels) consists of:	
Student's purse (direct resources for educational purposes of the student, allocated by the national government, "tied" to the student).	*The resources of educational environment* (resources allocated on the municipal level for maintenance of the educational environment, i.e., school buildings, territory, transportation, etc.)

[28] *Decision of the Government of Republic of Lithuania regarding confirmation of methodology of calculation and distribution of the student's purse*, Official Gazette (2001, no. 57-2040).
[29] Ministry of Education and Science, "Condition of Education" (2012) // http://old.smm.lt/svietimo_bukle/docs/apzvalgos/1563_Svietimas%20regionuose%202012.pdf.
[30] *Decision of the Government of Republic of Lithuania regarding confirmation of methodology of calculation and distribution of the student's purse*, *supra* note 28.

The adoption of the Methodology of student's purse completed the second stage of educational reform in Lithuania. The fact that concrete financial allocations per each student were embedded into a legal act was an essential transformation itself. It meant shifting from purely ideological strategies that during initial stages of transformation helped to shape the future structure of education to more concrete and exact obligations of the state to support the education by financial means (national, municipal budget allocations). Financial and other material support by international structures also had a paramount impact on developing and improving the educational system of Lithuania.

1.3. STAGE 3: FROM 2003 TO 2022[31]

The third stage of the reform started in 2003 and was programmed to last until 2022. During this period Lithuania as a state became highly influenced by ongoing integration processes, both on the regional level (such as EU) and the international level (such as United Nations and others). These processes added extreme value in a way that it provided very clear and exact guidelines as to what was needed to be improved, changed, etc., within the system of education. This was done through Lithuania's obligation to provide periodical reports to the governing supranational institutions, and agreeing to take into account the reports provided by the supranational institutions themselves. For example, during the process of Lithuania's accession to the EU, Lithuania had to complete certain obligations related to education before its accession to the EU; also Lithuania had to take into consideration remarks included in various reports of the UN institutions, related to the system of education, such as, improving the material status, increasing accessibility, providing safer environment, etc.

It would not be correct to refer to the third stage of the reform as "the reform" entirely, because from 2003 the legislative and executive branches began to refer to it in legal documents as "further strategy". In 2002, the Seimas of Republic of Lithuania adopted the National Long-term Development Strategy,[32] the purpose of which was to project development of the state of Lithuania as a future member of EU, by distinguishing three priorities: information society, safe society, and competitive economics. According to this Strategy, education is foreseen as one of the streamlines of the strategic development of the country. Following this particular Strategy, as well as all conclusions, assessments, achievements of the prior stages of educational reform, the Seimas of Republic of Lithuania adopted

[31] State education strategy 2013-2022, *supra* note 14.
[32] *Decision of Seimas of Republic of Lithuania on the Long-term Development strategy of the State*, Official Gazette (2002, no. 113-5029).

Rules of the National Education Strategy of 2003-2012 (as explained earlier, the term of the strategy was prolonged until 2022).[33] The main objectives of these Rules are to create a system of education based on sustainability, target financing, social responsibility, quality, and open society.

The Strategy, as a long term planning document, prioritizes the political development of education: to increase competence of teachers and lecturers, to promote data analysis and self-evaluation based quality culture of education, to develop accessibility and equal opportunities in education, and to encourage life-long learning. In order to achieve the long term goals, the legislator determined that the so-called "purification" of the school institutional system should be implemented by September of 2015 (as of June 30th, 2015, this term was extended until September, 2017). This means that as of the end of the deadline, there shall be only three types of schools: primary, basic and gymnasiums.

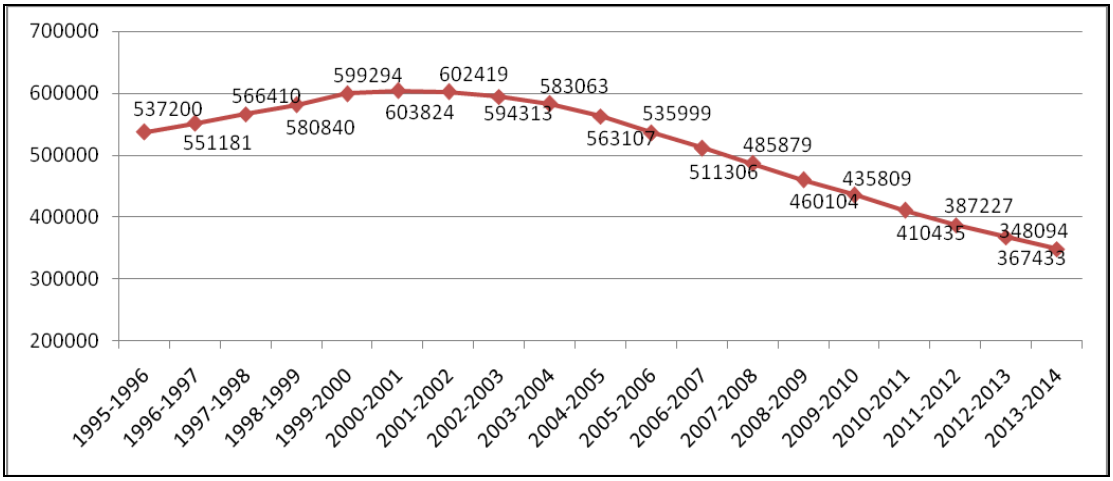
2. SOME OUTCOMES AND FACTORS AFFECTING THE COURSE OF THE REFORM OF THE SYSTEM OF EDUCATION

This part of the article discusses some of the more problematic aspects of the reform of the system of education that are based on expert opinions, statistical information provided by the Ministry of Education and Science, and the analysis of municipal decisions. This particular part focuses on the main objective of the reform, which is the so-called "optimization" of the school network that was strongly supported by the policy makers and legislators of the reform based on their vision to have an education network formed from separate types of schools (primary, main, and gymnasium), as well as changing numbers of school age children.

