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THE RESEARCH
CONCERNING SAFEGUARDING OF THE RIGHTS AND LEGAL INTERESTS
OF CHILDREN, WHOSE PARENTS LEFT THE COUNTRY,
IN CONSIDERING QUESTIONS RELATED TO THEM
LIVING AND EDUCATION CONDITIONS
(2006 – 2007 YEAR)

PREFACE

The UN Convention on the Rights of the Child, the Law on the Fundamentals of Protection of the Rights of the Child of the Republic of Lithuania and other legal acts provide that every child has a right to know his parents; to be grown up in the family environment, to preserve his identity, including and family relations. Child's right to be in the care of parents' means that parents shall actively participate in the life of the child. The participation means that parents have to take care of their children effectually. The material support is not sufficient for the fulfilment implementation of the rights of the child. It is difficult for the child to preserve his identity and family relations when child and his parents live in different countries.

The emigration has a big negative impact for the state social and economic development and also, it damages the families and children, those live separately from their parents. The departure of the parents to the foreign countries determines complex problems. The legal representations of the child, the emotional and moral conditions of the child, the appropriate conditions of the life of the child, the sufficient education process of the child are only part of all problems.

Children's Rights Ombudsman Institution of the Republic of Lithuania in cooperation with the Ministry of Science and Education made a research on purpose to disclose children's rights implementation problems when their parents depart to the foreign countries. The research was made on purpose to answer to some questions: who take care of children when parents leave the country; where do these children live; who represent children at the schools; how the departure impact the behaviour and conditions of life of children and etc.

The aim of the research

The aim of the research was to value living conditions of the child, to value the degree of the representation of his rights at school and also to render the proposals and recommendations how to deal with these problems concerning the children deprived of parental care temporarily on the

ground of the information got from the questionnaires delivered to the general education schools (including preschools institutions).

The research has an intention to gather the data on: how many children are left alone because of departure of parents (one of the parent); who take care of these children; where do these children live; how do the children's rights are represented at the educational institutions; how do the behaviour of children changed; do the teachers know that some children are deprived of parental care due to the parents departure to the foreign countries; do this problem is regarded as actual and etc.

One questionnaire consisted of five questions was designed for children (for scholars of general education schools and preschools institutions). Other questionnaire consisted of four questions was designed for teachers.

The subject of the research

Children Rights Ombudsman had applied to the Minister of Science and Education for the cooperation. On the ground of this cooperation the questionnaires were delivered to all general education institutions through the Education divisions of the municipals government administrations. The Ombudsman Institution received the questioning results from 651 general education schools (including pre-school institution).

The evaluation of the results

The questionnaires were delivered to the children who are deprived of parental care (or staying with the one of parent's), if teachers had information about these children. The Ombudsman Institution evaluated and summarized about 1 200 tables with generalized information received directly from children and teachers.

Main concepts in the research

School – the gymnasium, the primary, basic and secondary schools.

Children – scholars, being taught at schools and at pre – schools institutions.

Parents who are departed to foreign countries for work or/and staying – legal representatives of children those have periodical or permanent activity of work or/and living in foreign countries.

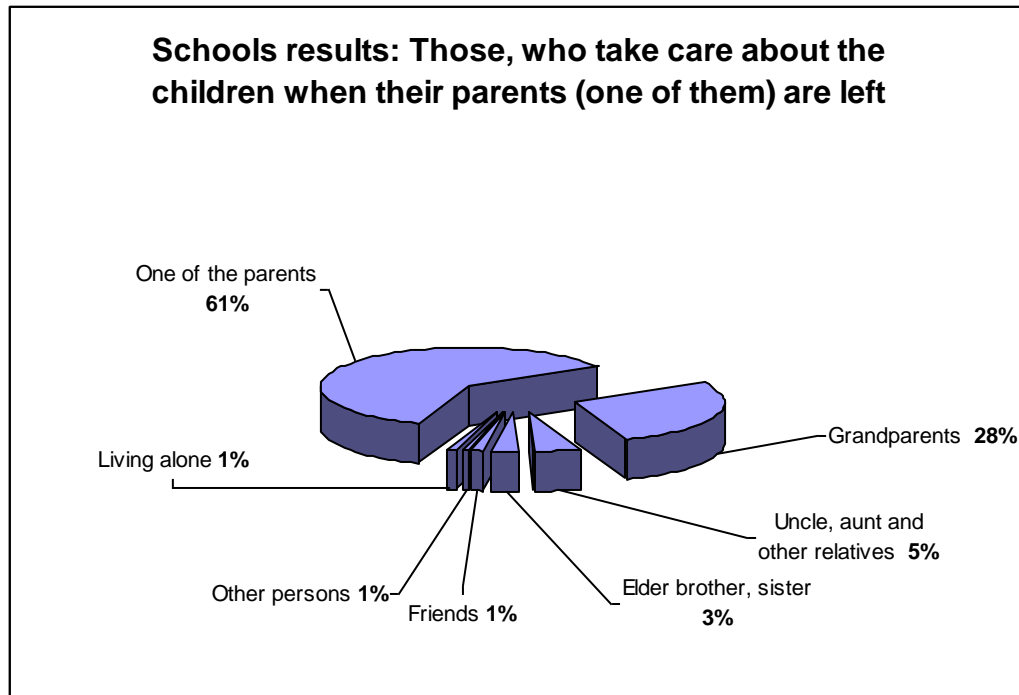
PRESENT SITUATION

The results of questionnaires for children

I. Who take care of the children after their parents (one of them) have left the country (depart to the foreign country)?

