www.mruni.eu

Agnė Margevičiūtė

DOCTORAL DISSERTATION

PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL

SOCIAL SCIENCES,
LAW (01 S)
VILNIUS, 2018

MYKOLAS ROMERIS
UNIVERSITY

MYKOLAS ROMERIS UNIVERSITY

Agnė Margevičiūtė

PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL

Doctoral Dissertation
Social Sciences, Law (01S)

Vilnius, 2018

This doctoral dissertation was prepared during the period of 2015-2017 at Mykolas Romeris University under the right of doctoral studies granted to Mykolas Romeris University and Vytautas Magnus University by the Order No. V-1019 of the Minister of Education and Science of the Republic of Lithuania on 8th of June, 2011.
The doctoral dissertation is defended externally.

Scientific Consultant:
Prof. Dr. Birutė Pranevičienė (Mykolas Romeris University, Social sciences, Law, 01S)

ISBN 978-9955-19-908-3 (internete)
ISBN 978-9955-19-909-0 (spausdintinis)
© Mykolo Romerio universitetas, 2018

MYKOLO ROMERIO UNIVERSITETAS

Agnė Margevičiūtė

MOKINIO TEISĖS Į SAUGIĄ APLINKĄ UŽTIKRINIMO PROBLEMINIAI ASPEKTAI: PATYČIŲ ATVEJIS

Daktaro disertacija
Socialiniai mokslai, teisė (01S)

Vilnius, 2018

Daktaro disertacija rengta 2015-2017 metais Mykolo Romerio universitete pagal Mykolo Romerio universitetui su Vytauto Didžiojo universitetu Lietuvos Respublikos švietimo ir mokslo ministro 2011 m. birželio 8 d. įsakymu Nr. V-1019 suteiktą doktorantūros teisę.
Daktaro disertacija ginama eksternu.

Mokslinė konsultantė:
prof. dr. Birutė Pranevičienė (Mykolo Romerio universitetas, socialiniai mokslai, teisė, 01S)

TABLE OF CONTENTS

INTRODUCTION: ... 8

1. THE FACTUAL RELEVANCE ... 9
   1.1. International relevance ... 10
   1.2. National relevance ... 12
      1.2.1. Interdisciplinary relevance ... 12
      1.2.2. Factual relevance ... 14

2. AIM AND OBJECTIVES ... 19

3. METHODOLOGY OF THE RESEARCH ... 19
   3.1. The rationale of legal problematics ... 20
      3.1.1. Bullying and the right to education ... 21
      3.1.2. Bullying and integrity of the child during the process of compulsory education ... 24
   3.2. International, regional and national approach ... 26

4. STRUCTURE OF THE THESIS ... 29

CHAPTER ONE – BULLYING AND COMPULSORY EDUCATION: FROM GENERAL TO LEGAL PERSPECTIVE ... 30

1. DEFINING BULLYING ... 31
   1.1. Beyond the legal sphere ... 31
   1.2. From a legal perspective ... 34
      1.2.1. On unprovoked negative behavior ... 41
      1.2.2. On incidence ... 41
      1.2.3. On imbalance of power ... 43
      1.2.4. On other aspects of the legal definitions of *bullying* in the state laws of the US ... 43
         1.2.4.1. Victimization ... 43
         1.2.4.2. Beyond the general perception of the negative effect ... 45
         1.2.4.3. Broader perception of bullying at school in regard to its place (territory) and time of incidence ... 45
         1.2.4.4. Other relevant characteristics of bullying at school: ... 46
   1.3. Other references to bullying on international, regional, or national levels ... 47
      1.3.1. International reference ... 48
      1.3.2. Regional reference ... 50
      1.3.3. National reference (Lithuania) ... 51

2. BEYOND THE DEFINITION: FORMS AND CONSEQUENCES OF BULLYING ... 53
   2.1. Forms of *bullying*: the extralegal and legal perspective ... 54
   2.2. Consequences of *bullying:* the extralegal and legal perspective ... 57
      2.2.1. Health and life ... 57
      2.2.2. Person and property ... 59
      2.2.3. School ... 62
      2.2.4. Consequences of bullying at school explicitly recognized by law ... 64

3. BULLYING AND THE 4A'S ... 66
   3.1. On the right to education ... 68
   3.2. On the rights in education ... 68

CHAPTER TWO – RELEVANT LEGAL, INSTITUTIONAL AND POLICY FRAMEWORKS OF THE RIGHT TO EDUCATION ON INTERNATIONAL, REGIONAL AND NATIONAL LEVELS 70
1. INTERNATIONAL FRAMEWORK 71
1.1. International human rights law and children's right to education 71
1.2. Secondary sources of international human rights law in regard to bullying 75
2. REGIONAL FRAMEWORK 77
2.1. Council of Europe 78
2.2. European Union 80
3. NATIONAL LEGAL, INSTITUTIONAL AND POLICY FRAMEWORK OF GENERAL EDUCATION IN LITHUANIA 82
3.1. Forms, ways and programs of compulsory education 84
3.2. System of compulsory education 85
3.2.1. Compulsory education within the system of education 88
3.2.2. Compulsory education and the criteria of choice, obligation and age 91
3.3. Non-formal education 92
3.3.1. Non-formal education and *bullying* 93
3.3.2. Non-formal education as a tool in preventing negative phenomenon in education 96
3.4. *Content* of education and *plans* of education 98
3.5. Other relevant forms of compulsory education 105
3.5.1. Homeschooling 105
3.5.2. Self-education 110
3.5.3. Distance learning 113
CHAPTER THREE – RELEVANT ASPECTS OF STATE'S RIGHTS, DUTIES, OBLIGATIONS AND ACCOUNTABILITY IN REGARD TO THE ISSUE OF BULLYING AT SCHOOL 115
1. STATE'S DUTIES AND OBLIGATIONS IN REGARD TO THE RIGHT TO EDUCATION AND OTHER RELEVANT RIGHT IN EDUCATION 116
2. CERTAIN ASPECTS OF DISCRETIONARY POWERS OF LEGISLATIVE BRANCH IN THE FIELD OF EDUCATION AND THEIR RELEVANCE TO THE ISSUE OF *BULLYING* 121
2.1. On the latest amendments of the Law on Education of Republic of Lithuania 123
2.2. On prevention programs 125
2.3. On psychological assistance 129
2.4. On legal definitions of *bullying* and *cyber bullying* and certain aspects of their reporting system 129
2.5. On analogy with the notion of violence within the context of immediate environment 132
3. THE RELEVANT DISCRETIONARY POWERS (AND THEIR INSTRUMENTALITY IN THE FIELD OF EDUCATION) OF THE PRESIDENT AS AN INSTITUTION OF AN EXECUTIVE BRANCH 135

4. RIGHTS AND DUTIES OF THE GOVERNMENT AND THE MINISTRY OF EDUCATION AND SCIENCE AND CERTAIN ASPECTS OF THEIR PRACTICAL APPLICATION IN REGARD TO THE ISSUE OF *BULLYING* AT SCHOOL 136
4.1. On relevant aspects of *monitoring* and *planning* of education 137
4.1.1. *Monitoring* of education 137
4.1.2. *Planning* of education 139
4.2. On certain aspects of accountability 140
4.3. On efficiency of the reporting mechanisms in regard to the issue of *bullying* at school 144
4.4. On psychological assistance in the context of post-legislative act 146
CONCLUSIONS AND SUGGESTIONS 152
LIST OF RESOURCES: 157
CONCLUSIONS AND SUGGESTIONS: 189
SANTRAUKA 197

"Education must ensure that human rights are upheld in all its structures, institutions and processes. Its own house must be in order."[1]

INTRODUCTION:

School is an institution that ensures implementation of the right to education as a fundamental right of every child.[2] It is an environment where children develop, excel, and acquire skills and knowledge with dignity, confidence and self-esteem. Education has a unique potential where non-violent behavior can be learned and attitude condoning violence ousted.[3] In fact, for many children school is the safest place to be.[4] However, ordinary school days of millions of children are marred with by acts of school violence, thus, the prospect of the right to education provided by the school system becomes rather a disillusion than an opportunity for many learners. Bullying, as an act of violence, may occur anywhere where peers gather making the school environment extremely susceptible to such phenomenon. Therefore, due to obligatory duty to attend school until a certain age, school is precisely the environment where quantitatively children experience bullying the most, because it is the place where most children by way of imperative choice spend most of their time.[5]

Some authors refer to school as one of the main institutions of modern society that is to some degree affected by school violence as a global phenomenon in virtually all nation-states.[6] The title of the Thesis quite implicitly suggests the core focus of the research – bullying at school *vis-à-vis* the right to the safe learning environment of the child. Arguably, the topic of bullying *per se* is hardly a new topic, since popular, theoretical discourse and research on social, psychological, behavioral, health implications of bullying on a child are truly abundant in both popular and academic presses.[7] **However, proportionally considerably less of the volumes of extensive school violence related research actually deal with the legal aspects of bullying *per se* and bullying within the school environment.**

---

1 Jan de Groof, "Introduction", in *Promoting a Human Rights Culture in Education: Responsibilities and opportunities in a transforming society,* Jan de Groof, Willy Legotlo, Rassie Malherbe and Johan Potgieter, eds., (Mys & Breeschm publishers, Ghent, 1999), 15;

2 The Right to Education Initiative, "Understanding education as a right," (2018) // http://www.right-to-education.org/page/understanding-education-right (accessed May 8, 2018);

3 Council of Europe, "Tackling Violence in Schools," (June, 2011) // http://www.coe.int/t/dg3/children/violence/OsloReport_en.pdf (accessed September 25, 2015);

4 Paul Timm, *School Security, How to Build and Strengthen a School Safety Program,* ed. Brian Romer (Elsevier, 2015), p.106;

5 Robertas Povilaitis, Jurgita Smiltė Jasiulionė, „Mokykla gali įveikti patyčias" [„Schools can overcome bullying"] (2008) // http://www.bepatyciu.lt/media/files/downloadable/6_mokykla_gali_iveikti_patycias.pdf (accessed April 28, 2015);

6 Rami Benbenishty, Ron Avi Astor, "School Violence in an International Context," International Journal of Violence and School 7 (December, 2008):60;

7 Charles J. Russo, "Bullying and New School Violence: An American Perspective", International Journal for Education Law and Policy" Issue 2 (2014): 129;

The daunting reality supported by extensive statistical data and studies worldwide shows that bullying is a global phenomenon[8] and it remains the most common form of violence in schools,[9] is consistently related to each violence-related behavior among peers at school.[10] Bullying was the cause of some the most extreme cases of deathly violence at schools in the modern day history.[1112] For example, it is estimated that approximately 160 000 of learners (in the United States solely) skip school every day, because of fear of bullying.[1314]

The structure of the correlation between the child, the school and bullying provides a strong legal background of the Thesis, which raises the main question of – *how does bullying at school affect the general integrity of the learner and what legal measures can be applied in mitigating or preventing such negative phenomenon?* The answer to the question shall be presented throughout the content of the Thesis and shall consist of analysis of relevant legal norms of national, regional and international level, that embed the rights related to the question at stake, and research of institutional systems on national, regional and international levels, that guarantee the proper implementation and protection of the rights of children in question. The above mentioned mindset provides the basis for legal rationale and structure of the Thesis, which will also include a thorough analysis of state's rights and duties within the institutional framework of compulsory education.

1. THE FACTUAL RELEVANCE

One of the supporting arguments for the relevance of the Thesis is the analysis of the factual situation, which clearly implicates that cases of bullying are up to this day not unique,

8 UNESCO, "Monitoring Progress for all 2015," (2015) // http://unesdoc.unesco.org/images/0023/002322/232205e.pdf (accessed September 21, 2015);

9 John Dayton, Anne Proffitt Dupre and Ann Elizabeth Blankenship, "Model Anti Bullying Legislation: Promoting Student Safety, Civility, and Achievement through Law and Policy Reform," Education Law Reporter 272 (2011): 19;

10 Tonja R. Nansel, Mary D. Overpeck, Denise L. Haynie, W. June Ruan and Peter C. Scheidt, "Relationships Between Bullying and Violence Among US Youth," Archives of Pediatrics & Adolescent Medicine Vol 157, No. 4 (April 2003): 348;

11 In 2000, an analysis by officials at the U.S. Secret Service of 37 premeditated school shootings found that bullying, played a major role in more than two-thirds of the attacks.- The Washington Post, "Gifted and Tormented," (May, 2006) // http://www.washingtonpost.com/wp-dyn/content/article/2006/05/15/AR2006051501103.html (accessed September 24, 2015).

12 All three school shootings in Finland (2 casualties in Raumanmeri school in 1984, 8 casualties in Jokela school in 2007, 10 casualties in Kauhajoki vocational college in 2008) were related to negative and violent school experiences. All three young adults who individually committed these severe crimes suffered from bullying in their adolescent years (one of them directly pointed out that he wanted to get even with the two school mates that bullied him). The executors of the last two consecutive school shootings were both fascinated by Columbine school shooting, posted violent videos of their intentions on the internet, both committed suicide at the shooting scenes.- Tomi Kiilakoski and Atte Oksanen, "Cultural and peer influences on homicidal violence: A Finnish perspective," *New Directions for Youth Development*, Volume 2011, Issue 129 (2011):31, 33-34;

13 Kathleen Vail, "Words That Wound," *The American School Board Journal* (September 1999):37-38;

14 Nadya Labi, "Let Bullies Beware," (March 2001) // http://content.time.com/time/nation/article/0,8599,103822,00.html (accessed September 18, 2015);

but rather multiple. The statement is backed by statistical research, review of individual bullying cases covered by the media in different countries of the world, analysis of numerous leading empirical studies that examine and monitor school violence and bullying worldwide. Factual situation in the context of bullying at school is supported on the findings of the research reports carried out in as many as 40 countries,15 reports in academic journals and of authoritative bodies such as the World Health Organization, UNESCO.

The cross-country comparison allows evaluating the perspective on how extreme or less severe the situation regarding bullying and its prevalence at school is on national levels in specific countries. Among other surveyed countries, Lithuania stands out as the country where bullying at school has been the most prevalent for a period of over two decades now, despite extensive joint individual, local, national and international effort to improve the situation and make school environment safer. School is where children still experience most cases of bullying in Lithuania.16 This factor was the determinant in supporting the relevance of the Thesis based on the national context of Lithuania and devoting much of the research to the case study of Lithuania.

1.1. International relevance

Despite the decreasing pattern, bullying at school still remains a worldwide[17] detrimental phenomenon among adolescent peers that results in tangible outcomes, such as, poor academic performance, absence in school, health problems, in many cases even suicide, as well as outcomes intangible in nature, such as, emotional and physical pain, hurt, fear, diminished dignity, to name a few. It is a devastating global phenomenon that due to peculiarities of social behavior of modern day society, influenced by information technologies and cyber space, extends well beyond the actual walls of educational institutions, resulting in even more confounding consequences in the lives of those who are affected by it.[18]

15 The HBSC currently surveys at least 44 countries and regions worldwide - Albania, Armenia, Austria, Belgium (Flemish and French regions), Bulgaria, Canada, Croatia, Czech Republic, Denmark, England, Estonia, Finland, France, Germany, Greece, Greenland, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, TFYR Macedonia, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Scotland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, USA, Wales – HBSC, "Member Countries" // http://www.hbsc.org/membership/countries/index.html (accessed October 5, 2015);

16 Ministry of Education and Science of Republic of Lithuania, "Bullying in Schools of Lithuania: Problems and Solutions," (December 2009) // http://iamnotscared.pixel-online.org/data/database/publications/271_18%20School%20bullying%20in%20Lithuania%20problems%20and%20solutions.pdf (accessed September 30, 2015);

17 World Health Organization Regional Office for Europe, "Health Behavior in School-Aged Children: The School Experience" (June 2000) // http://www.hbsc.org/documents/HealthofYouth3.pdf (accessed September 30, 2015);

18 Rami Benbenishty, Ron Avi Astor, supra note 6, p. 59-60;

Six consecutive cycle research studies carried out by the Health Behavior in School-aged Children (HBSC) research network[19] in Europe and North America (total of 32 countries) show that an overall trend over time is a decreased number of bullying cases among school aged children: occasional bullying (once or more per couple months) for both genders has decreased from 33,5 % in 2001/2002 to 29,2 % in 2009/2010, chronic bullying (2-3 or more times per month) has decreased from 12,7% to 11,3% consecutively. However, this does not represent a consistent downward trend for all countries.[20] The HBSC survey applies a well established and validated method of assessment of prevalence of bullying at school[21] in 44 countries.[22] Thorough comparative analysis of the data of three consecutive survey cycles of the HBSC shows that only 12 out of 32 participating countries demonstrated a consistent improvement, i.e., the number of school-aged children who were bullied has decreased gradually and consistently over the period of survey cycles from 2001 until 2010, whereas the remaining 20 countries continue to demonstrate a fluctuating pattern, **which means that one third of the school-age children still experience bullying every two months and one tenth – more than two times a month.**[2324] Due to its enduring nature, bullying remains a pattern of negative social behavior among adolescent peers that is hard to break and that **continues to affect up to one third of the population of the school aged children** in Europe and North America.[25]

---

19 The Health Behavior in School-aged Children (HBSC) research network that collects data every four years on 11, 13, and 15-year-old boys' and girls' health and well-being, social environments and health behaviors through a school-based survey. A Research Protocol is produced every HBSC survey cycle (last survey cycle was carried out in 2013/2014, previous survey cycles were in 2009/2010, 2005/2006, 2001/2002, 1997/1998, 1993/1994). Each protocol includes scientific rationales for the survey items, such as bullying – HBSC, "Survey Methods" (2015) // http://www.hbsc.org/methods/index.html (accessed September 16, 2015);

20 Kayleigh L. Chester, Mary Callaghan, Alina Cosma, Peter Donnelly, Wendy Craig, Sophie Walsh and Michal Molcho, "Cross-national time trends in bullying victimization in 33 countries among children aged 11, 13 and 15 from 2002 to 2010," European Journal of Public Health Vol. 25 (Supplement 2, 2015): 62;

21 World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.4," (2004) // http://www.euro.who.int/__data/assets/pdf_file/0008/110231/e82923.pdf?ua=1 (accessed September 30, 2015).

22 The HBSC currently surveys at least 44 countries and regions worldwide - Albania, Armenia, Austria, Belgium (Flemish and French regions), Bulgaria, Canada, Croatia, Czech Republic, Denmark, England, Estonia, Finland, France, Germany, Greece, Greenland, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, TFYR Macedonia, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Scotland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, USA, Wales – HBSC, *supra note* 15 (accessed October 5, 2015);

23 World Health Organization Regional Office for Europe, supra note 21 (accessed September 30, 2015);

24 World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.5," (2008) // http://www.euro.who.int/__data/assets/pdf_file/0005/53852/E91416.pdf?ua=1 (accessed September 30, 2015);

25 World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.6," (2012) // http://www.euro.who.int/__data/assets/pdf_file/0003/163857/Social-determinants-of-health-and-well-being-among-young-people.pdf?ua=1 (accessed September 30, 2015);

1.2. National relevance

1.2.1. Interdisciplinary relevance

An opinion that *bullying* at school was an ordinary and frequent occurrence has been prevailing for an extensive period of time.[26] Systematic research of various aspects of bullying at school was initiated only in the seventies in Sweden and has spread to other countries worldwide ever since.[27] Thus, it seems awkward to want to defend the newness of the argument that the topic of *bullying* among peers during the process of compulsory education is up to this day still a relevant one. Another statement to counter the argument of newness of relevance of the phenomenon of *bullying* at school could be the obvious fact of the presence of a wide and voluminous issue related discourse on many different levels –educology, psychology, psychiatry, sociology, behavioral studies, policy-makers and highest officials, as well as the media, non-governmental,.[28] It is also true in the national case of Lithuania – the topic of *bullying* has been resonating in the society for over two decades, bullying at school was named as one of the leading causes to start a nationwide Presidential campaign "For a Safe Lithuania" in 2015.[29]

However, experts agree that there is a lack of consistent sociological research on prevalence of *bullying* at schools and tendencies thereof,[30] as well as scientific research of the issue of *bullying* at schools in Lithuania is still scarce.[3132] It is also imperative to stress, that the discourse related to the issues of *bullying* at school in Lithuania is carried out in the fields of an *extralegal*[33] nature at large, while the legal discourse in the context of education law *per se* is vastly lacking.

The issue of *bullying* at school has been researched and analyzed within the broader context of the public health and pedagogical issues. In fact, experts of the fields of medicine and public health care were one of the first researchers to initiate scientific discourse on

---

26 Vilija Targamadzė, Džiuginta Valeckienė, "Patyčių bendrojo lavinimo mokyklose samprata: priežasčių, formų ir pasekmių diskursas" [Conception of Bullying at Comprehensive School: Discourse on Reasons, Forms and Consequences], *Acta Pedagogica Vilnensia* 2007, 19: 159;

27 Robertas Povilaitis and Jurgita Valiukevičiūtė, *"Patyčių prevencija mokyklose" [Prevention of Bullying at Schools],* ed. Laima Bulotaitė (Vilnius: Multiplex, 2006), p.14;

28 Robertas Povilaitis, "Patyčių dviejose Vilniaus mokyklose paplitimas" [Prevalence of Bullying in Two Vilnius Schools], *Visuomenės sveikata* 2(41) (2008):33;

29 President Dalia Grybauskaitė's Nationwide Social Campaign "For a Safe Lithuania" (2015) // http://www.uzsaugialietuva.lt/english (accessed July 8, 2016);

30 Ministry of Education and Science of Republic of Lithuania, "Patyčių problema mokykloje ir prevencija" [Problem of Bullying at School and Prevention], (September, 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/buf_Patyciu-problema-mokykloje-ir-prevencija.pdf (accessed July 23, 2015);

31 Robertas Povilaitis, *op. cit.,* p.33;

32 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, „Į patyčias įsitraukusių Kauno mokyklų mokinių savijauta, rizikinga elgsena ir vaidmenys tyčiojantis" [The Health, Risk Behavior and Bullying Roles of Children Involved in School Bullying Behaviors in Kaunas], *Visuomenės sveikata* 2(41) (2008):27;

33 Philippe Legrain, *Open World: The Truth About Globalization,* (2002), p. 110-111;

the matter *circa* 1994, when the first HBSC study was carried out in Lithuania.[34] Another prevailing approach to the issue of *bullying* has been through submerging the latter issue into the broader context of school violence,[35] as a social phenomenon.[36]

However, as of a decade ago, the issue increasingly became the focus of attention in the fields of behavioral habits, such as aggression and conflict behavior of learners at schools,[37]

---

34 Discussions on detrimental effects of bullying on the health of the children firstly appeared in publications by Žemaitienė N. („Mokyklos patrauklumas ir moksleivių sveikata," [Fascination of School and the Health of Schoolchildren], Socialiniai mokslai. Sociologija 1996, 3(7)); In 1996, Apolinaras Zaborskis *et all* sarted publisihing series of articles devoted to discussion on the national context of Lithuania, based on interpretation of the HBCS Cross-Nation Study implemented by the World Health Organization 1)Apolinaras Zaborskis et all, "Moksleivių gyvenimo būdas ir sveikata. Pasaulinės sveikatos organizacijos 1994 m. tarptautinės moksleivių apklausos rezultatai," [Life-style and Health of the Learners. Rezults of the International Survey of the Learners by the World Health Organization], Vilnius: Leidybos centras; 1996;

2) Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, "Bullying in Lithuanian schools in 1994-2002," *Medicina (Kaunas)* 2005, 41(7): 614-620;

3) Apolinaras Zaborskis and Inga Vareikienė, „Schol Bullying and its Assocication With Health and Lifestyle Among Schoolchildren," *Medicina (Kaunas)* 2008, 44(3): 232-239;

35 Valdas Pruskus, *Smurto fenomenas mokykloje [The Violence Phenomenon at School],* Vilniaus Gedimino technikos universitetas. Vilnius: Technika, 2012;

2) Brigita Kairienė, Ieva Kuginytė Arlauskienė, Tomas Butvilas and Romas Prakapas, "Mokinių smurto mkykloje raiškos tendencijos" [Tendencies of Expressing Student Violence at School], *Klutūra – Ugdymas – Visuomenė: mokslo darbai* 2 (2007):169-175;

3) Brigita Kairienė and Donalda Ščerbakova, „Vaikų patiriamo smurto mokykloje prevencinės galimybės" [Preventive Measures for Violence at School Experienced by the Children], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 7(2) (2008):67-75;

4) Daiva Malinauskienė, „Vaikų smurtinį elgesį mokykloje skatinantys veiksniai" [Factors Stimulating Violent Behavior at School], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 10(2) (2011);229-240;

5) Loreta Bukšnytė-Marmienė, „Mokinių patiriamo smurto bei savijautos ypatumai skirtingo tipo mokyklose" [The Link Between Violence Experienced by Adolescents and Their Emotional State in Different Types of Schools], *Pedagogika: mokslo darbai* 91 (2008):60-65;

36 Rasa Norkutė, *"Tadas į mokyklą negrįžo: tėvai ir vaikai, mokytojų ir vaikų tarpusavio santykiai, mokytojų klaidos, vaikų patyčios, vaikų savižudybių priežastys" [Tadas Did Not Return to School: Parents and Children, Relations Between Children and Teachers, Teachers' Mistakes, Child Bullying, Causes of Suicide of Children],* Kaunas: Indigo Print, 2014. P.397;

37 Aldona Palujanskienė and Juozas Vytautas Uzila, „Agresija ir kofliktai mokykloje" [Agression and Conflict in the School of Our Days], *Pedagogica: mokslo darbai, Vilnius* 73 (2004):124-127;

2) Diana Bukeikaitė and Valdas Pruskus, „Agresyvus nepilnamečių elgesys mokykloje: priežastys ir raiškos ypatumai" [Agressive Behavior of Teenagers at School: Causes and Aspects of Expression], Šiuolaikinė mokykla sociologų objektyve, 2006;

3) Valdas Pruskus and Gerda Tuzienė, „Agresyvaus elgesio prieš bendramokslius priežastys. Dažnumas ir formos: mokinių, mokytojų ir tėvų vertinimas" [Agressive Behavior Among Learners. Freequency and Forms: Assesment by Learners, Teachers and Parents], *Santalka: filologija, edukologija* 19(2), 2011;

4) Valdas Pruskus and Gerda Tuzienė, „Mokinių agresyvaus elgesio prieš mokytojus dažnis, formos ir prevencija: mokinių, mokytojų ir tėvų vertinimas" [Freequency, Forms and Prevention of Agressive Behavior of Learners Against Teachers: Assesment by Learners, Teachers and Parents], *Socialinis Ugdymas* Vol. 20 Issue 31 (2012): 35-62;

the mental health of the children population,[38] the wellbeing of the learners,[39] even its economic[40] aspects. Some authors have also recognized the importance of *legal* education of the learners, teachers and parents as an effective measure in preventing[41] *bullying* at school as well as other issue related methodological material.[42]

It can thus be concluded that a significant increase in scientific interest related to the phenomenon of *bullying* as one of the most prevalent forms of aggressive behavior at schools[43] has been observed as of 2008 in Lithuania.[44] The period of the initial scientific research of the phenomenon of *bullying* at schools in Lithuania, therefore, extends a little over a decade. **However, the interdisciplinary scientific discourse on the issue of *bullying* at school is still rather limited to the fields that are directly or closely related to education and which, as a rule, are of an *extralegal* nature, while *legal* approach is vastly lacking. The negative phenomenon of *bullying,* per se, remains outside the scope of legal evaluation, while its negative consequences (such as endangered health, life, dignity, property) are legal categories.**

1.2.2. Factual relevance

International surveying provides an opportunity to evaluate a country not only within the national limits, but within a broader context when compared to other countries. The

38 Apolinaras Zaborskis et all for World Health Organization / HBSC Forum 2007, "Lithuania: Youth Mental Health – From Research to Policies, Practice and Partnerships," (2008) // http://www.euro.who.int/__data/assets/pdf_file/0006/74769/Hbsc_Forum_2007_Lithuania.pdf?ua=1 (accessed July 23, 2016);

39 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32, p.27;

40 Viktorija Grigaliūnienė, "Patyčių psichosocialiniai ir ekonominiai aspektai Kauno rajono bendrojo lavinimo mokyklose" [Economical and Psychosocial Impact on Bullying in Schools of Kaunas Region], *Sveikatos mokslai, Vilnius: Sveikata* 22 (3), 2012;

41 Daiva Malinauskienė and Aušrinė Gumuliauskienė, „Smurto raiškos mokykloje socioedukacinė prevencija: mokinių požiūris [Socio-Educational Prevention of Violence Expression in School: Pupils' Opinion], *Socialinis ugdymas: smurto ir patyčių prevencija ugdymo įstaigose: recenzuojamas tęstinis mokslinių – praktinių straipsnių rinkinys,* V, Šiauliai, VšĮ Šiaulių Universiteto leidykla, 2010;

2) Živilė Vilma Jonynienė, Agnė Bartkutė and Tomas Butvilas, "Teisinis švietimas kaip prevencinė priemonė prieš patyčias mokyklose: mokinių ir mokytojų sampratos" [Legal Education as the Prevention for Bullying at Schools: Conceptions of Students and Teachers], *Socialinis darbas/Social Work* 2011, 10(2): 225;

42 Legal education encompasses methodological means such as guides for teachers, learners and parents by – 1) Robertas Povilaitis and Jurgita Valiukevičiūtė, *„Patyčių prevencija mokyklose" [Bullying Prevention at Schools], Vilnius, Multiplex, 2006; 2) R.Česonienė ir G.Bičiukienė, Vaiko teisių mokymai per žaidimą [Learning Childrens' Rights Through Playing]*, Elektrėnai, 2009; 3) Robertas Povilaitis and Jurgita Smiltė Jasiulionė, *Mokykla gali įveikti patyčias: rekomendacijos mokytojams [School can Conquer Bullying: Reccomendations for Teachers]*, Vilnius: Center of Educational Assistance of the Ministry of Education and Sicence, 2010; 4) Haris Assimopolous et al., *Patyčių prevencija klasėje: vadovas mokytojams [Bullying Prevention in the classroom: Guide for Teachers],*" ed. Ioanni Tsiantis, Vilnius: Margi raštai, 2010;

43 Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26, p. 159;

44 The statement in case of Lithuania is backed by research of over 70 scientific publications and 6 published books related to the issue of violence at school in general, where *bullying* is recognized as one of the prevalent forms of violence at schools.

pattern on a comparative scale in case of Lithuania has been and continues to be clearly negative– statistically, among other HBSC surveyed countries, Lithuania continues to be the number one country where children experience bullying at school most frequently. It is extremely disturbing that violence against and among children has been prevalent in Lithuanian society for decades now. In 2009 27% of pupils in Lithuania stated that they experienced acts of bullying at least 2-3 times a week.[45] And even though statistical numbers show a fairly positive shift in the situation over an extended period of time, Lithuania, in comparison to other HBSC countries, is nowhere close to being on the single digit indicator level.

Even though bullying is discussed more widely in Lithuania, interest in the issue by society continues to be rather limited and sporadic, spiked by media coverage of the more resonant cases of bullying. Over time a rather superficial approach towards problems such as bullying, violence, discrimination and suicide has developed, without acknowledging the true magnitude, scope and in many cases even interrelatedness and correlations of the issues, and, according to experts, the problem of bullying is still not effectively addressed on the national level.[46] Experts agree on the lack of attention in regard to the matter of *bullying* at school, point out that preventive anti-bullying efforts are usually episodic, [47] implemented locally[48] (specifically in a town or a location) or just at a few schools,[49] they lack consistency and continuity, or submerge the issue of *bullying* at school within a much broader context, which raises serious concerns in regard to their purpose, extent and effectiveness.[50]

For instance, according to the social survey that was carried out in 2014 in Lithuania, 9% of the adult respondents support the notion that in cases of bullying adults should not intervene and adolescents should solve the matters on their own; as well as the notions that bullying is a valuable experience that helps a child to learn how to stand up for him or herself (9% of respondents), or that bullying is a natural stage of development of the child that he or she grows out of later in life (8% of respondents), or that bullying constitutes simple childish jokes and games (6% of respondents).[51] 58% of adult respondents of another survey carried out in 2014 hold school staff responsible for solving bullying cases at school, 36% of respondents agree that bullying can be stopped by "fighting back," 19% of respondents agree that children who have experienced bullying should not complain about

45 Ministry of Education and Science of Republic of Lithuania, *supra note* 16 (accessed April 28, 2015);

46 Milda Kniežaitė, „Europos dugne: nelaimingi ir apsvaigę," [On the Bottom of Europe: Unhappy and Intoxicated] (March, 2016) // http://lzinios.lt/lzinios/Mokslas-ir-svietimas/europos-dugne-nelaimingi-ir-apsvaige/220444 (accessed April 4, 2016);

47 Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, "Bullying in Lithuanian schools in 1994-2002," *Medicina* (Kaunas) 2005, 41(7):617;

48 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32;

49 Robertas Povilaitis, *supra note* 28, p.33;

50 Brigita Kairienė and Donalda Šerbakova, „Vaikų patiriamo smurto mokykloje prevencinės galimybės" [The Possibilities to Prevent School Violence Against Children], *Socialinis darbas. Mokslo darbai.* 7(2) (2008):69-70;

51 Public organization "Child Line", "Public opinion survey on bullying in 2014," (February, 2014) // http://www.bepatyciu.lt/kampanija-be-patyciu/tyrimai-apie-patycias/ (accessed September 17, 2015).

that to others, because nobody likes complainers.[52] The statistical data support the fact that *bullying* has become such regularity within the society, that it is perceived as a norm,[53] an not as a violent act or legal issue.

Prevalence of bullying among school-aged children in Lithuania has been monitored by the largest in scope[54] international survey carried out by the HBSC network and coordinated by the Regional Office for Europe of the World Health Organization. The HBSC survey applies a standard methodology that is used to measure the proportions of bullying in each surveyed country. The instrument of the methodology is an anonymous questionnaire for groups of school-aged children in categories of 11, 13 and 15 years, originally developed by Dr.Dan Olweus and adopted by the HBSC. The survey always consists of two questions of: (1) how often children had been bullied at school (which is always preceded by a uniform definition of bullying, also based on Olweus), and (2) how often have children taken part in bullying another student or students, both questions given the time frame of the past couple of months.[55] The response options for both questions were almost the same, ranging from: I haven't been bullied (or bullied another student(s) at school in the past couple of months; it has only happened once or twice; 2 or 3 times a month; about once a week, several times a week.[56] The latter response options allow classifying cases of being bullied and bullying others into occasional and chronic. The standard international reporting proportion is set at being bullied or having bullied others at least two or three times at school in the past couple of months. Such method of assessment of prevalence of bullying chosen by HBSC has been well established in research and also validated by other HBSC surveys[57] as well as some national surveys.[58]

Lithuania has become a member of the HBSC network since 1992. Six consecutive complex surveys related to the health behavior of young people have been carried out by HBSC in Lithuania every four years for the reporting periods of 1993/94, 1997/98, 2001/02, 2005/06, 2009/10, 2013/14. The latter survey so far is the only and most important consistent monitoring instrument on a national level, that allows evaluating the prevalence of bullying in Lithuania. There are no other consistent methodologies and or procedures that would be carried out throughout the country with the aim to actually evaluate to overall scope of the problem of bullying.

However, the HBSC survey was an important stimulus that prompted sporadic independent and unrelated surveys to be carried out at individual schools of several cities[59] with the aim of determining the scope of prevalence of *bullying* at school. In addition to the data unveiled by the HBSC surveys, the independent surveys at Lithuanian schools researched

52 Public organization "Child Line", "Public opinion survey on solving the problem of bullying in 2014," (May, 2014) // http://www.bepatyciu.lt/kampanija-be-patyciu/tyrimai-apie-patycias/ (accessed September 17, 2015).

53 Robertas Povilaitis and Jurgita Valiukevičiūtė, *supra note* 27, p.19;

54 Robertas Povilaitis, *supra note* 28, p.33;

55 World Health Organization Regional Office for Europe, *supra note* 24 (accessed September 30, 2015);

56 World Health Organization Regional Office for Europe, *supra note* 21 (accessed September 30, 2015);

57 *Ibid.,* (accessed September 30, 2015);

58 Robertas Povilaitis, *op.cit.,* p.37;

59 Vilnius, Kaunas, Šiauliai, Klaipėda.

such additional factors as: psychological and sociological aspects of the risk groups, the potential harm on the well-being and health of the children in relation to *bullying*,[60] correlation between *bullying* and self-assessment, body image,[61] conformity of the data on a national level with the results of international HBSC survey itself,[62] the prevalence of other, non-traditional forms of *bullying* at school,[63] .