[33] *Decision of Seimas of Republic of Lithuania on the State's strategy of education for 2003-2012*, Official Gazette (2003, no. 71-3216).

2.1. DECREASE OF THE NUMBER OF SCHOOLS AND SCHOOL CHILDREN

Table 1. Dynamics of the change in number of school age children 1995 – 2014[34]



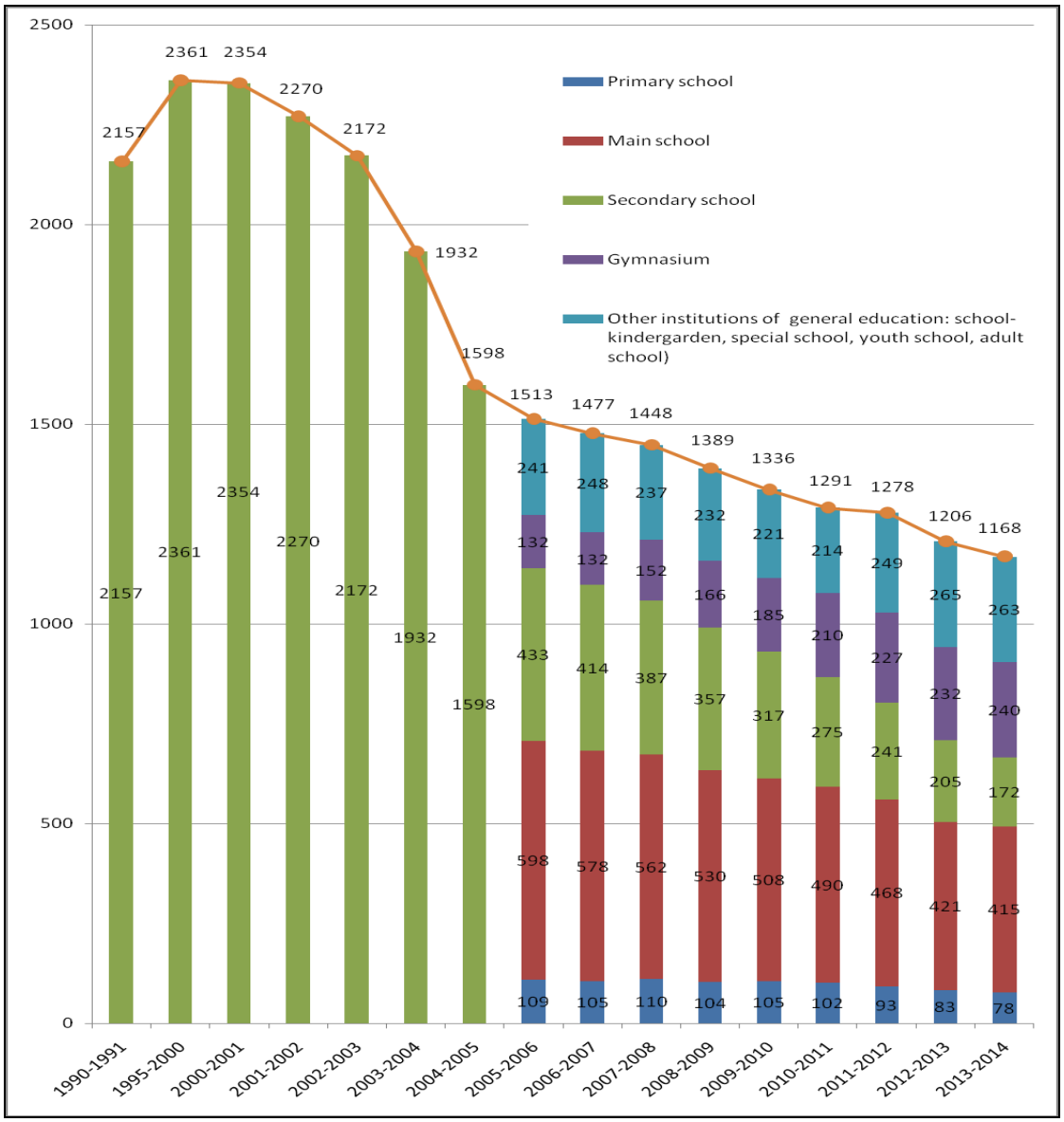
Analysis of the statistical data provided by the Ministry of Education and Science[35] shows that the number of school-aged children has decreased by one-third. This, in turn, has resulted in a decrease in the number of schools. However, it must be noted that a decrease in students was not the only factor that caused a decrease in the number of schools. Another reason is the "optimization" of schools, i.e., their number, which was one of the main objectives of the reform. The reform of the system of education closely linked itself with the forming of the school network by separating primary, main and gymnasium type education from the secondary education. This enacted a change in the way pupils completed their studies – i.e., shifting from the model where a pupil commenced and completed his or her studies in one school, to a model where a pupil completes his or her

[34] The list was drawn up according to the statistical data provided by the Ministry of Education and Science. *See* footnotes 35, 43.