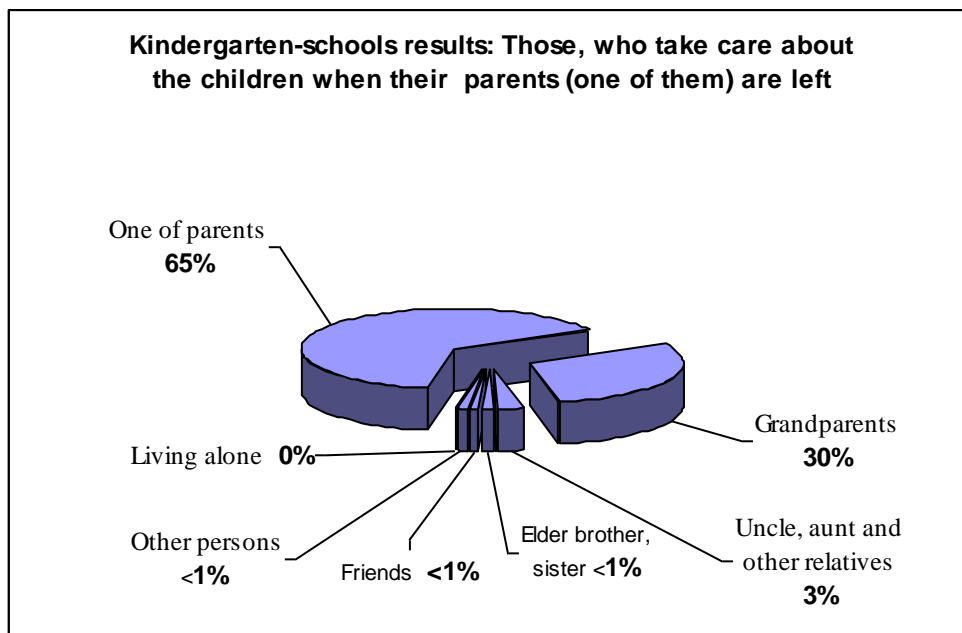
The results received from scholars (excluding children from pre-school institutions) showed that there are 9 031 children whose parents (one of them) have left the country, 5 776 of these children lives with the one of parents (61 %), other children are deprived of permanent parental care. The last mentioned children pointed that they live with grandparents (28 %), with relatives (5 %), with elder brothers and sisters (3%), with friends and acquaintances (1%), other persons (1%). 78 children had pointed that they live alone. **Picture 1.**

Picture 1.



The results of kindergarten-schools showed, that there are 339 children whose parents (one of them) left to the foreign country. The biggest part of these children lives with the one of parents (65 %). There are 131 of these children those live with grandparents (30 %), with relatives (3 %), with elder brothers and sisters (1%), with friends and acquaintances (<1%), with other persons (1%). **Picture 2.**

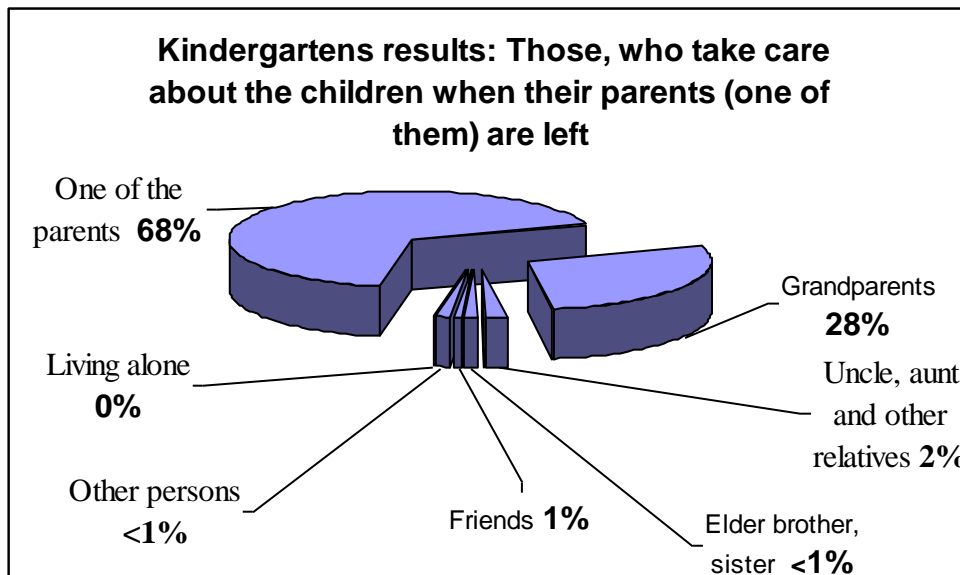
Picture 2.



The results also showed that parents trust care of pre-schools age children to nearest persons: to grandparents (28%), to relatives (2%), to elder brothers and sisters (<1%), to friends (1%) or other persons (<1%) (**Picture 3**). On comparison it can be rendered the results of the

Klaipeda city's pre-schools education institutions. The Klaipeda municipality's Children Rights Protection Service had already made similar research in Klaipeda city in 2005-2006 years. According the results received from the 38 kindergartens, 61 children were deprived of parental care. 53 children were living with grandparents, 3 – with uncles and aunts, 5 – with other persons. According the Children's Rights Ombudsman Institution research's results received from 15 kindergarten of the same city, 82 children are living with the one of the parents, 21 – with grandparents, 4 – with relatives and 1 – with other persons.

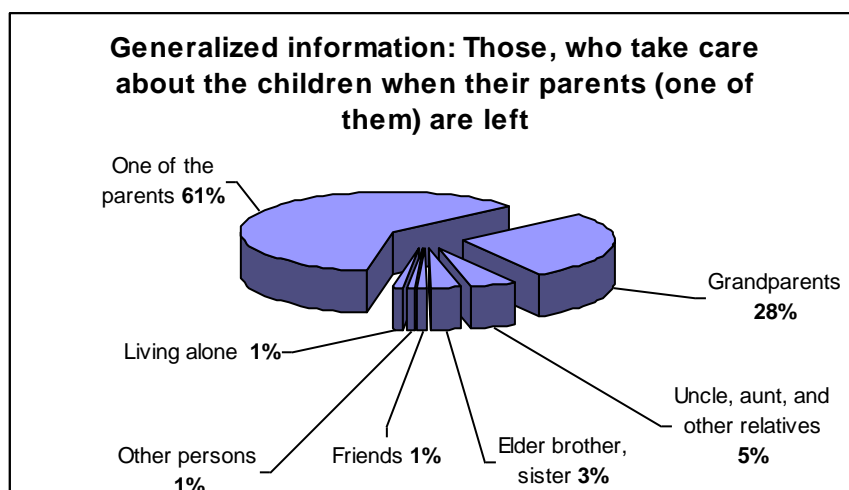
Picture 3.