The relevance of the topic of bullying in the context of infringement of integrity of children that attend school (in case of Lithuania) can very well be based on the relevant data provided by the HBSC surveys. First of all, it must be noted that there has been an immense improvement of the situation related to number of survey reported cases of being bullied or bullying others since Lithuania has first reported to HBSC in 1993 until 2014 (the last reporting period). The overall decline in cases of being bullied among boys has gone down from 41,7% to 31,2% among boys, and from 39,5% to 27,7% among girls. Respectively the number of cases of bulling others has gone down from 40,3% to 29,8% among boys, and 27,9% to 15,3% among girls.[64] This is a vast improvement on a national scale, since roughly one tenth of the school-aged children no longer suffer crippling consequences of consistent infringement of their rights at school, and roughly the same amount of wrongdoers have changed the way they treat their peers at school.

However, as is depicted in the tables below, the consistent downward positive pattern of proportions of being bullied at school continued until 2005. As of 2005 there has been an increase of the latter proportions by 3,2% for boys, a consistent increase of approximately 1,5-1,7% per reporting period until 2014. As of 2009 there has been a constant increase of 4,3% per reporting period of being bullied at school cases among girls.

Table 1: *Prevalence of being bullied at least two or three times at school in the past couple of months among school aged children in Lithuania, by gender and HBSC survey year.*[65,66]

Lithuania											
Boys (%)						Girls (%)					
1993/ 1994	1997/ 1998	2001/ 2002	2005/ 2006	2009/ 2010	2013/ 2014	1993/ 1994	1997/ 1998	2001/ 2002	2005/ 2006	2009/ 2010	2013/ 2014
41,7	42	36,4	28	28,5	31,2	39,5	38,4	32,3	26,5	23,4	27,7

60 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32, p.28;

61 Albinas Bagdonas and Indrė Padarauskaitė, „Paauglių kūno vaizdas ir patyčių patirtis“ [Body-Image and Bullying in Adolescents], *Psichologija* 46 (2012):45;

62 Robertas Povilaitis, *supra note* 28, p.34;

63 Rasa Pilkauskaitė Valickienė, Saulė Raižienė and Rita Žukauskienė, „Elektroninių patyčių paplitimas tarp Klaipėdos apskrities vyreniųjų klasių moksleivių“ [The Prevalnce of Bullying Among the Klaipėda District Highschool Students], *Socialinis darbas: mokslo darbai* 8(2) 2009:116;

64 Apolinaras Zaborskas, “Patyčių tarp mokinių paplitimas HBSC tyrimo duomenimis: pokyčiai Lietuvoje ir tarptautinis palyginimas [Prevalence of Bullying Among Learners According to HBSC: Changes in Lithuania and International Comaprison],“ (October, 2014) // http://vaikulinija.lt/media/filer_public/b5/00/b5007589-d5fa-4184-88ab-b8a1a986e6f3/apolinaras_zaborskis.pdf (accessed October 1, 2015);

65 Kayleigh L. Chester et all, *supra note* 20, p. 61-62;

66 Apolinaras Zaborskas, *op.cit.,* (accessed October 1, 2015)

Despite the general decrease in numbers of school age students who bully others at school, it is important to observe that over the period between 1993 and 2014 the actual consistent decrease of the said proportions took place from 2001 to 2010, with an increase in cases of bullying others by 2,2% and 0,5% for boys and girls respectively over the last reporting period of 2013/2014.

Table 2: *Prevalence of bullying others at least two or three times at school in the past couple of months among school aged children in Lithuania, by gender and HBSC survey year.*[67,68]

Lithuania											
Boys (%)						Girls (%)					
1993/ 1994	1997/ 1998	2001/ 2002	2005/ 2006	2009/ 2010	2013/ 2014	1993/ 1994	1997/ 1998	2001/ 2002	2005/ 2006	2009/ 2010	2013/ 2014
40,3	40,3	41,3	30,3	27,6	29,8	27,9	29,1	26,6	16,6	14,8	15,3

There has been an impressive decrease in prevalence of bullying of others over the twenty year period (11% decrease among boys and 12,6% decrease among girls), but the pattern as of 2009 for both boys and girls is, again, on the increase.

Analysis of statistical findings of the six consecutive HBSC surveys allow to make three important conclusions regarding bullying among school-aged children at schools in Lithuania:

1) There has been an overall significant fluctuating decrease in rates of being bullied and bullying others over the period of 1993-2014;
2) The rate of being bullied has been increasing consistently since 2005;
3) Lithuania remains the country among European and Northern American countries with the highest rate of bullying against school-aged children.

The issue of bullying at school poses an interesting relation between the rights of the child, because by implementing their right, as well as a duty, to education children are obliged to attend school where their rights are infringed due to the acts of bullying. According to the latest statistical data related to bullying at school in Lithuania by the HBSC survey for the period of 2013/2014, 31,2% of boys and 27,7% of girls experience bullying at school by their peers. Respectively 29,8% of school aged boys and 15,3% of school aged girls bully other peers at school,[69] thus confirming the prevalent opinion that a much higher percentage of boys than girls have been bullied and have bullied others.[70] Total number of students of the compulsory education system for the school year of 2013/2014 was 365

67 Apolinaras Zaborskas, *supra note* 64 (accessed October 1, 2015).

68 Kayleigh L. Chester et all, *supra note* 20, p. 63;

69 Apolinaras Zaborskas, *op.cit.,* (accessed October 1, 2015).

70 Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, *supra note* 47, p.617;

524.[71] According to the HBSC survey, around one third of the whole student body population in Lithuania (121 841 school aged children) experience bullying, while a similar number of learners admit that they have bullied others.[72] In the national context of Lithuania, it is also important to point out that the issue of *bullying* is more evident in the schools of rural areas, as opposed to the city.[73] These numbers in the context of the infringement of individual rights of the bullied children make the relevance of the issue of bullying at school unquestionable. **Summarized overview of the factual situation regarding bullying and bullying of others at schools on international and national levels, especially in the case of Lithuania, shows that the issue of bullying at school during the process of compulsory education is a relevant one.**

2. AIM AND OBJECTIVES

The aim of the Thesis is to determine the biggest dysfunctionalities of legal regulation of the system of compulsory education in ensuring the right to safe environment of the learner and protecting the learner from the negative effect of bullying.

Objectives:

1) Carry out an in depth comparative analysis of the notion of *bullying* from an extralegal and legal perspective.
2) Analyze the phenomenon of *bullying* and in the context of compulsory education and formulate the model of legal evaluation.
3) Disclose the negative effect of bullying at school in the context of realization of the learner's right to education and the right to safe environment.
4) Discuss analysis of the relevant state rights, duties and obligations in ensuring the right to the safe environment of the learner.

3. METHODOLOGY OF THE RESEARCH

Following methods of research were applied:

Method of documentary analysis – for analysis of written documents, legal acts (of national, regional and international level);

Method of scientific literature analysis – for disclosure of theoretic aspects presented by various scholars regarding the concepts of right to education, compulsory education, right to safe environment, etc., as supporting arguments for the scientific reasoning;

---

71 Švietimo valdymo informacinė sistema [Education Management Information System], „Klasės ir mokiniai rugsėjo 1 d. 2013/2014 [Classes and Students on September 1, 2013/2014]" // http://rsvis.emokykla.lt/cognos8/cgi-bin/cognosisapi.dll?b_action=cognosViewer&ui.action=run&ui.object=%2fcontent%2ffolder[%40name%3d%27Bendrasis%20ugdymas%27]%2ffolder[%40name%3d%271-mokykla%27]%2freport[%40name%3d%271.%20Klas%C4%97s%20ir%20mokiniai%20rugs%C4%97jo%201%20d.%27]&ui.name=1.%20Klas%C4%97s%20ir%20mokiniai%20rugs%C4%97jo%201%20d.&run.outputFormat=&run.prompt=true&cv.toolbar=false&cv.header=false# (accessed October 6, 2015);

72 Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, *supra note* 47, p.617;

73 *Ibid.*, p.614;

Method of systemic analysis – for systematic approach to the object of the research from the extralegal and legal perspective, based on certain systematic criteria of analysis of the phenomenon of *bullying* as well as the right to education and the rights in education;

Method of synthesis – for presenting a comprehensive synthesis between the phenomenon of *bullying* at school and the learner's right to education by separately analyzing and combining different elements of the notion of *bullying* and the said right;

Method of meta-analysis – for combining data of several primary statistical studies on prevalence and consequences of *bullying,* aggregating relevant information of multiple qualitative studies on the issue of *bullying* at school with the purpose to present a more complete approach of the situation in regard to *bullying* and unsafe school environment in Lithuania;

Method of analytical-critical analysis – for evaluation of the legal regulation and disclosure the loopholes in regard to certain aspects of *bullying* at school of legal regulation related to the right to education and the process of compulsory education, as well as right, duties and obligations of the state;

Method of content of the source analysis – for analysis of the scientific literature and legal acts of national and international scholars;

Method of comparative analysis – for analysis of the concept, legal framework, theoretical and practical aspects of the right to education, the notions of *bullying* and its negative effect on the learner;

Method of historic analysis – for analysis of the historic development of the international, regional and national legal framework related to the right to education and secure environment, their conceptual changes.

Methods of logic and generalization – were used in summarizing the analyzed theoretical and practical scientific material and providing the conclusive remarks.

3.1. The rationale of legal problematics

The legal rationale of the Thesis is raised from the following questions, that help to support the relevance of the Thesis – for instance, can a state impose an imperative choice (a duty to acquire compulsory education and, thus, to attend school) on a child and place a child in any particular (depending on the national system of compulsory education) learning environment? The answer is, predominantly and in most cases, yes, meaning that a child cannot avoid involvement of the state and has to accept and comply with the ways and means of implementation of the right to compulsory education prescribed by law, and even in cases of home schooling one cannot avoid government oversight.[74] How does bullying affect the right to education or other rights of children? Or are the right to education and its implementation more important than other rights of the child? The answer, of course, is - no, it is not. However, in the legal reality and daily lives of young learners it comes back to the inevitable – in order to enjoy his or her right to education, a child has to attend school, by way imposed by the state, because it carries on obligation to provide a system of (at least)

74 Charles Glenn, "The Concept of Educational Autonomy", in *Autonomy in Education. Yearbook of the European Association for Education Law and Policy. Volume III,* Walter Berka, Jan De Groof and Hilde Penneman, eds., (the Hague/London/Boston: Kluwer Law International 2000), 42;

compulsory education, and it is obvious that school and different forms of school violence (focus being on bullying) go hand in hand for at least one third of the student body population of compulsory education system. Thus, by ensuring the right to education through obligatory attendance of institutions of compulsory education, the state puts the integrity of the child at stake. The legal interrelatedness of the three (integrity of the child, the school and bullying) is explained further.

3.1.1. Bullying and the right to education

The scope this research in regard of bullying at school and its implications on integrity of the child is limited to bullying that takes place in school environment. First of all, the rationale of this scope is supported by legal interconnectedness of the child and the school *vis-à-vis* the right to education. The right to education is a universally accepted right, that is embedded in legal norms of international human rights law,[75] regional documents,[76] and national laws.[77] Arguably, the right to education as an individual right carries one unique feature that makes it an exceptional right in comparison to other individual rights – the right to education does not fall under the category of rights that individuals are entitled to and are free to choose entirely at their own disposition. Some levels of education (depending on legal systems of national jurisdictions) are made mandatory by law, thus making the right of education not only a right of choice, but also an obligation by law. For example, Article 41(1) of the Constitution of Lithuania expressly states that education until the age of sixteen is compulsory.[78] Furthermore, Article 26(1) of the Universal Declaration of Human Rights in the manner of *expresis verbis* states that "elementary education shall be compulsory."[79] In the context of subjective rights and obligations between the state and an individual, both are put in the position of implementing an obligation - to provide a system of education (by the state) so that an individual right to education is ensured, and to attend school to comply with the legal constitutional duty (by an individual).

The notion of legal (democratic) state, in legal theory, does not support an overbearing legal regulation of the life of an individual, but recognizes natural human rights and, thus, the autonomy of individual rights.[80] Indeed, some authors oppose the imposition by the state to attend school and acquire compulsory education until a certain age limit, arguing that the right to education is an individual right and should be used individually,[81]

75 UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III) // http://www.refworld.org/docid/3ae6b3712c.html (accessed 2 December 2016); Art.26(1)(2);

76 European Court of Human Rights, Article 2 of the Protocol to the Convention for Protection of Human Rights and Fundamental Freedoms (1952) // https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Convention_ENG.pdf (accessed September 18, 2015);

77 Many jurisdictions of the world make the right to education a constitutional right or embed the right to education to legal acts.

78 *Constitution of Republic of Lithuania*, Official Gazette (1992, no. 33-1014), Art. 41.

79 UN General Assembly, *op.cit.,* (accessed September 18, 2015);

80 Alfonsas Vaišvila, *Teisės teorija [Theory of Law]*, ed. Genovaitė Bbachinaitė, Saulius Katuoka (Justitia, Vilnius, 2004), p.200;

81 John Holt, *Freedom and Beyond* (HoltGWS LLC, 2017), p.37;

compulsory education infringes individual rights of parents, because the state imposes an educational system upon the learners without allowing to chose, the right to education is perceived as an unearned benefit for children by expropriation of wealth of others. However, the imperative requirement for an individual to 'choose' a right is not considered an overbearing of power by the state, because 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.[82]

The UNCHR sets a principal requirement of the minimum level of compulsory education (elementary), and that the state shall provide free education at least in elementary and fundamental stages.[83] Most countries of the world by legal regulation of their national jurisdictions have raised this minimum standard by making education free and accessible, but, in turn, mandatory for children until the age of sixteen, some to eighteen years of age. In the vast majority of European countries education is compulsory until 16 years of age.[84]

By exercising their right to education children are given an imperative choice to attend schools where some of them encounter violence. It is a universally known fact that schools are susceptible to different forms of violence resulting in physical and emotional harm, injuries or even death. The rationale of the Thesis is based on the findings that prove bullying to be the most prevalent acts of school violence,[85] thus the Thesis is focused on bullying rather than a broader notion of school violence. Apart from its prevalence, another important supporting factor for excluding bullying as an object of research, is the increasing pattern of cyber bullying that is school related, but carries well outside the school property[86] generating spinoffs of impressive magnitudes thus increasing the harm suffered by the victims.[87] An incident in a school in one corner of the world may carry a devastating effect on many worldwide, because of internet, media and changing social behavior.[88]

82 UNICEF, "State of the World's Children" (1999) // http://www.unicef.org/sowc99/sowc99a.pdf (accessed September 18, 2015);

83 UN General Assembly, *supra note* 75 (accessed September 18, 2015);

84 European Commission. Compulsory Education in Europe 2014/2015 // http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/compulsory_education_EN.pdf (accessed September 21, 2015);

85 Morbidity and Mortality Weekly Report 2014; 63 (No.4), "Youth Risk Behavior Surveillance – United States, 2013," (June 2014) // http://www.cdc.gov/mmwr/pdf/ss/ss6304.pdf?utm_source=rss&utm_medium=rss&utm_campaign=youth-risk-behavior-surveillance-united-states-2013-pdf (accessed September 22, 2015);

86 Centers for Disease Control and Prevention, "Understanding School Violence. Fact Sheet 2015," (2015) // http://www.cdc.gov/violenceprevention/pdf/school_violence_fact_sheet-a.pdf (accessed September 22, 2015);

87 For example, the reported case of Jessica Logan - an 18-year-old Sycamore High School senior who sent nude photo of herself to her boyfriend, but the Cincinnati Enquirer reported that the photo was sent to hundreds of teenagers in at least seven Cincinnati-area high schools after the couple broke up. Jessica hanged herself. Another school related bullying is the reported case of Hope Sitwell - a 13-year-old, who hanged herself after a picture of her breasts that she "sexted" to her boyfriend was shared amongst students at six different schools in area of Ruskin, Florida. There reportedly also was a "Hope Hater Page" that was started on MySpace that led to additional cyber bullying: Nobullying.com, "The Top Six Unforgettable Cyber Bullying Cases Ever," (September, 2015) // http://nobullying.com/six-unforgettable-cyber-bullying-cases/ (accessed September 22, 2015);

88 Rami Benbenishty, Ron Avi Astor, *supra note* 6, p. 59;

Based on the brief analysis of international, regional and national acts, it can be concluded that a child, as an individual, is not given a free, but rather an *imperative choice*. Thus, school attendance or acquiring an education is not an option *per se* for a child, at least for a definite period of his or her life time. The right and duty to education carries an impressive multidimensional character and provides us with an extensive amount of issues to back the research. The list is not exhaustive. The main issue that backs this research is related to the right of education as an individual right and as a duty (of the state) in the context of safe school environment. **National legal systems obligate a child (as an individual) to exercise his or her universally recognized right to education by acquiring compulsory education within an imposed system of education. Based on statistics, it is evident that schools (universally), that constitute the main institutional body of educational system, are not able to provide a safe school environment and children suffer from inflicted harm through different forms of violence daily, bullying being its one of the most frequent forms.**

Bullying, presented through different aspects in a separate chapter of the Thesis, is dissected as part the negative social behavior, part of the modern 'culture' among peers at schools that have negative implications on other rights of the children. The discourse above proves the fact that for a large proportion of the student body of compulsory education bullying is inevitable due to legal regulation. This brings us to the next logical question – of why should that matter? In fact, statistics show that there are opinions that support the notion of bullying being a part of growing up and that it is a sphere of peer relations where grownups should not interfere, that it helps to develop a more resistant self-esteem.[89] Other authors argue that the public realm of risk aversion is extremely exaggerated, playground quarrels among peers are blown out of proportion, and unless behavior has to do with outcomes of victimization and involves relationships of apparent imbalance of power it should not be referred to as bullying.[90] In his book Tim Gill points out the trend of sanctioning and criminalizing children for petty offences, that merely consist of antisocial behavior by children and that could be dealt with informally by instruction of children and talking to their parents.[91]

Therefore, it is important to reiterate not only the legal interconnectedness of bullying with the right to education *per se*, but also to the status of the child as an individual. It is necessary to show what other individual rights of the child, as a whole, are impaired due to phenomenon of bullying among peers in school environment. As was described earlier in the research, the spectrum of the rights impaired varies from inflictions of immaterial nature. For example, skipping school due to fear of being bullied results in impairment of the right to education, but may help to avoid more serious consequences for the victim, because in his or her situation skipping school serves as a preventive measure against being bullied. Bullying can also cause consequences of a very tangible nature. For example, the child might still suffer extreme psychological pain, and by being obliged to attend school

89 Public organization "Child Line", *supra note* 51 (accessed September 23, 2015);

90 Laura Clark, "Coping with the bullies 'is part of growing up', says child expert," (September, 2007) // http://www.dailymail.co.uk/news/article-490250/Coping-bullies-growing-says-child-expert.html#ixzz3mYCaE8mw (accessed September 23, 2015);

91 Tim Gill, *No Fear: Growing up in a Risk Averse Society* (Calouste Gulbenkian Foundation, 2007), p.40;

may not avoid a more serious victimization, that might lead to impairment of property, health or, as some of the bullying cases show, even the right to life. Thus, it is evident that integrity of the child a whole is put at stake.

3.1.2. Bullying and integrity of the child during the process of compulsory education

The concept of integrity is a rather broad concept. The approach of the Thesis is based on analyzing not only the traditional concept of integrity as an inalienable right of an individual who is entitled and obliged to be educated, but also through offering a discourse on its correlation with the right to education and in education.

Linguistically the concept carries several meanings of moral character, referring to honesty and strong and sound moral principles, high professional standards,[92][93] as well as unimpaired moral state of an individual.[94] Other meanings of integrity are related to material wholeness, unity, soundness and completeness, referring to undivided or unbroken state, condition of not being marred or violated.[95][96]

Legal norms protect the right to integrity on international, regional and national levels. There are several implicit provisions in legal acts of the international and regional level recognizing the personal right to integrity. Article 17 of the Convention on the Rights of the Persons with Disabilities protects the right of physical and metal integrity of disabled persons on an equal basis with others.[97] Article 3 of the Charter of Fundamental Rights of European Union recognizes the right of physical and mental integrity of the person.[98]

In the legal context, the constitutional right of minors to bodily integrity has been almost entirely unexplored and untheorized, limited to traditionally disparate doctrinal categories such as abortion rights, corporal punishment, medical decision making, other non-therapeutic physical interventions, such as circumcision, body piercing, etc..[99] The constitutional right to bodily integrity protects autonomy of the child against abuse of parental rights and state-imposed interventions, however, it remains unclear as to why the constitutional bodily integrity right should be limited to this particular context only.[100]

92 Random House, Inc., "Dictionary.com Unabridged" // http://dictionary.reference.com/browse/integrity (accessed: September 23, 2015).

93 Cambridge Dictionaries Online, "Meaning of "integrity" in the English Dictionary" // Meaning of "integrity" in the English Dictionary (accessed September 23, 2015);

94 Oxford English Dictionary, "Integrity, n." // http://www.oed.com/view/Entry/97366?redirectedFrom=integrity& (accessed September 23, 2015).

95 Random House, Inc., *op. cit.*, (accessed September 23, 2015);

96 Oxford English Dictionary, *op.cit.,* (accessed September 23, 2015).

97 UN, "Convention on the Rights of Persons with Disabilities," (December 2006) // http://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf (accessed October 2, 2015)

98 *Charter of Fundamental Rights of European Union*, Official Joural of the European Communities (2000, No. C 364/1), Art. 3, Sec.1;

99 B. Jessie Hill, "Constituting Children's Bodily Integrity," Duke Law Journal Vol. 64, Number 7 (April 2015): 1295;

100 *Ibid.,* p. 1298;

The effect that bullying has on its victims as well as forms of bullying have been discussed at length and is still not exhausted. The phenomenon of bullying is often referred to a tragedy of staggering proportions that result in loss of children academically, emotionally and physically.[101] It varies from consequences such as diminished academic performance, affected health and wellbeing, compromised relationships with other peers and family, contained within a certain school community, to more extreme and exposed cases that culminate in suicides or mass killings, as referred earlier. Bullying extends well beyond the immediate environment of the bullying victim and has short-term and long-term impact on both the victim and the offender. Witnessing bullying creates fear and anxiety that are incompatible with the teaching-learning atmosphere of the school. It translates into more frequent and heavier forms of offence by the offender in the future, while the victim of bullying is prone to experience emotional, psychological, behavioral problems later in life.[102]

Research shows that bullying at school directly influences inclination to suicide, as well as attempting it i.e., the more frequent the acts of bullying suffered by the learner, the higher the inclination to suicide, because bullying victims are three times more at risk of suicide.[103] According to a study carried out by a group of experts, cases of *bullying* comprised two thirds of violence related causes of suicidal thoughts or actual attempts to commit a suicide among the learners.[104]

It is evident that bullying infringes integrity of the child to greater or lesser extent. The Thesis aims to show the relation between bullying and integrity of the child through analysis of cases of bullying at school. **Thesis focuses on disclosing the infringement of integrity of the child through a state imposed right to education, thus, diverging from the traditional doctrinal interpretation of integrity through state-imposed physical interventions,** by researching the existing case law and legal doctrine, and providing comprehensive assessment of how the law treats and court interprets the integrity of the child in cases of bullying.

Analysis of the problem of integrity of the child through the issue of bullying (and its different forms) at school is aimed at disclosing the relevant as aspects of the threats to integrity of minors. The outcomes inflicted on the victims through different forms of bullying at school show that the notion of integrity of the child reaches far beyond the traditional perception of integrity.

Thus, the Thesis is supported on two doctrinal approaches towards the right to integrity as an inalienable right of the first generation and as a right within the context of the right to education. The correlation of the latter rights proposes an insightful approach on the balance of rights in education through providing the conflicting aspect when the right to education, when misused by some (through committing acts of bullying), may override the right to integrity (in its broadest sense) of others.

---

101 Paul Timm, *supra note* 4, p.105;

102 Vilija Targamadzė and Džiuginta Valeckienė, "Patyčių bendrojo lavinimo mokykloje samprata: priežasčių, formų ir pasekmių diskursas [Concept of Bullying at School of General Education: Discourse on Causes, Forms and Consequences," *ACTA PAEDAGOGICA VILNENSIA* 19 (2007): 169;

103 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32, p.28-29;

104 Apolinaras Zaborskis and Nida Žemaitienė, „Moksleivių įvardijamos savižudiškų polinkių priežastys" [Schoolchildren's Self-reported Explanations of Suicidal Ideation], *Psichologija* 29 (2004):122;

3.2. International, regional and national approach

A widely used approach of issue related legal, institutional and policy making analysis on international, regional and national levels is applied in the Thesis, because the legal status of the child, in the modern day, is determined by both national and international legal acts. The need to fortify the special status of the child on the international (later followed by regional and national) level at the end of the twentieth century was influenced by various global and social changes, dynamics of which influenced (and continue to do so) the general wellbeing of every child. Adoption of the Convention of the Rights of the Child by the United Nations in 1989[105] marks an important milestone in development of children's rights, when international human right law gave an enormous boost to regional and national legal systems, that became effective instruments in ensuring and improving the overall status of the child, as a righteous individual of society.

The main acts of international human rights law have mainstreamed obligations of the state and the society in light of the political, social, legal and economic status of the child, especially in providing a solid legal background for translation of the international legal standards into the national legal systems.[106] Institutionalization of human rights on an international level not only encompassed the human rights and freedoms in a general sense, but set firm grounds for ensuring implementation and protection of rights and freedoms of various groups, not excluding children, of modern society, that had historically and traditionally been neglected.

International and regional legal norms that serve as basis for international (as well as regional) case law, are also the main tools in transforming the social values and mainstreaming the national behavior towards a child, as well as setting universally accepted standards in providing minimum conditions, at least in theory, for development of every person.[107] Practical implementation of these standards in daily lives of individuals is local, thus, is related to the national level, which probably is the most dynamic and directly accessible, based on affiliation of the individual to certain national level in general or institutional unit within the national jurisdiction.

Implementation and enforcement of universally recognized international human rights is reliable on national legal regimes, most of which, with an exception of European regional legal regime, do not have supranational judicial institutions that would have the authority to enforce the rights upon the sovereign jurisdictions. The international legal universality of the international legal regime, thus the international mechanism for implementation and protection of children's rights built upon universally recognized and protected international human rights, becomes relative depending on national, regional, cultural and other peculi-

105 *Convention on the Rights of the Child*, UN General Assembly (1989, General Assembly resolution 44/25); Art.49;

106 Charles L.Glen, Jan De Groof, *Balancing Freedom, Autonomy and Accountability in Education*, Volume 2, Wolf Legal Publishers (WLP), 2012, p.V;

107 Geraldine Van Bueren, *Child Rights in Europe, Convergence and divergence in judicial protection* (Council of Europe Publishing, 2007), p.13;

arities.[108] This translates into evident disparities among social and legal statuses of children in different countries of the world, depending on severity of human rights violations.

The disparities in economical, social-cultural, political, legal status of a child in different jurisdictions of the world vary. This Thesis focuses in disparities of the legal status children who have access to compulsory education, enjoy their universally protected right to education, but suffer diminished status due to phenomenon of bullying at school. Child's right to education and integrity of the child are embedded, ensured and protected on all three – international, regional and national levels by, either or both, legal instruments and institutional bodies.[109] Thus, it is only logical that those levels be researched accordingly.

Global contextualization helps individual countries to situate their position more objectively, provides a comprehensive insight on good practices, policies and interventions applied in bullying prevention.[110] The main purpose of such research is to present a comprehensive perspective of legal and institutional frameworks that the three levels provide and how they help to promote a safer school environment (by preventing bullying) through legal, policy and institutional instruments. The international and regional analysis shall be focused on the level of the United Nations, Northern American and European regions, and their respective legal and institutional frameworks. All analysis shall be carried out in relation to the rights of the child to and in education, focusing on rights related to integrity of the child during compulsory education and their impairment through the acts of bullying. The other focal point of the analysis shall be all legal, policy and institutional efforts in preventing bullying at school and how these tools are harmonized and translated on the national levels, if at all.

Nationally, thus, the Thesis shall focus on two specific countries – the United States and Lithuania, the former being a pioneer in adopting federal legislation that expressly addresses the issue of bullying at an educational institution, and the former being the main focus of the Thesis in the context of the issue of bullying at school. Research of the objects on the national level constitutes a systematic analysis of the issue specific legislation, the institutional system of compulsory education, the constitutional rights and duties of the child related to the right to education and integrity of the child.

---

108 Jack Donnelly, The Relative Universality of Human Rights, *Human Rights Quarterly* Volume 29, Number 2 (May 2007): 281;

109 The rights of the child are embedded in all major human rights conventions and declarations, such as Universal Declaration of Human rights (1948), The "Geneva Declaration" (1924), International Covenant on Economic Social and Cultural Rights (1966), European Convention on the Protection of Human rights and Fundamental Freedoms (1950), European Social Charter (1961), to name a few on international and regional level. Institutional bodies such as, for example, UNESCO, UN Special Representative of the Secretary-General on Violence Against Children on an international level, and the Council of Europe and its Committee on Culture, Science and Education on the regional level institutionalize the relevant rights of the child, ensure, respectively, their protection, implementation, policy making, etc. Many of the countries have made the right to education a constitutionally protected right. National jurisdictions of the countries across the world provide for legal frameworks that serve as basis for ensuring, implementing and protecting the right to education through national institutional systems of education.

110 Rami Benbenishty and Ron Avi Astor, *supra note* 6, p. 62;

Another important theoretical approach applied in the Thesis is the concept of the 4A's, which was derived from the notions of international legal thought. Internationally recognized principles of *availability*, *accessibility*, *acceptability* and *adaptability* of education can be applied in assessing whether any individual system of education is a compatible one in regard to the universally applied international standards of education. The conceptual framework of the right to education, based on the four principles, was established by different human rights institutions, mostly known as the concept of the four "A's", which was developed by the former UN Special Rapporteur on the Right to Education, Katarina Tomaševski[111] and imprinted within the General Comment on Implementation of the International Covenant on Economic, Social and Cultural Rights.[112] 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 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* is related to the states obligations to ensure access to compulsory education free of charge with assured attendance and parental freedom of choice. The principle of *acceptability* is related to recognition of subjective rights of children, guarantee of minimum standards (of quality, safety and health), respect for diversity and language of instruction. The principle of *adaptability* ensures that the content and the process of learning are compatible with the special needs of learners.[113]

Applying the conceptual framework of the 4 A's within the context of the system of compulsory education of Lithuania, is a new approach which allows assessment of the system of compulsory education of Lithuania not only as an institutional instrument of implementing and ensuring the right to education, but also as a possibly unsafe environment, where the rights of the child in education are violated. It is argued in the Thesis that the system of compulsory education of Lithuania lacks its conceptual analysis in the context of the universal principles of the 4 A's, especially in light of the principles of *acceptability* and *adaptability,* i.e., the principles that are related to the whole array of the rights of learners in education.

Therefore, applying of the concept of 4A's also supports the relevance of originality of the Thesis in the context of the law on education in Lithuania, since Lithuanian scholars who have assessed the system of education, or compulsory education within the conceptual framework of these principles up to this day can be singled out.[114]

---

111 Jandhyala B G Tilak, "Book reviews" (October, 2007) // http://www.tomasevski.net/documents/2006GlobalReport.pdf.

112 *General Comment No. 13, The right to education*, Economic and Social Council (1999, No. E/C.12/1999/10); Art.6;

113 K.Tomaševski „*Human rights obligations: making education available, accessible, acceptable and adaptable*", *Right to Education Primers No. 3*, , Swedish International Development Cooperation Agency, Gothenburg, 2001 p. 13;

114 Aurelija Pūraitė, *Aukštojo universitetinio mokslo valstybinis reguliavimas* [State regulation system of higher institutional education] (doctoral dissertation, Mykolas Romeris University, 2011);

2) Birutė Pranevičienė;

4. STRUCTURE OF THE THESIS

The Thesis consists of an Introduction, three chapters, Conclusions and Suggestions. The Introductory chapter presents the *factual relevance* (based on meta-analysis of the statistical data provided by the authoritative researchers on international and national level), the *legal rationale* that the topic of the Thesis is based upon (referring to it as an '*imperative choice*' and deriving it from universally recognized human right, as well nationally guaranteed right and required obligation to acquire education and attend institutions of compulsory education), *aims*, *objectives* and the *methodology* applied.

The First Chapter of the Thesis presents and extensive synthesis between the negative phenomenon of *bullying* at school and the right to education *per se.* The Chapter consists of interdisciplinary analysis (based on legal and extralegal) approach of the notion of *bullying,* its negative implications on the learner and other members of the school community. The correlation of the negative effect of *bullying* and the right to education and rights in education is presented *vis-à-vis* the universally recognized principles of 4A's of the law of education. Development and recognition of the legal definition of *bullying* is done by consistent analysis of the international, regional and national legal acts and provisions of the 'soft law.'

The Second Chapter of the Thesis presents an analysis of the relevant legal, institutional and policy frameworks on international, regional and national levels. Children's right to education and the phenomenon of *bullying* are presented through thorough analysis of the provisions of the international and regional human rights law and their secondary sources. Extensive multidimensional analysis of the system of compulsory education of Lithuania is presented in the context of its susceptibility to the phenomenon of *bullying.*

Chapter Three presents an extensive analysis of the positive rights, obligations and duties of the state of Lithuania in ensuring the safe environment of the learners at school. The legislative and the relevant institutions of the executive branches of power are analyzed in regard to fulfilling their respective rights and obligations prescribed by the Constitution and the corresponding laws related to both the right to education, safe environment. Special focus of the analysis in this chapter is devoted to the existing legal regulation and its utilization by relevant institutions to its full potential.

CHAPTER ONE – BULLYING AND COMPULSORY EDUCATION: FROM GENERAL TO LEGAL PERSPECTIVE

School as one of the core institutions of modern society is to some degree affected with the global phenomenon of school violence.[115] Abundant research discloses *bullying* in regard to complex web of individual, familial, and contextual factors[116] and refers to it as a worldwide health problem of children and adolescents.[117] The pervasive effect of *bullying* on any school environment has been proven and is unquestionable.[118] Yet, there still exists a divided approach as to how serious this issue is and how intense the legal discourse in regard to the issue should be. While it is well known that bullying is very damaging to its victims, it is still not generally considered to be a serious issue,[119] a natural part of growing up that adults should not interfere with.[120] Social acceptance, at least to some extent, of this form of violence is evident internationally.[121] With very few nation states actively tackling the issue of *bullying* at school at a legislative level, *bullying* is still generally perceived and categorized as a social problem, extremely resistant to outside pressure, addressed by initiatives and policies,[122] which in light of the growing pervasiveness of *bullying* don't seem to be sufficient. The extralegal approach towards the issue is dominant.

Consistent interdisciplinary research efforts of many years have led to breakthrough observations and conclusions in regard to *bullying* of learners at schools as a world-wide problem,[123] addressed by educators, parents and legislators[124] on national, regional and international levels.[125] As a low-level underlying form of school violence, *bullying* carries a profound and pervasive effect on the learning environment.[126] However, as explained in the introductory part of the Thesis, though relevant and applicable to different aspects of

115 Motoko Akiba, Gerald K. LeTendre, David P. Baker, Brian Goesling, "Student victimization: National and school systems effects on school violence in 37 nations," *American Educational Research Journal* 39(4):830; 829-853;

116 Margaret S. Stockdale, Saidou Hangaduambo, David Duys, Karl Larson, and Paul D. Sarvela, "Rural elementary students', parents', and teachers' perceptions of bullying," *American Journal of Health Behavior* 26(4) (July, 2002):268;

117 Kayleigh L. Chester et all, *supra note* 20, p. 61;

118 Kathryn S. Whitted and David R. Dupper, "Best Practices for Preventing or Reducing Bullying in Schools," *Children & Schools* 27 (3), Jul 2005:167;

119 Pamela Kulbarsh, "Bullycide: Suicide as a Result of Bullying," (January, 2012) // http://www.officer.com/article/10611621/bullycide-suicide-as-a-result-of-bullying (accessed August 13, 2016);

120 Public organization "Child Line", *supra note* 51 (accessed September 23, 2015);

121 *Report of the independent expert for the United Nations study on violence against children*, General Assembly (2006, No. A/61/299); Sec. II A.26.;

122 Neville Harris, "Pupil Bullying, Mental Health and the Law in England" in *Children, Education and Health, International Perspectives on Law and Policy*, Neville Harris and Paul Meredith, eds., (ASHGATE, 2005); 32, 35;

123 *Ibid.*, p. 38;

124 Kathryn S. Whitted and David R. Dupper, *op.cit.,* 118, p.167;

125 Aisling Parkes, *Children and International Human Rights Law, The Right of the Child to be Heard* (Routledge, 2013), p.256;

126 David R. Dupper and Nancy Meyer-Adams, "Low-level Violence: A Neglected Aspect of School Culture," *Urban Education* Vol. 37 No. 3 (2002): 356;

education as a process in a young person's life, the extralegal approach of research in regard to *bullying* at school is prevailing, albeit the legal approach is insufficient. Therefore, it is relevant to further the research of *bullying* from the legal perspective by analyzing its notion, consequences and implications on the members of an effected learning environment.