[35] Ministry of Education and Science, "Lietuvos švietimas skaičiais 2014. Bendrasis ugdymas" [Lithuanian education figures 2014. General education] (2014) // https://www.smm.lt/uploads/lawacts/docs/609_3903dbc89af8cd82e2a279bfd613b79b.pdf;
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2012. Bendrasis ugdymas" [Lithuanian education figures 2012. General education] (2012) // https://www.smm.lt/uploads/lawacts/docs/667_3ce5e28c411c1e236256be0fe13c3c74.pdf.
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2011. Bendrasis ugdymas" [Lithuanian education figures 2011. General education] (2011) // https://www.smm.lt/uploads/lawacts/docs/667_097bff3adb1f79cd7129f00876985081.pdf.
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2010. Bendrasis lavinimas" [Lithuanian education figures 2010. General education] (2010) // https://www.smm.lt/uploads/lawacts/docs/667_8865940bb2ef4738e2c4aae7acd62319.pdf.
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2009. Bendrasis lavinimas" [Lithuanian education figures 2009. General education] (2009) // https://www.smm.lt/uploads/lawacts/docs/667_a0ac006f7932231db111a72ae6ca4735.pdf.
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2007. Bendrasis lavinimas" [Lithuanian education figures 2007. General education] (2007) // https://www.smm.lt/uploads/lawacts/docs/667_297449e512dde7ac527339fa933936e6.pdf.
Ministry of Education and Science, "Lietuvos švietimas skaičiais 2006" [Lithuanian education figures 2006] (2006) // https://www.smm.lt/uploads/lawacts/docs/671_879acb6a481207bd95d9dcaf40cc4eca.pdf.

education by attending primary school, main education level school, and gymnasium (in doing so a pupil is, under normal conditions, expected to attend three different schools). The actual change in the numbers and structure of schools is graphically presented in Table 2 below.

Table 2. Changes in secondary school structure affected by the optimization of the school network as well as change in number of school types (1995 – 2014)



Policy makers and legislators supported the choice of this particular structural reform of the secondary school by arguing that it was an inadequate waste of resources to support schools that were obviously too large for the amount of pupils that needed to be schooled. However, as some experts point out, the structural reform did not solve the issue of the optimizations, and did not create the

anticipated school network, i.e., main education is increasingly becoming an eight-year education, the separated secondary school structure lost its continuity, and each separate branch of schooling is not interested in the quality of teaching.[36]

Locally, municipal executive institutions are the main institutions responsible for ensuring schooling for children under the age of 16, as this is one of the constitutionally assigned municipal functions.[37] It is, therefore, clear that municipalities, each at their own territorial level, were independently responsible for ensuring the proper implementation of the educational reform. However, analysis of the decisions adopted by municipalities regarding the optimization of the school network shows that the network was reformed inconsistently, as not all municipalities implemented the reform according to the adopted reform plans, some of the municipalities were not able to ensure a proper optimization of the school networks and, in turn, did not accept responsibility for failing to ensure equal learning conditions in different regions of the country.[38]

As experts point out, such inconsistency in educational reform is obvious and apparent. The optimization of the school network was to be completed by September 1st, 2015; and, during preparation of current article, there were still 129 schools that have not been reorganized yet, not all municipalities have been successful in forcing all of their secondary schools to be reorganized into main school or gymnasium.[39] Other indicators were lawsuits, as well as official public protests against the school reform in various municipalities of Lithuania. The lawsuits were filed by the communities against the municipal institutions questioning the legitimacy of the municipal decisions that were adopted due to the optimization of the school network. The main arguments at the heart of these complaints were based on unequal access to the best available schooling conditions.[40] The protests were organized by the school communities, parents, and other active members of society in metro and rural areas, and were directed against the closing of schools, their reorganization, and/or the merging of schools,

[36] Saulius Jurkevičius, "Kodėl švietimo reforma neatneša lauktų rezultatų?" [Why does the education reform not bring the desired results?], *www.technologijos.lt* (January, 2008) // http://www.technologijos.lt/n/zmoniu_pasaulis/straipsnis/S-Jurkevicius-Kodel-svietimo-reforma-neatnesa-lauktu-rezultatu??name=straipsnis-4258&l=1.

[37] *Law on Local Self-Government*, Official Gazette (1994, no. 55-1049), Art. 6.

[38] Ministry of Education and Science, "Lietuva. Švietimas regionuose 2005" [Lithuania. Education in regions 2005] (2005) // http://www.smm.lt/uploads/documents/kiti/Svietimas_regionuose_2005.pdf.

[39] Vilija Targamadzė, "Mokyklų tinklų pertvarka – pagalba ar kliuvinys mokiniui?" [Reform of school network – an incentive or an obstacle of a student], *www.delfi.lt* (2015) // http://www.delfi.lt/news/ringas/lit/v-targamadze-mokyklu-tinklu-pertvarka-pagalba-ar-kliuvinys-mokiniui.d?id=67447080.

[40] *E.R. v Sakiai Region Municipality Council*, Kaunas District Administrative Court (2013, no. I-1075-402/2013); *Miroslavas Secondary School v Alytus Region Municipality Council*, Kaunas District Administrative Court (2008, no. I-7-428/08); *Board of Visaginas 'Gerosios vilties' [Good Hope] Secondary School v Visaginas Municipality Council*, Vilnius District Administrative Court (2009, no. I-1294-121/2009); *Kaunas Žaliakalnis Primary School v Kaunas City Municipality Council*, Supreme Administrative Court of Lithuania (2010, no. AS-143-389-10); *Veršiškės Primary School v Vilnius District Municipality Council*, Supreme Administrative Court of Lithuania (2013, no. A-756-2049-13).

all of which occurred due to the optimization of the school network.[41] The cases and protests came to show that the reform had flaws, and that there were some grave demands and issues in school communities; therefore, the Parliament adopted an amendment of the Law on Education on its last day of the parliamentary spring session of 2015, according to which the school reform that was to be completed by the end of the summer 2015, was extended until September 2017.[42] This hasty decision to adopt the Law on Education by extending the deadline of the institutional educational was spurred by failure of the reform to meet society's demands and the interest of municipal communities.