Generalized information about the persons, who take care about the children, shows that parents are minded to leave the children in the custody of grandparents, less to the relatives or elder brothers and sisters (**Picture 4**). On comparison the data of schools, kindergarten-schools and kindergarten it can be marked that:

- Parents leave the pre-school age children with relatives or elder brothers and sisters rare. Usually one of the parents stays with these children or parents leave them for care of grandparents.
- 2 % of children (scholars of gymnasium, of secondary schools) live alone, after their parents left to the foreign countries.

Picture 4.

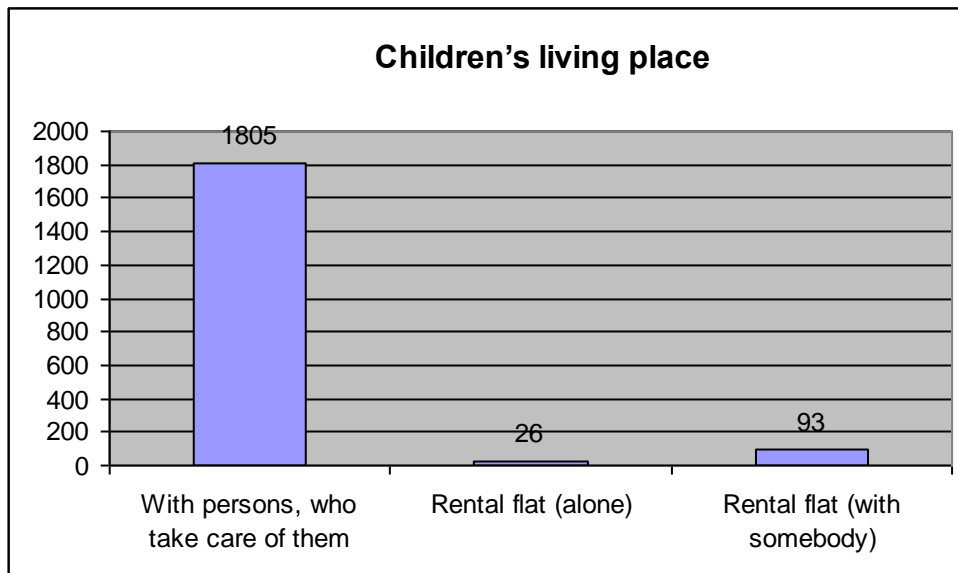


II. Where do the children live after their parents left the country?

According to the received data (Picture 5), 19 % of these children do not live at home. It means that they must change their general environment (living environment, friends). It is very important, taking into account that it makes the impact for the social development of children. The results show that children usually are staying at home of persons, whose take care of them (1 661). Part of children (22) is living alone in the rented flat. It should be note that part of children marked that they are not living alone, because somebody sometimes take cares about their social, personal and material interests.

According to the questionnaires results, the youngest children (from kindergarten, from kindergarten-schools) usually live with persons who take care of them (227) (excluding those, who are living at home).

Picture 5.



III. The representation of children rights and interests in the educational institutions.

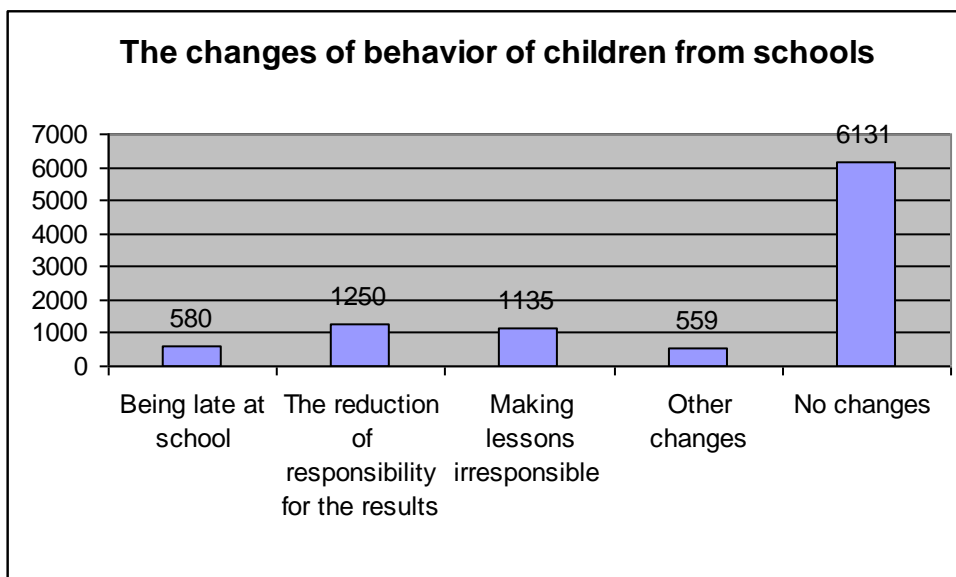
The data of the research shows that persons, whose take care about the children (including and the one of parents), are not minded to fully represent children's rights in educational institution. They are not minded to show interest in marks of children, they are not minded to cooperate with pedagogues and school's administration. It can be marked, that they are less interested in the interests of older scholars (6 % children from schools have marked that). Accordingly the persons, whose take care of little children (from kindergarten, from kindergarten-schools) show more interest in children's rights at educational institution (just 4 % of children from kindergarten-schools and 1 % of children from kindergartens have marked that their interests are not fully represented).