1. DEFINING BULLYING

The definition of the word 'bullying' diverges based on the field of practice and research and there is an absence of an overreaching definition. The latter, in turn, allows maximum flexibility in contributing to the variations in findings of various academic studies.[127] Some argue that lack of comprehensive definition is a factor of inaccuracy in estimating the prevalence of *bullying* itself.[128] In general, the research on *bullying* as well as its definition has been so far carried out within the scope of extralegal fields of interest. However, the 'definition' *per se* [of bullying] is extensively recognized by the state law of the US as one of the key components of any policies adopted by the states and local educational agencies, and which is required to be consistent with the definitions specified in state law.[129] Such legislation gives solid ground for researching the aspects of legal definition of *bullying.* The following parts of this chapter shall provide the relevant overview the definitions of *bullying* beyond the legal sphere and an in depth analysis of the legal definitions of *bullying* at school provided by the state legislatures of the US.

1.1. Beyond the legal sphere

Term "bullying" is without a question a universally accepted term linguistically of what has been generally perceived as intentional aggressive behavior, mobbing, harassment, pestering, silent treatment, ignoring, etc. with an outcome of causing pain or discomfort of some extent. Scientific literature provides numerous concepts of the phenomenon of bullying.[130] It is referred to as direct or indirect[131] dehumanizing[132] "delinquent behavior",[133] intentional harmful behavior, carried out repeatedly, against an individual who is unable to defend themselves,[134] social interaction,[135] physical or psychological abuse,[136] to name a few. Yet a universal all encompassing definition of *bullying* does not exist.

127 Neville Harris, *supra note* 122, p.32-34;

128 Margaret S. Stockdale et all, *supra note* 116, p. 267;

129 Stopbullying.gov, "Key Components in State Anti-Bullying Laws," (March, 2014) // http://www.stopbullying.gov/laws/key-components/index.html (accessed September 19, 2016);

130 Saulius Girdvainis; "Patyčios tarp mokinių bendrojo lavinimo mokykloje: samprata, dalyviai, priežastys ir padariniai" // http://www.su.lt/bylos/mokslo_leidiniai/jmd/2013_2_40/girdvainis.pdf, acessesd on April 28, 2015;

131 George M. Batche and Howard M. Knoff, "Bullies and Their Victims: Understanding A Pervasive Problem in the Schools," *School Psychology Review* 23 (2004):167;

132 Florida Senate Bill No. 114 (2007), Florida Statutes Annotated §1006.147;

133 V.Targamadzė, D.Valeckienė; *supra note* 102, p.169;

134 Dan Olweus. Bullying at School: What We Know and What Can We Do (Oxford, England: Blackwell Publishers, 1993);

135 Stan Davis and Julia Davis, *Schools Where Everyone Belongs: Practical Strategies for Reducing Bullying*, 2nd ed. (Champaign, IL: Research Press, 2007), p.9;

136 Kathryn S. Whitted and David R. Dupper, *supra note* 118, p.169;

However, the definition of *bullying* provided by (who can be referred to as the most prominent researcher of the ongoing global interdisciplinary research effort in the field of school *bullying*) Dan Olweus[137] resonates in the vast majority of scholarly research on *bullying.* According to Olweus *a person is being bullied* (or victimized) *when he or she is exposed, repeatedly and over time, to negative actions on the part of one or more other persons.*[138] The ground rule definition provided by Olweus set a clear component framework for an action to be considered *bullying* and has been applied and adhered to by researchers ever since. It is provided that action must be: 1) unprovoked negative behavior with intention to inflict physical injury or discomfort by aggressive behavior; 2) repetitive and over time; 3) represent an imbalance of strength or power (physical and/or psychological).*[139]* The component parts of the definition suggested by Dan Olweus are resonated by numerous researchers and practitioners.[140]

Definition of the concept of *bullying per se* should be recognized as another strong argument in favor of the newness of the relevance of the issue of *bullying* in general, in case of Lithuania. For instance, there is no precise linguistic term in the Lithuanian language that would describe the phenomenon of *bullying*[141] or convey the various behavioral aspects in relation to the phenomenon.[142] Thus, there still exists a problem of comprehensive definition of *bullying.*[143] There are different terms that are used to identify the acts of *bullying,* such as, *harass, insult, molest, harm, humiliate, tease,* etc., in fact terms *bullying* and harassment are used as synonyms by some of the *experts.*[144] Theoretically, *bullying* at school is also referred to as a psychological and pedagogical problem connected with public health, as well as and

137 Dan Olweus - has been involved in research and intervention work on bullying among school children and youth for approximately 40 years. In 1970, he started a large-scale project which is now generally regarded as the first scientific study of bullying problems in the world. Olweus is generally recognized as a pioneer and Founding Father of research on bullying problems and as a world leading expert in this area both by the research community and by society at large. http://olweus.sites.clemson.edu/history.html

138 Dan Olweus, "Bullying – Victim Problems Among School Children: Basic Facts and Effects of a School Based Intervention Programs" in *Development and Treatment of Childhood Aggression,* Debra J. Pepler and Kenneth H. Rubin, eds., (Hillsdale, NJ: Lawrence Elbraum Associates, Inc., 1991); 412;

139 Dan Olweus, *supra note* 134, p.8-9;

140 1) Kathryn S. Whitted and David R. Dupper, "Best Practices for Preventing of Reducing Bullying in Schools," *Children & Schools* 27(3) (Jul 2005);

2) George M. Batche and Howard M. Knoff, "Bullies and their victims: Understanding a pervasive problem in the schools," *School Psychology* 23(1993);

3) John H. Hoover, Ronald L. Oliver and Keith A. Thomson, "Perceived victimization by school bullies: New research and future directions," *Journal of Humanistic Education and Development* 32 (1993):76; 76-84;

4) Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26, p. 159;

141 Albinas Bagdonas and Indrė Padarauskaitė, *supra note* 61, p.45;

142 Živilė Vilma Jonynienė, Agnė Bartkutė and Tomas Butvilas, "Teisinis švietimas kaip prevencinė priemonė prieš patyčias mokyklose: mokinių ir mokytojų sampratos" [Legal Education as the Prevention for Bullying at Schools: Conceptions of Students and Teachers], *Socialinis darbas/Social Work* 2011, 10(2): 220;

143 Giedrius Girdvainis and Rasa Pocevičienė, „Patyčių problema ir jos prevencijos bendrojo lavinimo mokykloje analizė" [Analysis of Problem of Bullying and its Prevention at Comprehensive School], *Socialiniai mokslai. Jaunųjų mokslininkų darbai* 4(25), 2009:133;

144 Robertas Povilaitis and Jurgita Valiukevičiūtė, *supra note* 27, p.6;

children's' and upbringing,[145] preconditioned by the low emotional literacy of the society.[146] The extent of *bullying* is recognized as direct indicator of the mental health of the Lithuanian society.[147] In 2007 a comprehensive definition of *bullying,* based on the theoretical approach of Dan Olweus,[148] in Lithuanian was introduced by the experts of the field of educology and referred to it as *a conscious, unprovoked, continuous verbal or physical insult by one or several persons with intention to create permanent models of abuse and insults.*[149]

Another relevant observation definition-wise is imperative. The phenomenon of *bullying* at school prompted emergence of yet new term. Due to the effect that consequences of *bullying* have – a new term of 'bullycide' was introduced in 2001,[150] albeit still considered a relatively new term and gaining increasing interest.[151] 'Bullycide' refers to an act of suicide committed by a student because he or she deemed it less painful to than attending school and being bullied, taunted and humiliated.[152] The latter term represents the most severe impact of *bullying* on the victims – ending life.

It can be concluded that that *bullying* is in general defined more by its character, adhering to the framework provided by Dan Olweus, than by a concrete linguistic meaning. For example, any action that can be describes by a concrete linguistic term (harassment, teasing, name calling, etc.) will be considered *bullying* if the action has the characteristics of *bullying.* The term may also be too narrow because the definition does not fully disclose what it actually is in regard to its form. For example, a student is harassed by several classmates by ignoring that student, and in this case, it will be difficult for that student to defend his or her case of being bullied against, because of the underlying character of the actions of the classmates. Therefore, researchers still recognize the problem of defining the phenomenon of bullying because of many linguistic terms that are actually related to what bullying actually is.[153] Additionally, the cross cultural aspect of how bullying is perceived, may hinder a uniform conceptualization of bullying in transnational studies of *bullying*.[154] Thus, the multidimensional character of the term of *bullying*, according to research, only confirms the problem of naming the complexity of the phenomenon, also resulting that there is no uniform classification of the forms of bullying.[155] However, as pointed out in the introductory part of this chapter, some

145 Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, "Bullying in Lithuanian schools in 1994-2002," *Medicina (Kaunas)* 2005, 41(7):614;

146 Dainius Pūras, "Foreword," in *"Patyčių prevencija mokyklose" [Prevention of Bullying at Schools*] Robertas Povilaitis and Jurgita Valiukevičiūtė, (Vilnius: Multiplex, 2006); p.5;

147 Apolinaras Zaborskis et all for WHO/HBSC Forum, "Lithuania: Youth Mental Health – From Research to Policies, Practice and Partnerships," (2007) // http://www.euro.who.int/__data/assets/pdf_file/0006/74769/Hbsc_Forum_2007_Lithuania.pdf (accessed July 18th, 2016);

148 Dan Olweus, "Bully/Victim Problems in School: Facts and Intervention," *European Journal of Psychology of Education* 1997, Vol. XII: 496-497;

149 Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26, p. 159;

150 Neil Marr and Tim Field, *Bullycide: Death at Playtime – An Expose' of Child Suicide Caused by Bullying* (Success Unlimited, 2001), p.9-12;

151 Pamela Kulbarsh, *supra note* 119 (accessed August 13, 2016);

152 Paul Timm, *supra note* 4, p.108;

153 V.Targamadzė, D.Valeckienė; *supra note* 102; p.164;

154 Kayleigh L. Chester et all, *supra note* 20, p. 61;

155 V.Targamadzė, D.Valeckienė; *op, cit*., p.164;

researchers approve the absence of the overreaching definition in the interests of flexibility[156] and efficiency of school efforts in adopting and applying preventive measures locally.[157]

1.2. From a legal perspective

There are few national jurisdictions that have passed relevant laws that deal with specific forms of *bullying* and number of laws addressing the issue of *bullying* directly is not abundant, however, increasing. One of the most advanced national jurisdictions where specific legislation explicitly addressing *bullying* has been adopted is that of the US, where laws and policies governing *bullying* vary by state and entity.[158]

Term *bullying,* though not defined, first appeared in education law of England in the School Standards and Framework Act of 1998 in the context of prescribing responsibilities to the governing bodies and head teachers of schools in preventing all forms of *bullying* among pupils.[159] *Bullying* is also explicitly cited in subsequent education law acts of 2006 and 2010[160] in the context of imperative obligation of state schools to have measures of *bullying* prevention[161] and requirement to ensure adoption and implementation of *anti-bullying* strategies by private schools.[162]

Another jurisdiction where *bullying* has been explicitly addressed in state legislation for over a decade is that of the United States,[163] where all states have passed state education laws tackling the issue of *bullying* at school, while majority of these states have passed both relevant laws and policies.[164] According to the components of the state anti-bullying determined by the interagency of the US Department of Education, 'specification of prohibited conduct' had been identified as one of the components.[165] The US states' legislature is by far the most extensive resource of legal acts in education law, explicitly addressing *bullying* at school. The latter circumstance allows making an in depth analysis of how the legal definition of *bullying* correlates with the universally accepted and applied definition of *bullying* (by Olweus, as referred to in the previous chapter) and its component parts.

156 Neville Harris, *supra note* 122, p. 34;

157 Chris Watkins and Patsy Wagner, *Improving School Behavior* (London: Paul Chapman, 2000), p.49;

158 USLegal, Inc., "Bullying Law & Legal Definition" (2001-2016) // http://definitions.uslegal.com/b/bullying/ (accessed August 13, 2016);

159 The Stationery Office Limited, "School Standards and Framework Act 1998," (July, 1998) // http://www.legislation.gov.uk/ukpga/1998/31/pdfs/ukpga_19980031_en.pdf (accessed August 13, 2016);

160 Legislation.gov.uk, "Education and Inspections Act 2006," (2006) // http://www.legislation.gov.uk/ukpga/2006/40/pdfs/ukpga_20060040_en.pdf (accessed August 15, 2016);

161 *Ibid.,* (accessed August 15, 2016);

162 Legislation.gov.uk, "The Education (Independent School Standards) Regulations 2010," (August, 2010) // http://www.legislation.gov.uk/uksi/2010/1997/pdfs/uksi_20101997_en.pdf (accessed August 15, 2016);

163 By 2010 45 states have passed specific bullying prevention legislation. Source: US Department of Education, "Key Policy Letters from the Education Secretary and Deputy Secretary," (December, 2010) // http://www2.ed.gov/policy/gen/guid/secletter/101215.html (accessed August 15, 21016);

164 Stopbullying.gov, "Policies & Laws," (May, 2015) // http://www.stopbullying.gov/laws/index.html (accessed August 16, 2016);

165 Stopbullying.gov, *supra note* 129 (accessed August 15, 2016);

Table 3: *Analysis of legal definitions of bullying, as defined by the state law of the US, in relation with the universally and generally applied definition of bullying, according Dan Olweus:*

State and legislative reference:	Three components parts universally and generally applied to the definition of bullying, according to Dan Olweus:		
	Unprovoked negative behavior with intention to inflict physical injury or discomfort by aggressive behavior	**Repetitive and over time**	**Represent an imbalance of strength (physical and/ or psychological)**
Alabama[166]	'Intentional behavior,' which 'places the victim in 'reasonable fear of harm.'	'Continuous pattern.'	-
Alaska[167]	'Intentional written, oral, or physical act […] with intent of threatening, intimidating, harassing, or frightening', and which 'physically harms.'	-	-
Arizona[168]	Definition of bullying is not explicitly available in the state legislation. However, bullying is explicitly addressed by the state legislation in requiring that the governing board of the school prescribes and enforces policy and procedures that prohibit bullying.		
Arkansas[169]	'Intentional harassment, intimidation, humiliation, ridicule, defamation, or threat, or incitement of violence.'	-	-
California[170]	'Severe or pervasive physical or verbal act or conduct,' causing 'substantially detrimental effect on […] physical or mental health.'	'One or more acts by a pupil or group of pupils.'	-
Colorado[171]	'Written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student.'	A notion of 'reasonable balance between the pattern and severity of the bullying behavior' is suggested for inclusion into the policy provisions.	-

166 Alabama House Bill No. 216 (2009), *The Alabama Student Harassment Prevention Act* No. 2009-571, Alabama Code §16-28B-3;

167 Alaska House Bill No.482 (2006), *Harassment, Intimidation, and Bullying Policy*, Alaska Statute §14.33.250;

168 Arizona House Bill No. 2368 (2005), Arizona Revised Statute §15-341.36;

169 Arkansas House Bill No. 1708 (2005), *Act to Define Bullying and Cyberbullying*, Arkansas Code Annotated §6-18-514;

170 California Assembly Bill No. 606 (2008), California Education Code §48900.1;

171 Colorado Senate Bill No. 01-080 (2001), *Concerning the Prevention of Bullying*, Colorado Revised Statutes §22-32-109.1 (1) (b);

Connecticut[172]	'written, oral or electronic communication,' 'physical act or gesture by one or more students,' 'causes physical or emotional harm,'	Refers to 'the repeated use by one or more students,' 'repeatedly directed at another student.'	-
Delaware[173]	'Intentional written, electronic, verbal or physical act or actions' that cause 'reasonable fear of substantial harm.'	-	-
Florida[174]	Infliction of 'physical hurt or psychological distress.' 'Teasing, social exclusion, threat, intimidation, stalking, physical violence, theft, sexual, religious, or racial harassment, public or private humiliation, destruction of property' are specifically referred to.	Is carried out 'systematically and chronically.'	-
Georgia[175]	'Willful attempt or threat to inflict injury,' 'intentional written, verbal, or physical act' that causes 'substantial physical harm.'	-	'Accompanied by an apparent present ability to do so.'
Hawaii[176]	'Any written, verbal, graphic, or physical act,' that 'causes mental or physical harm' and is 'sufficiently severe […] or pervasive.'	'Sufficiently persistent.'	-
Idaho[177]	'Any intentional gesture, or any intentional written, verbal or physical act or threat by a student,' that is 'sufficiently severe, persistent or pervasive' and has effect of 'harming a student' or 'damaging student's property.'	'Sufficiently […] persistent.'	-
Illinois[178]	'Any severe or pervasive physical or verbal act or conduct' that causes 'reasonable fear of harm to the student's or students' person or property,' as well as 'substantially detrimental effect on student's or students' physical or mental health.'	-	-
Indiana[179]	'Overt, unwanted […] acts or gestures,' 'physical acts […], aggression, or any other behaviors, […] with the intent to harass, ridicule, humiliate, intimidate, or harm.'	'Repeated acts.'	-

172 Connecticut House Bill No. 5563 (2006), Connecticut General Statutes §10-222d;
173 Delaware House Bill No. 7 (2007), Delaware Code Annotated Title 14 §4112D;
174 Florida Senate Bill No. 114 (2007), *supra note* 132, §1006.147;
175 Georgia House Bill No. 84 (1999), Georgia Code Annotated §20-2-751.4;
176 Hawaii State Board of Education Administrative Rule §8-19-2;
177 Idaho House Bill No. 750aa (2006), Jared's Law, Idaho Code §18-917a;
178 Illinois Senate Bill No. 1026 (2006), 105 Illinois Compiled Statutes §5/27-23.7;
179 Indiana Senate Enrolled Act (2005), Indiana Code Annotated §20-33-8-0.2;

Iowa[180]	'Any electronic, written, verbal, or physical act or conduct […] and which creates an objectively hostile school environment,' causes 'reasonable fear of harm to the student's or students' person or property,' as well as 'substantially detrimental effect on student's or students' physical or mental health.'	-	-
Kansas[181]	'Intentional gesture or any intentional written, verbal, electronic or physical act,' 'sufficiently severe […] or pervasive 'harming […] physically or mentally,' 'damaging property.'	'Sufficiently persistent.'	-
Kentucky[182]	'Any unwanted verbal, physical, or social behavior.'	'Is repeated or has the potential to be repeated.'	'Involves a real or perceived power imbalance.'
Louisiana[183]	'Gestures, including but not limited to obscene gestures and making faces,' 'including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors,' 'physical acts.'	'A pattern.'	-
Maine[184]	'written, oral or electronic expression or a physical act or gesture,' 'physically harming,' 'placing a student in reasonable fear of physical harm or damage to the student's property.'	-	-
Maryland[185]	'Intentional written, verbal, or physical act,' 'physically harms,' 'damages […] property.'	-	-
Massachusetts[186]	'Written, verbal or electronic expression or a physical act or gesture or any combination thereof,' 'causes physical or emotional harm to the victim,' 'damage to the victim's property,' 'places the victim in reasonable fear of harm.'	'Repeated use.'	-
Michigan[187]	'Any written, verbal, or physical act,' 'having an actual and substantial detrimental effect on a pupil's physical or mental health.'	-	-

180 Iowa Senate File No. 61 (2007), Iowa Code §280.28;
181 Kansas House Bill No. 2310 (2008), Kansas Statutes Annotated §72-8256;
182 Kentucky House Bill No. 91, Chapter No. 25 (2008), *The Golden Rule Act,* Kentucky Revised Statues Annotated §158.148;
183 Louisiana Laws Revised Statue (2010), Louisiana Revised Statutes Annotated §17:416.13;
184 Maine Revised Statute Annotated (2011) Title 20-A §6554;
185 Maryland House Bill No. 199 (2008), Maryland Education Code Annotated §7-424.3;
186 Senate Bill No. 2404, Chapter 92 (2010), *Bullying in Schools Act*, Massachusetts General Laws Chapter §71, Section 37O;
187 Michigan House Bill No. 241 (2011), Michigan Compiled Laws §380.1310b;

Minnesota[188]	'Objectively offensive,' 'intimidating, threatening, abusive, or harming conduct.'	-	'There is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior.'
Mississippi[189]	'Gestures or written, electronic or verbal communications, or any physical act or any threatening communication,' that 'places a student or school employee in actual and reasonable fear of harm' to self and property.	'Any pattern of gestures.'	-
Missouri[190]	'Intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property.'	-	-
Montana[191]	'Any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact,' 'causes harm,' 'damages property.'	'Persistent, severe, or repeated.'	-
Nebraska[192]	'Physical, verbal, or electronic abuse.'	'Ongoing pattern.'	-
Nevada[193]	'Written, verbal or electronic expressions or physical acts or gestures,' 'single severe and willful act or expression,' 'taunting, name-calling, belittling, mocking or use of put-downs or demeaning humor.'	'Repeated or pervasive…'	-
New Hampshire[194]	'Written, verbal, or electronic communication, or a physical act or gesture,' which 'physically harms,' 'damages,' 'causes emotional distress.'	'A single significant incident or a pattern of incidents.'	-
New Jersey[195]	'Any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents […] that that substantially disrupts or interferes with the orderly operation of the school or the rights of other students.'	-	-
New Mexico[196]	'Any […] verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress.'	'Repeated and pervasive […] pattern.'	-

188 Minnesota House File No. 826 (2014), Minnesota Statute §121A.031;
189 Mississippi Senate Bill No. 2015 (2010), *Bullying and Harassing Behavior in Public Schools*, Mississippi Code Annotated §37-11-67;
190 Missouri Senate Bill No. 894 (2006), Missouri Revised Statutes §160.775;
191 En. Sec. 2, Ch. 253, L. 2015, Montana Code Annotated (2015)§20-5-208;
192 Nebraska Legislative Bill No. 205 (2008), Nebraska Revised Statutes §79-2,137;
193 Nevada Assembly Bill (2009), Nevada Revised Statutes Annotated §388.122;
194 New Hampshire Senate Bill No. 360 (2000), New Hampshire Revised Statutes Annotated §193-F:3;
195 New Jersey Assembly Bill No. 3466, Chapter No. 122 (2011), N.J. Stat. Ann. §18A-37-14;
196 New Mexico Department of Public Education Rule Title 6, Chap. 12, Part 7 (2006), *Bullying Prevention,* New Mexico Administrative Code §6.12.7.7;

North Carolina[197]	'Gestures or written, electronic, or verbal communications, or any physical act or any threatening communication.'	'Pattern.'	-
North Dakota[198]	'So severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities,' 'places the student in actual and reasonable fear of harm' to self a property.	-	-
Ohio[199]	'Any intentional written, verbal, electronic, or physical act that […] causes mental or physical harm to the other student,' is 'sufficiently severe, , or pervasive	'Sufficiently […] persistent.'	-
Oklahoma[200]	'Any […] harassment, intimidation, threatening behavior, physical acts, verbal or electronic communication […] that results in or is […] done with the intent to cause negative educational or physical results.'	'Pattern.'	-
Oregon[201]	'Any act that Substantially interferes with a student's educational benefits, opportunities or performance' and has 'physically harming' effect.	-	-
Pennsylvania[202]	'An intentional electronic, written, verbal or physical act, or a series of acts,' 'severe […] or pervasive,' 'substantially interfering with a student's education.'	'Persistent.'	-
Rhode Island[203]	There is no definition of bullying in the current state legislation, however a provision obligating department of education to prescribe by regulation a statewide bullying policy, ensuring a consistent and unified, statewide approach to the prohibition of bullying at school is included.		
South Carolina[204]	'A gesture, an electronic communication, or a written, verbal, physical, or sexual act,' 'harming a student physically or emotionally or damaging a student's property.'	-	-
South Dakota[205]	'Causes physical hurt or psychological distress.'	'Pattern of repeated conduct.'	-

197 North Carolina Senate Bill No. 526 (2006), *School Violence Prevention Act*, N.C. Gen. Stat. §115C-407.5;
198 North Dakota House Bill No. 1465 (2011), North Dakota Century Code Chapter §15.1-19-17;
199 Ohio House Bill No. 276 (2006), *Harassment, Intimidation, and Bullying Policy, Adopt Own*, Ohio Rev. Stat. Ann. §3313.666;
200 Oklahoma House Bill No. 2215 (2002), *School Bullying Prevention Act*, Okla. Stat. Ann. Tit. 70, §24-100.3;
201 Oregon House Bill No. 2599 (2009), Or. Rev. Stat. §339.351;
202 Pennsylvania House Bill No. 1067 (2008), 24 Pennsylvania Consolidated Statute §13-1303.1-A;
203 Rhode Island House/Assembly Bill No. 7213 (2008), Rhode Island General Laws §16-21-34;
204 South Carolina House Bill No. 3573 (2006), *Safe School Climate Act*, South Carolina Code Annotated §59-63-120;
205 South Dakota Codified Law (2012) §13-32-15;

Tennessee[206]	'Any act that substantially interferes with a student's educational benefits, opportunities or performance.'	-	-
Texas[207]	'Engaging in written or verbal expression, expression through electronic means, or physical conduct […] that		'Exploits an imbalance of power between the student perpetrator and the student victim.'
Utah[208]	'Intentionally or knowingly committing an act that […] endangers the physical health or safety of a school employee or student.'	-	-
Vermont[209]	'Any overt act or combination of acts, including an act conducted by electronic means' and 'is intended to ridicule, humiliate, or intimidate the student.'	'Is repeated over time.'	-
Virginia[210]	'Any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim […] or causes severe emotional trauma.'	'Is repeated over time.'	'Involves a real or perceived power imbalance between the aggressor or aggressors and victim.'
Washington[211]	'Any intentional electronic, written, verbal, or physical act,' 'so severe, […] pervasive.'	'So […] persistent.'	-
West Virginia[212]	'Any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat,' 'sufficiently severe […] or pervasive.'	'Sufficiently persistent.'	-
Wisconsin[213]	Definition of bullying is not explicitly available in the state legislation. However, a provision obligating school boards to adopt a policy in accordance with the model policy provided by the state prohibiting bullying by pupils is enclosed.		
Wyoming[214]	'Any intentional gesture, any intentional electronic communication or any intentional written, verbal or physical act,' 'harming a student physically or emotionally, damaging […] property,' 'insulting or demeaning,' 'sufficiently severe […] or pervasive.'	'Sufficiently persistent.'	-

206 Tennessee Senate Bill No. 283 (2009), Tenn. Code Ann. §49-6-4502;
207 Texas House Bill No. 1942 (2011), Texas Education Code Annotated §37.0832;
208 Utah House Bill No. 325 (2008), Utah Code Annotated §53A-11a-102;
209 Vermont House Bill No. H629 (2004), Vermont Statute Annotated Title 16, §11(a)(32);
210 Virginia Code Annotated (2013) § 22.1-276.01;
211 Washington Substitute House Bill No. 2801 (2010), *Harassment, Intimidation, and Bullying*, Washington Revised Code §28A.300.285;
212 West Virginia House Bill No. 3225 (2011), West Virginia Code Annotated §18-2C-2;
213 Wisconsin Senate Bill No. 154 (2010), Act No. 309, Wisconsin Statute §118.46;
214 Wyoming House Bill No. 0223 (2009), Wyo. Stat. Ann. §21-4-312;

Analysis of legal definitions of *bullying* in different states of the US shows that legislators of the states apply different approach in defining *bullying* on a legislative level. Further analysis discloses the important aspects of such approach.

1.2.1. On unprovoked negative behavior

Dan Olweus elaborates on the notion of 'negative actions' as an attempt or an action committed with intent to cause injury or discomfort to the victim.[215] The assessment of the legal definitions of *bullying* embedded in the laws of states of the US compared to the generally accepted definition of *bullying* (which has provides a certain component framework) allows making conclusions, especially in regard to the aspects of repetitiveness of the act of bullying and imbalance of (physical or psychological) power between the victim and the bully. It is apparent that all the legal definitions by the state law correspond to the **intentional negative** impact of the phenomenon of *bullying* in the school environment. It is perceived as 'intentional,' 'aggressive,' 'demeaning,' 'dehumanizing,' 'intimidating,' 'unwanted,' etc. However, as can be seen from Table 3, not all states' legislations equally refer to the repeated incidence of *bullying,* as well as presence of imbalance of physical or psychological power between the perpetrator and the victim in the definitions of *bullying* or other notions related to it.

Emergence of regulatory legislation with specific regard to *bullying* as a form of negative behavior at school shows the importance of the legal imperatives.[216] *Bullying* legally is recognized as a 'non-criminal' activity.[217] However, some definitions of *bullying* at school suggest that a student violating statutory provisions in regard to bullying may be guilty of an *infraction*,[218] thus suggesting, though not specifying, that such violation may be a punishable one, and indicating guilt and responsibility of the student in breach of the statutory provisions. Such state regulation in regard to *bullying* at school provides legal grounds for incorporating *bullying* into school policies and rules of conduct not solely as an act of wrongdoing, but as an infraction subject to punishment.

1.2.2. On incidence

Laws of fourteen states explicitly refer to the notions of continuity, repetitiveness, pattern, chronic behavior, extended periods of time, and require that these elements be included in the definition of *bullying* by the internal acts of the schools. State law in instances where the definition of *bullying* does not explicitly require that it be subjected to a repeated act or behavior over time does provide for certain characteristic of the said behavior in order for it to be considered as *bullying.* For example, laws of nine states explicitly require for the act to be 'sufficiently persistent.' The latter notion can be interpreted with an inclina-

215 Dan Olweus, *supra note* 139, p.11;

216 Neville Harris, *supra note* 122, p.32;

217 Virginia Board of Education, "Student Conduct Policy Guidelines," (June, 2009) // http://www.doe.virginia.gov/boe/meetings/2009/07_jul/agenda_items/item_p.pdf (accessed September 11, 2016);

218 Idaho House Bill No. 750aa (2006), *supra note* 177, §18-917a;

tion for an act of bullying to be of repetitive character, since the definition of the adjective persistent refers to an occurrence that is "continuing to exist or endure over a prolonged period."[219] Yet, as per definition, the same persistent character can be applied to a single course of action in spite difficulty or opposition.[220] Therefore, the persistent character can be applicable in both instances of multiple or single incidence of an act of *bullying*.

Thus, the legislation at large deviates from one of the component parts (i.e., repeated incidence over time) of universally applied definition and does not explicitly require for an act to be repetitive and over time in order to be perceived as *bullying*. It is to be noted, however, that in all other instances where the state law definition of *bullying* at school does not make any reference to repetitiveness or duration of *bullying*, it is provided that the act (or acts) be sufficiently 'significant,' 'severe,' or 'pervasive,' or a 'single incident' or 'act' be 'significant.' In some instances state law places a strict obligation to 'include a reasonable balance between the pattern and the severity' of *bullying* behavior in the district's school policy.[221]

Deviation from the repetitive pattern of *bullying* in the definitions of the phenomenon by the vast majority of the states' legislations is at large influenced by the changing character of *bullying* itself. *Bullying* as an act of wrongdoing at school has taken on a new face of *cyber bullying* ever since information technologies have been made readily available to individual of all ages and statuses. Why the issue of *cyber bullying* is relevant within the context of the *bullying at school*? The common denominator, of course, is the act of wrongdoing by a peer against another member of the school community. However, the method of the wrong doing in case of a direct act of *bullying* and *cyber bullying* is different in its consequences and magnitude, i.e., victimization – larger, and the occurrence of the act of *bullying* – multiplied by tens of even hundreds of thousands of times.

The emerging forms of *bullying* at school rightly suggest that the component part of the definition of *bullying* referring to the continuous, over time character of *bullying* should be revisited and include not only the long-standing[222] pattern of negative behavior towards the victim, but any incidence of an act of *bullying*. This observation is pertinent for better comprehension of the learners and other members of the school community as to what *bullying* is and how prevalent it is.

One of the most imminent threats of the modern-day school community when it comes to protecting privacy and integrity (bodily and moral) of a child is the use of the information technologies. Using IT has also become an indispensable part of education and development, gaining intellectual knowledge at schools. And it is a fact that children devour the gadgets and intricacies of the modern-day technologies. However, where the credit is not due, the not all horizons brought about by leaps and bounds of the IT development are so bright and shiny. Utilization of IT gadgets such as, for example, smart phones within the environment that is intended to be a contained school environment, opens up boundaries

219 Oxford University Press, "Definition of *persistent* in English," (2016) // http://www.oxforddictionaries.com/us/definition/american_english/persistent (accessed August 22, 2016);

220 North Dakota House Bill No. 1465 (2011), *supra note* 198, §15.1-19-17;

221 Colorado Senate Bill No. 01-080 (2001), *supra note* 171, §22-32-109.1 (1) (b);

222 Stan Davis and Julia Davis, *supra note* 135, p.9;

not in their literal, but in virtual sense. For this reason, the environment of the school becomes a non-contained environment, which is an extremely relevant factor in regard to the single acts of *bullying*.

There are many examples that show how virtual or cyber space amplifies the effect it has both from the stand point of the *bully* and the *victim.* The *bully* feeds off of the effect that the cyber space provides audience wise. Through social networks, e-mail, texting, the act of *bullying* is carried out beyond the limits of a class, school community, or school territory. The consequences of one act of *bullying* in form of *cyber bullying* on the *victim* may be crippling, because of the multitude of the audience and the ferocious rate at which one single act of *bullying* is multiplied. Another important aspect of observing the act of *bullying* via cyber space, is the scope of victimization to the third parties. The effects of the act extend even beyond the immediate *victim* of *bullying* – the intimidation and fear that is dispersed and multiplied in some cases is beyond impressive. One single act of *bullying* in cyber space may turn into an act of *cyber bullying* with the audience as large as the population of the school, the state, the country, even the world. Literally.

It can be concluded that one single act of *bullying* within the contained school environment due to utilization of IT may become a non-contained and in virtually incontrollable act of *bullying* by being leaked to cyber space, and thus, become an act of *cyber bullying.* The rationale of the legislators, therefore, to deviate from requiring that an act of *bullying* at school be repetitive, is based on knowledge that even a single act of *bullying* can become extremely pervasive, harmful, humiliating, and carry a harmful effect even if not repeated directly by the bully against the victim more than once.

1.2.3. On imbalance of power

Only five states have included an explicit provision in regard to the presence of real or perceived power disparities between the aggressor and the victim of bullying. This resembles some of the emerging tendencies, based on the research of the acts of *bullying* at school, which provide that although power imbalance usually increases the severity of the impact on the victim, a lack of power imbalance does not shield victims from the negative effects of *bullying*.[223] Thus, the legal definition in the instance of the imbalance of power also deviates from the generally applied definition of bullying provided by the experts.

1.2.4. On other aspects of the legal definitions of *bullying* in the state laws of the US

1.2.4.1. Victimization

Some definitions include specifications of the aggressor. For example, Massachusetts state law defines *bullying* as repeated written, verbal or electronic expression or a physical

223 Heather A. Turner, David Finkelhor, Anne Shattuck, Sherry Hamby, and Kimberly Mitchell, "Beyond Bullying: Aggravating Elements of Peer Victimization Episodes," *School Psychology Quarterly* Vol. 30(3) (September, 2015):366-384. http://dx.doi.org/10.1037/spq0000058;

act or gesture *by one or more students or by a member of a school staff,*[224] while Vermont legislature defines *bullying* as an act *directed against a student by a student.*[225] This shows possible differences on how the legislator perceives the aggressor of an act of *bullying.* Clear perception of the aggressor is important because the state law provisions carry supremacy over the provisions of anti-bullying policies of the states' and schools. If the aggressor is defined solely as a student by law, it means that such perception shall carry over to subsequent state anti-bullying policies, internal school regulations, and a notion that anyone, besides a student, may be at fault of committing an act of *bullying* at school against a student will be 'lost in translation.'

Same remarks are relevant in regard to perception of the victim of *bullying* at school. This raises the question of a certain oversight in regard to the safety of teachers (as well as other members of the school community and member of the student body affected) in the regulatory provisions of those states legislation explicitly refers to the victim of *bullying* as one student. It is evident that the object of *bullying* at school is not always the learner, therefore focusing solely on the learner as the victim and excluding possible victimization of the teacher (or other school staff member)[226] may result in an inadequate representation of safety issues when adopting policies, rules or regulations on a district or school level.

For example, very few state jurisdictions define *bullying* as an act or actions against *another student, school volunteer or school employee* (Delaware,[227] Florida[228]), or *any/another person* (Georgia,[229] Kentucky[230]), *any student or a staff member* (Iowa[231]), or as an act that *interferes with […] the rights of other students* (New Jersey[232]), or *physical harm to a public-school employee or student* (Arkansas[233]). Reportedly, as much as 25% of school staff members experience bullying,[234] while 5-9% of teachers indicate that they were threatened with injury or physically attacked by students.[235] However, the vast majority of the states' legislation explicitly refers to the victim of *bullying* as one student. This poses an oversight

224 The definition of *bullying* also elaborates on school staff, stating that the latter is includes, but is not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional.