2.2. PERFORMANCE AND ACHIEVEMENT OF PUPILS, AND SCHOOL ATTENDANCE

Another aspect of statistical analysis is related to the performance and achievement of pupils in different regions of the country. Comparisons of average learning achievements show that pupils who were schooled in the cities delivered the best results, and those who were schooled in rural/regional schools had the worst.[43] These differences in achievement levels are visible in both test result

[41] A series of protests were organized against the reform of schools, below are protests that are used for backing up the findings of the article: Benjaminas Žulys, " 'Anima' nori gyvuoti" ['Anima' wants to live], *xxiamzius.lt* (May, 2005) // http://www.xxiamzius.lt/numeriai/2005/05/04/svietim_01.html (a protest organized by the community and supporters of the basic school 'Anima', opposing the decision of the city Council of Kaunas, to close the said school); Šarūnas Preikšas, "Zarasų krašto mokytojai ir mokinių tėvai pradėjo bado akciją" [Teachers and Parents of Zarasai Region Go On Hunger Strike], *www.alunta.lt* (2008) // http://www.alunta.lt/index.php?option=com_content&task=view&id=289&Itemid=1; "Rytų Lietuvoje kovojama dėl mokyklų išlikimo" [A Fight For Survival of Schools f Eastern Lithuania], *www.elta.lt* (2009) // http://www.elta.lt/index.php?ItemId=117834&PageNr=58 (protests organized by school communities of school from Zarasai and Visaginas region, opposing the institutional educational reform outcomes in the said regions); G. Valuckytė, "Mokyklų mitingas nušvilpė merą" [Mayor Was Booed During a Gathering of Schools], *www.tv3.lt* (2013) // http://www.tv3.lt/m/naujiena/725098/mokyklu-mitingas-nusvilpe-mera (a protest was organized in Siauliai against reorganization, merging, relocation, shutting down of schools of Šiauliai city); "Tuskulėnų mokyklos atstovė: moksleiviai gyvena nežinomybėje, bet su viltimi, kad baigs šią mokyklą" [Representative of Tuskulėnai School: Students Live in Uncertainty, But With Hope To Graduate From This School], *www.tv3.lt* (2015) // http://www.tv3.lt/naujiena/834414/tuskulenu-mokyklos-atstove-moksleiviai-gyvena-nezinomybeje-bet-su-viltimi-kad-baigs-sia-mokykla (protest was organized by the community of the Tuskulėnai school in Vilnius district, the essence of which was to demand that the Tuskulėnai school were not reorganized from secondary school into basic school (because that way the school would no longer be allowed to teach 11th and 12th grades)); "Vilniuje vyko mitingas prieš mokyklų pertvarką" [A Public Gathering to Oppose the Reorganization of Schools Took Place in Vilnius], *Lietuvos žinios* (2015) // http://www.lzinios.lt/lzinios/Mokslas-ir-svietimas/vilniuje-vyko-mitingas-pries-mokyklu-pertvarka/205608 (a protest was organized in Vilnius, before the session of the City Council that was supposed to adopt a decision that would reorganize make a number of schools into basic school).

[42] *The Law Amending the Law on Education*, *supra* note 4.

[43] Ministry of Education and Science, "Lietuva. Švietimas regionuose 2012. Indėlis, procesai, rezultatai" [Education in regions 2012. Imput, processes, results] (2012) // https://www.smm.lt/uploads/lawacts/docs/670_954085dca2e64db11b19e3c370d6108d.pdf;
Ministry of Education and Science, "Lietuva. Švietimas regionuose 2011. Švietimo prieinamumas" [Lithuania. Education in regions 2011. Access to Education] (2011) // https://www.smm.lt/uploads/lawacts/docs/670_2e3a9e31705fbc44f96607d029cf0600.pdf;
Ministry of Education and Science, "Lietuva. Švietimas regionuose 2009. Švietimo valdymas" [Lithuania. Education in regions 2009. Management of education] (2009) // https://www.smm.lt/uploads/lawacts/docs/670_f09e3d53d19024676fdb4d27df2fa035.pdf.
Ministry of Education and Science, "Švietimas regionuose 2008. Ugdymo aplinka" [Education in regions 2008. Environment of education] (2008) //

averages and in the added value that is created by schools (i.e., the input of school itself into the achievement of its pupils, by taking into account the social-economical home environment of the pupil).[44]

School attendance is another problematic issue that emerged during the implementation of the reform. The state and its institutions, as well as parents (or legal guardians), have the legal duty to provide children with access and conditions to compulsory education, and to ensure proper implementation of the children's right to education. Article 6 of Law on Local Self-Government describes independent municipal functions (set out by the Constitution and laws), one of which is ensuring schooling and learning according to the programs of compulsory education of children under 16 years of age who live in the territory of a municipality.[45] According to the Law on Education, an executive municipal institution must ensure the accountability (the order of which is provided by a governmental institution) for the children residing in the municipal territory and ensure that all children are enrolled in programs of compulsory education.[46] Municipal institutions responsible for ensuring compulsory schooling and schools themselves deal with another important issue—school attendance or, rather, non-attendance in this case. Table 3 provides the dynamics of the numbers of school age children who did not attend school.