IV. The behaviour of children.

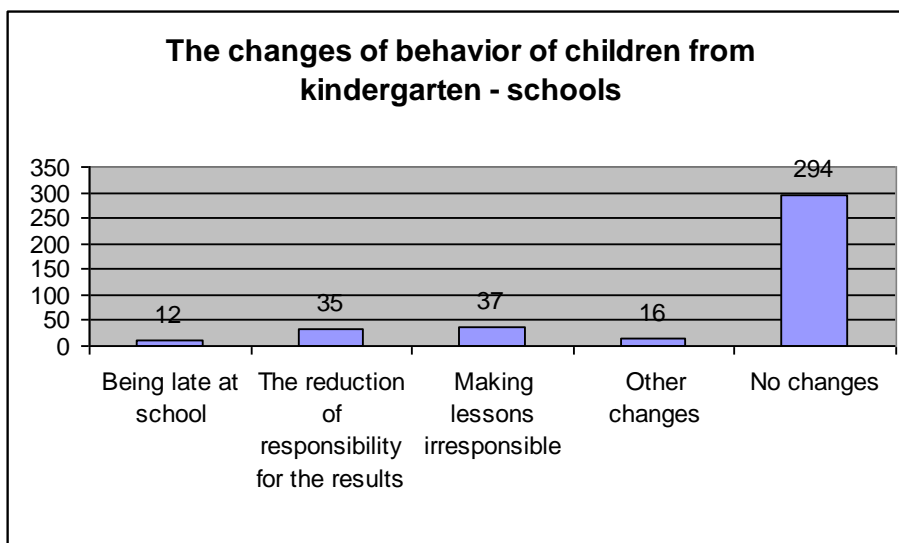
It can be notice, that children on their own have marked many changes in their behaviour due to the departure of parents. The main marked problems concern the educational process. Children marked that they are late at schools; they don't feel so responsible for the marks, results;

they make lesson irresponsibly, etc. 36 % of the negative changes were marked by the scholars and 25 % - by the children from the kindergarten- schools. It is very important that children marked all negatives changes on them own (**Picture 6, 7**).

Picture 6.

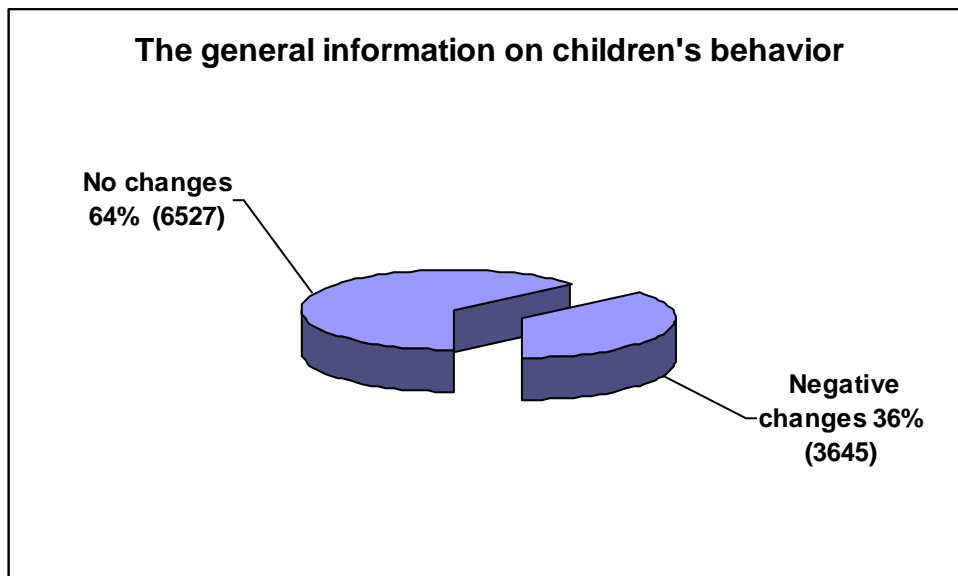


Picture 7.



36 % of the changes of children’s behaviour were pointed as negative and impacted by the departure of the parents (one of them) (**Picture 8**).

Picture 8.



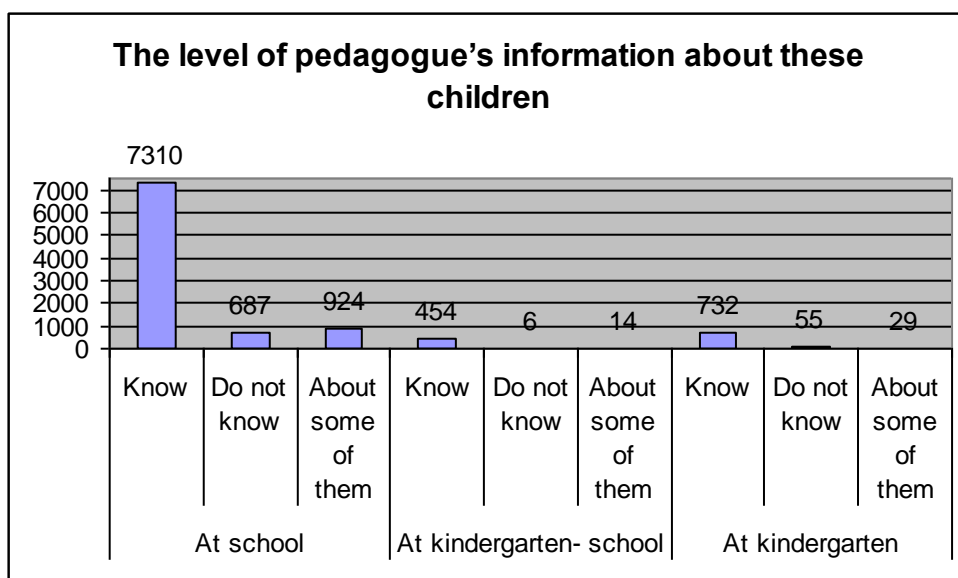
The results of questionnaires for pedagogues

I. Do the pedagogues know about those children, whose parents (one of them) left to the foreign countries?

There were 11 302 pedagogues participated in the questioning (9 945 pedagogues of schools; 498- kindergarten- schools' pedagogues; 859 – kindergartens' pedagogues).