225 Vermont House Bill No. H629 (2004), *supra note* 209, §11(a)(32);

226 Tim Walker, "Violence Against Teachers – An Overlooked Crisis?," (February, 2013) // http://neatoday.org/2013/02/19/violence-against-teachers-an-overlooked-crisis-2/ (accessed August 31, 2016);

227 Delaware House Bill No. 7 (2007), *supra note* 173, §4112D;

228 Florida Senate Bill No. 114 (2007), *supra note* 132, §1006.147;

229 Georgia House Bill No. 84 (1999) *supra note* 175, §20-2-751.4;

230 Kentucky House Bill No. 91, Chapter No. 25 (2008), *supra note* 182, §158.148;

231 Iowa Senate File No. 61 (2007), *supra note* 180, §280.28;

232 New Jersey Assembly Bill No. 3466, Chapter No. 122 (2011), *supra note* 195, §18A-37-14;

233 Arkansas House Bill No. 1708 (2005), *supra note* 169, §6-18-514; (2)(A);

234 Cindy Long, "Bulliyng of Teachers Pervasive in Many Schools," (May, 2012) // http://neatoday.org/2012/05/16/bullying-of-teachers-pervasive-in-many-schools-2/ (accessed August 31, 2016);

235 Zhang, A., Musu-Gillette, L., and Oudekerk, B.A., National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (Washington DC), "Indicators of School Crime and Safety: 2015 (NCES 2016-079/NCJ 249758)," (May, 2016)// http://nces.ed.gov/pubs2016/2016079.pdf (accessed August 31, 2016);

in regard to the safety of teachers (as well as other members of the school community), because focusing solely on student victimization and excluding teacher (or other school staff member) victimization results in an inadequate representation of safety issues, which in turn, makes it more difficult to formulate effective solutions by adopting policies or school regulations.[236]

1.2.4.2. Beyond the general perception of the negative effect

It is important to point, that legal definitions of *bullying* extend well beyond its negative effect on an individual victim and his or her property, but also the process and mission of education *per se*. Many states explicitly refer to the negative effect of *bullying* in the context of 'material and substantial disruption of the education process,' or 'disorderly operation of a school,' or creating 'hostile,' 'intimidating,' or 'threatening environment in the school,' 'interfering with the educational performance, opportunities or benefits,'[237] For example, the definition of *bullying* in the state legislation of Arkansas even refers to 'substantial interference […] with a public employee's role in education.'[238] Legislation of Oklahoma in this respect protects the 'educational mission' of the school and 'the education of any student'[239] (not only the victim itself). Such notions imply that acts of bullying committed against one victim may carry detrimental effect on all members of the school community, both other students (not necessarily direct victims of an act of *bullying*) and the staff. And the legal approach toward a definition of *bullying* recognizes that such the acts interfere with emotional and educational integrity both directly and indirectly.

It is relevant to point out that in some instances the legislator even defines (and it is done within the same statutory definition of *bullying*) what is meant by 'substantial disruption' of the orderly operation of the school. For example, cessation of instruction of educational activities, inability to focus on learning (both by students and the staff), to function as an educational unit because of hostile environment, need of severe repetitive measures[240] are all notions regarded as substantial interference with the orderly operation of the school as a unit. In such instances the legal definition of *bullying* takes into consideration the entire process of education and the general well-being of the school environment.

1.2.4.3. Broader perception of bullying at school in regard to its place (territory) and time of incidence

Another important aspect of the legal definition of *bullying* is in some instances its reference to the time and location of when and where the act was committed and whether it

236 Tim Walker, *supra note* 226 (accessed August 31, 2016);

237 Such notions are explicitly cited in the legislations of all the states, with exception of Colorado, Indiana, Missouri, Nebraska, Nevada, Utah, Vermont, Virginia, see Table 3 for relevant states and citation references;

238 Arkansas House Bill No. 1708 (2005), *supra note* 169, §6-18-514; (2)(B);

239 Oklahoma House Bill No. 2215 (2002), *supra note* 199, §24-100.3;

240 Arkansas House Bill No. *op.cit.,* §6-18-514; (5);

shall be regarded as an act of *bullying at school.* Logically, the notion of *bullying at school* indicates that an act is committed at an actual school, i.e., school building and premises, playgrounds, and whatever is generally perceived as the school property used during the process of education. Legal definitions of *bullying,* however, point out certain aspects in regard to location, that are not generally perceived as school property *per se* used for the purposes of education. Large number of states' legislation not only refer to the general notion of 'school property,' but also to notions such as, for example, 'school busses,' 'school vehicles, […] designated school bus stop,'[241] 'school-provided transportation,'[242] 'places immediately adjacent to school grounds,'[243] etc.

The definitions of some states acknowledge the importance of the time during which the act of *bullying* may occur. For example, it is generally perceived that a child is at school for the purposes of education during the regular school hours of a school day. This general perception is reflected in the legal definition of *bullying.* However, the legal definitions also refer to the broader concept of the process of compulsory education, i.e., in regard to *bullying* school time is referred to any time 'during any education program,'[244] 'during the school day, […] at a school sponsored activity, or before or after the school day,'[245] or 'school activities or sanctioned events,'[246] 'school-sponsored functions'[247] or ' related activities.'[248]

Expanding the legal definition of *bullying* in regard to a more explicit definitions of both time and place of its incidence, is material in understanding that the right to compulsory education directly is related not only to receiving education in form of knowledge and skill according to the state regulated education program at a school during a class on a school day, but also to a much broader scope of other rights like, for example, accessing education, being safe not only during the official learning hours, but also outside of a class, after school hours, while interacting with other fellow students during school-related activities. Such explicit reference by state law in regard to the time and place of incidence of *bullying* strongly suggests that the law n education carries out a function of advocating for the rights of the learners during the whole process of acquiring compulsory education.

1.2.4.4. Other relevant characteristics of bullying at school:

Some definitions of *bullying* suggest that a student who personally violates statutory provisions in regard to bullying may be guilty of an *infraction*,[249] thus suggesting, though not specifying, that such violation may be a punishable one, and raising the question of guilt and responsibility of the student in breach of the statutory provisions. Many states de-

241 Colorado Senate Bill No. 01-080 (2001), *supra note* 171, §22-32-109.1 (1) (b);

242 Tennessee Senate Bill No. 283 (2009), *supra note* 206, §49-6-1015;

243 Oregon House Bill No. 2599 (2009), *supra note* 201, §339.351;

244 Florida Senate Bill No. 114 (2007), *supra note* 132, §1006.147;

245 Vermont House Bill No. H629 (2004), *supra note* 209, §11(a)(32);

246 Colorado Senate Bill No. 01-080 (2001), *op. cit.,* §22-32-109.1 (1) (b);

247 Alabama House Bill No. 216 (2009), *supra note* 166, §16-28B-3;

248 Georgia House Bill No. 84 (1999), *supra note* 175, §20-2-751.4;

249 Idaho House Bill No. 750aa (2006), *supra note* 177, §18-917a;

fine acts of 'harassment,' 'intimidation' and 'bullying' under one legal definition.[250] Retaliation against a student or an employee asserting or alleging and act of *bullying* is in some instances also explicitly described as *bullying*.[251]

Some definitions of *bullying* refer to its discriminative character. For instance, several definitions explicitly define *bullying* as an act motivated by any,[252] actual, perceived,[253] differentiated,[254] or distinguishing[255] personal characteristic of the victim, without limitation or including race, national origin, marital status, sex, sexual orientation gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability,[256] as well as pupil's behaviors or beliefs, or association with a person and based on this other person's characteristics, behaviors, or beliefs.[257] One jurisdiction explicitly states that act 'need not to be based' on any form of discrimination in order for it to be qualified as an act of *bullying*.[258]

1.3. Other references to bullying on international, regional, or national levels

Bullying is also explicitly referred to in other legal or post-legislative acts on international, regional, or national levels. Further analysis presents the notion of *bullying* at school

250 There are nineteen states that define *bullying*, harassment and intimidation under the same definition:
1. Alabama House Bill No. 216 (2009), *supra note* 166, §16-28B-3;
2. Alaska House Bill No.482 (2006), *supra note* 167, §14.33.250;
3. Idaho House Bill No. 750aa (2006), *supra note* 177, §18-917a;
4. Iowa Senate File No. 61 (2007), *supra note* 180, §280.28;
5. Louisiana Laws Revised Statue (2011), *supra note* 183, §17:416.13;
6. Maryland House Bill No. 199 (2008), *supra note* 185, §7-424;
7. Mississippi Senate Bill No. 2015 (2010), *supra note* 189 §37-11-67;
8. New Jersey Assembly Bill No. 3466, Chapter No. 122 (2011), *supra note* 195, §18A-37-14;
9. New York Assembly Bill No. 3661 (2011), *Dignity for All Students Act* 1987B, N.Y. Educ. Law §11;
10. North Carolina Senate Bill No. 526 (2006), *supra note* 197, §115C-407.5;
11. Ohio House Bill No. 276 (2006), *supra note* 199. §3313.666;
12. Oklahoma House Bill No. 2215 (2002), *supra note* 199, §24-100.3;
13. Oregon House Bill No. 2599 (2009), *supra note* 201, §339.351;
14. Rhode Island House/Assembly Bill No. 7213 (2008), *supra note* 203, §16-21-26;
15. South Carolina House Bill No. 3573 (2006), *supra note* 204, §59-63-120;
16. Tennessee Senate Bill No. 283 (2009), *supra note* 206, §49-6-1015;
17. Washington Substitute House Bill No. 2801 (2010), *supra note* 211, §28A.300.285;
18. West Virginia House Bill No. 3225 (2011), *supra note* 212, §18-2C-2;
19. Wyoming House Bill No. 0223 (2009), *supra note* 214, §21-4-312;

251 Florida Senate Bill No. 114 (2007), *supra note* 132, §1006.147; (3)(d);
Illinois Senate Bill No. 1026 (2006), *supra note* 178, §5/27-23.7; (b)(4);

252 Alabama House Bill No. 216 (2009), *supra note* 166, §16-28B-3;

253 Arkansas House Bill No. *supra note* 169, §6-18-514; (1);

254 Mississippi Senate Bill No. 2015 (2010), *supra note* 189, §37-11-67;

255 New Jersey Assembly Bill No. 3466, Chapter No. 122 (2011), *supra note* 195, §18A-37-14(2);

256 Maryland House Bill No. 199 (2008), *supra note* 185, §7-424.3(i)(1);

257 New Hampshire Senate Bill No. 360 (2000), *supra note* 194, §193-F:3(5);

258 New Mexico Department of Public Education Rule, *supra note* 196, §6.12.7.7;

within the legal and policy making framework of institutions such the United Nations, the Council of Europe, the European Commission and the relevant national jurisdiction of Lithuania.

1.3.1. International reference

The UN Committee on the Rights of the Child has explicitly referred to *bullying* at school in its General Comment No. 1, in the context of the aims of Article 29(1) of UNCRC,[259] where it states that school which allows *bullying* among other violent practices is in breach of the requirements of the subsections (b)[260] and (d)[261] of the said Article, and that educational institutions, for that matter, are responsible for implementing appropriate human rights education, as well as promoting of values and policies.[262]

Bullying is also explicitly referred to within the context of violence against children at school in the Resolution by the General Assembly in regard to the rights of the child.[263] Based on the provisions of the same Resolution, an independent study on the general situation on violence against children worldwide was carried out.[264] The Latter Report on violence against children was submitted to the General Assembly in 2006. There are several explicit references to the phenomenon of *bullying* within the report. First of all, *bullying* is referenced to as a frequently perceived normal socially accepted behavior among adults and children,[265] occurring in countries irrespective of their economical status,[266] as a form of violence against children by children and adults via the Internet.[267]

Section of this Report is devoted to violence in schools and educational settings where *bullying* is recognized as a form of violence perpetrated by teachers and school staff,[268] as well as the students, in form of verbal and physical violence, most frequently associated with discrimination against other students due to their social status, ethnic background, or

259 *Convention on the Rights of the Child, supra note* 105, Art.29(1);

260 One of the aims of education under Article 29(1)(b) of the UN CRC is "*the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations*" ;

261 One of the aims of education under Article 29(1)(d) of the UN CRC is "*the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin*";

262 UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education* , 17 April 2001, CRC/GC/2001/1; Art. 19, p.6;

263 Resolution, *General Assembly* (2006, No. 60/231); Sec. II, Art.15(d);

264 *Ibid.,* Art.43(c);

265 *Report of the independent expert for the United Nations study on violence against children, supra note* 121, Sec. II A.26.;

266 *Ibid*., Sec. II B.28.;

267 *Ibid*., Sec III E.80.;

268 *Report of the independent expert for the United Nations study on violence against children, supra note* 121, Sec. III B.50.;

particular personal appearances.[269] The latter Report is recognized as a crucial reference for policy makers and other stakeholders working on violence against children.[270]

Bullying is explicitly referred to within the context of some of the rights of children in several general comments provided by the Committee on the Rights of the Child. In the first General Comment the phenomenon of *bullying* at school is explicitly referred to within the context of school environment and its conformity with Article 29(1).[271] Another explicit reference to *bullying* at school is made in the General Comment No. 4 in relation adolescent health and development.[272] The Committee in its Comment explicitly refers to *bullying* in and outside of school as one of the factors contributing to the detrimental effects of the phenomenon to the health and development of the child.[273] In General Comment No. 9 on the Rights of Children with Disabilities school *bullying* is referred to as a particular form of violence which is more often than not targeted at children with disabilities.[274]

In 2011 the same Committee issued a General comment No. 13 on the right of the child to freedom from all forms of violence,[275] where *bullying* is explicitly referred to within the context of legal analysis of article 19 of the UNCRC, which is relevant in regard to protecting the child from all forms of physical or mental violence, injury or abuse.[276] According to the Committee on the Rights of the Child 'physical violence' and 'mental violence' are component parts of the generally referred definition of violence within the context of the above mentioned article.[277] *Bullying,* in turn, is referred to within the General Comment as component part of the mental and physical violence as *psychological bullying* and *physical bullying.*[278]

Bullying is explicitly referred to within the context of the best interest of the child and safe environment in General Comment No. 14 by the Committee on the Rights of the Child. It is asserted that 'assessment of the child's best interests must also include consideration of the child's safety, … the right of the child to protection against all forms of physical or mental violence,' including bullying, among others.[279] Thus implying that safe environment may also be referred to as a *bullying* free school environment when insuring the best

269 *Supra note* 121, Sec. III B.51.;

270 European Commission, 8th European Forum on the Rights of the Child, "Background Paper for Session 3: the Role of Child Protection Systems in Protecting Children From Bullying and Cyberbullying," (December, 2013) // http://ec.europa.eu/justice/fundamental-rights/files/s3_forum_bullying_en.pdf (accesses August 13, 2016); p.2;

271 UN Committee on the Rights of the Child (CRC), *supra note* 262, Art. 19;

272 *Convention on the Rights of the Child, supra note* 105, Art. 42;

273 UN Committee on the Rights of the Child (CRC), *General comment No. 4 (2003), Adolescent health and development in the context of the Convention on the Rights of the Child* , 1 July 2003, CRC/GC/2003/4; Art. 14, 22;

274 UN Committee on the Rights of the Child (CRC), *General comment No. 9 (2006), the Rights of Children with Disabilities,* 1 July 2003, CRC/C/GC/9; Art. 42, 43;

275 *General Comment No. 13, The right to education, supra note* 112, p.3;

276 *Convention on the Rights of the Child, op. cit.,* Art.19;

277 *General Comment No. 13, The right to education, op. cit.,* p. 4;

278 *General Comment No. 13, The right to education, supra note* 112*,* p. 9-10;

279 UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013), The right of the child to freedom from all forms of violence,* 4 May 2013, CRC/C/GC/14; para.73;

interest of the child. General Comment No. 16 explicitly refers to *bullying* as 'a major impediment' to the proper realization of the rights of children under article 31 of the CRC.[280]

1.3.2. Regional reference

A Communication by the European Commission[281] explicitly refers to physical and emotional *bullying* as well as *cyber-bullying* as modern manifestation of *bullying* in the context of ensuring the rights of vulnerable children. The same Communication explicitly acknowledges the issue of *bullying in schools* as a regular phenomenon of everyday lives of the students. The Communication recognizes the notion of the 'stakeholders' in prevention and countering *cyber-bullying* behaviors against children.[282] The Background Paper for the European Commission Session on *bullying* and *cyber-bullying* expressly addresses the two issues and refers to *bullying* as repeated 'physical and psychological violence in and out of school setting' towards and individual, and also refers to the definition developed by Dan Olweus.[283]

The European Council has adopted three Strategies for the Rights of the Child[284] that have been serving as series of policy cycles to guide its work on children's rights. All three strategies (among other issues) have addressed the issue of violence against children.[285] The Monaco strategy of 2012 – 2015 was the first of the strategies that specifically recognized *bullying* as form of violence that children feel inadequately protected within the general strategic objective of eliminating all forms of violence against children.[286] The latter Strategy recognizes the violence in schools and pre-schools as one of the specific types of violence where *bullying* is specifically referred to as a practice violating the healthy psychosocial and physical school environment.[287] The subsequent Strategy for the Rights of the Child was adopted for the period of 2016 – 2021, where *bullying* in school (along with

280 *Convention on the Rights of the Child, supra note* 105, Art. 31;

281 European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committees and the Committee of the Regions," (February, 2011) // http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0060:FIN:EN:PDF (accessed August 14, 2016);

282 *Ibid.* (accessed August 14, 2016); p 10-11;

283 European Commission, 8th European Forum on the Rights of the Child, *supra note* 270 (accesses August 13, 2016);

284 The Stockholm Strategy for the years 2009-2011, the Monaco Strategy for the years 2012-2016, and the Strategy for the Rights of the Child for the years 2016-2021. The Strategies were preceded by the program of "Building a Europe for and with Children" launched by the Council of Europe in Monaco in 2006. This program is also referred to as a policy cycle followed by the three consecutive Strategies.

285 Council of Europe, "Children's Strategy," (2016) // http://www.coe.int/en/web/children/children-s-strategy (accessed September 12, 2016);

286 Council of Europe, "Council of Europe Strategy for the Rights of the Child, 2012-2015" // https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d224 (accessed September 12, 2016); p.11;

287 *Ibid.*, (accessed September 12, 2016); p.13;

specifically cyber-bullying, homophobic bullying, and radicalization related violence) is recognized as a specific form of violence in schools.[288]

Thus, though not specifically defined in international or regional documents, *bullying* is explicitly referred to and recognized within the general framework of international human rights law in the context of the aims of education and the right of the child to freedom of all forms of violence.

1.3.3. National reference (Lithuania)

Bullying as an act of the wrongdoing at school, at large, is defined based on the generally and universally accepted definition of bullying, proposed by Dan Olweus and is applied by researchers of the extralegal fields of science (as discussed in the previous chapters). In 2006 a definition of *bullying* was introduced by experts in a first, scientifically backed attempt to disclose the phenomenon of *bullying* at school, which referred to the phenomenon specifically as intentional, repetitive over time[289] and representing an imbalance of physical or psychological power between the bully and the victim.[290] The latter definition has been used ever since and has not been revised.

Several provisions of the Criminal Code of Republic of Lithuania are relevant in regard of the notion *bullying*. First of all, *bullying* is provided as an aggravating circumstance for liability for a crime or a misdemeanor.[291] *Bullying* is also referred to by notions of hatred, ridicule, taunting, expression of contempt,[292] all of which are relevant in light of *bullying*, but do represent a demeaning behavior in specific set of circumstances. *Bullying* is explicitly referred to as a crime or a misdemeanor against equal rights and freedom of conscience, and is subject to liability (personal or that of a legal entity) in form of a fine, restriction of freedom or imprisonment, in the context of production, acquisition, transportation, forwarding, possession and distribution of items that *bully* (among other acts, such as contempt, ridicule, urge hatred, incitement of discrimination) a group or a person based on discrimination in regard to sex, sexual orientation, race, nationality, language, descent, social status, religion, convictions.[293] *Bullying* is also explicitly referred to as a punishable criminal act within the categories of crimes against religious communities,[294] distortion of public order, when intentional bullying is committed publicly.[295]

---

288 Council of Europe, "Council of Europe Strategy for the Rights of the Child, 2016-2021" (March, 2016) // https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8 (accessed September 14, 2016); p.16;

289 Evaldas Karmaza, Neringa Grigutytė and Elena Gauda Karmazė, *Smurtas mokykloje: prevencija ir pagalba [Violence at school: prevention and practice]*, ed. Roma Jusienė (Vilnius: Švietimo aprūpinimo centras, 2007), p.75;

290 Robertas Povilaitis and Jurgita Valiukevičiūtė, *supra note* 27, p.8;

291 *Criminal Code of Republic of Lithuania*, Official Gazette (2000, No VIII-1968); Art. 60;

292 *Ibid.*, Art. 60, 170;

293 *Ibid.,* Art. 170;

294 *Ibid.,* Art. 171;

295 *Ibid.,* Art. 284;

The notion of *bullying per se* is a term cited in one legal act in Lithuania. As a rule, *bullying* is submerged within the context of and approached via issues such as school violence, right to safe learning environment, problematic behavior of school aged children, juvenile delinquency, their immediate threats and long term consequences. There are very few, legal acts addressing the issue of bullying directly or indirectly.

In 2013 Recommendations Regarding Application of Measures of Impact in Cases of Inappropriate Behavior by Pupils were passed by the Ministry of Education and Science. The aim of the Recommendations is to help the staff of educational institutions to effectively react to extreme cases of inappropriate behavior by students and threats posed by such behavior in order to ensure psychological and physical safety of the members of the school community and other persons. Thus, the Recommendations set out the measures and main conditions for their application.[296] The Recommendations define inappropriate behavior by a student as that which poses an imminent threat to life, health, psychological or physical safety, and property, as well as that which is repetitive, impertinent, disruptive to the process of education, infringes dignity, psychological and physical safety.[297]

The Recommendations also define the measures of impact that consist actions by the staff of the school, that are needed to seize or interrupt inappropriate behavior by the student and to restore psychologically and physically safe learning environment based on mutual respect. Therefore, in this instance *bullying* is addressed by a post-legislative act within the context of negative behavior by students while posing threat to physical and psychological safety of the school community.

Only in April of 2015, a group of parliamentarians have submitted a draft proposal of the Decision, which was passed in March of 2016, Regarding the Right of Children to Safe Environment in Educational Institutions,[298] which, though brief, explicitly recognizes and addresses the issue of *bullying* at school within its wording. The draft of the latter Decision, thus, was submitted based on the notion of the Law on Education, which, among other rights, protects the right of the student to learn in an environment that is based on mutual respect, psychologically, emotionally and physically safe environment.[299] According to the motivation of the Decision, the said right of the student to learn in the safe environment is not fully implemented based on surveys and facts, which show that two out of three students in Lithuania encounter *bullying*, statistics provided by the emotional support hotlines state that calls related to bullying precisely related to school environment was twice the number of *bullying* related to all other environments, additionally only every other

296 *Order of the Minister of Education and Science Regarding Recommendations Regarding Application of Measures Of Impact in Cases of Inappropriate Behavior by Students,* Informational Bulletin (2012, No. 71-632), Art. 2, 3.

297 *Ibid.,* Art. 4.

298 *"Decision of the Seimas of Republic of Lithuania Regarding the Right of Learners to Safe Environment in Educational Institutions,"* Legal Acts Registrar (2016, No.5720), Art.1.1;

299 *Law on Education*, Official Gazette (2011, No. 38-1804), Art.46 para.1 subsec.7;

school applies different prevention measures that are effective in solving *bullying*, violence and aggression problems.[300]

The Law on Education as of January 1st, 2017 recognizes *bullying* and *cyber bullying* as forms of violence and provides their legal definitions.[301] According to the newly adopted provisions, the Law on Education applies the analogy of law by using the provisions of the Law on Protection from Violence in Immediate Surroundings in defining the notion of violence as 'intentional physical, psychological, sexual, economical or other influence on a person by action or inaction, due to which a person experiences physical, material or immaterial harm.'[302] The newly adopted Law on Education, thus, is currently the only legal act that explicitly recognizes and defines the act of *bullying* as – 'intentional repetitive behavior by a person or a group of persons with psychological or physical advantage of power against another person, that are intended to diminish his reputation or dignity, hurt or cause other psychological or psychological damage,'[303] and *cyber bullying* as – 'bullying against another person by using information technologies and (or) by means of information of information society with intention to intimidate that person, harm his reputation or degrade him in other way, without taking into consideration of whether such information is addressed personally or to an undefined number of recipients.'[304] The right of the child to fulfillment of basic physical and spiritual needs, as well as the right to unabridged physical, intellectual, emotional and social health and development is also protected under the notion of *child neglect,* which is also considered as a form of violence, alongside *bullying* and *cyber bullying.*[305]

2. BEYOND THE DEFINITION: FORMS AND CONSEQUENCES OF BULLYING

The process of education has been constantly influenced by external elements – social, economical, cultural, political changes on global, regional and local levels. The educational systems globally have undergone significant alterations over the last decades, which were initiated through legislators, governments, the international community, the socio-economic environment, donors and schools themselves.[306] The same parallel can be drawn in relation to how the phenomenon of *bullying* affected the process of compulsory education and rights of the learners in that regard, as well as how the legislative, executive systems

300 Parliament of Republic of Lithuania, "Draft of the Decision Regarding the Right of Learners to Safe Environment in Educational Institutions," (April 2015) // http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=1024606 (accessed September 16, 2015);

301 *Law on Education, op.cit.,* Art.2 para.25[1];

302 *Law on Protection from Violence in Immediate Surroundings,* Official Gazette (2011, No. 72-3475); Art. 2 para.5;

303 *Law on the Amendment of the Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 and Supplementing with Articles 23[1], 23[2] of the Law on Education No. I-1489,* Registrar of Legal Acts (2016, No. 25852); Art.2. para. 1;

304 *Ibid.,* Art.2. para. 1;

305 *Ibid.,* Art.2. para. 1;

306 Charles L.Glen, Jan De Groof, *supra note* 106 p.I;

as well as the systems of education reacted in order to minimize the harm and prevent further prevalence of *bullying* within the school environment. Another relevant parallel to be drawn within the context of this part of the chapter is how *bullying* at school and its perception was affected and, perhaps, altered due to the same changes that affected the right to and rights in compulsory education. For example, has *bullying* at school changed due to the increased use of information technologies or has the notion and act *bullying*, as such, remained unaltered?

2.1. Forms of *bullying*: the extralegal and legal perspective

Bullying is generally perceived as an unprovoked, aggressive, non-criminal act which usually takes place in low-level and underlying forms of violence, and is recognized as the most prevalent form of low-level violence at schools.[307] In order to fully understand the potential of harm that can be inflicted on learners by acts of *bullying* at school, it is important to take into account how *bullying* 'works' and what *bullying* is, despite its general and legal definitions. Longitudinal approach on the research material (both legal and extralegal) on the issue of *bullying* at school allows making a multi-dimensional assessment of the forms and the content of *bullying* at school, which shows that forms of *bullying* have evolved from it merely being socially accepted[308] and dismissed as normal childhood behavior[309] in the form of teasing[310] to a much more acute form of violence, resulting in absenteeism at school, range of health related issues, murder, or suicide, to name a few.[311]

The most general categorization of the forms of *bullying* is its perception as a form of negative behavior (which corresponds with the conceptual part of both general and legal definition of *bullying,* as discussed above), which can be carried out in form of verbally or through physical contact.[312] *Bullying* is also categorized as direct (direct physical, direct verbal) and indirect.[313] Over time *bullying* also became recognized as form of racial bullying ad sexual bullying.[314] Currently, the most relevant term for the forms of *bullying* that occur based on individual characteristics of the victim is 'prejudice-based *bullying.'*[315] Development of information technologies, the internet, increasing prevalence of the information technologies in the occupational and daily lives of adults and children prompted

307 Kathryn S. Whitted and David R. Dupper, *supra note* 118, p. 167;

308 *Report of the independent expert for the United Nations study on violence against children, supra note* 121, Sec. II A.26.;

309 Margaret S. Stockdale et all, *supra note* 116, p. 266;

310 Ken Rigby, "What schools can do about bullying," *Professional Reading Guide for Educational Administrators* 17(1) (1995):2;

311 Margaret S. Stckdale et all, *ibid.,* p. 266;

312 Dan Olweus, *supra note* 134, p.11;

313 Ian Rivers and Peter K. Smith, "Types of Bullying Behaviour and Their Correlates," *Aggressive Behavior* 20(5) (1994):359;

314 Kathryn S. Whitted and David R. Dupper, *supra note* 118, p. 168;

315 Anti-bullying Alliance, "Focus on: Bullying. A report from the Anti-Bullying Alliance, hosted by National Children's Bureau," (2015) // http://www.anti-bullyingalliance.org.uk/media/35507/Focus-on-bullying-2015.pdf (accessed September 18, 2016); p.3;

emergence of an entirely new form of violence in the cyberspace – *cyber bullying,* with its earliest cases being recorded in the late nineties.[316]

Different forms of *bullying* to a greater or a lesser extent are recognized by policies and legal norms of education law. For example, behavior that fits the description of *bullying* is described as 'inappropriate behavior by the students' in the Recommendations Regarding Application of Measures Of Impact in Cases of Inappropriate Behavior by Students – a post-legislative act adopted by the Minister of Education and Science.[317] The Department of Education of England has issued a document in form of guidance with the purpose to advice head teachers, staff and governing bodies in regard to preventing and tackling *bullying,* which specifically refers to *bullying* as intentional behavior (not necessarily an aggressive one) that hurts physically or emotionally, and which can take many forms, such as *cyber bullying* via text messages or the internet.[318] The same guidance makes reference to discriminatory forms of *bullying* at school, motivated on the grounds of race religion, gender, sexual orientation, social status, as well as indirect form of *bullying,* such as social isolation physically or online.[319]

Taking into consideration that one of the main goals of this Thesis is to provide a legal approach to the issue of *bullying* at school, it is relevant to provide a narrowed down overview of what forms of behavior are specifically referred to as *bullying* by law. Table 4 below presents a narrowed down structure of the generally recognized forms of *bullying* and the forms of *bullying* at school recognized in the legal acts.

316 Kathryn Hatter, "The History of Cyberbullying," (2016) // http://www.ehow.com/about_6643612_history-cyberbullying.html (accessed September 18, 2016);

317 *Order of the Minister of Education and Science Regarding Recommendations Regarding Application of Measures Of Impact in Cases of Inappropriate Behavior by Students, supra note* 296, Art. 1.

318 Department of Education. "Preventing and tackling bullying. Advice for head teachers, staff and governing bodies," (October, 2014) // https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444862/Preventing_and_tackling_bullying_advice.pdf (accessed August 13, 2016);

319 *Ibid*, p. 6;

Table 4: *The generally recognized forms of bullying and the forms of bullying at school specifically referred to in the legal acts.*

FORMS OF BULLYING	VERBAL	NON-VERBAL	WRITTEN	PHYSICAL	CYBERBULLYING
DIRECT	Certain forms of bullying behavior are applicable to all types of bullying - threatening,[320] frightening,[321] demeaning, dehumanizing,[322] embarrassing,[323] intimidating, ridiculing, publicly humiliating,[324] menacing,[325] motivated by any characteristic of the bullied student or groups of students, including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability.[326]				
	Perpetuating bullying by inciting, soliciting or coercing other/s to commit acts of bullying,[327] falsifying statements, comments regarding race, gender, religion, physical abilities,[328] defamation, taunting, mocking or use of put-downs or demeaning humor, extortion or demands for protection money or involuntary loans or donations, name-calling, damaging or manipulating victim's relationships by spreading false rumors.[329]	Nonverbal threats or intimidation such as the use of aggressive, menacing or disrespectful gestures, stalking.	Defamation, blackmail.	Gestures,[330] theft, destruction of property, retaliation, incitement or coercion,[331] infliction of injury,[332] whipping, beating, branding, calisthenics, bruising, electric shocking, placing of harmful substances on the body, or exposure to the elements, involves consumption of any food, liquor, drug, or other substance, physical obstruction of freedom of movement,[333] incitement of violence.[334]	Electronic; communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer or pager; communication, including, but not limited to, a message, text, sound, or image by the same means as described above; creation or transmission originated on or off the school site,[335] a post on a social network Internet Web site; Creating a false profile; Creating a credible impersonation of another actual pupil; Accessing or knowingly causing or providing access to data or computer software through a computer, computer system, or computer network;[336] Electronically communicated expression,[337] Intentional electronic communication;[338] Using information and communication technologies, such as cell phone text messages and pictures and internet e-mail, social networking web sites, defamatory personal web sites, and defamatory online personal polling web sites[339].
INDIRECT	Physical isolation Social isolation, exclusion				Online isolation Social isolation

320 Alabama House Bill No. 216 (2009), *supra note* 166, §16-28B-3;
321 Alaska House Bill No.482 (2006), *supra note* 167, §14.33.250;
322 Delaware House Bill No. 7 (2007), *supra note* 173, §4112D;
323 Florida Statutes Annotated, *supra note* 132, §1006.147 (3)(f)2.;
324 Nevada Revised Statutes Annotated, *supra note* 193, §388.122, 2(a);
325 New Mexico Department of Public Education Rule Title 6, Chap. 12, Part 7 (2006), *supra note* 196, §6.12.7.7, A;
326 Maryland House Bill No. 199 (2008), *supra note* 185, §7-424;
327 Florida Statutes Annotated, *supra note* 132, §1006.147;
328 Virginia Board of Education, *supra note* 217 (accessed November 16, 2016);
330 Colorado Senate Bill No. 01-080 (2001), *supra note* 171, §22-32-109.1 (1);
331 Florida Statutes Annotated, *supra note* 132, §1006.147;
332 Georgia House Bill No. 84 (1999), *supra note* 175, §20-2-751.4;
329 Nevada Revised Statutes Annotated, *supra note* 193, §388.122;
333 Utah House Bill No. 325 (2008), *supra note* 208, §53A-11a-102;
334 Nevada Revised Statutes Annotated, op. cit., §388.122;
335 California Assembly Bill No. 606 (2008), *supra note* 170, §48900.1 (r)(2)(A);
336 Florida Statutes Annotated, *supra note* 132, §1006.147;
337 Maine Revised Statute Annotated (2011), *supra note* 184, §6554;
338 Maryland House Bill No. 199 (2008), *supra note* 185, §7-424;
339 Virginia Board of Education, *supra note* 217 (accessed November 16, 2016);

The adopted US state legislation that defines acts of *bullying* in the school context put an imperative obligation on the states' departments of education to establish relevant policies on district and school levels.[340] Analysis of the US state legislation in regard to forms of *bullying* shows, that the phenomenon of *bullying* at school *per se* has developed new characteristics, the types of aggressive behavior associated with *bullying* have expanded in kind and in motive. The types (or forms) of the aggressive behavior associated with *bullying* are significantly different, thus, resulting in different consequences in regard to the victims and the entire school community. Acknowledgement of the advanced forms of *bullying* within the framework of state legislation grants them a legal status that the system of education is obliged to take into consideration. And while no form of *bullying* leaves its victim unharmed and its environment unaffected, a coherent legal framework in regard to *bullying* at school enables both policy makers and schools to carry out their obligations in ensuring the rights of, or in other words – advocating, for the students in danger more effectively.

2.2. Consequences of *bullying*: the extralegal and legal perspective

The previous parts of this chapter, besides reiterating the extralegal essentials, focused on an in depth analysis of the legal approach toward the phenomenon of *bullying* at school and its forms. This part of the chapter shall focus on the impact of *bullying* on the status of child as a subject of legal rights and obligations in relation to education. Since, *bullying* as a low-level form of violence carries profound effects on the learning environment,[341] each act of any form of *bullying* carries consequences that translate into different violations of the individual rights of members of the school community. Consequences of *bullying* at school can be analyzed in its regard to bully, the victim, and the school community,[342] in various perspectives – emotional, physical health, [343] decreased academic performance,[344] invaded privacy via acts of cyber bullying, decreased social skills. Therefore, it is imperial to analyze the effect of *bullying* in regard to proper implementation and realization of the right to education and the rights in education through consequences of different forms of *bullying.*

2.2.1. Health and life

Bullying is considered a serious public health issue with the international prevalence raging from 9% to 54%.[345] It carries direct short and long-term impact on both the victim and the offender and translates into more frequent and heavier forms of offence by the of-

340 U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service, *Analysis of State Bullying Laws and Policies* (Washington, D.C. 2011), p. xii,

341 David R. Dupper and Nancy Meyer-Adams, *supra note* 126, p.353;

342 Kathryn S. Whitted and David R. Dupper, *supra note* 118, p. 168;

343 Mark G. Borg, "The extent and nature of bullying among primary and secondary schoolchildren," *British Journal of Educational Psychology* 62 (1999): 138;

344 Susan J. Roberts, Carol A. Glod, Reo Kim and Julie Hounchell, "Relationships between aggression, depression, and alcohol, tobacco: Implications for healthcare providers in student health," *Journal of American Academy of Nurse practitioners* 22 (2010):371;

345 Young Shin Kim and Bennett Leventhall, *supra note* 344, p. 133;

fender in the future, while the victim of bullying is prone to experience general emotional, psychological, behavioral problems both immediately and later in life,[346] and even become a bully him or herself.