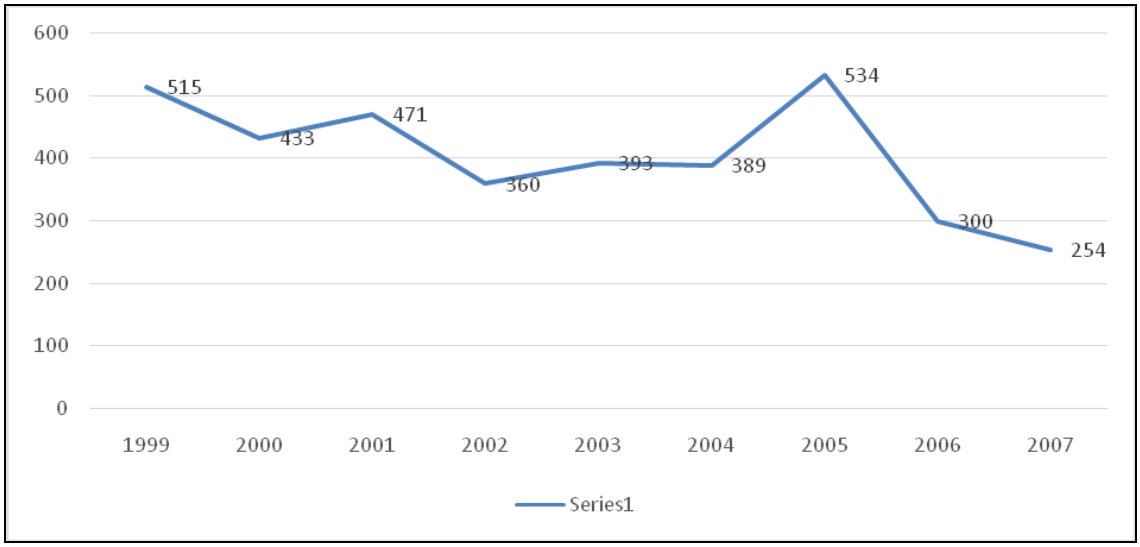
https://www.smm.lt/uploads/lawacts/docs/670_83b586c42d8b0ed7075697088134ed19.pdf;
Ministry of Education and Science, "Švietimas regionuose 2007. Mokiniai" [Education in regions 2007. Students] (2007) //
https://www.smm.lt/uploads/lawacts/docs/670_bf2fd5f24216aa696b1ed1653ba31097.pdf;
Ministry of Education and Science, "Lietuva. Švietimas regionuose 2005," *supra* note 38;
Švietimas regionuose 2003 [Education in regions 2003] (Vilnius: Švietimo ir mokslo ministerija, 2003).

[44] Ministry of Education and Science, "Lietuvos mokyklų tinklas: ar užtikrinamos lygios mokymosi galimybės?" [Lithuanian education network: are equal educational opportunities provided?] (November, 2009) // http://www.upc.smm.lt/suzinokime/tyrimai/failai/Mokyklu_tinklas.pdf.

[45] *Law on Local Self-Government*, *supra* note 37, Art. 6.

[46] *Law on Education of the Republic of Lithuania*, *supra* note 16.

Table 3. Dynamics of school age children who did not attend school[47]



It must, however, be noted that thorough legal regulation as to how school attendance of all school aged children should actually be ensured does not exist yet; therefore, school attendance remains an issue. Special telephone registrars (where children who skip classes or do not attend school could be registered), involvement of teachers and social workers with the families of greater social risk, and preventive programs are some of the methods of how the state tried to diminish the problem of school attendance.[48] Finally, the problem of attendance surfaced scandalously when it was discovered that schools remained indifferent to the fact that children who did not actually attend school (mainly for the reason of emigration) remained registered at schools which received state funding for schooling of 'non-existent' pupils.[49]

The outcome was an initiative launched by the Ministry of Education and Science together with the Centre of Information Technologies in Education, which created an official registrar of children who do not attend school. The registrar was launched in 2011 and is referred to as the registrar of children who are not schooled and who do not attend school (further referred to as the Registrar). It

[47] Ministry of Education and Science, "Mokyklos nelankymo problemos ir jų sprendimo galimybės" [School attendance problems and solution options] (March, 2008) // http://www.google.lt/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fwww.vaikogerove.lt%2Fupl%2Fbaigiamoji_konferencija%2Fmokyklos_nelankymo_problemos.pps&ei=VvczVdmhEcPWapSYgMgI&usg=AFQjCNEuBhXyIwXo5u7TJUJcCzLwZ72iIw. However, the data provided by the Ministry of Education and Science was based on the information received from the municipalities, who, in turn, did not accurately know the true factual situation and the reasons of the children who did not attend the municipal schools.

[48] "Registre – nesimokantys vaikai" [Children who do not attend school to be registered in a registrar], *balsas.lt* (September, 2011) // http://www.lsdps.lt/index.php?option=com_content&view=article&id=728:registre-nesimokantys-vaikai&catid=37:aktualijos&Itemid=128.

[49] Inga Saukienė, "Tikroji mokyklos nelankančių vaikų statistika" [True statistics regarding the children who do not attend school], *www.delfi.lt* (May, 2008) // http://www.delfi.lt/news/daily/education/tikroji-mokyklos-nelankanciu-vaiku-statistika.d?id=16909008#ixzz3XZm1z1ZZ.