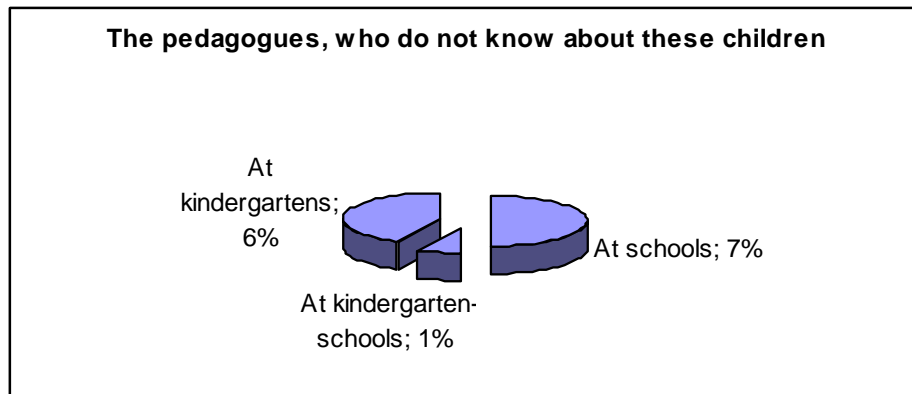
Questionnaires' data shows that the pedagogues and preceptors, who directly have contact with the children, know children, whose are deprived of permanent parental care due the departure of them. It was confirmed by 74 % schools' pedagogues, by 91 % kindergarten- schools' pedagogues and by 85 % kindergartens' pedagogues (**Picture 9**).

Picture 9.



Just some of pedagogues have marked that this information is not known for them (**Picture 10**).

Picture 10.



II. How do the pedagogues value the impact of departure of parents for the behaviour of children?

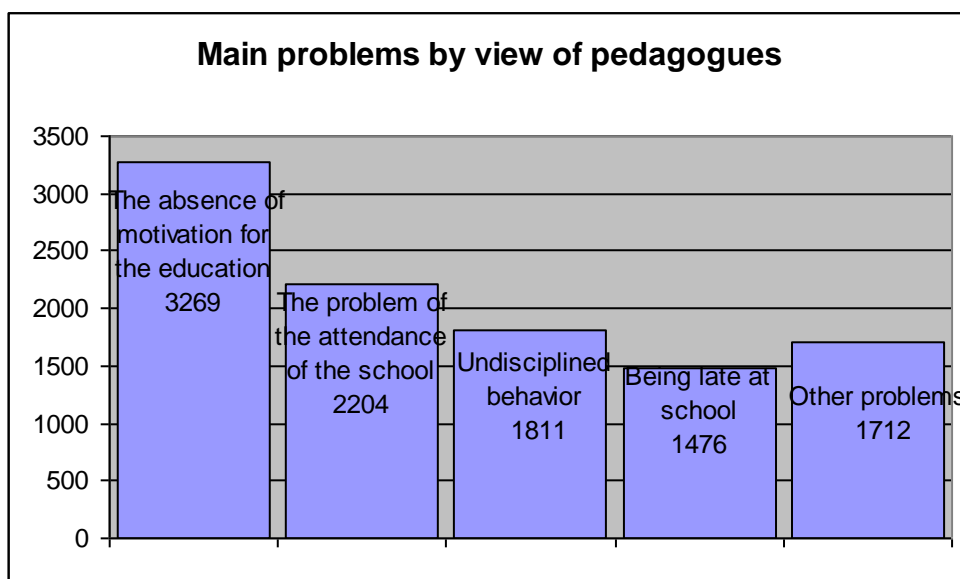
38 % of pedagogues of schools pointed that this problem is very actual, 44 % of pedagogues have marked that the departure of parent had no impact for the behaviour of children. The behaviour problems at kindergarten- schools and at kindergarten were valuated less important and less actual (accordingly 13 % and 25 %).

III. Main problems, concerning the behaviour of children, after their parents left.

Pedagogues pointed that the main problems are (**Picture 11**):

- the absence of motivation for the education (31 %);
- the problem of the attendance of the school (21 %);
- the behaviour of children: defiant behaviour, conflicts with the teachers and scholars 17 %).

Picture 11.



IV. Neglect of the children.

12 % pedagogues of schools have marked that it is visible neglect of children, when their parents are departed to the foreign countries. 20 % of pedagogues think that this problem is relevant just for some of them. Kindergarten-schools pedagogues have marked that cases of neglect of children are rarer: 3 % of pedagogues pointed the neglect of these children, 14 % pedagogues think that it is relevant just for some of them. Accordingly 3 % of the pedagogues of kindergarten pointed that there is some neglect of children. 6 % of the pedagogues of kindergarten marked that this problem concerns just some of the children.

THE MAIN ISSUES

The Preamble of the UN Convention on the Rights of the Child declares, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection ". In the Part 6 of the Article 36 of the Constitution of the Republic of Lithuania embed principle declares, that the right and duty of parents is to bring up their children to be honest individuals and loyal citizens, as well as to support them until they come of age. Following to the Article 18 of the Convention and the Article 21 of the Law on Fundamentals of Protection of the Rights of the Child both parents are responsible for growing up and education of the child. The Part 1 of the Article 3.165 of the Civil Code of the Republic of Lithuania declares that parents have a priority right over the rights of other persons and the Part 4 of the Article 3.159 declares that failure to exercise parental authority shall be subject to legal responsibility under the law.

Representation of the child, safeguarding and protection of the rights and interests of the child is one of the main issues (problems) faced after parents leave the country and leave children for the care to the other persons. The data of 651 Lithuanian educational institutions (schools, kindergarten-schools, nursery-kindergarten) suggests that 4 039 children from these educational institutions (i.e. 3725 - in the schools; 152 – in the kindergarten-schools; 216 – in the nursery-kindergarten) are left without parental care, i.e. the grandparents, relatives, older brothers and sisters, friends, acquaintances and other persons *de facto* take care of these children, or some of them live alone. It should be noted that the rights and interests of these children are not represented *de jure*, because the legal representatives of children, i.e. parents, cannot and at that moment did not exercise parental authority by them underage children.