A significant association between experiencing *bullying* and adverse general health outcomes has been determined, as well as an increased odds of smoking, alcohol and drug use,[347] drastically inferior mental and physical health, increased symptoms of depression and low self-image,[348] long lasting psychological suffering,[349] more frequent post traumatic stress disorders, even after *bullying* has seized,[350] adult asthma, obesity,[351] as well as increased variety of psychosomatic ailments such as headaches and stomachaches,[352] even general dissatisfaction with family and friends.[353]

Victimization of *bullying* in regard to its effect on the general wellbeing of the population of the school community, reaches well beyond its immediate effect on the victim and the bully. It is important to point the bystanders as witnesses of the acts of *bullying* at school whose role is usually overlooked.[354] *Bullying* is in a greater majority of cases not an isolated incident but a public exhibit of aggression or passive behavior against the victim in any form of violence discussed above. Research shows that up to 50% of the student body is involved in bullying as onlookers,[355] while up to 88% of *bullying* incidents[356] at schools are witnessed by peers. Bystanders who witness or know that *bullying* is happening, are also at risk of suffering its negative consequences in regard to their person, just as the bully and

346 Vilija Targamadzė and Džiuginta Valeckienė, *supra note* 102, p.169;

347 Apolinaras Zaborskis and Inga Vareikiene, "Patyčios mokykloje ir jų sąsajos su moksleivių sveikata bei gyvensena" [School bullying and its association with health and lifestyle among schoolchildren], *Medicina* 44(3)(2008):234;

348 Mark A. Schuster, Marc N. Elliott, Laura M. Bogart, David J. Klein, Jeremy Y. Feng, Jan L. Wallander, Paula Cuccaro, Susan R. Tortolero, "Changes in Obesity Between Fifth and Tenth Grades: A Longitudinal Study in Three Metropolitan Areas," *Pediatrics* Vol. 134 No. 6 (December, 2014):1053; DOI: 10.1542/peds.2014-2195; 1051-1058

349 Linda D.Voss and Jean Mulligan, "Bullying in school: are short pupils at risk? Questionnaire study in a cohort," 320(7235) (March, 2000):612; 612-613;

350 Apolinaras Zaborskis and Inga Vareikienė, "Bullying prevalence in Lithuanian schools during 1994-2014 period," *Visuomenės sveikata* 2(69) (2015):41; 40-47;

351 Hertz M.F., Everett Jones S., Barrios L., David-Ferdon C., and Holt M., "Association Between Bullying Victimization and Health Risk Behaviors Among High School Students in the United States," *The Journal of School Health* 85(12) (December 2015):834; 833-842. DOI: 10.1111/josh.12339.

352 uKnowKids, „Bullycide: the Dark Side of Cyberbullying," (January, 2014) // http://www.breakfreeyouthministry.com/Other%20Stuff/Ministry%20Documents/Bullycide_-_Book.pdf (accessed, September 30, 2016);

353 Bilić V., Flander G.B. and Rafajac B., "Life satisfaction and school performance of children exposed to classic and cyber peer bullying," *Collegium Antropologicum* 38 (1) (March, 2014):22; 21-29

354 Jan Urbanski and Steve Permuth, *The Truth About Bullying. What Educators and Parents Must Know And Do* (Rowman & Littlefield Education, 2009), p.56;

355 Brian K. Perkins, National Board of Education, "Where We Learn: The CUBE Survey of Urban School Climate," (2006) // https://www.nsba.org/sites/default/files/reports/Where-we-learn_1.pdf (accessed August 12, 2016);

356 D. Lynn Hawkins, Debra J. Pepler and Wendy M. Craig, "Naturalistic Observations of Peer Interventions in Bullying," *Social Development* 10(4) (2001):512; 512-527;

the victim are.[357] Half of the student body comprises a large number of individual students, thus, the bystander factor should not be overlooked and included in the general assessment of prevalence of *bullying* at school.

Bullying, therefore, has a direct effect on the person of the bully, the victim and the bystander, to a greater or a lesser extent, in relation to their psychological, emotional and sometimes physiological health. The same is true whether victimization resulted in actual physical harm to the bullied person or not.

2.2.2. Person and property

Unchecked *bullying* at school may eventually translate into more or less severe criminal acts as outcomes[358] that infringe integrity of the victimized students, by way of damage to a greater or lesser extent to their person or property, or both. The former situation would occur while the act of *bullying* was being carried out and be categorized as a criminal act (of school violence) according to relevant notions of criminal code. Such as, for example, destruction or damaging of the property, negligently causing substantial or non substantial harm to victim's health, or negligently taking one's life.[359] In such cases, the direct cause of the committed criminal acts would be concrete criminal illegitimate actions of the bully and the act of *bullying* itself could not be named as the direct cause of the said outcome.

However, perpetration of *bullying* does in many instances lead to outcomes that result from actions committed by the victim him or herself as opposed to infringement of personal integrity or property in form of damaged health or accidental death caused by the actions of the bully. The outcomes that result from the action of the victim can be detrimental to health or even be fatal as a result of suicide committed by the victim him or herself because the latter was bullied. It is a proven fact that experiencing *bullying* increases suicidal behavior[360] and students who experience it manifest their suicidal ideation more frequently.[361] The most extreme effect of *bullying* behavior on the victim occurs when the victim is pushed to the limit where he or she is put in a state of constant and chronic fear, confusion and helplessness. Such condition of the victim with an increased suicidal ideation in many cases leads to suicide attempt or an actual suicide. Taking into consideration the statistical information of jurisdictions of the US and Lithuania, it is evident that the suicide rates are increasing. For example, suicides committed by youth in Lithuania have been on increasing for the past five years from 18 suicide cases in 2011 to 31 suicides in 2015 in the age group of 15-19 year of age, and respectively from 1 to 5 suicides in the age group of 10-14 years of

357 Jan Urbanski and Steve Permuth, *The Truth About Bullying. What Educators and Parents Must Know And Do* (Rowman & Littlefield Education, 2009), p.58;

358 Apolinaras Zaborskis and Inga Vareikienė, "Bullying prevalence in Lithuanian schools during 1994-2014 period," *Visuomenės sveikata* 2(69) (2015):40; 40-47;

359 *Criminal Code of Republic of Lithuania, supra note* 291, Art. 132, 137, 139, 187;

360 Apolinaras Zaborskis, Inga Vareikienė, „Schol Bullying and its Assocication With Health and Lifestyle Among Schoolchildren," *Medicina (Kaunas)* 2008, 44(3):235-236;

361 Apolinaras Zaborskis and Nida Žemaitienė, *supra note* 104, p.115-116;

age.[362] The increase of suicide rates in the US of the youth of the age group of 10-14 years has risen by 56%, and by 76% for the youth of the age group of 15-24 years over the period of 1999-2014. It is interesting to point out that the highest rate of increase in suicides for the same time period was among the female population of ages 10-14 and consisted of 200% increase rate.[363] Fatal suicide attempts is the 10th ranking cause of death in the US in general,[364] the 2nd ranking cause of death among young people (15-24 years of age),[365] and the 3rd ranking cause of death of 10-14 year olds.[366]

The relevant studies point out the positive association between all types of *bullying* and suicidal risks in the general population of children and adolescents, as well as those with special needs or individual qualities (such as, for example, race or sexual orientation).[367] The emerging notion of 'bullycide' is being used to describe the suicides committed by adolescents who chose such fatal course of action due to the reason of being bullied. The notion of "bullycide" proposes an interesting discourse from the legal perspective, because it is being questioned increasingly as a suicide committed because of *bullying,* thus, *bullying* is discussed as not only a factor that led the victim to cause his or her death, but as the cause itself.

The official statistics categorize suicide as "intentional self-harm" inflicted upon self by "discharge of firearms" or by "other unspecified means."[368] *Bullying* is not officially listed as a cause of death, because legally the cause of death is described as the direct infliction of harm that resulted in actual death. As discussed above, *bullying* is positively linked with increased suicidal ideation and suicidal behavior by experts of the relevant fields of research.

362 Official Statistics Portal, "Deaths by cause of death," (August, 2016) // http://osp.stat.gov.lt/statistiniu-rodikliu-analize?portletFormName=visualization&hash=330c8147-39c3-4ff3-aad9-72bd96d44a1b (accessed September 29, 2016);

363 Centers of Disease Control and Prevention, "Suicide Rates for Females and Males by Race and Ethnicity: United States, 1999 and 2014," (April, 2016) // http://www.cdc.gov/nchs/data/hestat/suicide/rates_1999_2014.htm (accessed September 30, 2016);

364 National Vital Statistics Reports (Volume 65, Number 4), "Deaths: Final Data for 2014," (June, 2016) // http://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_04.pdf (accessed September 29, 2016);

365 American Association of Suicidology, "U.S.A. SUICIDE: 2014 OFFICIAL FINAL DATA," (December, 2015) // http://www.suicidology.org/Portals/14/docs/Resources/FactSheets/2014/2014datapgsv1b.pdf (accessed September 29, 2016);

366 American Association of Suicidology, "Experts Release Consensus Derived List of Warning Signs for Youth Suicide," (September, 2015) // http://www.suicidology.org/Portals/14/docs/NSPW/WS%20Press%20Release%20Final.pdf (accessed October 3, 2016);

367 Young Shin Kim and Bennett Leventhall, *supra note* 344, p. 150;

368 National Vital Statistics Reports (Volume 65, Number 4), *supra note* 364 (accessed November 18, 2016);

Extra legally, thus, *bullying* is increasingly named as the main cause of death in the "bullycide" cases that prompts *bullying* victims to inflict fatal harm unto themselves.[369]

Evidently *bullying* in regard to its outcome carries an effect on a person and property of the victim when *bullying* as a non-criminal act of wrongdoing results in certain amount of physical harm to the person or damage to the property of the victim (it is important to point out that in this case victimization does not apply to the bystanders). The extralegal opinion and the legal approach in how to ascertain the act of *bullying* in some of these cases may diverge. For example, it is clear, both from legal and extralegal standpoint that acts by the bully while *bullying* resulting in destruction or damage of the property, or physical harm (fatal or non-fatal) to the person of the victim qualify as a criminal act that might have been aggravated by the fact of *bullying*. However, in cases of "bullycide" opinion diverges. As discussed above, the extralegal opinion names *bullying* as the cause of suicide by the victim, while legally it is perceived that suicide is caused by the actions of the victim. Nevertheless, the extent to which *bullying* at school can affect the person and the property of the victim is evident and detrimental, especially in cases when the ultimate outcome is death of the victim of *bullying*.

Thus, analysis of *bullying* in regard to its effect and as a probable cause of the harmful outcome toward the person or property of the victim reiterates two aspects – the scope of gravity of the outcome as a violation of the right of the bullied student that *bullying* may lead to, and that *bullying* as an aggravating circumstance or cause in certain cases can be approached differently from the extralegal and legal perspective. It is relevant to point out that from the legal perspective bullying is still a rather obscure notion. For example, it is unclear as to how feasible it would be to mitigate the harm suffered by the victim by applying *bullying* as an aggravating circumstance, when *bullying* is not *per se* recognized in criminal law as a factor that would increase the severity or culpability of a criminal act committed by the bully against the victim. From one side – it is evident that *bullying* is a founding reason

369 More parents of the deceased victims are directly and openly blaming and taking legal action against the school or administrative authorities for not taking action to prevent or stop the ongoing bullying of the students. In some cases the victims themselves explicitly name *bullying* as the cause of their decision to take life, as well as blame the school staff for not taking a more active part in stopping *bullying*. For example:

- in the case of suicide of Emilie Olsen (who shot herself in 2014 at the age of 13) the parents claimed that Fairfield Intermediate and Middle School (Fairfield, Ontario) attended by Emilie should have been more responsive in regard to preventing and stopping the acts of *bullying* that the school knew were committed against Emilie, and could have prevented the suicide itself. The allegations were part of the legal claim that the parents filed against the Fairfield City School District, various administrators and Emilie's alleged bullies. Source: The Washington Post, "After years of alleged bullying, an Ohio teen killed herself. Is her school district responsible?" (May 23, 2016) // https://www.washingtonpost.com/news/morning-mix/wp/2016/05/23/after-years-of-alleged-bullying-an-ohio-teen-killed-herself-is-her-school-district-responsible/ (accessed November 18, 2016);
- in the case of Daniel Fitzpatrick (who hanged himself in 2016 at the age of 13), Daniel left a hand-written suicide note explicitly blaming the school staff of the Holy Angels Catholic Academy for not doing anything regarding *bullying* against him at school after he repeatedly brought the fact to their attention. Source: Daily News, New York, "Staten Island boy, 13, kills self after Holy Angels Catholic Academy staff 'didn't do anything' to stop bullying," (August, 2016) // http://www.nydailynews.com/new-york/staten-island-boy-13-kills-school-bullying-article-1.2749245 (accessed November 18, 2016);

of the criminal behavior that results from the act of *bullying,* and, depending on the severity of the criminal act committed should more likely be in some way punishable or taken into account. From the other side – *bullying per se* is not a criminal act, and the cause of harm caused to the person or the property of the victimized person was due to a certain criminal act and not *bullying per se.* Therefore, the overreaching opinion is that *bullying* remains an 'umbrella term' from a legal perspective, referring to conduct ranging from indiscipline, anti-social behavior and criminal acts of various degrees and gravity.[370] Which brings about the notion that *bullying* in its legal character may need to be conceptualized, particularly when more severe forms of *bullying* result in very grave criminal offences.[371]

2.2.3. School

Besides the social, emotional and other health issues, *bullying* is recognized as an antecedent to other specifically school related behavioral problems in immediate or later grades.[372] For example, extensive studies have shown an inverse relation between the variables of violence exposure (including bullying) and general academic performance at school.[373] Other school violence behavior related problems result in issues that encompass (among others) dislike of school, feeling unsafe at school,[374] truancy and dropping out.[375] These factors often lead to poor attendance of school by the victims of *bullying* or those who are intimidated or scared that *bullying* will be a way of retaliation against them by the bully for witnessing and, possibly, reporting an act of *bullying*.[376] Thus, specific school related behavioral issues can be categorized in regard to two large issues dealing with academic performance of the students and general attendance of classes.

In support of relevance of the issue of attendance in association of *bullying* at school, it is important to point out that while associations between *bullying* and health risk behaviors are well-documented, research on *bullying* and education-related outcomes, including school attendance, is limited,[377] recent statistical data is scarce. For example, National Centre for Social Research in UK estimates, based on research carried out in 2010, that the true

370 Neville Harris, *supra note* 122, p.36;

371 Furniss C., "Bullying in schools: it's not a crime is it?" *Education and the Law* 12(1) (2000):9-21;

372 Debra J. Pepler and Wendy Craig, "Report #60. Making a difference in bullying," (April, 2000) // http://peacefulschoolsinternational.org/wp-content/uploads/making_a_difference_in_bullying.pdf (accessed September 23, 2016); p.4;

373 Stephen J. Lepore and Wendy Kliewer, "Violence exposure, sleep disturbance, and poor academic performance in middle school," *Journal of abnormal child psychology* 41(8) (November, 2013):1180-1182;

374 Artemis K. Tsitsika, Efi Barlou, Elizabeth Andrie and Maria Tsolia, "Bullying Behaviors in Children and Adolescents: "An Ongoing Story"," *Frontiers of Public Health* 2:7 (February, 2014):2;

375 Roberto Forero, McLellam, Rissel, Bauman, "Bullying behavior and psychosocial health among school students in New South Wales, Australia," *British Medical Journal* 319(1999): 345;

376 As described above, onlookers are often intimidated by bullies who, by way of intimidation with *bullying*, try to prevent the onlookers from, for example, reporting the cases of *bullying* that they have witnessed. Therefore, some of the legislation list such retaliatory acts as the acts of *bullying*

377 Riley J. Steiner and Catherine N. Rasberry, "Brief report: Associations between in-person and electronic bullying victimization and missing school because of safety concerns among U.S. high school students," *Journal of adolescence* 43 (August, 2015):1;

population estimate of school children between the ages of 11 – 15 who are absent from school where *bullying* is the main reason for absence lies within the bounds of 13 346 – 19 640 and in schools where *bullying* is a reason given for absence in the bounds of 71 405 – 84 496 a day.[378] National Education Association of the US, based on national data of 2011, provides that up to 160 000 school children miss school every day due to the fear of *bullying.*[379]

The more recent assessment of the absenteeism at school (which was published in 2015, but is based on the data from 2011 – 2012) due to *bullying* is provided by the Centers of Disease Control and Prevention points out *bullying* at school, *electronic bullying* and 'co-occurrence' of both types of *bullying* as safety concerns that make students miss school in the US. According to the assessment of the CDC up to 15,5% of the bullied students miss one or more school days within 30 day periods because of concern for their safety, which equivalent to 600 000 students of the total enrolled student body of more than 16 million. Another *indicator* pointed out by the CDC is that the victims who experience both types of *bullying* (in-person and electronic) are between 5 to 6 times more likely to miss school that those who have not experienced *bullying.*[380]

Another way of coping with fear and intimidation of being bullied at school is to withdraw from that particular school altogether and transfer to a different school. The extrapolated estimate based on the information from 28 local authorities in the UK is that around 12 000 students each year transfer to a different school due to the factor of *bullying* at school.[381] Displacing the victimized learner in order to avoid more aggravating damage is a solution adopted by many parents. However, this also raises a question of whether the rights of that learner to achieve the best, most affordable, accessible and acceptable education are not violated?

It is apparent that the factor of *bullying*, thus, victimizes the immediate bully victims as well as the bystanders in relation to the proper realization of their right to education and the rights therein, such as for example, the right to learn to one's full potential, equally enjoy the realization if the right to education, the right to feel safe at school, or simply being able to feel good and attend school without being concerned about one's safety. These are some of aspects of the right to education explicitly recognized by the provisions of the international law, many of which are adopted within the frameworks of the national legal systems.

---

378 National Centre for Social Research, "Estimating the prevalence of young people absent from school due to bullying," (May, 2011) // http://www.natcen.ac.uk/media/22457/estimating-prevalence-young-people.pdf (accessed November 19, 2016);

379 National Education Association, "Nation's educators continue push for safe, bully-free environments." (October, 2012) // http://www.nea.org/home/53298.htm (accessed November 19, 2016);

380 Centers of Disease Control and Prevention, "Bullying and Absenteeism," (October, 2015) // http://www.cdc.gov/healthyyouth/health_and_academics/pdf/fs_bullying_absenteeism.pdf (accessed November 19, 2016);

381 MailOnline, "Bullies force 12,000 students a year to move to new school," (November, 2013) // http://www.dailymail.co.uk/news/article-2485397/Bullies-force-12-000-pupils-year-to-new-schools.html (accssed November 28, 2016);

For example, according to provisions international law, the right to education should be implemented according to the principles of equal opportunity and treatment,[382] and in a way that strengthens respect for human rights and fundamental freedoms, allows the full development of the human personality and the sense of its dignity, enable effective participation of all individuals in a free society.[383]

Analogous provisions are provided in the Convention on the Rights of the Child which further fortifies the right to education in regard to the special status of children. First of all, the Convention provides that any institutional framework (and this also applies to the institutional framework of compulsory education) conform to the standards of safety and health, among other, in order to protect the best interest of the child. The provisions of the said Convention also require that the right to education of children be achieved in accordance with the general principles of education and, among other, be directed towards 'development of the child's personality, talents and mental and physical abilities to their fullest potential.'[384] All of the discussed aspects make the process of compulsory education instrumental achieving one's full potential, developing life skills and gaining knowledge that will enable to excel and reach effective participation in the free society. However, all of the said aspects of the right to education and the rights in education are breached, if the child's capacity to learn at school is limited and diminished because of fear, stress, psychological or emotional condition, dislike of school or even avoiding school altogether due to the fact of being bullied or witnessing *bullying* at school.

2.2.4. Consequences of bullying at school explicitly recognized by law

Thorough analysis of the US state laws on education in regard to the legal definition of *bullying* proves that the latter definition encompasses not only general characteristics of *bullying* as an act of the wrongdoing, but it also refers to quite an extensive array of other specifications. For example, as discussed in previous parts of this chapter, it is possible to also characterize an array of victims, places that are referenced as school, forms of *bullying*, motives. In addition to the latter, the states' laws in some instances also explicitly recognize the outcomes that *bullying* may result in. The Table 5 below provides explicit examples of the outcomes that are included in the provisions of the legal acts on education.

382 UN Educational, Scientific and Cultural Organization (UNESCO), *Convention Against Discrimination in Education*, 14 December 1960 // http://www.refworld.org/docid/3ae6b3880.html (accessed November 20, 2016); Art. 6;

383 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3 // http://www.refworld.org/docid/3ae6b36c0.html (accessed November 20, 2016); Art. 13;

384 *Convention on the Rights of the Child, supra note* 105, Art. 3, 28 - 29;

Table 5: *Outcomes of bullying in legal definitions.*

Outcomes of bullying explicitly recognized by the state laws on education:
Physical harm to employee or student;[385,386]
Infringing on the rights of such [victimized] student at school;[387]
Causing substantially detrimental effect on physical or mental health of the student, inflicting physical hurt or psychological distress;[388,389]
Placing pupil or pupils in fear of harm to that pupil's or those pupils' person or property;[390]
Placing a student, school volunteer or school employee in reasonable fear of substantial harm to emotional or physical well-being or damage to property;[391]
Causing damage to student's or employee's property;[392]
Substantially interfering with student's education;[393] student's academic performance;[394, 395] student's ability to participate in or benefit from the services, activities, or privileges provided by a school;[396, 397] public school employee's role in education;[398]
Interfering with a student having a safe school environment;[399]
Creating intimidating, threatening, hostile, humiliating or abusive educational environment;[400, 401]
Substantially disrupting educational environment;[402]
Disrupting or interfering with the school's educational mission of the education of any student;[403]
Creating hostile educational environment for one or more students;[404]
Substantially disrupting the orderly operation of the school.[405]

It can be concluded that the analysis of the legal definitions of *bullying* encompasses different aspects of the right to education not only in respect to the victim, but including the whole array of the victimization – other students (bystanders), school staff and other personnel. It is apparent that the provisions of the state laws on education addressing the issue

385 Alaska House Bill No.482 (2006), *supra note* 167, §14.33.250;
386 Arkansas House Bill No. 1708 (2005), *supra note* 169, §6-18-514;
387 Connecticut House Bill No. 5563 (2006), *supra note* 172, §10-222d;
388 California Assembly Bill No. 606 (2008), *supra note* 170, §48900 (r)(1)(B);
389 Florida Senate Bill No. 114 (2007), *supra note* 132, §1006.147;
390 California Assembly Bill No. 606 (2008), *op. cit.*, §48900 (r)(1)(A);
391 Delaware House Bill No. 7 (2007), *supra note* 173, §4112D;
392 Alaska House Bill No.482 (2006), *op. cit.,* §14.33.250;
393 *Ibid.;*
394 California Assembly Bill No. 606 (2008), *op. cit.*, §48900 (r)(1)(C);
395 Iowa Senate File No. 61 (2007), *supra note* 180, §280.28;
396 California Assembly Bill No. 606 (2008), *op. cit.*, §48900 (r)(1)(D);
397 Iowa Senate File No. 61 (2007), *op. cit.*, §280.28;
398 Arkansas House Bill No. 1708 (2005), *op. cit.,* §6-18-514;
399 Delaware House Bill No. 7 (2007), *op. cit.*, §4112D;
400 Alaska House Bill No.482 (2006), *op. cit.,* §14.33.250;
401 *Ibid.,* §4112D;
402 Arkansas House Bill No. 1708 (2005), *op. cit.*, §6-18-514;
403 Oklahoma House Bill No. 2215 (2002), *supra note* 199, §24-100.3;
404 Arkansas House Bill No. 1708 (2005), *op. cit.*, §6-18-514;
405 *Ibid.*, §14.33.250;

of *bullying* at school were adopted within a broader context of violence at school and the main object of such state regulation was the student who already is or might be in danger of facing the detrimental phenomenon of *bullying.* One of the outcomes of such regulation is that all but two states have included explicit legal definitions of the latter phenomenon. Analysis of the definitions proves that their scope goes beyond the general definition of the phenomenon itself by providing a broader perception. For example, Table 5 above provides a list of outcomes of *bullying* that are explicitly recognized by the law. The outcomes are directly related to the person of the victim, his or her property, other members of the school community, and the process of education itself. The law, within the scope of definition, recognizes the importance of the 'educational mission of education'[406] school employee's role in education[407] (as well as disrupting and interfering with both), addresses such issues in regard to the rights in education of any victimized students (not only direct victims) as – interference with student's education, academic performance, his or her ability to fully participate and benefit from the educational process as a whole. Meaning that the law by providing the definition of *bullying* at school effectively addresses the issue of how the rights in education of the victimized subjects are affected. Therefore, the law carries out the function of advocacy of the victimized school community members by pointing out the detrimental outcomes of the phenomenon of *bullying* a school within the definition.

3. BULLYING AND THE 4A'S

The conceptual framework of the principles of the 4A's (availability, accessibility, acceptability and adaptability) was first incorporated Article 13 of the International Covenant on Economic, Social and Cultural Rights of 1966[408] and later in most major international legal acts in regard to human rights and, specifically, the qualitative and quantitative aspects of the right to education. The fundamental idea of these principles ant the conceptual framework behind them is to set the minimum standards and goals in implementing the right to education by and within any system of education in the world[409]. The latter principles represent a dual approach towards the right to education – as a process and as an ultimate end result in tackling challenges, infringements and abuse of rights in education.[410] Within the framework of this Thesis, *bullying* is analyzed as a current challenge within the systems of compulsory education of most national jurisdictions as a factor that infringes the right to and the rights in education of the learners. Therefore, it is relevant to present a discussion on how the issue of *bullying* at school correlates (if at all) with the universally accepted and applies principles of education.

The discussion of the previous parts of this chapter was derived solely from the comparative analysis of the extralegal and legal definitions of *bullying* at school in regard to the generally accepted and applied extralegal definition and its three component parts (intentional

406 Oklahoma House Bill No. 2215 (2002), *supra note* 199, §24-100.3;

407 Arkansas House Bill No. 1708 (2005), *supra note* 169, §6-18-514;

408 *International Covenant on Economic, Social and Cultural Rights, supra note* 383 (accessed November 26, 2016);

409 K.Tomaševski, *supra note* 113, p. 13;

410 B.Pranevičienė and A.Pūraitė, "Right to Education in International Legal Documents," *Jurisprudencija [Jurisprudence]* 3(121) (2010):139;

negative behavior, repetitiveness, imbalance of power). In addition, it was observed that the contents of the legal definitions allowed further and broader legal analysis in regard to forms and outcomes of *bullying* at school (as was described – the legal definitions of *bullying* explicitly recognized its forms and even possible outcomes). It is apparent that *bullying* at school always directly affects its object – the victim, and that it may have the same negative effect on its indirect objects – the bystanders, though they will be affected directly.

An observation is relevant that realization of the right to education and rights in education are subject to the same object as that of *bullying* – the learner. The learned (as direct victims or the bystander) is affected and is the one who suffers various infringements of his or her rights at school to a greater or lesser extent. The latter infringements are categorized above into three main categories – A) health and life; B) person and property; C) school; D) outcomes explicitly recognized by law. Categories of A and B are not directly related to the school environment and the learning process (only category C explicitly is, category D recognizes both individual outcomes on the person and property, as well as the rights to and in education), because they describe immediate (or prolonged) outcomes that *bullying* has on the individual health, general wellbeing, physical person or property of the victimized student. However, the listed outcomes of these categories do carry an indirect effect on the status of the victimized learner, because the outcomes may indirectly translate into various infringements of the recognized rights of the learners at school and during the process of compulsory education. Therefore, it can be concluded that the subjective rights of the learners in education are never directly affected by the act of *bullying*, but are affected indirectly *vis-à-vis* the learner as the object of *bullying*.

Category C specifically discusses how the status of the learners as objects of *bullying* changes in regard to their subjective rights in compulsory education. In conjunction with the outcomes of *bullying* at school explicitly recognized by the state laws and listed in category D, the outcomes influence the right to education and rights in education of the victimized learners in the following manner:

Table 6: *Outcomes and their influence on the right to and the rights in education.*

How an act of bullying at school affects:	
The right to education	**Rights in education**
Substantially interferes with student's education, academic performance, ability to equally participate in or benefit from the services, activities, or privileges provided by a school; Disrupts or interferes with the school's educational mission of the education of any student; Forces a student to skip school. Forces a student to change school.	Infringes on the rights of the victimized students or employees at school in general; Causes substantially detrimental effect on physical or mental health of the student, inflicting physical hurt or psychological distress; Places pupil or pupils, school volunteer or school employee in reasonable fear of substantial harm to emotional or physical well-being (including fear of such harm due to certain individual qualities) or damage to property or causes actual said damage; Interferes with a student having a safe school environment; Substantially disrupts educational environment by creating intimidating, threatening, hostile, humiliating or abusive educational environment for one or more students, disrupts the orderly operation of the school. Substantially interferes with school employee's role in education.

3.1. On the right to education

It has been established that all outcomes affect the victimized learner directly and, thus, influences his or her subjective right to education and rights in education. As described in the previous part of this chapter, the graver the outcome the greater the affect on the actions of the victim. For example, the extent or fear of *bullying* can be so imminent and grave that the victimized learner may choose to withdraw from the process of compulsory education all together or by skipping school from time to time. The same affect may influence the ability of the learner to perform academically, to dislike school and to not be able to realize his or her right to education on equal conditions in relation to other learners. In other words, the right to education of such victimized learner shall be infringed, because education would not be fully accessible and/or equally enjoyable.

As provided by the General Comment on the Art.13 of the International Covenant on Economic, Social and Cultural Rights,[411] the principle of *accessibility* in education means that the schools and their educational programs have to be accessible to everyone in compliance with: 1) non-discrimination, 2) physical accessibility and 3) economical accessibility. It, thus, can be argued that *bullying* as an act of wrongdoing is relevant in regard to discrimination and physical accessibility of the school, because the victimized learners avoid school for longer or shorter periods of time. Another important factor that makes school less accessible to the victims of *bullying* is the need to change school and, thus, having to travel to a less reasonably convenient location[412]. The other victimized learners who choose to continue to attend school, nevertheless, may experience decline in their general interest in school, diminished ability to perform well at school and ability to realize their right to education to the full potential of their mental and physical abilities, a requirement also supported by the provisions related to education of the Convention on the Rights of the Child.[413]

3.2. On the rights in education

The principle of *acceptability* requires that education is in conformity with quality requirements as to form and substance of education, as well as minimum standards[414] of health, safety, and professional requirement of the teaching staff.[415] It is evident that the effects of the outcomes of *bullying* at school place the victimized community of the school in substantially inferior position in regard to requirements of the minimum standards.

First of all, as is provided in the second graph of Table 6, victimized learners affected health-wise by suffering from diminished mental or physical condition, physiological dis-

411 *General Comment No. 13, The right to education, supra note* 112, para.6(b);

412 The factors of 'safe physical reach' and ' reasonably convenient geographic location' also fall under the scrutiny of the principle of accessibility according to para.6(b) of the General Comment No. 13 on The right to education.

413 *Convention on the Rights of the Child, supra note* 105, Art. 3, 28 - 29;

414 *General Comment No. 13, The right to education, op.cit.,* para.6(c);

415 K.Tomaševski, *supra note* 113, p. 13;

tress. It is proven that acts of *bullying* sometimes translate into violent acts that cause bodily injuries (or are even fatal). The general emotional and psychological health condition may be at such a low that a victimized learner experiences high suicidal ideation or even commits suicide. These factors, together with the fact that victimized learners may feel constant fear in regard to their personal property, as well as general intimidation, be threatened, learn in a hostile, humiliating and abusive educational environment, support the argument that *bullying* interferes with the principle of *acceptability* in education, because it creates a generally unsafe educational environment for the victimized school community members.

It is also provided that *bullying* can result in interference with the school employee's role in education. This may be interpreted as a presumption that teachers (or school employees) in schools with high rates of prevalence of *bullying* are not able to fulfill their role in the educational process of the learners. Thus, it can be argued by questioning whether a nation state where prevalence of *bullying* at school is high is in compliance with the third aspect of the minimum standards of principle of *acceptability* – the professionalism of the teachers. The latter argument shall be discussed in further parts of the Thesis.

Therefore it can be concluded that, the legal definition of *bullying*, besides the classic elements of the definition of this phenomenon, represents a model that encompasses other relevant aspects of *bullying* in its relation to the right to education and rights in education, and that allow to recognize and evaluate the phenomenon of *bullying* beyond its negative effect in individual victimization, but take into consideration all that is at stake: i.e., the process, mission, purpose, duration of education per se, as well as its happenstance and locality in regard to what is generally perceived as education within the school territory.

CHAPTER TWO – RELEVANT LEGAL, INSTITUTIONAL AND POLICY FRAMEWORKS OF THE RIGHT TO EDUCATION ON INTERNATIONAL, REGIONAL AND NATIONAL LEVELS

Education has been closely linked to two legal regimes – the international, which defines education as a human right, and the individual domestic educational law regimes.[416] Based on extensive expert analysis, most of the international and the domestic law regulating the right to education define as both – compulsory and a right. Historically, the idea that all people should be educated is hardly new and it dates back to the mid 17th century and the establishment of the Prussian State, which led to eventual legalization of compulsory education by other modern states in the 19th century.[417] The right to education in the vast majority of world jurisdictions is recognized as a compulsory obligation,[418] as well as a constitutional right.[419] Thus, the right to education should be acknowledged by all jurisdictions as one of the oldest human rights to be recognized by the international law regime corresponding to the relevant governmental obligations.[420]

One of the principal theoretical goals of international human rights is to provide minimum standards for better protection of the rights of children, transforming social values and influencing conduct towards children on national levels.[421] The concept of each human right, including the right to education, constitutes a certain dual perception, when the rights are personified and duties and obligation to protect these rights are placed on the states as the main duty-bearers.[422] After restoration of independence the system of education and general welfare of the child in Lithuania was adapted according general provisions and principles of international legal norms and the expertise of European countries.[423]

---

416 Katarina Tomaševski, "Globalizing What: Education as s Human Right or as a Traded Service?," *Indiana Journal of Global Legal Studies*, Volume 12, Issue 1 (2005):1;

417 Fernando Reimers, "Educational Chances of the Poor at the End of the Twentieth Century," *Prospects* Volume 29, Issue 4 (1999-12): 481;

418 According to the research based on governmental reports – education is compulsory by law in 131 out of the 156 reporting countries. Angela Melchiorre, "At What Age?... Are School Children Married, Employed, and Taken to Court?," (2004) // http://unesdoc.unesco.org/images/0014/001427/142738e.pdf (accessed July 11, 2016);

419 Research of the legal framework by the Special Rapporteur on the right to education Katarina Tomasevski shows that the right to education is enshrined in the constitutions of 142 countries. UN Economic and Social Council, "ECONOMIC, SOCIAL AND CULTURAL RIGHTS. Annual report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 2000/9. UN Doc. E/CN.4/2001/52," (January, 2001) // https://documents-dds-ny.un.org/doc/UNDOC/GEN/G01/101/77/PDF/G0110177.pdf?OpenElement (accessed July 11, 2016);

420 Katarina Tomaševski, *op. cit.*, p. 2;

421 Geraldine Van Bueren, *supra note* 107, 151;

422 Birutė Pranevičienė, Aurelija Pūraitė, *supra note* 410, p. 133;

423 Živilė Jonynienė, „Vaiko teisių įgyvendinimas: mokyklos demokratėjimo rdiklis," *Socialinis darbas: mokslo darbai* 8(2) (2009):52;

Therefore, institutional analysis of international, regional and national institutional systems in regard to protection and implementation of the right to education is relevant.

This chapter presents a brief, but focused analysis of international and regional legal, institutional and policy frameworks in regard to the right to education and rights in education. The analysis is carried out in order to set a framework for further analysis in regard to states' duties, responsibilities and accountability related to protection and proper implementation of the right to education when such rights are infringed by the phenomenon of *bullying* at school. As disclosed in the previous chapter of the Thesis, *bullying* has a negative effect on the rights f the learners during the process of compulsory education, prevents children from realizing their right to education to their fullest potential, conflicts with the main international principles of education.

The right to education is recognized as an inalienable universal right by international and regional legal acts, such as – conventions, covenants, charters, as well as provisions of soft law, such as – recommendations, declarations, strategies, policies and frameworks for actions, etc.. Overall, the international legal framework, along with the regional, European-wide education law and policy makers, has created certain "common constitutional principles"[424]. The harmonized "translation" of these principles 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[425] in the field of education.

As presented in the introductory chapter on the Thesis, *bullying* has been an extremely prevalent phenomenon within the system of compulsory education in Lithuania. In addition, majority of research on the issue has been carried out by the researchers of the extralegal fields. Therefore, the main part of this chapter focuses on the whole system of compulsory education in Lithuania which is analyzed in regard to various aspects of the phenomenon of *bullying* at school. The system of education in its relation to the phenomenon of *bullying* presented *vis-à-vis* analysis of legal acts that ensure protection and implementation of the right to compulsory education.