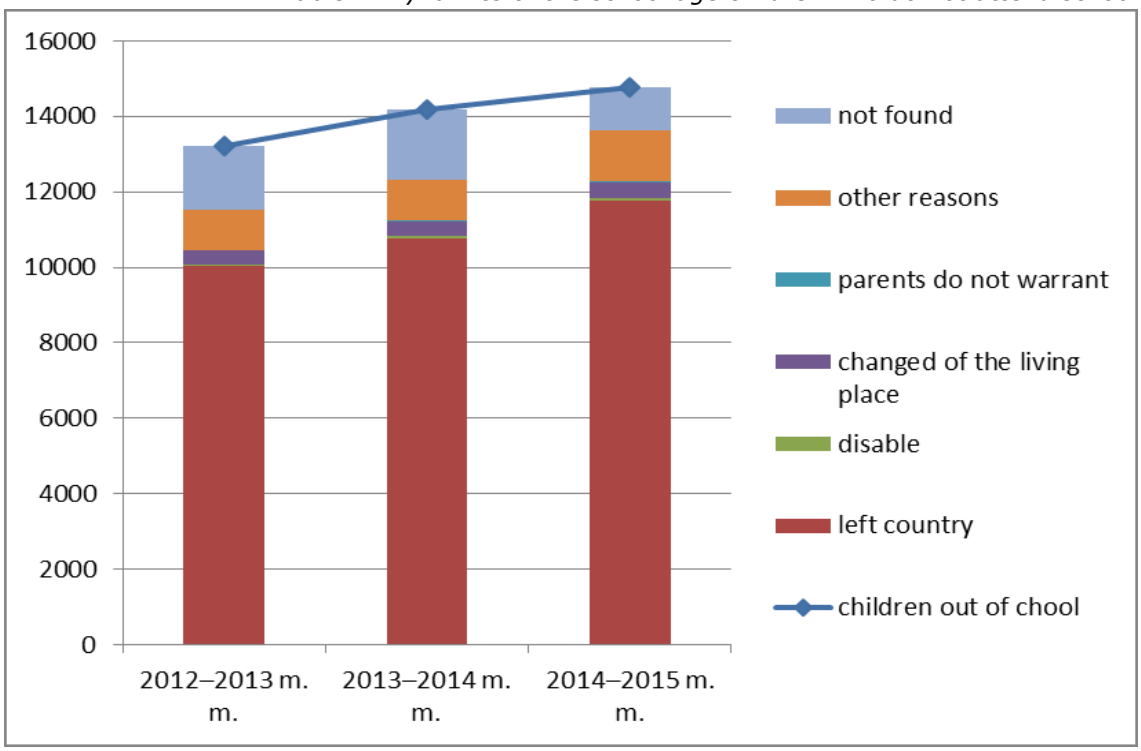
gathers, compiles, and provides information about pupils who do not attend school, who are not schooled, and the reasons for that[50].

When the information of the Registrar was compared with the data of the Residents' Register Service[51], it became apparent that it is not fully possible to obtain accurate information about the exact numbers of children in municipalities who do not attend school. First of all, it is not clear as to which residents in general did not declare their actual place of residence or had changed their place of residence and did not declare it, because neither the Residents' Register Service nor other registrars have information regarding the factual place of residence of the residents. This is due to very liberal wording of the Law on Declaring the Place of Residence that was adopted in 1998, which allows the resident to freely choose which place of residence he or she considers the main place of residence and which is to be declared.[52] When such liberal wording of the law is complemented with the free movement of people, it becomes difficult to establish when and whether the resident has actually changed the place of residence.

Analysis of the data gathered from the beginning of the launch of the Registrar show that the largest group of school age children consists of children who have emigrated. The number of school age children who are not attending school is increasing. There is a decreasing number of school-aged children who have not been found. Children with disabilities remain among those who are not able to attend school due to the inadequately developed infrastructure, thus disabled children are not able to exercise their right to education.[53] Despite the inaccuracies that still occur, the data of the Registrar is constantly updated and is increasingly reliable. The graphic representation of the data is shown in Table 4.

[50] *Decision by the Government of Republic of Lithuania No. 466*, Official Gazette (2012, no. 50-2473).
[51] Gyventojų registro tarnyba [The Residents' Register Service] // http://www.gyvreg.lt/.
[52] *Law on Declaring the Place of Residence of the Republic of Lithuania*, Official Gazette (1998, no. 66-1910).
[53] "Vaiko teisių kontrolieriaus ataskaita" [Report of children's rights ombudsman] (December, 2010) // http://www3.lrs.lt/docs2/TPNPZFGT.PDF.

Table 4. Dynamics of the school age children who do not attend school



In conclusion, the following remarks can be made:

- Reform of the structure of educational network encountered several obstacles, such as: inflexibility of the historically long standing structure of schooling; differences in density of population and demographic tendencies in the regions; socio-cultural and economic regional differences; resistance from communities that do not want to lose local schools as the source of culture and knowledge. Therefore, it is not always possible to make the most optimal decisions in reforming the network of educational institutions.
- Analysis of legal regulations related to the obligation to attend compulsory education shows that in essence this obligation cannot be fulfilled completely, because of the lack of legal regulation ensuring that all those who have to attend are accurately accounted for. The mechanism of the Registrar of the school-aged children who do not attend school still has some loopholes due to the insufficient legal regulation. For example, due to lax migration laws and laws on registration of place of residence, data on school-age children who have migrated to foreign countries or whose parents have more than one place of residence within the country is not accurate or is not accounted for. Due to these inaccuracies it is impossible to determine whether a child of school age is attending school abroad or within another regional district, and so children remain registered with the schools that they were previously registered with, and therefore the data becomes

somewhat distorted. Despite the difficulties, however, the Registrar is updated regularly and data is becoming increasingly reliable.

- State, school, and parents or guardians have an obligation, to make sure that a child of school age is guaranteed his or her right to education. One of the most problematic aspects of denying the right to education is, as described above, various conditions that prevent the child from attending school, thus, denying the right to education. Lithuania, as a state, makes the right to education a constitutional right and provides education free of charge to all children of school age. However, if parents (or guardians) fail to carry out their obligations, fail to deliver the child to school, or a child of school age consciously avoids attending school, the state in such case has no mechanism of enforcement.
- Disparity in academic performance of children in cities and regions remains an important indicator of unequal standards within the reorganized educational system.