Closely linked with the above-mentioned problem are issues of the right of the child to the conditions for the safe, healthy, full and harmonious development. Parents leaving the country and also leaving children for the others persons did not create the legal terms, regulated by legal acts, between child and the person, who will take care of them child. This determines that both of institutions, responsible for the implementation of the rights and legal interests of the child, cannot guarantee and control the living conditions of these children, specially in such cases, when it is not known that child is left without *de facto* parental care. It should be noted, that 12 % of questioned pedagogues have noticed the neglect of children, whose parents (one of the parents) have left; 20% of pedagogues thought, that the neglect of children can be noticed at least in respect of some children. It is evident that, without solution the problem of legal representation of the child, will not be implemented the right of the child to the suitable living conditions. Practice and research data (28% of children said, that they were left in care of grandparents) tells that in majority cases parents are leaving children in the care of grandparents, in spite of the fact that they have very limited possibilities to take care of them selves.

The Child and the school

The Preamble of the Law on Education of the Republic of Lithuania declares, that education is an activity intended to provide an individual with a basis for a worthy independent life and to assist the individual in the continuous cultivation of abilities. The objectives and tasks of legislator, the rights conceded by legal regulation cannot be implemented without legal obligations. Article 41 of the Constitution of the Republic of Lithuania declares that education is compulsory for persons under the age of 16. The same provision is carried to many laws of the Republic of Lithuania, including the Law on Fundamentals of Protection of the Rights of the Child and Law on Education.

The role of the parents, as legal representatives, in the child educational and self-educational process is undeniable. In the Article 47 of the Law on Education are claimed the rights and obligation of the legal representatives of the child. After parents have left the country, the representation of child interests (in broad sense) in the educational institution is not exercised or exercised very limited. It should be noted, that full and proper effective educational processes couldn't be implemented without assuring of the rights and obligation of legal child representatives. Legal representatives (parents, guardians, curators) of the child, taking part in the child educational processes, have the right to take part in the selection of an educational form, educational institution or other education provider, to obtain information about child's learning and educational needs, progress, to participate in the school's self-governance and etc. Those rights of the child can be assured only limited after parents left country and left children in *de facto* care of other persons. First, this is fated by persons those take care of children, reluctance concern about child educational progress, indifferent view to the educational conditions of the child and etc. Secondly, the absence of the legal basis, according to which it would be possible actively participate in child's educational process. Legislator clearly sets, that the legal basis is needed for the implementation of any of above-mentioned rights, i.e. subjected rights are enabled to legal representatives of the child, but nor for persons those *de facto* are in care of the child.

Other problematical aspect associated with obligations of legal representatives of the child in educational process. Part 2 of the Article 47 of the Law on Education declare basic obligations of the legal representatives of the child, among which is the obligation to ensure punctual and regular school attendance; co-operate with the school principal, other education provider, teachers, and other experts who provide special, psychological, social-pedagogical, special-pedagogical assistance and healthcare in dealing with the issues of children's learning; control and correct the children's behaviour and etc. The research data confirms that when parents or even one of them have left the country, the above-mentioned rights remain not assured (586 children noted that about them interests never care; 3 118 – noted sometimes).

Direct result of the parents leaving the country, which cause problems in child education process, is related with the obligation of legal representatives of the child to ensure punctual and regular school attendance. It should be noted, that 592 children said, they are late to lessons after parents have left. Incapacity to ensure qualitative education, cause that children: fell less responsibility for education results (this fact was mentioned by 1 285 children); irresponsible make lessons (1 172 children) and etc. Pedagogues said, that the main problem for children those parents (one of the parent) have left the country is absence of educational motivation (31% of all noted problems). A little bit lesser number of pedagogues mentioned that actual is attendance problem (21% of all noted problems); being late (14% of all noted answers) and others (16% all noted answers). Over the answer "Others" in the questionnaire, pedagogues noted, that they have observed some positive changes in children's education and behaviour after parents have left the

country, i.e. the motivation for education has increased, behaviour has changed to better side, get better health (sanitary) skills after grandparents, relatives or other persons start to care of the child. Part of pedagogues noted that children run into difficulties not only of the preparation problem. But also run into difficulties with qualitative preparation, because parents help to form some of them.

Collaboration with school directors, pedagogues and other specialists is unrealised practically, without proper exercising of this obligation by legal children representatives, pedagogues cannot implement the obligation determined in the legal acts – constantly provide information to parents (guardians, curators) about the their child’s education and learning needs (particle 7 of the 2 part of article 49). Last-mentioned problem is of complex nature. First, pedagogues cannot exercise this obligation, because after parents have left country, there are no persons responsible for the child education. This mean that comes up the problem what must to be informed about child’s educational needs and achievements. Secondly, without juristic child’s representation relation, persons, whose are *de facto* taking care of the child, have no legal obligation to solve situation concerning the negative child’s education results or other circumstances that interfere exercise the education of the child effectively. On the above-mentioned cases, the action or inaction of the persons, who are taking care of the child, subject to subject will of them, seeing that, the legal responsibility is not covered in the legal acts and cannot be applied, because legally representatives of the child are parents. It should be noted, that laws of the Republic of Lithuania lay only the legal responsibility of the parents if the failure to exercise parents authority, but in practise, only applying of legal responsibility cannot solve and do not solve the problem, whose runs into after parents leave the country.

Children’s living conditions and up keeping of them

UN Convention on the Rights of the Child, Law on Fundamentals of the Protection of the Rights of the Child of the Republic of Lithuania, Civil Code of the Republic of Lithuania and other international and national legal acts declare the right of the child to the living conditions necessary for his favourable, safe and harmonious developments conditions. After parents (only parent) have left the country, child lose not only the everyday care of the parents, but usually and the possibility to have properly living and even education conditions. According to the research data, 1 924 children, whose parents have left to the foreign country, do not live in theirs home (it about 19 % of all children, those parents or the only parent have left the country). “Left” children are resettlement (stay) to those people who take care of them (1805 children have mentioned this). How persons, who take care of the children, assure the right of the child to proper living conditions, cannot answer even institutions responsible for exercising of the rights and legal interests of the child (except cases that come into the open because of children neglect). Such situation definitely is decided by the fact, that parents before leaving children for the care of the third persons did not purvey the information for the responsible institutions.