1. INTERNATIONAL FRAMEWORK

1.1. International human rights law and children's right to education

International human rights instruments make education *per se* not only a right, but also a responsibility for the child, the child's parents (or guardians) and, of course, the states. For example, 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 not only on the state (in

424 Charles L. Glen and Jan De Groof, *supra note* 106, p. V;

425 Birutė Pranevičienė and Agnė Margevičiūtė, "Challenges to the Implementation of Institutional Reform in the Lithuanian General Education System," *Baltic Journal of Law & Politics* Volume 8, Issue 1 (October 2015):114;

providing proper system of compulsory education), but also on parents to ensure that their children are both enrolled at and attend school.[426]

The most important guidelines for the content of the right to education, provided in the International Covenant on Economic, Social and Cultural Rights (1966)[427], and then reaffirmed in almost all treaties or other international documents, related to human rights, are qualitative measures and the specified obligations of the states in respect of this right,[428] which consist of four "A's" – availability, accessibility, acceptability and adaptability.[429]

The Universal Declaration of Human Rights was the first international document that recognized the right to education based on principle of universality (i.e., to all people) and full development of human personality.[430] The Declaration, without distinction (for example, in regard to age or status), also recognized the right of learners to receive elementary and fundamental education free of charge, by imposing a positive duty for the state to provide such an education, as well as obligation on the learner by making elementary education compulsory.[431]

The Convention against Discrimination in Education was adopted (without reservations) with the aim to reaffirm the principle of non-discrimination enshrined in the Universal Declaration of Human Rights, and to promote the principles of equal opportunity and treatment for all in education.[432] The latter document also referred to such imperative principles of education as – accessibility, equal standards, learning environment compatible with the right of dignity, as well as full development of human personality.[433] The aspect of non-discrimination in education as a social is also affirmed in the International Covenant on the Elimination of all forms of Racial Discrimination.[434]

It can be argued that The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the first international legal acts that addressed the right to education in more detail and in relation to all levels of education. This presented a shift from relatively broad aims and values attached to the right of education that were prescribed by the pervious acts.[435] Out of the two articles that are devoted to the right to education within the ICESCR Article 13 is considered the most wide-ranging and comprehensive article on

426 Sally Varnha, Joan Squelch, Education and the Law, Vol. 20, No. 3, September 2008, 193 – 208; p. 193; ISSN 0953-9964 print / ISSN 1469 – 5774 online;

427 *International Covenant on Economic, Social and Cultural Rights, supra note* 383 (accessed November 20, 2016);

428 Birutė Pranevičienė, Aurelija Pūraitė, *supra note* 410, p. 135;

429 The concept of these four "A's" was developed by the former UN Special Rapporteur on the Right to Education, Katarina Tomaševski, *supra note* 113;

430 *Universal Declaration of Human Rights, supra note* 75, Art.26(1)(2);

431 *Ibid.,* Art.26(1);

432 *Convention Against Discrimination in Education, supra note* 382 (accessed 2 December 2016); Preamble;

433 *Ibid*, Art. 1(1), Art. 5(1)(a);

434 UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, // http://www.refworld.org/docid/3ae6b3940.html (accessed 2 December 2016); Art. 5(e)(v);

435 Neville Harris, *Education, Law and Diversity,* (Hart Publishing, Oxford and Portland, Oregon: 2007), p.57;

the right to education in international human rights law.[436] The ICESCR was instrumental in providing the universally recognized principles of *availability, accessibility, acceptability* and *adaptability* in compulsory education.[437] Each of the principles places concrete requirements of conformity with the standards of compulsory education that were enshrined within each of the principles. For example, state is required to provide a sufficient quantity of functioning educational institutions and programs (*availability*), which are to be made accessible to all without discrimination in regard any of its grounds, physical and economic accessibility (*accessibility*), be appropriate in regard to their quality (*acceptability*), and flexible in regard to the changing societal needs (*adaptability*).[438]

The children's right to education (among other rights) is explicitly recognized and furthered within the context of the Convention on the Rights of the Child (CRC). The CRC to this day remains the most highly ratified international human rights treaty[439] that has 195 states members and 2 signatories[440] – an impressive 97,8% ratification rate among all recognized nation states worldwide, making the latter Convention an accepted authority, together with other core international human rights treaties on civil, political, economic, social, cultural rights, racial discrimination, women, and torture.[441] The international community will soon be marking the 30th anniversary of the Convention on the Rights of the Child – a landmark international instrument that has duly recognized the importance of making the rights, including the right to education, of the child universally recognized and protected. The legal consequences on regional and national levels of member states and signatories, the institutional, organizational effort and momentum that this universal instrument of international human rights law generated has immensely added to the betterment of the status of the child worldwide and the truly positive effect of it resonates in the lives of children daily worldwide, though, as is evident, hardly to the same individual extent.

Adoption of the CRC extended the principle of universality of the right to education beyond primary education by prescribing that secondary education is to be 'available and accessible to every child'[442] as opposed to, for example, 'to all' as provided by the previously discussed international legal documents. The CRC is also more explicit in its requirement for the state to ensure access to education by taking 'appropriate measures,' such as 'introduction of free education' and 'offering financial assistance' if needed.[443] The same Convention also introduces an imperative requirement that 'the best interest of the child' be of 'primary consideration' 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.'[444]

---

436 *General Comment No. 13, The right to education, supra note* 112, Art.2;

437 *International Covenant on Economic, Social and Cultural Rights, supra note* 383 (accessed November 20, 2016); Art. 13;

438 *General Comment No. 13, The right to education, op.cit.,* Art.6;

439 Aisling Parkes, *supra note* 125, in foreword;

440 United Nations, "Interactive dashboard," (September, 2015) // http://indicators.ohchr.org/ (accessed September 17, 2015);

441 Jack Donnelly, *supra note* 108, p.288;

442 *Convention on the Rights of the Child, supra note* 105, Art.28(1);

443 *Ibid.*, Art.28(1);

444 *Ibid.,* Art.3(1);

There are other international legal acts that focus on the protection of the rights (including the right to education) of particular societal groups. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) protects the right to education of women based on the principle of equal opportunity for men and women, by ensuring equality of conditions and curricula and in pre-school, general, and other forms of education, elimination of stereotypes in regard to the roles of men and women at all levels and in all forms of education.[445] The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families explicitly protects the right to education of each child of a migrant worker by ensuring 'the basic right of access to education on the basis of equality of treatment with nationals.'[446] The Convention on the Rights of Persons with Disabilities (CRPD) also explicitly refers to the right of education of children with disabilities by obligating the states to ensure that such children are not excluded from free and compulsory primary education, or from secondary education, on the basis of their disability.[447] The latter convention protects the right to education of all persons with disability based on the principles of non-discrimination and equal opportunity. Article 24 of the said convention furthers the principles of 4A's of education of person with disabilities by requiring that the states ensure their access to an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live (both principles of *availability* and *accessibility*), 'take appropriate measures to employ teachers, including teachers with disabilities … at all levels of education' who are qualified to work with specific needs of the disabled persons professionals[448] (*acceptability*).

Another instrumental aspect of the international human rights law is the mandatory reporting mechanism enshrined within its framework. Based on the provisions of any treaty, the state parties are obligated to submit comprehensive reports the treaty body[449] of the

445 UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, // http://www.refworld.org/docid/3ae6b3970.html (accessed 3 December 2016); Art.10;

446 UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,* 18 December 1990, A/RES/45/158 // http://www.refworld.org/docid/3ae6b3980.html (accessed 3 December 2016); Art. 30;

447 UN General Assembly, *supra note* 97. Art.24(2)(a);

448 *Ibid.,* Art.24;

449 In relevance of the treaties discussed in relation to the right to education the following 'treaty bodies' oversee their implementation:
Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the International Covenant on Economic, Social and Cultural Rights of 1966;
Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965;
Committee on the Elimination of Discrimination against Women (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and its optional protocol;
Committee on the Rights of the Child (CRC) monitors implementation of the Convention on the Rights of the Child of 1989 and its optional protocols;
Committee on Migrant Workers (CMW) monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990;
Committee on the Rights of Persons with Disabilities (CRPD) monitors implementation of the International Convention on the Rights of Persons with Disabilities of 2006;

particular treaty. For example, under the provisions of CRC a state party to the Convention is obligated to submit a sufficient and comprehensive report (first report is submitted two years after the treaty enters into force, and every five years thereinafter, as well as anytime on request of the treaty body), on the implementation of the provisions of the CRC to the Committee on the Rights of the Child, which should include reporting on adopted measures, progress, assess factors and difficulties affecting the fulfillment of obligations under the treaty.[450] Similar reporting mechanisms apply to other international treaties discussed above. The reporting mechanism allows assessing the progress of a state in adopting appropriate measures in fulfilling its obligations and duties under the treaty, as well as its general compliance with the set norms of the international human rights. The mechanism is instrumental in pointing out the shortcomings of any national jurisdiction that fails to comply with its obligations.

1.2. Secondary sources of international human rights law in regard to bullying

Secondary 'soft law' of international human rights in form of declarations, policies, plans of actions, general comments is one of the instruments that further elaborate on the content and general direction of the internationals legal acts. It is evident that adoption of the 'soft law' constitutes a non-legally binding commitment of political nature that gives rise to only political accountability.[451] However, it has been observed that even such political agreements have proven to be effective in resolving problem in regard to issues of international human rights law.[452] The particular 'soft' form of international law has been instrumental in raising the issue of *bullying* at school to the attention of the international community.

Particular reference in regard to the issue of *bullying* should be made to the 'general comments' (or 'recommendations') as interpretations of the provisions of respective acts of international human rights law by the treaty bodies. It is evident that the phenomenon of *bullying per se* is not explicitly referred to in any of the treaties of the international human rights law. The issue of this negative phenomenon has, as a rule, in the legal field been submerged within the broader issue of violence against children. However, the Committee on the Rights of the Child – the treaty body of the CRC, issued its first General Comment No. 1 on the Aims of Education as provided by Article 29(1) of the CRC, elaborating on significance, functions, human rights education, implementation, monitoring and review of the latter article.[453] The phenomenon of *bullying* at school is explicitly referred to within the context of school environment and its conformity with Article 29(1). Article 19 of the

450 *Convention on the Rights of the Child, supra note* 105, Art. 44(1);

451 Kal Raustiala, "Form and Substance in International Agreements," *The American Journal of International Law* Vol. 99, No. 3 (July, 2005):587;

452 Dinah L. Shelton in Handbook of International Law (Routledge Press), "Soft Law" (2008) // http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty_publications (accessed December 3, 2016);

453 UN Committee on the Rights of the Child (CRC), *supra note* 262, Art. 1-28;

General Comment provides that 'the school environment itself must reflect … peace, tolerance …' and that 'a school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1).'[454] This not only recognizes the notion of *bullying* at school *per se*, but makes reference to a duty of the school to ensure a peaceful, tolerant *bullying-free* school environment.

Another explicit reference to *bullying* at school is made in the General Comment No. 4 by the Committee on the Rights of the Child in relation adolescent health and development as provided by articles 2-6, 12-17, 24, 28, 29 and 31 of the CRC.[455] The Committee in its Comment reaffirms that the surrounding environment is one of the main determinants in the health and development of adolescents, and further explicitly refers to *bullying* in and outside of school as one of the factors contributing to the detrimental effects of the phenomenon to the health and development of the child.[456]

In General Comment No. 9 on the Rights of Children with Disabilities by the same Committee, school *bullying* is referred to as a particular form of violence which is more often than not targeted at children with disabilities. Within the General Comment the Committee urges both the state and the schools to take appropriate measures in combating the phenomenon of *bullying* at school especially in regard to protection of children with disabilities.[457]

Bullying is also referred to within the context of the right of the child to be heard which is interpreted in regard to different settings and situations in the General Comment No. 12 on the CRC.[458] In this General Comment the Committee notes that violence in schools and classrooms creates a non conductive setting for a child to express his or her views. It is pointed out by the Committee that the due weight is to be given these views, because 'respect for right of the child to be heard within education is fundamental to the realization of the right to education,' and particularly important in prevention of *bullying.*[459]

General Comment No. 13 on the right of the child to freedom from all forms of violence of the CRC – explicitly recognizes *bullying* and *cyber bullying* as forms of mental and physical violence,[460] 'exerted by children against other children, frequently by groups of children, which not only harms a child's physical and psychological integrity and well-being.'[461] The wording of the General Comment refers to the lack of ineffective means of implementation by authorities at all levels (of the state signatory) for the protection of children from all forms of violence in the context of institutions and systematic violations of the said rights of the child.[462] Furthermore, the Comment is instrumental in regard to explaining the interpretation of notions such as "shall take" or "all appropriate measures"

454 UN Committee on the Rights of the Child (CRC), *supra note* 262, Art. 19;

455 *Convention on the Rights of the Child, supra note* 105, Art. 2-6, 12-17, 24, 28, 29 and 31

456 *General comment No. 4 (2003), supra note* 273, Art. 14, 22;

457 *General comment No. 9 (2006), supra note* 274, Art. 42, 43;

458 UN Committee on the Rights of the Child (CRC), *General comment No. 12 (2007), The right of the child to be heard*, 20 July 2009, CRC/C/GC/12; Art. 105,

459 *General comment No. 12 (2007), The right of the child to be heard, supra note* 458; Art. 109;

460 UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011), The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13; para. 21, 22;

461 *Ibid., para.* 27;

462 *Ibid., para.* 32;

in implementing and protecting the right from all forma of violence sunder the CRC. The Committee affirms that the notion of "shall take" represents a strict obligation and does not contain leeway or discretion on the side of the state party.[463] "All measures" are referred to as 'broad range of measures cutting across all sectors of Government' which must be used effectively, also referring to the necessity to integrate 'isolated programs and activities' 'into sustainable and coordinated government policy and infrastructure' to diminish limited effect of such isolated measures.[464]

Following the provisions of the General Comment No. 13, the Committee on the Rights of the Child adopted General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration as provided in Article 3(1)[465] of the CRC. It is provided by the Committee that 'assessment of the child's best interests must also include consideration of the child's safety, … the right of the child to protection against all forms of physical or mental violence,' including sexual harassment, peer pressure, bullying, degrading treatment, etc.[466] The latter interpretation concludes that the notion of safe environment may also be referred to as a *bullying* free school environment when insuring the best interest of the child. General Comment No. 16 explicitly refers to *bullying* (among other) as 'a major impediment' to the proper realization of the rights of children under article 31 of the CRC[467] and calls the states parties to 'take all necessary measures to protect children from such acts'.[468]

And, finally, Resolution adopted by the General Assembly points out *bullying* as an issue of violence and abuse at school, thus, urging the states to take measures, such as establishing complaint mechanisms (among others).[469] Therefore, it can be concluded that provisions of the secondary norms of the international human rights law on the international level include *bullying* within the framework of the rights of children under the CRC, and are instrumental in providing interpretation of the relevant rights, states' duties and obligations as well as possible measures applicable on the national level.

2. REGIONAL FRAMEWORK

The international legal framework and regional integration of the principles of human rights law on the European level have triggered irreversible, goal oriented processes of '*harmonization*' in regard to the right to education.[470] The right to education in regard to the

463 *General comment No. 13 (2011), The right of the child to freedom from all forms of violence, supra note 460, para.* 37;

464 *Ibid., para.* 39;

465 *Convention on the Rights of the Child, supra note* 105, Art. 3(1);

466 *General comment No. 14 (2013), The right of the child to freedom from all forms of violence, supra note* 279, para.73;

467 *Convention on the Rights of the Child, op. cit.,* Art. 31;

468 UN Committee on the Rights of the Child (CRC), *General comment No. 17 (2013)* on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), 17 April 2013, CRC/C/GC/17; para.73;

469 *General Assembly, supra note* 263, Sec. II, Art.15(d);

470 Charles L.Glen, Jan De Groof, *supa note* 106, p.V;

integration in the region of Europe is recognized by regional instruments of international human rights law, both primary and secondary, as well as within the framework of two European institutions – the Council of Europe and the European Union.

2.1. Council of Europe

European Convention for the Protection of Human Rights and Fundamental Freedoms, currently referred to as the European Convention on Human Rights (ECHR), did not explicitly recognize the right to education.[471] The said right was recognized in Article 2 of its Protocol No. 1 by obligating the states signatories to generally not deny such right to anyone (without any distinction) and respect the right of parents to choose the education according to their religious or philosophical convictions.[472] While there is no monitoring mechanism in place to oversee the compliance of the states in regard to their obligation under the ECHR, the complaint mechanism enshrined within the framework of the said Convention[473] allows wide interpretation by the European Court of Human Rights (ECtHR) in regard to states' compliance under Article 2 of the Protocol No. 1 of the ECHR.

Furthermore, the Council of Europe in order to safeguard the wide range of economic, social and cultural rights (including the right to education, among others) based on the principle basic social rights, adopted the European Social Charter (ESC). Initially, the ESC explicitly referred to the protection of the right to compulsory education of children and young persons in regard to their employment by requiring that it would not deprive them of the full benefit of their education.[474] After its revision in 1996, the ESC adopted additional provisions in regard to safeguarding the right to education of disabled persons[475] and guaranteeing the right to free primary and secondary education to children and young persons.[476] In 1995 the Council of Europe adopted additional Protocol to the ESC that established a collective complaints procedure *vis-à-vis* the European Committee on Social Rights (ECSR, which is also the monitoring body for the ESC) with the aim to achieve a more effective enforcement of the provisions of the ESC.[477]

The Council of Europe also adopted other legal acts in regard to protection of the right to education of specific groups, such as national minorities and migrants. The Framework

471 *Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos.* 11 and 14, 4 November 1950, ETS 5 // http://www.refworld.org/docid/3ae6b3b04.html (accessed 4 December 2016);

472 Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9 // http://www.refworld.org/docid/3ae6b38317.html (accessed 4 December 2016); Art. 2;

473 *European Convention for the Protection of Human Rights and Fundamental Freedoms, supra note* 471, Art. 19;

474 Council of Europe, *European Social Charter*, 18 October 1961, ETS 35 // http://www.refworld.org/docid/3ae6b3784.html (accessed 5 December 2016); Art. 7(1);

475 *Ibid.,* Art. 15(1);

476 *Ibid.,* Art. 17(2);

477 Council of Europe, *Additional Protocol to the European Social Charter providing for a System of Collective Complaints,* 9 November 1995, ETS 158 // http://www.refworld.org/docid/3ae6b37e0.html (accessed 5 December 2016);

Convention for the Protection of National Minorities obligates the states parties to ensure equal opportunities to access education at all levels to persons belonging to national minorities, [478] as well as grant them the right of establishment of private educational institutions.[479] The European Convention on the Legal Status of Migrant Workers, similarly, guarantees the right of admittance to general education of migrant workers and members of their families in the same basis and conditions as national workers.[480]

Analysis of the acts of the 'soft law' (recommendations, strategies, etc.) adopted by the Council of Europe shows that secondary legal acts on the regional level take into account various issues of violence among and against children, thus recognize *bullying* as a particular form of violence.[481] The Parliamentary Assembly based on a concern of continuous acts of violence in school across Europe (*bullying* explicitly mentioned as one of them) adopted a Resolution proposing principles of guidance to national authorities in regard to adopting particular legal framework and administrative practices (nationally and on a school level).[482]

In 2004 the Council of Europe launched an initiative of the Charter for Democratic School without Violence, which was drafted by student delegates and adopted *vis-à-vis* an electronic referendum where students from 20 countries[483] (and 84 schools) participated.[484] It was recommended that the Charter be used by schools in Europe as model to build school democracy without violence based on fundamental values and principles of human rights. Within its content the Charter recognized the right of learners to the safe environment, promotes a non-violent approach to conflict resolution, requires that every school have trained students and staff who are able to prevent violent situations through counseling and mediation, and that cases of violence be investigated in time effective manner.[485]

---

478 Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157 // http://www.refworld.org/docid/3ae6b36210.html (accessed 5 December 2016); Art. 12(3);

479 *Ibid.,* Art. 13(1);

480 Council of Europe, *European Convention on the Legal Status of Migrant Workers*, 24 November 1977, ETS 93 // http://www.refworld.org/docid/3ae6b388c.html (accessed 5 December 2016);Art. 14(1);

481 Council of Europe, *Recommendation of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education,* May 11, 2010, CM/Rec(2010)7; Art. 13;

482 *Council of Europe, Parliamentary Assembly Resolution Education against Violence at School* No.1830 (2011); Art. 17;

483 Bulgaria (5 schools), Croatia (26 schools), Cyprus (6 shools), Finland (1 school), Germany (4 schools), Greece (1 school), Hungary (3 schools), Iceland (1 school), Ireland (1 school), Italy (1 school), Lithuania (2 schools), Malta (5 schools), Poland (7 schools), Portugal (5 schools), Russia (1 school), Serbia and Montenegro (2 schools), Spain (4 schools), Ukraine (7 schools), United Kingdom (1 school), Switzerland (1 school),

484 Site officiel de l'Etat de Genève, "Charte Européenne pour une école démocratique sans violence," (October, 2004) // http://www.geneve.ch/coe/ (accessed December 7, 2016);

485 June Kane, "Violence and school," *Daphne Booklets: Issues and experiences in combating violence against children, young people and women* (August 2008):11;

Among other instruments of the 'soft law' on the regional level, the Council of Europe has adopted several regional strategies[486] that have been serving as series of policy cycles in regard to the rights of the child, which, among other aspects, address the issues related to the right to education and issues of violence in education. [487] The Monaco strategy of 2012 – 2015 was the first of the strategies that explicitly recognized *bullying* as form of violence against children[488] and violence in schools and pre-schools as one of the specific types of violence where *bullying* is specifically referred to as a practice violating the healthy psychosocial and physical school environment.[489] The most recent Strategy for the Rights of the Child was adopted in 2016 for the period of 2016 – 2021, where *bullying* in school (along with specifically cyber-bullying, homophobic bullying, and radicalization related violence) is recognized as a specific form of violence in schools.[490] The latter norms of secondary law, though not binding, are purposeful in mainstreaming the rights of the child and issues related to their proper protection and implementation by suggesting development of legislation, policies, systems, both on national state level and internal school level in addressing such issues as continuous violence at schools in form of *bullying,* among others.

2.2. European Union

The main human rights body of the European Union (EU) the Charter of Fundamental Rights of the European Union[491] recognizes the right to education for everyone, which includes a possibility to receive free compulsory education, freedom of establishment, and freedom of parental choice of education in conformity with their convictions. The Charter of Fundamental Rights of the Europe Union mirrors the principle of universality of the right to education provided by the UDHR and ECHR. The Treaty of Lisbon grants the competence to the Union within the institutional framework of the EU to carry out actions, support, coordinate, supplement the actions of member states at European level in the field of education (among others).[492]

The institutional structure of the EU is probably one of the most complex supranational institutional structures in the world. Yet analysis of the efforts of the relevant institutional bodies on the EU level provided leads in regard to the issue of *bullying.* A general observation is to be made that the latter issue is approached similarly as on the

486 The Council of Europe launched the program of "Building a Europe for and with Children" in 2006. This program is also referred to as a policy cycle followed by the three consecutive Strategies: the Stockholm Strategy for the years 2009-2011, the Monaco Strategy for the years 2012-2016, and the Strategy for the Rights of the Child for the years 2016-2021.

487 Council of Europe, *supra note* 285 (accessed September 12, 2016);

488 Council of Europe, *supra note* 286 (accessed September 12, 2016); p.11;

489 *Ibid.* (accessed September 12, 2016); p.13;

490 Council of Europe, *supra note* 288 (accessed September 14, 2016); p.16;

491 European Union, *Charter of Fundamental Rights of the European Union,* 26 October 2012, 2012/C 326/02 // http://www.refworld.org/docid/3ae6b3b70.html (accessed 5 December 2016); Art. 14;

492 European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community,* 13 December 2007, 2007/C 306/01 // http://www.refworld.org/docid/476258d32.html (accessed 5 December 2016); Art. 2E(e);

international and regional level of the Council of Europe, i.e., *bullying* as the safety concern in the life of children is submerged within the greater context of violence against children. Nevertheless, some explicit references are made.

The European Commission adopted a Communication "Toward an EU Strategy on the Rights of the Child" in 2006. The Strategy was aimed at safeguarding children's rights within the context of internal and external EU policies, as well as supporting EU member states in protecting the rights of children, with concern that the rights of children are in risk of being 'subsumed into wider efforts to mainstream human rights in general.'[493] The Strategy refers to the right to education as a right which has 'an exclusive' and 'particular application to children,' as well as recognizes the increasing concern in relation to violence against children at schools in EU.[494]

The EU adopted Guidelines for the Promotion and Protection of the Rights of the Child in 2007. The Guidelines recognize violence against children as a cross-cutting widespread violation of the rights of children that compromises their development.[495] In 2011 the European Commission adopted an EU Agenda for the Rights of the Child, which was adopted in support of the provisions of the Treaty on the European Union to promote social justice and protect the rights of the child,[496] and the Charter of the Fundamental Rights of the European Union in recognizing the best interest of the child.[497]

In addition to the provision of the 'soft law' the European Commission established the European Forum on the Rights of the Child following the adoption of the above mention Communication by the Commission toward an EU Strategy on the Rights of the Child.[498] The Forum meets annually (with exception of 2014) and address various aspects of children's rights and their protection systems, provide input on how the national child protection systems can benefit from the structure of EU in regard to solving the issues brought forward by each of the Forums.[499] Taking into consideration the issues of violence and *bullying* at school – Forums 7 and 8 provide relevance thereto. The 7th European Forum on the Rights of the Child was focused on the child protection systems and addressed issues of violence, abuse, neglect and exploitation in general regard to the right of the child to be protected from harm, pointing out the holistic approach towards protection of the rights of

493 Communication of the Commission of the European Communities (COM(2006) 367 final), "Toward an EU Strategy on the Rights of the Child," (July, 2006) // http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0367:FIN:en:PDF (accessed December 7, 2016);

494 *Ibid.*, Art. I.2.; Art. I.4.2.;

495 European Council, "EU Guidelines for the Promotion and Protection of the Rights of the Child," (December, 2007) // http://www.consilium.europa.eu/uedocs/cmsupload/16031.07.pdf (accessed December 7, 2016);

496 European Union, *Consolidated version of the Treaty on European Union*, 13 December 2007, 2008/C 115/01 // http://www.refworld.org/docid/4b179f222.html (accessed 5 December 2016); Art. 3(3);

497 *Charter of Fundamental Rights of the European Union, supra note* 498, Art. 24;

498 The European Forum on the Rights of the Child brings together representatives of member states, the European Parliament, The Committee of Regions, the European Economic and Social Committee, the Council of Europe, UNICEF, national observers on childhood, Ombudspersons for children, and other stakeholders.

499 So far there have been 10 meetings of the European Forum on the Rights of the Child, last took place in Brussels I November , 2016.

the child.[500] The discussion launched in this Forum provided basis for the direction of the following 8th Forum on the Rights of the Child which continued its focus on the practical side of integrated and coordinated cross-policy approach on the on the child protection systems.[501] Session 3 of the 8th Forum specifically addressed the issues of *bullying* and *cyber bullying*. The Background paper for the latter Session includes the definition of *bullying* (also discussed in previous chapter), makes references to international legal acts such as the UNCRC and the General Comment No. 1 to the CRC (also discussed in the previous part of this chapter) by referring to *bullying* as a form of violence against children violating provisions of the international human rights law, as well as by explicitly referring to *cyber bullying* as an increasing form of *bullying*.[502]

All of the documents of the EU 'soft law' discusses above address the issue of the right to education burdened by the issue of unsafe environments, as well as pint out the general trend of increased violence at schools across the EU, with some specific references to *bullying* and *cyber bullying* as extremely prevalent forms of violence. The instrumentality of these provisions is significant, because they are supported on extensive research of the legal background of the issues at stake, consultation input by the experts of the fields, integrated cross-policy approach that member states can apply within their national jurisdictions on many levels, such as governmental, municipal, school or individual parent level.

3. NATIONAL LEGAL, INSTITUTIONAL AND POLICY FRAMEWORK OF GENERAL EDUCATION IN LITHUANIA

The following section analyses the national legal and institutional framework of compulsory education in Lithuania. The system of general education (compulsory education including) of Lithuania, its legal regulation are analyzed due to the fact that prevalence of being bullied and bullying others at school remains relatively high (and increasing), and Lithuania, as a state on an international context, continues to prevail among numbers of bullying cases a school. The approach applied in the analysis is based on any relevant legal and institutions aspects of the system in regard to the phenomenon of *bullying* during the process of general education.

The prevalence of *bullying* in schools of Lithuania is apparent and backed by analysis of relevant statistical data and description of factual situation in previous chapters. Despite the efforts on international, regional, national, local, state and non-governmental levels,

500 7th European Forum on the Rights of the Child, "Supporting Child Protection Systems Through the Implementation of the EU Agenda for the Rights of the Child," (November, 2012) // http://ec.europa.eu/justice/fundamental-rights/files/general_background_paper_en.pdf (accessed December 7, 2016);

501 8th European Forum on the Rights of the Child, "Towards integrated child protection systems through the implementation of the EU Agenda for the rights of the child. General background paper." (December, 2013) // http://ec.europa.eu/justice/fundamental-rights/files/8th_forum_general_background_paper_en.pdf (accessed December 7, 2016);

502 8th European Forum on the Rights of the Child, "The role of child protection systems in protecting children from bullying and cyber bullying. Background paper for session 3," (December, 2013) // http://ec.europa.eu/justice/.../8th_forum_session3_bullying_and_cyberbullying_en.pdf (accessed December 7, 2016);

the negative habit is hard to break, and Lithuania in comparison to other states world-wide continues to lead the statistical charts as a country where *bullying* at school has been most prevalent for over twenty years.

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.[503] 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,"[504] 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.[505]

The system of education of Lithuania, in a general sense, is a large mechanism, encompassing education of learners of many age groups, learning levels, forms and ways of how the process of education is organized. However, the focus of the Thesis is the issue of bullying of and among children during compulsory education, thus, it is necessary to narrow the field of research to only the parts of the system of general education that are relevant to the issue at stake.

Firstly, the system of education is analyzed in the context of the right to education as a right and as an obligation. This means that criteria of the imperative choice, obligation and age are relevant. Thus, the system of education is presented strictly through the notion of compulsory education (choice – imperative, obligatory until the age of 16). The latter, therefore, presents the actual analysis of the system of compulsory education.

Secondly, the system of education is reviewed in the context of the right to integrity *vis-à-vis* the criteria of choice (non-imperative) and age (similar limit than that of compulsory education), minus the obligation. This means that the scope of analysis goes beyond the system of compulsory education. In addition other relevant forms of education are analyzed based on the findings of the legal analysis. The analysis is based on the rationale that particular forms of education, though not considered formal (therefore, not compulsory), are in fact formally validated as the component parts of the educational system that the learners, besides attending compulsory education, take active part in. Due to active participation in other forms of education that are formally intended for the non-formal education of the minors, the learners might be susceptible to the phenomenon of *bullying* because they may become subjects or objects of *bullying*.

Thirdly, the issue of bullying as a threat to the integrity of its objects is analyzed within the context of the process of compulsory education as part of the general education. The analysis of the ways of how the process of education is organized, discloses that there are several formally validated ways of how a minor can acquire his or her formal education. The purpose of such analysis is to deviate from the general presumption that compulsory education is only limited to its traditional form and process (for example, the traditional perception of com-

503 Birutė Pranevičienė and Agnė Margevičiūtė, *supra note* 425, p. 113;

504 *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.

505 Katerina Tomaševski, *supra note* 113, p.10;

pulsory education being that of education in a group provided and acquired by way of daily attendance five days a week), and to disclose all other formally available forms and ways of education where children are involved by choice or obligation to acquire education and their rights might be violated. Or, on the other hand, what forms and ways of education might be underutilized in order to make the system of education less susceptible to bullying.

3.1. Forms, ways and programs of compulsory education

In 2012, the Minister of Education and Science adopted and order regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education (which replaced the old Order on Self-Education[506]) which, for the first time consolidated all legal provisions and provided consistent regulatory provisions regarding all available forms of formal education (except higher education, since latter was regulated by separate legal acts) in one post-legal act, which remains current and is relevant in the context of the Thesis. The legal act is called the Description of the Forms of Education According to the Programs of Formal Education (Except Programs of Higher Education) and the Order of Organization of Education and was adopted by the Order of the Minister of Education and Science[507] (further referred to as the Description for the purposes of this Chapter). Thorough analysis of the Description allows forming a very clear structural view of what forms of 'traditional' and 'alternative' schooling are available and relevant during the process of compulsory education, and what structural parts the latter process consists of in light of its forms. The Description differentiates between the notions of the *forms*, *ways of organization* and *programs* of education, and their regulation.

Table 7: *Structure of the process of education in the context of different forms and ways of acquiring compulsory education.*

Forms of education	Ways of organization of the process of education	Programs of education
GROUP	Daily	Primary, main, secondary
	Extramural	Non-relevant[508]
	Distance	Primary, main, secondary
SOLITARY		Primary, main, secondary (all or selected subjects or their modules)
	Self-education	Primary, main, secondary (all or selected subjects or their modules)
	Individual	Non-relevant[509]

506 *Order of Amendment of the Order on Self-Education*; Official Gazette (2007, No. 95-3860);

507 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education;* Official Gazette (2012, No.: 76-3957);

508 Irrelevant to the Thesis, because is applicable to the process of adult education.

509 Individual way of education is related to a specialized education in fields of, for example, music, art, fine arts, sports, etc., due to special needs in educational process because of exceptional capabilities of the student in any particular field of education mentioned above, and is usually selected by choice of the student or his or her parents.

It is provided that there are two actual **forms** of acquiring education according to the programs of general education (including primary, main and general education) – *group* and *solitary*. Group education is organized by ways of daily, extramural and distance learning, while solitary form of education by ways of distance, self and individual education.[510] While there are other ways of extramural and individual learning, only the above mentioned ways of forms of general education shall be analyzed in the context of the Thesis, since they are directly related to compulsory education.

Table 7, which is based on the Description of the Forms of Education and the Order of Organization of Education, lays out a concise structure of this chapter of the Thesis, because it summarizes the ways the process of general education is organized, i.e., through process we may be able to identify the way of how an individual is able to exercise and realize his or her right to compulsory education. Thus, through eliminating the ways that are non-relevant to the topic of the Thesis, only relevant forms of education and processes of its education are further researched in light of the issue of bullying.

It is relevant to elaborate on both forms of education – group and solitary. For example, primary, main and secondary programs of education (all or parts of which are considered as compulsory education) are organized by way of *daily* and in form of *group* education. Such way of organization of the educational process, by definition, is described as regular and consistent process of education that is provided daily five times a week,[511] and is considered the 'traditional' form of how school age children acquire compulsory education in Lithuania.

However, it is also provided that *group* education can also be organized by way of *distance* learning, when children in different locations are connected into one class or group and are educated consistently and regularly (5 times a week) via information technologies. Solitary form of education refers to the process of education when children acquire their compulsory education outside of the traditional school setting by ways of *self-education* or *distance learning*, and is also considered as an alternative form of education generally applied only in exceptional cases.

It can be concluded that not only the 'traditional' form and way of educational process, but other 'alternative' ways are also relevant, because they are also applied as legally vested ways of acquiring compulsory education. Thus, the system of education in Lithuania shall be further discussed in light of forms and ways of education that are relevant to the target group of students that attend and interact with each other during the course of compulsory education.

3.2. System of compulsory education

Legal and historical synopsis: The right to learn in Lithuania is recognized as a natural universal right of every individual.[512] Constitutional regulation of education in Lithuania

510 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education, supra note* 507, Art. 4, 5, 6;

511 *Ibid.,* Art. 5.1.;

512 *Law on Education, supra note* 299, Preamble;

dates back to 1922, with an adoption of the first permanent Constitution of the Republic of Lithuania. Until then education and individual rights to science and education were not subjects of legal regulation. After re-establishment of the independent State of Lithuania in 1990, the new Constitution of 1992 determined the principle aspects of structure and operation of the educational system of Lithuania.

As a post-soviet state Lithuania had to create a new philosophical concept of educational goals, objectives, structures, qualitatively revisit the content of education, its methods and strategies.[513] The Law on Education of the Republic of Lithuania became the legal foundation of the education reform in Lithuania.[514] To make the implementation of the Law on Education more effective in the future, certain guidelines were needed for both policy and lawmakers 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.[515] Based on the latter two legal acts – the new educational system of Lithuania was gradually developed, changing and denying the former Soviet educational framework. From the beginning of the independence the main goal of the new educational system was to provide education compatible with the newly applicable international standards and create an effective network of schools.[516] The reform of the system of general education encompassed a period of highly inspirational and spontaneous transformations in the early 1990s to more pragmatic and economically grounded reforms in the late 1990s and early 2000s.[517]

The reform of the general educational system of Lithuania has been carried out in 3 stages over the period of nearly thirty years[518] and is currently in its final stage.[519] It must be noted that the 3rd stage of the institutional reform of compulsory and general education was to be

513 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;

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

515 "Nacionalinis švietimo plėtotės raportas" [National Report on Education Development] (1993) // http://old.smm.lt/svietimo_bukle/docs/apzvalgos/RAPORTAS__taisymai_.pdf (accessed December 12th, 2016);

516 Birutė Pranevičienė and Agnė Margevičiūtė, *supra note* 425, p. 107;

517 Rimantas Zelvys, "Development of education policy in Lithuania during the years of transformations," *International Journal of Educational Development* 24 (2004): 559;

518 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 (initially the time period of the 3rd stage was programmed until 2012, but was later prolonged until 2022);

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

completed in September 2015. Precisely the 3rd stage of the reform was mostly related to optimization of the formal education, especially the structure of general education (which encompasses the main stages of compulsory education). However, as of the latest amendment, which was passed on June 30, 2015, of the Law on Education[520], the completion of the 3rd stage has been prolonged until September of 2017. Thus, the finalization of the institutional reform of education still remains an ongoing process. In general, the system of general education has certainly evolved the last two and a half decades - from improving the learning conditions to transforming the educational process *per se* to creating a well-regulated system of education that complies with the basic universally accepted standards of the right to education.