3. COMPATIBILITY OF THE EDUCATIONAL SYSTEM OF LITHUANIA IN THE CONTEXT OF INTERNATIONAL STANDARDS

According to the European Court of Human Rights the right to education "by its very nature calls for regulation by the State, regulation which may vary in time and place according to the needs and resources of the community and of individuals,"[54] which according to Tomaševski, means that the state is obliged to ensure that all schools conform to the minimal criteria which it has developed, thus ensuring one component of making education acceptable.[55] And even though the positive obligations that are placed on the states to ensure the rights embedded in international legal documents are somewhat diminished by the wording of the documents,[56] coherent harmonization of international and national laws is the main tool on a national level, providing a balanced set of legal norms that regulate responsibilities of parents and children on the one side and the state on the other side. The educational system of Lithuania, as well as of other countries of Europe has undergone significant alterations over the last decades, which have brought about changes not only in the life of society per se, but also changes in legal regulations, economy, and the paradigm of learning. The international legal framework and regional integration on the European level have triggered

[54] *Case 'Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium' v Belgium (Merits)*, European Court of Human Rights, 1968.
[55] Katerina Tomaševski, "Human rights obligations: making education available, accessible, acceptable and adaptable; Right to Education Primers no. 3" (2001) // http://biblioteca.clacso.edu.ar/gsdl/collect/ar/ar-033/index/assoc/D599.dir/11.pdf.
[56] Geraldine Van Bueren, *Child Rights in Europe, Convergence and divergence in judicial protection* (Council of Europe Publishing, 2007), 151.

irreversible processes of 'harmonisation', which refers to "the integration process that does not lead to the creation of uniform law, but rather the creation of common goal."[57] International human rights instruments make education, as such, not only a right, but also a responsibility for the child, the child's parents (or guardians) and, of course, for the states. Education must not only be provided (at least at an elementary level) for free, but it is compulsory for all children between certain ages (depending on the national regulations of the states), and the obligation is, therefore, imposed on parents to ensure that their children are both enrolled at and attend school.[58]

The conceptual framework for the right to education was established by different human rights institutions, mostly known is the concept of the four "A's" (availability, accessibility, acceptability, adaptability, which was developed by the former UN Special Rapporteur on the Right to Education, Katarina Tomaševski.[59] Conceptually the principles of availability and accessibility are related to the right to education, while principles of acceptability and adaptability to the rights in education. The scope of this article focuses on the principles of availability and accessibility; the other two principles require greater depth of analysis than this article can fairly cover. The principle of availability is related to the states obligation to make schooling available through establishment of schools, proper fiscal allocations and funding of schools, ensuring human resources (including their education, training, etc.). The principle of accessibility deals with states obligations to ensure access to compulsory education free of charge with assured attendance and parental freedom of choice.[60]

3.1. ACCESSIBILITY AND AVAILABILITY

In general, compulsory education in Lithuania is compatible with both principles of accessibility and availability. Legal regulation both on constitutional and normative level ensures implementation of the right to education despite income, disabilities, religion, ethnicity, etc. The Republic of Lithuania granted the right to education a constitutional status, by making it a constitutional norm[61]. Freedom of enunciation, culture, science and research, as well as state support for culture and science is embedded in the Constitution of the Republic of Lithuania. The right to education is further detailed in other national laws adopted by the

[57] Charles L. Glen and Jan De Groof, *supra* note 9: V.
[58] Sally Varnham and Joan Squelch, "Rights, responsibilities and regulation – the three Rs of education: a consideration of the state's control over parental choice in education," *Education and the Law* Vol. 20, No. 3 (September 2008): 193.
[59] Jandhyala B G Tilak, "Book reviews" (October, 2007) // http://www.tomasevski.net/documents/2006GlobalReport.pdf.
[60] Katerina Tomaševski, *supra* note 55.
[61] *Constitution of Republic of Lithuania*, *supra* note 22, Art. 41.

Parliament and legal regulations, such as governmental decisions, orders of the Minister of Education and Science, and legal regulations adopted at municipal levels. Policy of education is embedded in guidelines and strategies that are adopted at the level of national and municipal governments and that serve as the required prerequisites for future legislation and legal regulation. Therefore, a right to education is a constitutional right (and obligation) of all individuals until the age of 16 and is provided free of charge.

3.2. THE EFFECT OF CLOSURE OF SCHOOLS ON ACCESSIBILITY AND AVAILABILITY

Certain issues within the system of education of Lithuania related to the principle of accessibility still remain relevant. Firstly, this particular principle is linked with the state's obligation to make education not only compulsory, but also of assured attendance. As previously concluded, legal regulation contains some loopholes that do not ensure the complete possibility of proper attendance of all students, because of inaccurate accounting of all school-age children in general. Also, in regard to some groups of school-age children—for example, children with disabilities and children coming from rural areas—the reorganization of the school system made the access more complicated, as schools in rural areas have been closed. This would be the case of the children living in rural areas, for whom school became more difficult to access[62]. However, the state has compensated this by providing school transportation to and from rural areas. These schools have been closed because the number of students in bigger schools has increased, therefore, the children from rural areas have to travel greater distances (even though transportation is provided, but such children spend far greater amount of time just getting to school as opposed to spending this time in extracurricular activities). Decision No.I-7-428/08 of Kaunas District Administrative Court, April 24, 2008, among others, is proof that not all rural and regional communities accepted the reform well. One of the prevailing arguments in the legal complaints against the restructuring of the secondary school was based on unequal access of the best available schooling conditions.