The solution of children’s behaviour problems

Complains received in Children’s Rights Ombudsman Institution and the practice confirms, that not rare left children become aggressive, neglect the established norms of behaviour, violate the school regulations. One the reason that determines such delinquent behaviour is parents’ departure. The research data shows, that 17 % of all problems that have been mentioned by pedagogues, after the parents have left the country are problems concerned with insubordinate, aggressive behaviour, perpetual conflicts with pedagogues and students. The legal acts of Lithuania provide legal liability (civil, administrative, and criminal) for failure to exercise or inadequate exercise parental authority.

Persons, who take care of children after their parents have left to the foreign country, usually have no authority for child's behaviour, cannot effectively solve problems concerning behaviour correction and particularly often even did not seek to solve them, because the question of their liability is not solved. The abovementioned problems are concurrent with the question of the legal representation of the child. The status of the persons who *de facto* take care of children did not obligate them responsibly attends to child's rights and legal interests and assures the fulfilment of child's legal obligation. When serious problems of child education or (and) learning arise, pedagogues cannot timely and effectively solve them, because child is not legally represented and there are no persons, whose can and must quickly to take decisions. Results of these dimensions for child living conditions, education and learning are unquestionably negative, i.e. the problems concerned with child behaviour are going deeper; needful help did not reach at time; child's behaviour in school, in relationships with close persons, taking care of him and others going worse, and etc.

The lack of information about the children, who parents have departed to the foreign countries. Inter-institutional collaboration.

The right of the child to family ties, the right to live together with his/hers parents, be brought up and cared for in his/hers parents' family, suppose the fundamental obligation of parents properly care of child's interests and principle of prior liability. It should be noted, that the research data confirmed, that 16 % of pedagogues (i.e. 1715 from 11 302 questioned schoolmasters) did not knew about children (or knew about some), those parents (one of them) departed. Although the number of pedagogues whose said that they knew about those children is considerably less comparing with data that a large part of pedagogues have known about these children, but in point of priority of child's interest principle, data concerning unknown left children must be minimal. In this case, the first moment when the problem arises is the irresponsibility of parents. Before leaving the country, they did not inform the school administration, pedagogues and other persons, who are responsible for children education process, about factual situation.

It should be noted, that protection of the rights of the child institutions in accordance with the competence, must and have to know about children, left without parental care, because they have left to the foreign country. Because this information did not reach these Institutions (or reach just in some cases), presumed that there is lack of collaboration between educational institutions and institutions, those protect and assure children's rights.

It should be noticed, that there is no statistics data, who many educational institutions according to the provisions of legal acts of the Republic of Lithuania, have informed protection of the rights of the child institutions about children's neglect and 18 % (i.e. 2072 schoolmasters) think, that neglected are only several children.

Information received during research (and additional information) it is seemed, that 75 % schoolmaster those filled questionnaire have known about children, those parents (one of them) have departed, situation. Generally mostly class educators dispose this information. Pedagogues of some schools noted that they knew about those children and they are constantly supervised.

Psychological, moral aspects

The information on the changes of behaviour of children, presented by educational institutions, shows that many of children (especially the youngest ones and those, who attend kindergartens) feel sad; they are worried, absent-minded, bad-tempered, sensitive and etc. The latter

aspects negatively influence psychosocial development of a child, relationship with parents break and children feel alienated and abandoned.

Care and guardianship of the child, legal representation

Representation of a child, protection and defence of his or her rights and lawful interests is one more problem faced when parents leave the country and entrust a child to someone's care. Parents, while being legal representatives of a child, have duty to represent and defend rights and lawful interests of their children, so when parents leave the country, immediate family members or other persons, taking care of a child, can not represent a child at school, medical institution or law-enforcement agency and reach a decision concerning a child.

Children's Rights Ombudsman of the Republic of Lithuania initiates solution of the problem of representation of a child when parents leave the country not for the first year. It was applied to competent state bodies; furthermore, the latter problem was mentioned in the Annual Report of Children's Rights Ombudsman Institution. Moreover, it should be mentioned that on the initiative of Children's Rights Ombudsman and the Seimas (Parliament) Commission for Family and Child Affairs of the year 2000–2004 an action group was formed and the draft of article 3.157 of the Civil Code of the Republic of Lithuania was prepared. The draft determined a possibility for the parents to apply to the court for the appointment of a legal representative of a child to whom child's care could be entrusted for the time parents live or work abroad. The Government of the Republic of Lithuania opposed the draft of the Law by the 26th January 2005 resolution No. 84.

Article 6 of the Law on amendment and addition of articles 1, 3, 4, 5, 6, 8, 9, 10, 12, 13, 18 of the Law on Benefits for Children determines a possibility to entrust a child to someone's care in accordance with parents' application when they leave the country not paying benefit of care for a child. But the implementation of the procedure of determination of child's care is quite complicated in practice. In Children's Rights Ombudsman's opinion, the above-mentioned Law on Benefits for Children hasn't solved the problem of representation of a child and his or her rights and lawful interests substantially. Children's rights security agencies which bristle with difficulties while practically implementing child's temporary care after their parents departure perpetually apply to State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour as it is not clear to whom parents should make a request to determine child's temporary care; what are the actions of Children's rights security agencies if parents have already entrusted their child to somebody; furthermore, the procedure of selection of a guardian is not clear as well.

It should be noted that the question of representation of a child whose parents left the country for different reasons is integrated and comprises questions of child's maintenance and potential cases of abuse as somebody might seek financial support because of loophole of legal acts. The Ministry of Social Security and Labour of the Republic of Lithuania speaks up for delegation of legal representative of a child but as there are no any other alternative solutions of the problem, the Ministry of Justice of the Republic of Lithuania disapproves. Its decision is referred to the principle that parent's rights and duties are untransferable.

The suggestion to determine the solution of the mentioned problem was submitted to the present Seimas and repeatedly to the Ministry of Social Security and Labour of the Republic of Lithuania at the time the draft of the Strategy of Reorganization of Child's Care System and the Plan of its Implementation Measures was being coordinated. Children's Rights Ombudsman suggested to consider aspects of child's representation problem and define general modes of solution in the Strategy of Reorganization of Child's Care System and the Plan of it's

Implementation Measures in order to form and ensure uniform practice of child's representation problem solving.