The main principle of the educational system providing that there are state and non-state educational institutions was first determined by Article 40 of the Constitution of Lithuania.[521] The principle was further detailed in the main law regulating the educational system of Lithuania - the Law on Education, which determined aims and principles of the system of education in Lithuania, basis for structure, activity, relations of the educational system, as well as state obligations in the system of education. The Law was adopted in 1991 and has been significantly amended ever since. The provision of the Law on Education, for the first time since the fall of the Soviet Union, granted the right of self-governance to all levels of educational institutions, which was a total novelty at that time, the notion of educational institution[522] was defined only in 1994.[523] In 2003 the Law on Education explicitly included formal and non-formal educational institutions[524] into the system of education.[525] The final and current definition of the system of education in Lithuania was adopted by the 2011 amendment of the Law on Education and consists of formal[526] and non-formal education,[527] self-education, and educational assistance[528].[529]

---

520 *Law on Education, supra note* 299, Art. 3, Sec. 3.

521 *Constitution of Republic of Lithuania, supra note* 78, Art. 41 para.1;

522 Educational institution – is a non-profit institution operating on a permanent or an interval basis that executes and organizes the process of education, teaching or self-education according applicable programs.

523 *Law on Amending and Supplementing the Law on Education of the Republic of Lithuania*, Official Gazette (1994, no. 8-122);

524 *Law on Education of the Republic of Lithuania,* Official Gazette (2003, no. 63-2853); Art 6;

525 The 2003 version of the Law on Education provided that the educational system consisted of *formal education* (primary, basic, secondary education, vocational schooling, studies of higher education), *non-formal education* (elementary, pre-school and other non-formal education of children and adults), *self-education, pupil assistance* (informational, psychological, social pedagogical, special pedagogical and health care at school), *teacher assistance and school assistance* (informational, consultancy, qualification improvement and other assistance).

526 Formal education encompasses – primary, basic, secondary, formal vocational and studies of higher education.

527 Non-formal education encompasses – elementary, preschool, other non-formal education of children (including education complementing the formal education) and adults.

528 Educational assistance encompasses – professional orientation; informational, psychological, social pedagogical, special pedagogical and special assistance in education; health care at school; consultancy; improvement qualification of teachers and other assistance.

529 *Law on Education, supra note* 299, Art. 6;

3.2.1. Compulsory education within the system of education

Based on legal analysis the system of education currently consists of 4 different categories, each of which encompasses different types, levels and programs of general education, which can be structurally depicted as follows:

Table 8: *Types, levels and programs of the system of general education.*

Formal education:	Non-formal education:	Self-education:	Educational assistance:
Primary education; Basic education; Secondary education; Vocational education; Studies of higher education.	Pre-school (2 types); Other non-formal education of children and adult education (as well education supplementing formal education).	(no diversification)	Vocational orientation; Informational, psychological, social, pedagogical, special-pedagogical and special assistance to education; Health care in school; Consultancy, requalification of teachers and other assistance.

Based on the main constitutional principle relating to the right of education, that education until the age of 16 is mandatory,[530] the Law on Education of Lithuania provides that compulsory education is obligatory to citizens of Lithuania (residing in Lithuania) and foreigners (that are granted a permanent or temporary right of residence in Lithuania) until the age of 16 and is guaranteed by the state according to the programs of primary and main education,[531] both of which constitute parts of formal and general education. General education, in turn, consists of primary, main and secondary education.[532] **Thus, the scope of the research, of the Thesis falls within the categories of the formal and general education and encompasses programs of primary and basic education.**

Table 9: *Break down of the system of education in regard to general and compulsory education, based on the current version of the Law on Education:*

Formal education:		
General education:		
Compulsory education:		
Primary education Main education	Secondary education	Higher education

Primary education is commenced when a child is at the age of seven, with some exceptions,[533] and is a four-year program of primary education implemented by general education and other schools or other providers of education. Primary education continues for 4 years and is com-

530 *Constitution of Republic of Lithuania, supra note* 78, Art. 41 para.1;

531 *Law on Education, supra note* 299, Art.2 para.24

532 *Ibid.,* Art.2 para.2;

533 The Law on Education provides two exception to the age limit and order of primary education: 1) on parental (or guardian) request, in cases when a child needs round-the-clock professional care and a health sparing regime, he or she may be schooled in a pre-school educational institution or at home, in accordance with the order of the Minister of Education and Science, according to the special education program; 2) on parental (or guardian) request, a child may commence primary education at the age of six, in accordance with applicable order of the Minister of Education and Science. – *Ibid*., Art.9 para. 3,4;

prised of 4 primary level grades. The main purpose of *primary education* is to provide for an individual the basics of moral and social maturity, culture (as well ethnical), elementary literacy, help in preparing to continue main education. The primary education programs are implemented in accordance with the following post – legislative acts: Description of Primary Education Program, general programs of primary education and general plans of education that are approved by the Minister of Education and Science.[534] As a rule, general plans of education are approved for the programs of both primary education and basic education by the Minister of Education and Science for two year periods and contain provisions related to the duration of school year, school holidays, content of subjects taught during the school year, number of teaching hours per each subject, etc. Primary education is the imperative pre-requisite to the main education.[535]

Basic education is provided to minors who have acquired primary education and is directed at providing maturity of moral, socio-cultural and civic nature, general literacy, technology skills, developing national awareness, acquiring goals and ability to make a decision related to choosing the next level of schooling (secondary or vocational). Main education continues for 6 years (grades 5 through 10) and is divided into two parts of 4 and 2 year periods. First period of four years encompasses a period of general studies; the second period encompasses two years of general studies, which can include modules of vocational education programs (which are later credited for during the period of vocational education). The main education programs are implemented in accordance with the following post – legislative acts: Description of Main Education Program, general programs of Main education and general plans of education that are approved by the Minister of Education and Science.[536]

After completing primary and main education levels, the students may choose secondary or vocational education. Secondary education is provided to children who have acquired main education and continues for a period of two years according to a program that consists of obligatory or optional courses, as well as educational module related to developing professional competency (in such a case secondary education may last longer). The period of secondary education is completed after the period of two (or more, if applicable) years and taking secondary level final exams.[537] Vocational education is provided to individuals who complete either main education (in such a case vocational education is provided together with secondary education) or after secondary education.[538] As a general rule, all those who continue their education on a secondary education level, complete their education at age 18.

The above-mentioned programs of general education are provided by the following types of schools – primary school, pro-gymnasium, main school, secondary school and gymnasium that also constitute compulsory education. As mentioned above the 3rd stage of the reform of education highly influenced formal education in relation to the structural composition of general education, i.e., how the types of schools that provide compulsory education were to be structured. According to the latest amendments of the Law on Education which were passed in 2015, the institutional structure of general education will change, because secondary schools shall no longer exist.

534 *Law on Education, supra note* 299, Art.9;

535 *Ibid.,* Art.10 para.2;

536 *Ibid.,* Art 10;

537 *Ibid.,* Art 11;

538 *Law on Education, supra note* 299, Art 12 para 3;

Table 10: *Break down of types of schools constituting general and part of compulsory education providing educational programs – comparison of the current*[539] *and the system as of September 1st, 2017:*[540]

Types of general education schools currently	Types of general education schools as of September 1st, 2017	Type of educational program that the type of school implements
Primary school	Primary school	Primary educational program
Pro-gymnasium	Pro-gymnasium	First (4 year) part of the main education program OR first (4 year) part of the main education and primary education programs
Main school	Main school	Main education program OR main education and primary education programs
Secondary school	--	Secondary education program OR secondary education and main education programs OR programs of secondary, main and primary education
Gymnasium	Gymnasium	Secondary education and the second part (2 year) of the main education programs

All the types of schools that constitute the educational institutions that provide general education, are part of the so called 'network of providers of education,' the notion introduced by the Law on Education in 2003 – purpose of which is to ensure accessibility and diversity of compulsory and universal education, possibility lifelong learning to citizens of Lithuania and foreigners (with the permanent or temporary residence permit).[541] The reorganization of the structure of general education by eliminating secondary school out of the system of education was called the 'optimization of the network' and dates back to 2004, when loopholes of the said system were observed.

For example, in many cases it was obvious that allocation of the resources for the education was not effective, because the state was funding schools, especially in remote areas that contained only several students in a class. The cost effectiveness was largely disproportionate. The latter situation within the school system was influenced by the factual situation related to demographics of the country – where a decrease in number of school aged children over an extensive period was observed, number of school age children in remote rural areas was decreasing because of families relocating either to larger cities, as well as the long-term pattern of increased emigration, which lead to general decrease of the number of school aged children. These issues were addressed by adopting the Rules of Creation of Network of Schools That Implement Programs of Formal Education,[542] that became the legal foundation of initiation and implementing the optimization of the school network.

Reorganization of the educational system was to optimize the number of schools within the educational system, in order to maintain an optimal balance between the number of students in a class, within a certain administrative region (city or rural area).[543] Along with the network of providers of education, the notion of 'network of state and municipal schools'

539 *Ibid.,* Art 41;

540 *Ibid.,* Art 1;

541 *Law on Education, supra note* 524, Art. 28.1

542 Decision No. 745 of The Government of Republic of Lithuania Regarding the Rules of Creation of Network of Schools That Implement Programs of Formal Education, Official Gazette (2004, No. 95-3509);

543 Birutė Pranevičienė and Agnė Margevičiūtė, *supra note* 425, p. 109;

was introduced in 2003 by the same adoption of the Law on Education,[544] which was further elaborated in the above mentioned Rules of Creation of Network of Schools That Implement Programs of Formal Education. According to the Rules, the purpose of creating the 'network of schools' – is to capacitate development of good quality compulsory and universal education, as well as increase its accessibility for an affordable and reasonable price for the state and municipalities.[545] Therefore, the model of general education that shall commence on September 1st, 2017 will have completed the 3rd stage of the institutional reform and tended to the issues of optimizing the network of the system of general education.

3.2.2. Compulsory education and the criteria of choice, obligation and age

Compulsory education is a constitutionally protected right and duty,[546] which is defined by the Law on Education as education compulsory to citizens of Lithuania and foreigners with permanent or temporary status of residence until the age of 16 and guaranteed by the state according to programs of primary and basic education, that constitute part of formal education.[547]

Clearly, compulsory education falls within the category of formal general education and does not go beyond the program of main education (the legal background of such breakdown is provided in the former parts of this section). However, the structural breakdown of the system of education and the types of schools that provide education according to particular programs of education, allow making certain observations.

Table 11: *Break down of the types of schools, types and programs of education in regard to criteria of choice, obligation and age.*

Type of general education school providing education	Type of educational program	By choice	By obligation	Age limit	Type of education
Primary	Primary	Imperative	Imperative	7-10	Compulsory
Pro-gymnasium	Main; Primary & 1st part main	Imperative	Imperative	11-14; 7-14	Compulsory
Main	Main; Primary & part of main	Imperative	Imperative	11-16; 7-16	Compulsory
Gymnasium	Secondary; Secondary & 2nd part of main	Free; Imperative	Free; Imperative	17-18; 15-18	Non-compulsory; Compulsory

544 *Law on Education, supra note* 299, Art. 28.5;

545 *Decision of The Government of Republic of Lithuania Regarding the Rules of Creation of Network of Schools That Implement Programs of Formal Education,* Official Gazette (2011, No. 79-3869); Art. 3;

546 *Constitution of Republic of Lithuania, supra note* 78, Art. 41 para.1;

547 *Law on Education, op.cit.,* Art.2 para.21; Art.6 para.1 subsec.1;

Based on the Table 11 above, it is apparent that compulsory education does not deviate from its formal definition only in cases when primary, main and secondary education programs are provided by primary, main and gymnasium types of school, respectively. In cases when main and secondary programs of education are provided by pro-gymnasiums and gymnasiums, it is apparent that the notion of compulsory education deviates from its formal definition. First of all, formally, as explained above, pro-gymnasiums are entitled to provide only the so called first, 4 year, part of the main education program, thus the latter educational program is incomplete (the student is only 14 year of age at the time and, according to the formal description of the main education program it consists of 6 calendar years), because the student must complete the remaining second, two year, part of main education in order to reach the age limit of 16. This requirement is carried out then by attending main school or gymnasium. In a gymnasium type of school, a student is given an option to complete the remaining two years of main education and acquire secondary education, either separately or as a four-year program. In the latter case, all four remaining years of the general education (including main and secondary) become mandatory and the students complete their part of mandatory education at the age of 18.

This distinction is important in pointing out that legal regulation of the system of education and its factual application allows expanding the notion of compulsory education beyond its formal legal definition and constitutional requirement in regard to the choice and age. More so, it is eminent to stress that majority (up to 98%[548] of the total population of children of ages 16-18) choose to continue to attend schools in order to complete the secondary program of general education. Hence, the notion of compulsory education, though formally obligatory until the age of 16, in majority of cases extends either by choice or imperatively until the age of 18. The conclusion is also important in light of the issue of bullying within the school environment, because as subjects or objects of bullying during compulsory education, students remain sensitive to the issue as long as they remain within the school environment acquiring education (and that may extend beyond the forma limits of compulsory education). **Therefore, when discussing the issue of bullying at school during compulsory education, it is relevant to include not only the educational programs that formally constitute compulsory education (i.e., primary and main), but also the program (secondary) that formally constitutes the last part of general education and factually constitutes the whole educational process of children until the age of 18, either by choice or imperatively.**

3.3. Non-formal education

Another distinction related to the system of education in regard to the criteria of choice, obligation and age is to be observed. Though non-formal education does not fall within the scope of the research, because programs of compulsory education do not formally in any way constitute non-formal education, however, certain types of programs of non-formal

548 Ministry of Education and Science, "Lithuania. Education in the Regions. Equal opportunities," (2014) // https://www.smm.lt/uploads/lawacts/docs/579_c915f0e2c4513e8271a45716bb37142d.pdf (accessed March 6, 2016); p.12;

education (non-formal education for children and non-formal education supplementing formal education), whether they take place as part of formal education or of other non-formal education programs, are taught (by choice) to students of the age of compulsory education and general education. **Statistically, non-formal education as constituent part of the system of education is a form of education that impacts development and education of children, because up to 28%[549] of school age children take part in some program of non-formal education until they turn 18. And even though non-obligatory, both programs of non–formal education are susceptible to the same behavior issues, in regard to bullying, as those that disrupts the process of compulsory education and pose threats to the right of integrity of the learners. Therefore the discourse on the issues of bullying at school should not only encompass compulsory education as part of the formal education, but also all forms of non-formal education related to children.** Based on this distinction, non-formal education of children becomes relevant type of education to be reached within the scope of analysis of the Thesis.

3.3.1. Non-formal education and *bullying*

Based on the structure of the system of education depicted in Table 8, non-formal education is a constituent part of the system of education. Programs of non-formal education impact education and development of up to one third of the population of children and it is presumed that it might be susceptible to similar behavioral issues related to bullying as the programs of compulsory education. Therefore, analysis of the system of non-formal education becomes relevant.

According to the general definition provided by the Law on Education of Republic of Lithuania – non-formal education is education according to various programs (except the programs of formal education) that meet the needs of education, improve qualification, and provide additional competence.[550] Schools of non-formal education are recognized and constitute part of the network of the education providers.[551] Non formal education, thus, does constitute part of the system of education of Lithuania, but is not part of the formal education. As was explained above, of the programs of education that constitute formal education, only primary and main education programs are compulsory. However, when defining non-formal education as part of educational system of Lithuania, the Law on Education provides that non-formal education, apart from its other forms,[552] is comprised of non-formal education for children and of non-formal education for children that supplements formal education.[553] **Therefore non-formal education may be distinguished in two aspects: 1) non-formal education may exist as a completely separate type of education**

549 Education management information system, "Preliminari 2015-2016 m. m. pagrindinė švietimo statistinė informacija," [Preliminary Main Statistical Information for the 2015 – 2016 School Year] (January 2016) // http://www.svis.smm.lt/ (accessed January 24, 2016);

550 *Law on Education, supra note* 299, Art. 2 para. 17;

551 *Ibid.,* Art. 28.2;

552 Elementary, preschool and adult education;

553 *Law on Education, op. cit.,* Art.6;

provided independently by any provider of education or an educational institution; 2) it may also be considered as supplementary part of formal education.

Non-formal education programs for children are provided in a way that does not necessarily supplement formal education and are not considered part of the formal education but play an important part in general development and education of children, because non-formal education of children is required to meet general needs of cognition, development and self-expression. Such type of non-formal education for children is a quite popular form of education and is provided by institutions of non-formal education for children and other educational institutions, free-lance teachers, other providers of education. Children (with the help of their parents and guardians) chose various types of programs of non-formal education not only during the course of the school year, but also during their school vacation time.[554]

Some programs of non-formal education for children that are considered supplementary to the formal education are designed to systematically, over long-term programs, expand theoretical knowledge and practical abilities and skills in certain areas. Such non-formal education is provided by music fine art, other art and sports schools. Non-formal education programs are recognized as part of formal education by way prescribed by the minister of education and science.[555]

By way of definition of the school, as provider of both formal and non-formal education, and the school community,[556] it is apparent that non-formal education is a substantial part of education in general, received by learners younger than the age of sixteen. This means that students may acquire education according to programs of both formal and non-formal education within the timeframe when they are of the age of compulsory education. According to the statistical information provided by the Ministry of Education and Science, there are currently 4223 registered programs of non-formal education (4084 accredited; 139 – non-accredited) [557] provided by 362 institutions of non-formal education for children. It is estimated that, during the school year of 2015 – 2016 approximately 28% of the total population of students of general education will attend programs of non-formal education for children.[558]

Table 12: *Schools of non-formal education in Lithuania:*

Schools of non-formal education:	**446**
Schools of non-formal education for adults;	84
School of non-formal education for children and education that supplements formal education	362

554 *Law on Education, supra note* 299, Art. 15;

555 *Ibid.,* Art. 15;

556 School community is defined as – school teachers, students, their parents (guardians or caregivers), other individuals that are interconnected through teaching relations and general goals o education.

557 Ministry of Education and Science of Republic of Lithuania, "Neformaliojo švietimo programų kaita pagal amžių ir būseną 2003 – 2016," [Changes in Programs of Non-formal Education According Age and Status] (January 2016) // https://www.aikos.smm.lt/_layouts/15/Asw.Aikos.Reports/ViewReport.aspx?report=%2fStatistin%C4%97s+ataskaitos%2fKTPRR+statistin%C4%97s+ataskaitos%2fKTPRRPagalAmziuBusenaKaita (accessed January 24, 2016);

558 Education management information system, *supra note* 549 (accessed January 24, 2016);

Based on the statistical information provided by the Ministry of Education and Science of Republic of Lithuania, all schools of non-formal education for children are at the same time schools that in some way supplement formal education. Out of the 362 schools on non-formal education for children – 247 are state-schools and 119 are non-state schools of non-formal education.[559]

Impact of the non-formal education for children is substantial – it impacts development and education of nearly 30% of children population.[560] In its assessment of the situation of non-formal education of children the Ministry of Education and Science observed that data regarding the participation of children in programs of non-formal education provided by educational institutions, other than the state's, are not collected.[561] This means that participation of children in programs of non-formal education in non-state educational institutions is not monitored. Scarcity of proper monitoring and research in the field of non-formal education for children is also acknowledged.[562] This supports the traditional perception that non-formal education is 'submerged' within the context of compulsory education. The programs of non-formal education, whether they take place as part of formal education or of other non-formal education programs, are taught to students of the age of compulsory education and general education. Thus the latter forms of education are susceptible to the same behavioral issues, in regard to bullying, that disrupt the process of compulsory education, as well as infringe the rights of the learners.

Therefore, non-formal education for children raises questions of the relevance in regard to the issues of bullying, its monitoring and prevention. Programs of non-formal education in the context of bullying should be considered as relevant as the programs of general education. Additionally, neither form of non-formal education is monitored in regard to the issue of bullying, they should, however, be considered relevant and fall under the scrutiny of and imperative oversight and monitoring by the state when it comes to the issues of bullying. In light of relevance and based on outcomes of monitoring, any measures taken by the state to prevent bullying should encompass not only compulsory formal education, but any non-formal education whether it is considered supplementary to the compulsory education or constitutes other forms of non-formal education for children.

The state, nevertheless, should carefully consider the imposition of measures foreseen to prevent bullying, based on the type of program of non-formal education. Non-formal education programs, naturally, may vary in their scope and size. For example, a summer camp that accepts up to 200 school age children of (ages 12-18) per session would, presum-

559 Ministry of Education and Science, "Švietimo ir mokslo institucijos pagal grupes, tipus ir priklausomybę" [Institutions of education and science according to groups, types and dependence] (January 2016) // https://www.aikos.smm.lt/_layouts/15/Asw.Aikos.Reports/ViewReport.aspx?report=%2fStatistin%C4%97s+ataskaitos%2fSMIR+statistin%C4%97s+ataskaitos%2fSMIRInstitucijosPagalGrupesPriklausomybeTipus (accessed January 21, 2016);

560 Education management information system, *supra note* 549 (accessed January 24, 2016);

561 *Order of the Minister of Education and Science,* Official Gazette (2012, No. 42-2102);

562 Ministry of Education and Science, "Summer Education of Children," (November 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/nf_Vaiku-edukacija-vasara-2.pdf (accessed March 7, 2016); p. 10;

ably, face a greater possibility for cases of bullying among children to occur, than a small scale evening art class that accepts up to five student per class. Thus, the method of legal regulation should be used prudently and proportionally, so that the legal imposition would be effective in achieving the goal of preventing bullying among learners. For example, since bullying *per se* is a direct result of negative behavior by students a simple monitoring measure could be applied during the process of non-formal education by its providers. Such measure could allow the provider of non-formal education to informally observe any acts of misbehavior in form of bullying (or any other form of violence) during the process and report it to the parent as well as communicate it to the school where the misbehaved student is acquiring his or her compulsory (or secondary, if applicable) education. Such measure could increase the accountability of the wrongdoer, the provider of non-formal education, raise awareness of the parents (or guardians) as well as the school of a potentially problematic behavior of a member of the student body.

3.3.2. Non-formal education as a tool in preventing negative phenomenon in education

Another important aspect of the non-formal education is how legal regulation enables to incorporate non-formal education for children into the curricula of formal education by way of post-legislative acts. The Ministry of Education and Science has adopted several measures in respective fields of importance that have been integrated into the curricula of elementary, pre-school, primary, main and secondary programs of education.

Legal and practical application analysis redeems an important process of how a national program of a large scope, goals and measures of implementation can reflect in the legal system of such a branch as education law – through affecting two aspects – the *content* and the *plans of education*. These two aspects, thus, are the tools of how a program which is considered a non-formal education may eventually take shape in form of the actual curricula of the school providing the education. For the purposes of the issue researched by this Thesis an important parallel between two equally harmful phenomena is drawn – substance abuse and *bullying*. It could be argued that the prevalence of the two is almost identical, however, the former is being addressed by concrete means of legislative and post-legislative level, and the latter is not.

For example, the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008 was adopted by the Parliament.[563] Articles 2 and 3 of the Program implicitly offered to the Government and recommended the municipal institutions to implement the provisions of the said National Program. One of the reasoning[564] of the adoption of the latter Program was the rising number of individuals using drugs especially among young individuals. It was determined that prevalence of drug usage among *school*

563 *Decision of Seimas of Republic of Lithuania Regarding Adoption of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008*, Official Gazette, (Žin., 2004, Nr. 58- 2041);

564 The target issues of the National Program of Drug Control and Prevention of Drug Addiction encompass a wide range of problems related drug trafficking and abuse, such health issues, production, lack or inefficiency of prevention, prevalence, new types of abuse substances, program financing, etc.

children of 15-16 years of age spiked from 3,2% in 1995 to 15,5% in 2003, 11,7% of all the substance abusers registered by healthcare institutions were children of age groups of up to 14 (0,1%) and 15-19 (11,6%) years of age.[565] Educational policy was indicated as one of the national policies foreseen to be applied in implementing the objectives of the Program related to prevention of drug abuse and control.[566] Primary drug use prevention among children and youth was also explicitly provided as one of the underlying directions and was based on coordinated education in the family, at school and within the community.[567] The Program suggested that a course on harm of drugs, alcohol and tobacco to human health and society were to be included in the education plans of the general education[568] (which formally consists of primary, main and secondary programs). Based on the latter provisions of the National Program of Drug Control and Prevention of Drug Addiction, the Government of Republic of Lithuania adopted a set of explicit measures of implementation of the said Program in 2005, one of which provided that *education plans* of the schools of general education be supplemented with the course on harm of drugs, alcohol and tobacco to health and society, as well as training of teachers, social pedagogues, psychologists, public healthcare specialists, class advisers be trained under similar topic be included in the *education content* of the schools. The implementation of the two constituent parts of the latter measure fell under responsibility of the Ministry of Education and Science.[569] The latter consequently adopted a Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances in 2006, according to which it became an integral part of the content of education, implemented by teachers, class advisers, psychologists, social pedagogues and other trained specialists. This particular Program adopted by the Ministry of Education and Science became integrated into class subjects of the program of general education, class and extracurricular activities (the latter also included elementary and primary schools). The Program also provided a minimum amount of contact teaching hours[570] that were to be spent on education of children on harmful aspects of drug, alcohol and tobacco use.[571]

565 *Decision of Seimas of Republic of Lithuania Regarding Adoption of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008, op.cit.,* Art. 4, 5, 8;

566 *Ibid.,* Art. 28.2;

567 *Ibid.,* Art. 30.1;

568 *Ibid.,* Art. 31.3;

569 *Decision of the Government of Republic of Lithuania Regarding Adoption of Implementation Measures for the year 2005 of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008,* Official Gazette (2005, No.: 33-1066); Art. 1.4;

570 According to Article 16 of the Prevention Program elementary, pre-school and primary schools were obligated to teach no less than 5 hours per year, main and secondary education schools – no less than 6 hours per school year;

571 *Decision of the Minister of Education and Science Regarding Adoption of the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances,* Official Gazette (2006, No.: 33-1197); Art.: 12; 16;

3.4. *Content* of education and *plans* of education

Based on the factual situation related to the issue of prevalence of bullying, the state can reason the imposition of the positive duty on the school through altering the content of the curricula. Though the Law on Education explicitly states that the content of education is to be developed to implement the goals of education set by the same Law,[572] however, it is also provided that when developing the content of programs of general education (as well as its modules, education plans, textbooks, teaching assistance material, etc.), demands of society predetermined by social changes, needs of local and school communities, demands and interests of education, as well as experiences of the students are to be taken into consideration.[573]

The two post legislative acts[574] discussed above formally preconditioned utilizing such tools of the educational process as the *plan of education* as well as the *content of education* for the purposes of achieving a goal related to minimizing the negative outcomes of substance abuse as well as implementing long term prevention of substance abuse among children. By definition the *content of education* is **what** and how the students are taught (including evaluation methods of their progress and achievement, as well as means of education).[575] It is important to point out that the Law on Education provides several factors that are to be considered in creating and systematically updating the *content of education*. The latter does not only have to suffice the general goals of education[576] as well as specific educational and teaching aims of each particular education program,[577] but take into consideration the needs determined by the changing social and cultural environment of the society, as well as the needs of school community and experience of the learners themselves.[578]

The requirements of the *content of education* prescribed by the Law on Education are the imperative criteria for elementary, preschool programs and all programs of the general education, as well as the *plans of education* of each particular program (as well their evaluation, modules, means and additional educational material).[579] The following discourse on regulation of the system of formal education of Lithuania in regard to the *content of education* and *plans of education* depicts and explains on how the respective formal provisions of the Law on Education correlate with the practical application of specific laws addressing specific issues.

572 The aims of education are provided in article 3 of the Law on Education.

573 *Law on Education, supra note* 299, Art. 4;

574 The governmental decision of 2005 regarding the **implementation measures** of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008, and decision by the Minister of Education and Science regarding **Program of Prevention** of Use of Alcohol, Tobacco and Other Psychotropic Substances

575 *Law on Education, supra note* 299, Art. 4.1;

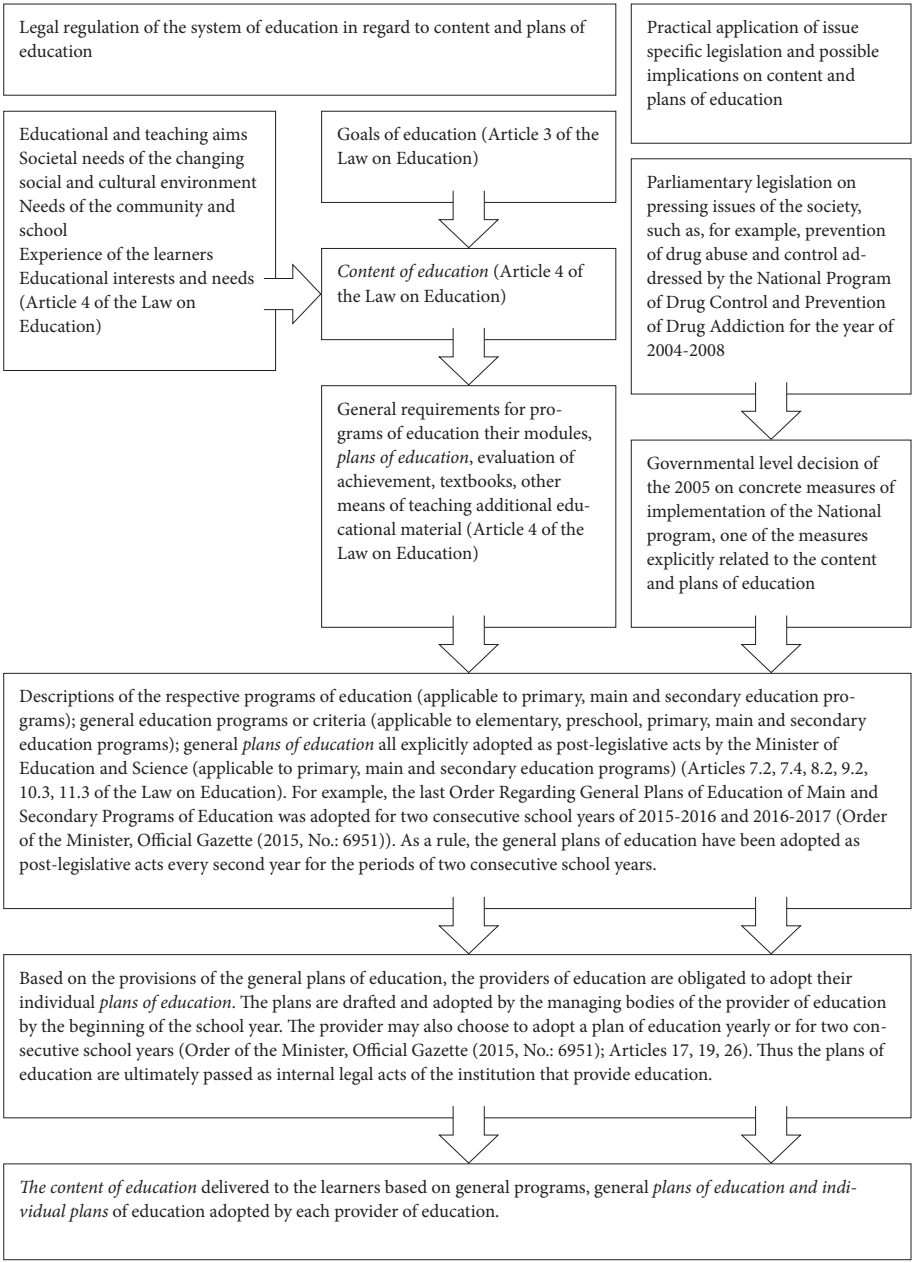
576 The goals of education are explicitly described in Art. 3 of the Law on Education and consist of all encompassing goals related to individual right to education in the context of attaining values, knowledge, patriotism, creativity, democratic and civic traditions, etc. – *Ibid.,* Art. 3;

577 Each program of education system is based on their general purposes that are described by the Law on Education and that are respectively transferred to the descriptions of the programs and/or general *plans of education.* For example, programs of elementary and preschool education are executed according education programs. Programs of primary, main and secondary education are executed according to their descriptions, general programs and general plans of education.

578 *Law on Education, op. cit.,* Art. 4.2;

579 *Ibid.,* Art.4.3;

Table 13: *The structural presentation of the legal provisions of laws and post-legislative acts related to the content of education and plans of education depict how the content and plans of education affect the learner from the formal and practical point of view:*



The National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008 was adopted by the Parliament over a decade ago. The subsequent Program for the period of 2010-2016 was passed in 2010,[580] however, the Order of the Government of 2005, regarding the measures of implementation of the said program (for the period of 2004-2008), as well as the Order of the Minister regarding the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances at school are still valid and have had a continuous effect on the way the actual content of primary, main and secondary education is structured.

The aim of all of the latter post-legislative acts has been to use the system of education (among all other measures, since the Program of Drug Control and Prevention addresses a large scope measures on a national as well as international level) to educate and prevent the learners of and from the negative effects of substance abuse and mitigate the already existing implications that the prevalence of drugs and their abuse had on the school-age individuals. Some of the measures of implementation of such ambitious goals were to appeal to the *content of education* via the *plans of education* of the respective programs of education (formally, such measures were completely and legally feasible because of the provisions of the Law on Education that regulate the content and the plans of education). Thus, it is relevant to overview the real effect that the practical application of the relevant post-legislative acts had on the said *content* and *plans of education*.

As of adoption of the National Program of Drug Control and Prevention of Drug Addiction by the Parliament in 2004 the general *plans of education* of the programs of primary, main and secondary education have been adopted seven times.[581] The two post-legislative legal acts on the governmental level that addressed measures regarding the said National Program within the system of education quite explicitly directed that *plans of education* be supplemented with the course on harm of substance abuse,[582] and that the Prevention Program of Use of Alcohol, Tobacco and other Psychotropic Substances became part of the *content of education* (as explained earlier, the Prevention Program in fact provided an exact minimum amount of teaching hours that were to be allocated to the Program).[583] According to the provisions of the Law on Education the general

580 *Decision of Seimas of Republic of Lithuania Regarding adoption of the National Program of Drug Control and Prevention of Drug Addiction for the years 2010-2016,* Official Gazette (2011, No.: 132-6720) in 2010;

581 *General Plans of Education for 2005-2007, adopted by the Order of the Minister of Education and Science,* Official Gazette (2005, No.: 59-2085);

2) *General Plans of Education for 2007-2008, adopted by the Order of the Minister of Education and Science*, Official Gazette (2007, No.: 44-1691);

3) *General Plans of Education for 2008-2009, adopted by the Order of the Minister of Education and Science,* Official Gazette (2008, No.: 61-2320);

4) *General Plans of Education of the Programs of Main and Secondary Education for 2009-2011, adopted by the Order of the Minister of Education and Science,* Official Gazette (2009, No.: 61-2447);

5) *General Plans of Education of the Programs of Main and Secondary Education for 2011-2013, adopted by the Order of the Minister of Education and Science,* Official Gazette (2011, No.: 74-3561);

6) *General Plans of Education of the Programs of Main and Secondary Education for 2013-2014 and 2014-2015, adopted by the Order of the Minister of Education and Science,* Official Gazette (2013, No.: 58-2934);

7) *General Plans of Education of the Programs of Main and Secondary Education for 2015-2016 and 2016-2017, adopted by the Order of the Minister of Education and Science,* Register of Legal Acts (2015, No.: 6951);

582 *Decision of the Government of Republic of Lithuania Regarding Adoption of Implementation Measures for the year 2005 of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008, supra note* 569, Art. 1.4;;

583 *Decision of the Minister of Education and Science Regarding Adoption of the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances, supra note* 571, Art.: 12; 16;

plans of education fall within the competence of the Minister of Education and Science, who, by way of orders is responsible for adopting yearly or biennially. However, only three out of the seven general plans of education had included explicit provisions that reflected or reflect the purpose of the National Program of 2004.