[62] The notions of *availability* and *accessibility* of education are explained by Katarina Tomaševski, providing that *availabilitiy* embodies two governmental obligations: (1) permitting establishment of schools by non-state bodies, (2) establishing and funding shools to ensure that education is available; while *accesibility* obligates the state to secure access for all children in the compulsory education age-range (source: Katerina Tomaševski, *supra* note 55).

3.3. ACCESSIBILITY AND AVAILABILITY OF EDUCATION FOR CHILDREN WITH SPECIAL NEEDS

For children with special needs, the need for accessibility of schools is even greater. Such students are either limited to a small number of particular schools in distant towns, or are forced to have home schooling only. For example, there are only ten schools that provide mandatory education for children that have hearing disability and sight disability (total of 10 special needs schools for the whole country), and there is only one school (out of the ten available) that provides secondary education for both of the groups together, and this school is in the capital of the country—Vilnius. An important issue in many countries of Central Europe is sustaining the conditions of diverse educational programs (schools), providing the right to education as well as the quality of education.[63]

While it could be argued that it is not difficult to integrate students with sight or hearing disability into an ordinary school and class environment by providing a translator or the equipment needed, the factual findings during the research carried out for this article show that schools are reluctant to do that and adapting a school for a student with special needs happens through tantamount initiative of the parents or the guardians of such student. In other words, though legal acts and regulations do make establishment and adaptation of schools for students with special needs available, the factual situation comes to show that schools are actually reluctant to do so, thus making education, though available, hardly accessible. Lithuania ratified the Convention on the Rights of Persons with Disabilities (and it additional Protocol) in 2010.[64] Since then the Ministry of Education and Science has adopted a decision[65] in 2011 regarding students with special needs, according to which any school with the request of parents is responsible for implementing and adopting measures within the school for education of a student with special needs. However, the factual situation in regard to making education accessible to the students with special needs is burdensome. There is no accurate data about how many school-aged children have special needs (as was indicated the estimate number of how many school-aged children with special needs there actually are is double the number provided by the statistical information), and there are very few schools that are only partially adapted for the education of student with special needs. Therefore, the authors of the article are inclined to argue that the notion of availability of education for students with special needs is rather formal.

[63] Jovana Milutinovic and Sladana Zukovic, *supra* note 5: 251.
[64] *Convention on the Rights of Persons with Disabilities*, Official Gazette (2010, 71-3561).
[65] *Decision No. V-1795 of the Minister of the Ministry of Education and Science*, Official Gazette (2011, no. 122-5771).

3.4. QUALITY AND ACCEPTABILITY OF EDUCATION

Another important aspect, as previously concluded, are the disparities of academic performance of pupils in the cities and regions—the pupils of the latter being poorer academic performers. This indicator could show incompatibility with the principle of acceptability, which put an obligation on the state to ensure enforcement of equal (even though minimal) standards of quality (among others), and recognition of children as subjects of rights.

CONCLUSIONS

The analysis in this article of legal acts, statistical data provided by the Ministry of Education and Science, and the reports of municipal education departments, suggests the following conclusions:

1. According to legal regulations, the reform of the educational system should have already been completed (by September 2015). Yet, today there are schools that are still not restructured. This shows that the reform was partly unsuccessful. On the one hand, the municipal level, which is responsible for implementation of the educational reform, should carry out its direct and assigned functions, and carry out legal provisions; on the other hand, it should also represent the best interest of the community. In the case of the reform, it is possible that there was an obvious conflict of interest between the best interest of the community, especially the school community, and the interest of the greater society, the interest of which was supported by provisions of the reform. Municipalities, in turn, were slow in adopting decisions necessary to implement the provisions of the reform. In some cases, even after decisions by municipalities to reorganize schools were adopted, they were appealed against in court. This led to an urgent and recent amendment (that was passed June 30th. 2015) of the Law on Education with the purpose of prolonging the final date of educational reform.

2. Maintaining an optimal balance between the number of students in a class within a certain administrative region (city or rural area) was the main reasoning for optimizing the school network within the educational system. The dynamics of demographics influence the process of optimization of educational network by putting the children from rural areas in a slightly disadvantageous position by distancing the school itself and making it less accessible for children living in rural areas. However, the state compensates this disadvantage by providing an effective system of school transportation, when each administrative district ensures that every minor of school-age is properly transported and attends

school. Therefore, the children living in more remote areas should not be discriminated against in light of their right to education.

3. Accessibility of education for children with certain physical disabilities still remains an issue when children with physical disabilities but an equal capacity to learn are put in a more disadvantaged position than non-disabled children, because students are either limited to a small number of particular schools in distant towns, or are forced to have home schooling only. Though legal acts and regulations do make establishment and adaptation of schools for students with special needs available, the factual situation comes to show that schools are actually reluctant to do so, thus making accessibility to education difficult and impairing the notion of availability.

4. Disparity in academic performance of children in cities and regions remains an important indicator of the unequal standards within the reorganized educational system. This indicator shows an incompatibility with the principle of acceptability, which put an obligation on the state to ensure enforcement of equal (even though minimal) standards of quality (among others), and recognition of children as subjects of rights.

5. The right to education is also a constitutional obligation to attend school until the age of 16; the state, therefore, is obliged to implement this constitutional right. Thorough legal regulation as to how school attendance of all school-aged children should actually be ensured does not exist yet. Therefore, school attendance remains an issue.

6. A Registrar of children who do not attend school was launched in 2011. The mechanism of the Registrar still has some loopholes due to the insufficient legal regulation. For example, due to the liberal approach of migration laws and law on registration of place of residence, data on school age children who have migrated to foreign countries or whose parents have more than one place of residence within the country is not accurate or is not accounted for.

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