In consideration to the problems that Children's rights security agencies bristled with, the Ministry of Social Security and Labour of the Republic of Lithuania committed a task for the State Child's Rights Protection and Adoption Service under the Ministry of Social Security and Labour to form an action group to solve the above mentioned questions. The first meeting on child's care when his or her parents are on leave was held on the 19th of October 2006.

In practice there are cases when persons, taking care of a child whose parents temporary left the country, apply to Children's rights security agency for the determination of care for a child. They withhold the fact that parents keep maintenance of their child, perpetually communicate with him or her and that is how the statistics of children who lost care of their parents is distorted and state resource are not used properly.

The problem is that there is no official statistics about children to whom temporary care was determined after their parents' departure to foreign country in Lithuania. State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour collected information about these children from Children's rights security agencies. The collected data showed that there were 343 children to whom temporary care was determined after their parents' departure to foreign country on the 31st of December 2006.

There are no data of children to whom temporary care was determined and whose parents do not take care of them any more in Lithuania.

Social benefits for a child at the moment his or her parents work in foreign country

Under the Law on Benefits for Children and Regulations of Allocation and Pay of Benefits for Children which were approved by the Government on 28th June 2004, resolution No. 801, benefits can be allocated just for habitual residents of Lithuania: citizens of Lithuania whose data about residence is recorded at the Citizen's register of the Republic of Lithuania, foreigners habitually living in Lithuania and stateless persons. The latter legal act determines that benefits are allocated for children but they are paid for their parents. That is the reason, why children lose benefits when their parents leave the country and do not inform about this fact Citizen's register.

Citizens from all European Union countries have the right to social benefits for children if they live and work in any other country of European Union. The benefits are paid under the European Union's (Regulation (EEC) no 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the community and Regulation (EEC) no 574/72 of the Council of 21 March 1972 fixing the procedure for implementing regulation (EEC) no 1408/71 on the application of social security schemes to employed persons and their families moving within the community) and national legal acts.

Benefits are paid for persons who declare their place of living in particular country and just for a special time that is determined in national legal acts. For example in Germany, social benefits for a child are paid independent of the fact child's parent's work or have social insurance.

It is always checked if a child really lives in the country his or her parents apply to appropriate institution for allowance while contemplating a question of allocation of social benefit (typically, a child should live with his or her parents but sometimes exceptions are made). If social benefit is paid in any other country of European Union, just the difference between the sums of money determined in the country that grants allowance and the sum of money granted in the foreign country will be usually paid.

Numbers of Lithuanians leaving the country for better jobs abroad have expanded. In the light of these facts and on purpose to ensure appropriate conditions of living and development of a child as well as implementation of right to social maintenance, it is very important to give information about the right to social benefits for children in other countries of European Union.

FINDINGS AND SUGGESTIONS

» *There is no official statistic about children whose care was entrusted for tertiary persons and how many of them are paid (while suppressing the fact of parents' leave) or not paid benefit of care.* In consideration of this, a question of incorporation of this information into the register of statistical information about children should be deliberated.

» *Limitations of institutional cooperation.* Administrations of educational institutions must inform Children's rights security agencies about children whose care was entrusted for tertiary persons, facts of child's care abuse and children who live alone after their parents' departure abroad. In children's rights ombudsman's opinion, grant of social relief and psychological help for a child whose parents left the country and stimulation of extra activities should be debated using effective institutional cooperation.

» *Parents do not solve or debate the question of child's legal representation. Furthermore, they do not inform appropriate institutions that child was entrusted for someone's care.* That is why parents should be informed about possibility and necessity to solve the question of child's legal representation and care.

» *The Law on amendment and addition of the Law on Benefits for Children hasn't solved the problem.* Children's rights security agencies bristle with difficulties because it is not clear what is the validity of the agreement between parents and persons to whose care child is entrusted. Moreover, there is a need of separate legal regulation which would determine artificial presumptions, methods and procedures of implementation of child's care as well as functions, responsibility, rights and duties of Children's rights security agencies. Complexity of child's legal representation problems proves that there is a need of more detailed regulation of selection and delegation of child's legal representative. In consideration of this, in children's rights ombudsman's opinion, it would be purposeful to return to the suggestion to determine a possibility for parents to apply to the court for the delegation of a person to whom child's care could be entrusted before departure abroad.

» *Selection of a legal guardian of a child, when child's parents leave the country, is vague.* The question of child's care and representation of his or her rights and legal interests can not be resolved on the unilateral choice of parents because it might happen that care of a child will be entrusted for persons (grandparents or little bit older brothers and sisters) unable to take care of their own interests.

» *Children's Rights Ombudsman raises the matter of declarative legal norms of the Law on Declaration of Living Place of the Republic of Lithuania, the necessity to increase the control of the implementation of the law and possibility to discuss the legal issues related to improving of the above mentioned legal act.* 1st part of Article 4 of the Law on Declaration of Living Place determines that living place should also be registered by the citizens leaving the country for a period of time longer than 6 months. It also should be noted that the Law on Declaration of Living Place sets a duty, not a right, to register living place. Violation of legal norms of the Law, presentation of false information is subject to liability. In children's rights ombudsman's opinion, it is necessary to

take actions to improve the control of the implementation of the Law on Declaration of Living Place in order to oblige parents to declare the fact of leaving. This would help to gain official information about children that are left without care of their parents. Furthermore, appropriate institutions would be obliged to inform Children's rights security agencies about the abuses of child's care.

» *After solving the issue of the Law on Declaration of Living Place of the Republic of Lithuania implementation control and after the implementation of article 2 of the Law on amendment and addition of articles 3, 11, 13 of the Law on Declaration of Living Place on the 1st of July, 2007, the control function is assigned to municipalities and seniūnijoms (the smallest administrative unites). The mentioned institutions will have direct information about children whose parents are on leave so it is advisable to discuss the subject of the expansion of the rights of the employees of the seniūnijos (preparation of the methodological information).*