Table 14: *Overview of the general plans of education that included explicit provisions in regard to the Prevention Program of Use of Alcohol, Tobacco and Other Psychotropic Substances:*

General plans of education	Provision related to prevention of	Method of implementation	Responsible for implementation of the provision
General Plans of Education for 2008-2009[584]	Art. 15.4.: Programs of prevention and other programs: use of alcohol, tobacco and other psychotropic substances, violence, human trafficking, HIV/AIDS, gender education, healthy lifestyle, etc.	By adding additional classes based on the discretion of the school (Art. 15.).	Provider of education (Art.4)
General Plans of Education of the Programs of Main and Secondary Education for 2013-2014 and 2014-2015[585]	It is recommended to integrate into the content of education of the school the Prevention Program of Use of Alcohol, Tobacco and Other Psychotropic Substances, adopted by the Order No. ISAK-494 of Minister of Education and Science on March 17, 2006 (Official Gazette, No.: 33-1197) and other programs of prevention (Art. 61).	The school adopts a decision regarding implementation of these programs: by way of integrating them into programs of subjects, activities of non-formal education of children, as a selective course and other (Art. 61).	Provider of education
General Plans of Education of the Programs of Main and Secondary Education for 2015-2016 and 2016-2017[586]	The content of education of the school, based on the context of the school, is integrated with the Prevention Program of Use of Alcohol, Tobacco and Other Psychotropic Substances, adopted by the Order No. ISAK-494 of Minister of Education and Science on March 17, 2006 (Official Gazette, No.: 33-1197) (Art. 62).	The school adopts a decision regarding the form of integration of the program. The programs can be: integrated into the subject or the content of the subject; presented as selective courses; implemented as compulsory courses; implemented by allocating school days per year for teaching; implemented as part of activities of non-formal education of children; in other methods chosen by the school (Art. 63).	Provider of education

584 *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education for 2008-2009, supra note* 581, Art. 4, 15, 15.4;

585 *Order of the Minister of Education and Science Regarding adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2013-2014 and 2014-2015, supra note* 581, Art. 61;

586 *Ibid.,* Art. 62, 62;

There are several points of reference to be made. First of all, on the process of post-legislation and its importance in influencing the *content* and the *plans of education*, so they serve as measures intended to address issues like prevention, minimization of prevalence of certain factors or issues that are apparent and destructive to the society or on a smaller scale (such as, for example, a school community) by the post-legislative acts. For the purposes of the Thesis a parallel example of an extremely detrimental yet prevalent issue of substance abuse is presented and analyzed in the context of legal provisions of the laws and post-legislative acts on education. The analysis of the process of how the Prevention Program of Use of Alcohol, Tobacco and Other Psychotropic Substances, though not a compulsory part of any curricula of a program of formal education, has been incorporated into the provisions of the actual general plans of education of primary, main and secondary educational programs.

Another point of reference is the possible lack of consistency on the executive level when the latter fails to duly implement the obligation prescribed by the legislator. Case in point being the fact that out of the seven consecutive general *plans of education* only three (see Table 14) contained issue specific provisions, and only one general *plan of education* (for the years 2015-2016 and 2016-2017) provided explicit ways of education (see Article 63), that the providers of education were to utilize while implementing the provisions in regard to the Prevention Program of Use of Alcohol, Tobacco and Other Psychotropic Substances. Lack of consistency brings out the important aspect of the *content of education* which, as supported by law (for example, Article 4 of the Law on Education) and case law, must suffice not only the general aims of education, but also the changing needs of the broader society, community and the learners.[587] It is complimentary that the state in this case foresees utilizing the tools of the educational system, however, as the regulator, it must be consistent in implementing their own obligations.

Third point cross references to the general *plans of education* mentioned above in their regard to other programs of non-formal education that are explicitly by law incorporated into the *plans of education* of primary, main and secondary education programs, for example, the General Program of Health Education, General Program of Civil Safety, Development of Life Skills. Based on the provisions of the General Program of Health Education its content is included in the *plan of education* of the school, based on its priorities.[588] Though the latter Program is considered a program of non-formal education, by using its discretion to adopt programs of non-formal education as well as general plans of education the Ministry of Education and Science explicitly provides that the Program be included in the content of the formal education *via* integrating it into the content of part or all (depending on the stage of general education) of the teaching subjects, non-formal education, as well as dedicating one specific activity (in form of mandatory or selective classes) at least per one year of the education program (applicable to programs of main and secondary

587 *Case 'Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium' v Belgium (Merits), supra note* 504, p. 31;

588 *Order of the Minister of Education and Science Regarding Adoption of the General Program of Health Education*, Official Gazette (2012, No.: 105-5347); Art. 12;

education).[589] This way a non-formal education program becomes supplementary part of formal education.[590]

A specific reference to the programs of Health Education and Development of Life Skills is to be made, because both of these programs refer to some aspects of a healthy, violence-free environment of a child. For example, tackling self-knowledge, interaction, cooperation, solution-making, overcoming life burdens in every day situation is one of the component parts of developing life skills. The notion of every day situation is referred to various situations that may occur daily and that require certain skills and knowledge. Conflict resolution, smoking and use of alcohol, violence – are the examples of the situations that the Program is developed to address.[591] One of the core objectives of the Program of Health Education is to develop a value system of learners that would add to *safe* and healthy environment and society. One of the main prerequisites of the learning environment of the latter Program is that every member of school community would feel *safe,* unthreatened, and not afraid to be out casted or mocked.[592]

However, it must be reiterated that the issue of bullying or addressing *bullying*, even in the programs that address safe and healthy school environment, submerges within the notions of 'mutual respect,' 'healthy emotional environment,' 'social skills,' 'assistance,' and the program of Health Education, is generally submerged within the activities of the subjects of physical education.[593] Thus, while being of similar prevalence, posing direct or indirect danger, detrimental to individuals or greater part of the school community, '*bullying*' as a negative phenomenon does not explicitly reflect in any provisions regulating the *content* or *plans of education* in regard to the programs of non-formal education that are considered supplementary to formal education and that are designed to tackle (at least in part) issues of healthy, safe and uninterrupted school environment.

From an analysis of some aspects of several programs of non-formal education, it can be concluded that programs of non-formal education for children hold a very important place within the educational system of Lithuania. **Even though the general rule is that the programs of non-formal education are selected independently by the learners,[594] it should be taken into consideration, that non-formal education, due to its formal status**

589 *Order of the Minister of Education and Science Regarding Adoption of the General Program of Health Education, supra note* 588, Art. 14;

590 Programs of Health Education, Civil safety have been included in all general plans of education, and have a specific amount of teaching hours allocated for their teaching purposes. Program of Life Skills is specifically mentioned as program that comprises on of the spheres of the program of main education - *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2015-2016 and 2016-2017*, Register of Legal Acts (2015, No.: 6051); Art. 120;

591 The Ministry of Education and Science, "Life Skills Development Program," (2004) // http://www.smm.lt/uploads/documents/gyvenimo-igudziu-programa/Gyvenimo_igudziu_ugdymo_programa.pdf (accessed March 16, 2016); (p.8, 24)

592 *Order of the Minister of Education and Science Regarding Adoption of the General Program of Health Education, op.cit.,* Art. 10.3.3, 21;

593 *Order of the Minister of Education and Science Regarding adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2013-2014 and 2014-2015, supra note* 581, Art. 249;

594 *Law on Education, supra note* 299, Art. 27.4;

within the system of general education – can also be used as an effective tool to educate the learners of the programs of compulsory education in regard to *bullying*.

According to the provisions of the Law on Education, the state via powers prescribed to the Ministry of Education and Science is entitled to incorporate a program of non-formal education into the curricula of formal education by both adopting a program of non-formal education and by adopting the *content* and *plans* of the programs of education.[595] In such a case, a program of non-formal education becomes supplementary to the programs of formal education. The purpose of such supplementary education is to develop and systematically expand knowledge, skills and competencies in certain areas.[596] And while the Ministry of Education and Science does hold these discretionary powers, it should use them prudently and consistently, in sync with the changing needs of the learner, conditioned by the ever changing social and cultural environment. Therefore, it is proposed that education on *bullying* be included into the content and, thus, the plans of all programs of education.

The proposition suggested above is backed by the principle of making the right to education *acceptable* by using the Law on Education as an instrument (via *content* and *plans* of education) to achieve further advancement of the right of education. Tackling such concrete measures could be considered an adjustment accomplished by the formal amendment, which makes the system of education less static and not unchanging, adaptable to inevitable changes.[597] According to some of the experts, utilizing law as an instrument is one of the indicators of measuring of the advancement of implementation of the right to education at community level. Same experts also support the notion that the law, despite its intrusive and bureaucratic assumption (by the teachers) within the educational process, is an instrument that regulates social process by guaranteeing rights and stipulating duties within any system of education.[598]

The legal system of Lithuania makes education *available* and *accessible* in general. However, the issue of the Thesis questions whether the right to education is always implemented in such a way that suffices to the principle of *acceptability*, because the learners are obligated to implement their right to education in a potentially unsafe environment due to prevalence of *bullying*. The phenomenon of *bullying,* in retrospective, is only one of a plethora of issues that call for *advocacy* within the system of education. A relevant question in such a case would be of whether the legal system of education possesses the instruments of conventional or unconventional *advocacy* for the rights of its users? Could it be argued that by *adjusting* the *content* and *plans* of the programs of compulsory education (by application of the legal acts of education already available), the legal system of education of Lithuania would provide an instrument of unconventional *advocacy* for the right to a safer learning environment of the learners? **The above analyzed examples of some of the programs of non-formal education, that are included as supplementary parts of the formal education through adoption of post-legal acts regarding the *content* and *plans* of the**

595 *Law on Education, supra note* 299*,* Art. 56.12;

596 *Ibid.,* Art. 15.2;

597 Jan De Groof, *Report. Fulfilling the Right to Education* (Paris, UNESCO, September 2009), p.29;

598 *Ibid.,* p.36;

programs of education, allow to conclude that legal system of education of Lithuania does poses legal instruments that allow going beyond the traditional notion of the educational *content* to make education *acceptable*, thus, adapting to the changing needs of the school community and the individual learner, in this case *advocating* for the safer environment of the learners threatened by *bullying*.

3.5. Other relevant forms of compulsory education

Formal education has become a basic part of the modern social organization[599] and compulsory education has been traditionally perceived as a permanent fixture of the everyday lives of all children and young adults through attendance of one of the schools and being part of the school community. Due to various reasons not all individuals are able to experience being part of the student body of the traditional school community, or not all children exercise the right to education under the standard notion of education by attending it. In other words, the *student body* of the traditional school community does not resemble the diversity of the *children body* population of any given society in terms of ability to learn or attend school.

The diversity of the *children body* population has been challenging the traditional notion of compulsory education based on universal obligations (by member states) to make compulsory education accessible and available to all.[600] Thus, the efforts to make the right to education an equally realized right and enforceable duty have translated into formalizing the states obligations to provide education outside the traditional notion of education, making education inclusive and adaptable to the needs of all students, taking into consideration not only their physical and intellectual capabilities. Special education and, eventually, home schooling as well as distance learning emerged as alternative forms of formal education that made compulsory education more (although not yet entirely) accessible and available to as great a number of students in need as possible.

3.5.1. Homeschooling

Home schooling within the content of the Thesis is discussed as one of the relevant forms of compulsory education in Lithuania. Home schooling has developed as an alternative form of education of minors. It is a schooling phenomenon that has been gradually and steadily spreading outside the boarders of the United States,[601] the pioneer in developing

599 Neville Harris, *supra note* 435, p.17;

600 The notions accessibility and availability of primary, elementary and secondary education are embedded in most international legal acts related to different aspects of individual rights - Universal Declaration on Human Rights (Article 26); International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14); Convention on the Rights of the Child (Article 28); Convention on the Elimination of All Forms of Discrimination against Women (Article 10); Convention on the Rights of Persons with Disabilities (Article 24); UNESCO Convention against Discrimination in Education (Article 4);

601 Home School Legal Defense Association, "Homeschooling Expands Around the Globe" (October, 2001) // http://www.hslda.org/hs/international/200110020.asp (accessed February 4, 2016);

and making home schooling a legally accepted form of compulsory education through a modern home school movement which began in the 1970s.[602]

The legal definition of home schooling is generally related to the right of the parent (or legal guardian) to educate his or her child at home in accordance with the statutory provisions that regulate this type of schooling. *The scope and sequence of academic instruction are usually determined and provided by the parents (or legal guardians), who also determine additional sources of academic instruction*,[603] because not all legislatures require a provider of home schooling to compel with a state approved teaching curricula.[604] Over the course of its development home schooling has been a libertarian choice of parents who desired a more diverse and choice oriented education of their children, as well as a choice of parents who were religious and wanted to educate their children based on religious values that they confessed.

The aim of the Thesis is not to focus on plethora of legal aspects that the right to home schooling corresponds to (parental rights, freedom of choice, content of education, quality of education, best interest of the child, etc.), however, it is imperative to discuss home schooling as an alternative school choice in light of the phenomenon of *bullying* at school. It is observed that over time home schooling has increasingly become a pragmatic (rather than based on pedagogical or religious reasons) choice of parents related to concerns of *bullying* at school or poor quality of schools in general.[605] Taking into consideration some of the effects that the phenomenon of *bullying* at school may have on the learner (as discussed in the first chapter of the Thesis), home schooling may be a reasonable option for some of the *bullying* victims (at least for some time) to avoid further distress at their school. Would that be feasible?

In Lithuania home schooling *per se* is scarcely available and, as a rule, is limited to learners of a certain age or needs, or both. Formally, parental right to home school their child according to the traditional notion of home schooling in Lithuania does not exist, even if the child falls under the formal requirements to receive schooling at home. There is a possibility to educate the children at home, however, this can only be done only under certain conditions, as explained below, and the notion of home schooling in Lithuania deviated from what is generally perceived as home schooling.

Based on analysis of the legal acts that regulate the system of education and that were adopted post independence in Lithuania, it is quite clear that the right of parents to home school their children is derived from the notion of special education and was initially targeted at children that had some kind of health condition that made them unable to attend

602 J. Gary Knowles, Stacey E. Marlow, and James A. Muchmore, "From Pedagogy to Ideology: Origins and Phases of Home Education in the United States, 1970-1990," p. 223-225;

603 General Assembly of North Carolina, "SESSION LAW 2013-57, SENATE BILL 189, AN ACT to amend the law defining home schools," (May, 2013) // http://www.ncleg.net/Sessions/2013/Bills/Senate/HTML/S189v3.html (accessed February 8, 2016);

604 USLEGAL, Inc., "Homeschooling Law & Legal Definition," (2001-2016) // http://definitions.uslegal.com/h/homeschooling/ (accessed February 8, 2016);

605 Coalition for Responsible Home Education, "A Brief History of Homeschooling" (2013-2015) // http://www.responsiblehomeschooling.org/homeschooling-101/a-brief-history-of-homeschooling/ (accessed February 8, 2016);

school or to be school according to the programs provided by schools of general education. The first and most general principles that indicated home schooling as a possible form of education were embedded in the first wording of the Law on Education in 1991, which indicated, that children who were treated at home (with approval of the physician), as well as children with physical or mental deficiencies could be schooled at home.[606] This relation between certain health conditions of a child as a precondition to receive home schooling continued to resonate in all legal and post legal acts that further regulated home schooling.

The first post legal act that mentioned home schooling in *expressis verbis* was the joint Order by the Ministry of Healthcare and the Ministry of Culture and Science[607] Regarding Illnesses, Defects and Pathological Conditions under Which a Child under the Age of 16 has to be permanently or Temporarily Schooled at Home. The Order contained an exhaustive list of illnesses, defects, pathologies, their symptoms and indications, according to which a child was to be schooled at home (permanently or temporarily). Not all health conditions granted the right to be schooled at home permanently and according to the regime of temporary home schooling, the longest period that a child could be schooled at home was between three to twelve months, based on the condition of a child.[608] The option to home school a child was considered only as the last resort option, when a child was not able or incapable to attend school. Thus, the notion of home schooling clearly correlated to the general condition of the health of the child and that called for special measures in order for the child to receive proper education.

In 1998, as the process of restructuring of the system of education (including general education) progressed, the Law on Special Education was passed, which expressly defined the notion of homeschooling as the form of special education[609] of students who had special needs[610] and who were not able to attend any educational institution that provided primary, main or secondary education programs. The Law explicitly provided that the process of homeschooling is determined by the joint order of the ministries of Education and Science as well as Healthcare.[611] Thus, based on the latter provision (i.e., Art. 12.5 of the Law on Special Education), the minister of Education and Science and the minister of Healthcare issued a joint Order Regarding the Procedure of Organizing Schooling of Students at Home in 2000, which also replaced the Order that provided the list of health conditions under

606 *Law on Education*, Official Gazette (1991, No. 23-593); Art. 12.1; Art. 4.4;

607 Areas of culture and education fell under the competence of the Ministry of Culture and Science until 1994 when the latter Ministry was reorganized into the Ministry of Culture and the Ministry of Education and Science.

608 Order Regarding Illnesses, Defects and Pathological Conditions Under Which a Child Under the Age of 16 has to be Permanently or Temporarily Schooled at Home; Ministry of Healthcare, Ministry of Culture and Education (1993, No. 49/116);

609 Provided in accordance with the order prescribed by the ministries of Education ans Science and Healthcare.

610 The Law on Special Education differentiated between the notions of persons with *special education needs* and *persons with special needs,* only the latter of which were granted the right to be schooled at home. The former were perceived as persons with the need of assistance and services, because their development and self education needs exceed their natural capabilities, and they were educated institutionally, without a granted right to be educated at home. – Art. 3.2, Art. 3.3 of the Law on Special Education;

611 *Law on Special Education*, Official Gazette (1998, No. 115-3228); Art. 12.5; Art. 16;

which children were to receive permanent or temporary schooling at home. However, the new Order in its entirety indicated that home schooling, again, is form of education that is applicable, under request of parents (or guardians) and organization of the school, only in cases when a child is unable to attend school of general education due to illness or other pathological conditions. The latter Order also indicated that permanent home schooling regime was to be applied only in individual cases, in all other cases, home schooling period was not to exceed twelve calendar months.[612] Therefore, home schooling remained a limited choice for parents and students based only on a physical condition of a child and its notion strongly resembled that of education of children with special needs.

There are several provisions in the current Law on Education that provide for an optional educational model for those minors who have special conditions and can be schooled at home. General provisions of the Law on Education of Lithuania indicate that regulation of home schooling falls within the discretionary right of the executive branch, i.e., the government via ministries of Healthcare and Education and Science.[613]

First provision regarding home schooling is related to the primary stage of formal education. The wording of the Law on Education sets out children who require constant assistance of qualified specialists and a regime that is health conserving, and have turned seven years of age. A child of such description can, for a period of one calendar year, either be schooled at a pre-school (not primary) educational institution (though a child is of an age when he or she is to start a program of primary education) or at home under request of their parents (or guardians), according to an educational program adopted to his or her special needs. The way either form of primary education is to be implemented is described by the order confirmed by the minister of education and science.[614] The wording of the Law suggests that cases of home schooling during the period of primary education are individual and temporary (up to one year), and can only be provided to the children who have special health related needs. Thus the parental right to school their children at home is extremely limited.

Another provision that expressly is related to the notion of home schooling falls under an article that contains provisions ensuring that education is accessible for persons of limited mobility.[615] Hence, conditions for schooling must be provided for children who are unable to educate themselves at a school of a general education due to illness or a pathological state are to be. It is indicated that in the above mentioned cases children are schooled under conditions of a stationary health care institution or at home. The order of such education

612 Order Regarding the Procedure of Organizing Schooling of Students at Home, Minister of Healthcare, Minister of Education and Science (2000, No. 259/153); Art. 3;

613 Two provisions of the Law on Education that deal with home schooling explicitly indicate that home schooling is provided in accordance with the orders of the Minister of Education and Science and, in some cases, in coordination with the order of the Minister of Healthcare – Articles 9 and 35 of the Law on Education.

614 *Law on Education, supra note* 606, Art. 9.3;

615 The title of Article 35 of the Law on Education is expressly indicated as the one regulating accessibility of education for persons with limited mobility (term *mobility* is used in order to differentiate the form of possible disability that a learner might have, i.e., the form of disability in case of Article 35 is related to mobility of the person);

is prescribed by the minister of education and science in coordination with the minister of health care.[616] The option of home schooling as an alternative form of education is, again, prescribed within a very clear content of the rights to education of children who have special needs in order to be educated.

Both legal provisions related to home schooling are further detailed in the current Order that regulates the process of how home schooling is to be organized. Based on the provisions of the latter Order, one of the parents (or guardians, or caregivers) does have a right to request the principle of the school where the child is enrolled to provide home schooling. However, the request must be submitted together with the decision of the board of consulting doctors (of the institution that treats the child) which, according the Order, is responsible for deciding whether a child is eligible to be home schooled. The decision to home school a child is made based on the individual needs of school aged children who are treated for illness that requires intensive treatment at home in a safe environment. The period of home schooling is also determined individually, but may not exceed twelve months.[617] The Order does provide that in individual cases the owner of the school may adopt a decision and allow children to be schooled at home, however, the decision is to be based on the recommendations of the so called services pedagogical psychological or service of educational assistance and only if the child has congenital or acquired health related disorders. If the decision to home school a child is adopted, further organization of the process falls within the discretion of the school (not the parent, guardian or caregiver).[618]

Thus, the legal provisions that regulate home schooling of children, support the statement above, that parents do not have a right to educate their children at home, unless their child has some pathological or health condition, that requires him or her to be educated under a program of special education. Thus, the notion of home schooling even though formally available as a form of compulsory education,[619] but under the legislation of Lithuania in general corresponds to the notion of special education or special needs in educa-

616 *Law on Education, supra note* 606*,* Art. 35.1;

617 Article 14 of the Order allows a student, who was prescribed a period of twelve months of home schooling, based on request of parents (guardians or caregivers) if the child is under 14 years of age, or the child (if the child is older than 14 years of age), and based on the condition of health of the child, to refuse schooling for the period of one year.

618 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Organizing Schooling of Students at a Stationary Institution of Healthcare and Home;* Ministry of Education and Science (2012, No. V-1405);

619 For example, the bylaws of schools expressly state that the forms of general education provided by the school consist of – day school, self education, home schooling. However, the wording of the bylaws also suggests that home schooling is available under recommendation of a physician, hence, children are granted the right of home schooling under internal legal acts of schools only if they are subjects to some sort of health condition, that makes then unable to attend school or be educated under regular conditions of educational program provided by the school – Art.13 of the Bylaws of the "Žemyna" main school of Pakruojis (adopted by the Pakruojis region Municipality Council, Decision No. T-109, April 27, 2012); Art. 11, 12, 13 of the Order of the Forms and Organization of Education According to Programs of Formal Education at "Atžalynas" secondary school (adopted by the Order of the Director of "Atžalynas" Secondary School, August 31, 2012, Order No. V-189); Art. 4, Art. 6.2 of the Description of the Order of Self Education of the "Žara" School (http://zarosmokykla.lt/index.php/dokumentai/savarankisko-mokymosi-tvarka , accessed February 8, 2016);

tion, and could be described as one of the forms of how a program of special education is implemented but not a freely available choice of school (by parents, or guardians, or children) *per se*. More so, analysis of legal provisions that regulate home schooling indicate, that the legal notion of home schooling in Lithuania deviates considerably from what is considered the classic definition of home schooling and the option to home school a child at home in order to mitigate the outcomes and avoid further violence in form of *bullying* would not be available.

3.5.2. Self-education

In spite the fact that formally the notion of homeschooling corresponds to special education, other provisions of the legal acts regulating the system of compulsory education provide for alternative forms of education that allow a minor to be schooled externally, i.e., outside of school. Parallel to the notion of homeschooling, the Ministry of Education and Science introduced the notion of external *self-education* in 1997 by passing the Order Regarding Organization of Self-Education. The Latter Order provided that based on a motivated individual request by the student and one of the parents (or guardians), and with the approval of the board of the pedagogues of the teaching institution, a student could self-educate[620] him or herself externally, under the programs[621] of main and secondary education.[622] If the external self-education form was approved by the board of the pedagogues, the teaching institution was responsible for providing consultations by the appointed teachers, organizing tests, quizzes, graded and non-graded exams. On request of the student the schools was to provide teaching material as well as access to the school library facilities.[623] No provision of the Order implicitly or explicitly implied that such form of external education were to be requested or granted for that matter, nor was it in any way related to any kind of physical or mental condition that the requesting student (or requested on behalf of) might be related to.

The Order Regarding Organization of Self-Education was replaced by the Order on Self-Education in 2003 which remained the main post-legislative act that regulated the right of the student to request self-education externally. The Order on Self-Education was once again amended in 2007; however, the content of the right to receive part or all of the compulsory education in form of external self-education remained unabridged (though subjected to approval of certain institutional bodies, as explained above). Both legal acts provide that the right to request self-education lies within the discretion of the student and it was not related to any restrictions as to physical or health characteristics of the student

620 The requests for self-education could be submitted to be schooled externally according to the whole program, several or individual subjects. *Order Regarding Organization of Self-Education*, Official Gazette (1997, No. 104-2694), Art. 6;

621 Requests for external self-education of children under the programs of primary education were to be approved by the head of the department of education of the municipal or regional level. *Ibid.,* Art. 5;

622 *Ibid.,* Art. 1, 6, 8;

623 *Ibid.,* Art. 11-15;

seeking self-education according to the primary, main and secondary programs of compulsory education.[624],[625]

The process of self-education according to the amended Order on Self-Education remained a highly monitored and controlled process of education. First of all – the individual decision of whether to grant a request of the student to be schooled externally lied within the discretion of the principle of the school that received the said request.[626] The later provision simplified the process of application and decision making in regard to the right of the student to be schooled externally, because, as explained above, the previous provisions of the Order expressly provided that the decision lie upon and involve the board of educational pedagogues or municipal bodies.

Secondly – the school itself was explicitly provided as the sole party responsible for the organizational process of self education, should such form of education be granted to the student. The school was responsible for appointing an appropriate amount of teachers who were, in turn, responsible for drawing up the program of teaching, providing mandatory consulting hours and evaluation,[627] providing teaching material, access to the library and other teaching facilities, if was applicable.

The amendment of the 2007 of the Order on Self-Education introduced a completely new form of external self-education via tools of distance learning. The *virtual educational environment*[628] and other provisions related to distance learning referred to in the latter post-legislative act enabled participants of the teaching process to include information technologies into the process of acquiring education externally. Limitations, however, applied: no more than half of all individual or group consultation hours of the students who were schooled under external self-education programs could be facilitated in a virtual environment by way of distance consultation.[629] A student with disability could request that all consultations by the school be facilitated virtually.[630]

Based on practical experiences of parents who chose to home-school their children by choice, this particular version of the Order on Self-Education provided the most liberal

624 Order on Self-Education; Official Gazette (2003, No. 33-1397); Art. 2, 4;

625 *Order of Amendment of the Order on Self-Education, supra note* 506, Art. 5;

626 *Ibid.,* Art. 6, 8;

627 Teachers and amount of consulting hours depend on the request of the student – by law, the student of primary, main and secondary educational programs may request that he or she be self-educated externally according to the whole program or only part of the program (a subject or several). The scope of request also determines the number of the consulting hours that the teacher will be obliged to provide: individual consultation hours make up 10-15% of the minimum weekly hours assigned to any particular subject by the General Educational Plans; group consultation hours make up 10-50% of the minimum weekly hours assigned to any particular subject by the General Educational Plans. – *Order of Amendment of the Order on Self-Education, supra note* 506 Art. 9.1, 17;

628 According to the definition of the post-legislative act, an educational system based on computer networks and other information technologies that allow application of various teaching methods, where educational process and interaction between teachers and students takes place is referred to as the *virtual educational environment.* – *Ibid.,* Art. 1;

629 *Distance consultation* is referred to as an educational activity that organized via virtual educational environments, e-mail ir other means on internet communication. – *Ibid.,* Art. 1;

630 *Ibid.,* Art. 16;

legal regulation according to which it was most feasible for the parents who wanted and were able to exercise their right of choice between traditional and non-traditional form of compulsory education, to home-school their children at home.[631] It is to be pointed that home-schooling in form of self-education in Lithuania has never been popular form of compulsory education by choice. As a rule, it was generally applied in cases related to some form of physical, physiological or mental health condition of the child. Nevertheless, for a rather brief period (from 2007 to 2012) home-schooling was made available as an alternative form of compulsory education by way of self-education to all children on their individual request.

As mentioned previously the 2007 adoption of the Order on Self-Education was replaced by the Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education, which for the first time by way of consolidation provided consistent regulatory provisions regarding all available forms of formal education.[632] It is provided that *self-education* is a way of individual learning according to the programs of primary, main and secondary education (according to all or selective subjects or modules) with an option to receive individual or group consultation at school by the teachers.[633]

According to the new and concise Description of the Forms of Education *self-education* is still made formally available way of learning according to the solitary (or individual) form of education. However, restrictions apply.

Table 15: *Restrictions on self-education learning as provided by the Description of the Forms of Education:*[634]

<table>
<tr><th colspan="3">Self-education according to programs of:</th></tr>
<tr><th>Primary education</th><th>Main education</th><th>Secondary education</th></tr>
<tr><td rowspan="2">Learners of ages 7(6)-10 who are:
-in recovery in rehabilitation or hospitalized (and are prescribed a bed regime) and if a regular class is not formed;
-treated at home and if home-schooling is recommended by specialists.</td><td colspan="2">Learners of ages 11-18 (up to 21 years of age in case of special needs education) who are unable to attend school or acquire education by way of distance learning (in group or individually) due to same reasons as the learners of ages 7(6)-10.</td></tr>
<tr><td></td><td>Learners of the program by way of daily attendance, if a full group is not formed.</td></tr>
<tr><td colspan="3">Persons, who are prohibited from attending a class or a group because of temporary deprived or restricted freedom (detention), and who are unable acquire education by way of distance learning (in group or individually).</td></tr>
</table>

631 Bernardinai.lt, "Jurga Juodkazytė. Namų mokymas turėtų būti laikomas natūraliu dalyku – ne anomalija," [Jurga Juodkazyte. Home-schooling should be considered a natural phenomenon – not an anomaly] (May 2013) // http://www.bernardinai.lt/straipsnis/2013-05-06-jurga-juodkazyte-namu-mokymas-turetu-buti-laikomas-naturaliu-dalyku-ne-anomalija/100376, accessed March 1, 2016;

632 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education, supra note* 507;

633 *Ibid.,* Art.6.2;

634 *Ibid.,* Art.13;

Thus, it can be concluded that adoption of the new Description of the Forms of Education restricts the way of *self-education* to learners who are recovering or are ill and are hospitalized (in both instances a precondition applies that a class is not formed in the institution of hospitalization or recovery) or treated at home. The only persons who are allowed to receive schooling by way of *self-education* are persons in detention or in restricted condition in regard to the right of freedom, and if they are unable to receive education according to programs of general education by way of *distance* learning. ***Self-education*, thus, is extremely limited, and could not be utilized as an alternative form of acquiring education in cases when a learner felt threatened and unsafe within the settings of the traditional form of education.**

3.5.3. Distance learning

The same Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education prescribed *distance* learning as one the ways of group and solitary forms of general education.[635] According to the description of the form of group education by way of *distance* learning, the notion of distance learning is defined as regular (5 days per week) and consistent education according to the programs of primary, main and secondary education of students from different locations by way of connecting to a class or group by means of information technologies and communication devices.[636] Respectively the solitary form of education, according to the Description of Forms of Education, can be carried out by way of *distance* learning which is described as individual self-education by students in different locations according to programs of primary, main and secondary education (all, separate subjects or modules) by way of connecting with a teacher and participating in individual or group consultations by means of information technologies and communication devices.[637]

According to the data provided by the Ministry of Education and Science only 287[638] of the students of the 17 schools that provide the programs of general education were educated by way of distance learning in 2012.[639] Thus, though formally available, modern, increasingly available, and legally acceptable, distance learning is still considered an exceptional

635 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education, supra note* 507, Art. 5.3, Art. 6.3;

636 *Ibid.,* Art. 4.1, 5.3;

637 *Ibid.,* Art. 4.2, 6.3;

638 Which, according to the department of statistics, makes up less than one percent of the total student body population for the school year 2011-2012 – Department of Statistics of Republic of Lithuania, "Schools of General Education. Distinctions: Administrative Territory, Type of the Educational Institution," (2011-2012) // http://db1.stat.gov.lt/statbank/selectvarval/saveselections.asp?MainTable=M3110302&PLanguage=0&TableStyle=&Buttons=&PXSId=3841&IQY=&TC=&ST=ST&rvar0=&rvar1=&rvar2=&rvar3=&rvar4=&rvar5=&rvar6=&rvar7=&rvar8=&rvar9=&rvar10=&rvar11=&rvar12=&rvar13=&rvar14= (accessed March 5, 2016);

639 Ministry of Education and Science, "Distance Learning: Expanding the Educational Opportunities," (June, 2012) // https://www.smm.lt/uploads/documents/kiti/Nuotolinis_mokymas.pdf (accessed March 5, 2016);

form of education, because it remains subject to restrictions by the same Description of Forms of Education which allows it.

Table 16: *Restrictions on distance learning as provided by the Description of the Forms of Education:*[640]

Distance learning is applied in:	
Form of group education	**Form of solitary education**
Learners of ages 11-18 (up to 21 years of age in case of special needs education) who cannot attend programs of main and secondary education daily because of the following conditions: -are hospitalized or treated at home, or who are prescribed homeschooling; -have special needs in education due to disabilities, according to recommendation of specialists, but no longer that for a period of one year; -are participating at high level extramural activities or exchange programs; -are teenagers on maternity leave or are raising their children.	Individual learners according to the programs of general education according to the same conditions as are applicable to learners of group education: If the group according to the group form of distance learning is not formed; Persons, who are prohibited from attending a class or a group because of temporary deprived or restricted freedom (detention).
Learners of ages 7-18 (up to 21 years of age in case of special needs education) who are temporarily residing abroad or according to recommendation of Child Protection Services.	

It can be concluded from the summary of the restrictions on *distance* learning provided by the Description on Forms of Education, that it is 'allowed' in form of group mainly because of the reasons of health or disability, raising a child, or being unable to attend class because of restrictions on personal freedom. It is provided that *distance* learning in a group form is available without restrictions to the learners of the whole age gap of general education if the latter are temporary residing abroad or if *distance* learning is recommended by the specialist of Child Protective Services. Also, it must be noted that individual *distance* learning is only available to learners of the same specification as that or the full group for *distance* learning class is not formed. However, persons in detention due to restriction of freedom are allowed to be educated by way of *distance* learning without restrictions. Therefore, as in case of *self-education* it can be concluded, that ***distance* learning as an alternative form of education, though formally available, is subject to restrictions and scarcely available and could not be utilized as an alternative way of acquiring education when the rights of learners in regard to safety and full enjoyment of the right to education are breached.**

640 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education, supra note* 507, Art. 11.1-11.3, Art. 14;

CHAPTER THREE – RELEVANT ASPECTS OF STATE'S RIGHTS, DUTIES, OBLIGATIONS AND ACCOUNTABILITY IN REGARD TO THE ISSUE OF BULLYING AT SCHOOL

The legal status of the child in Lithuania is regulated by national legal acts in compliance with regional and international law. 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,[641] 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 in the field of education. Lithuania, over the period of its restored independence (since 1990) has advanced immensely in bettering the overall status of the child – that encompasses securing implementation and protection of an array of individual rights by legal norms and regulation, including the right to education. Child oriented institutions are incorporated in all administrative levels of governmental institutions, there are numerous non-governmental organizations that work is dedicated for the betterment of the status of the child. A specialized control Institution of the Ombudsman for Children rights was established in 2000,[642] with the main mission to oversee national implementation of international and national legal acts in the field of protecting the rights of the child, and control actions of private persons, institutions and organizations on national, municipal and non-governmental levels, that might infringe the rights and legitimate interests of the child.[643]

The special status of the child is protected by the Constitution of Republic of Lithuania.[644] However, the institutional system of protection of the rights of the child, as well as other institutional mechanisms which ensure implementation of the different rights of children, the effectiveness of legal regulation raise concerns in light of some extremely negative behavioral patterns towards children (by both adults and minors) in the society. Unfortunately, violence against and among children has been a prevalent pattern of the Lithuanian society for decades now. Even though statistical numbers show a fairly positive shift in the situation, however, integrity of children remains at stake due to high rate of violence against children, among children (against other children) and violence by children (against adults), increasing rates of juvenile delinquency.

Violence among children and by children at school stands out in the general context of violence against and by children. The Thesis focuses on one particular form of school violence, i.e., bullying being one of the most prevalent forms of school violence among and by children at school during the period of compulsory education. The factual situation

641 Geraldine Van Bueren, *supra note* 107, p. 151;

642 *Decision of Seimas of Republic of Lithuania Regarding the Institution of the Ombudsman for Children Rights,* Official Gazette (2000, no. 60-1769), Art. 1.

643 *Ibid.,* Art. 2.

644 *Constitution of Republic of Lithuania, supra note* 78, Art. 38, 39.

related to the issue of prevalence of bullying at school in Lithuania is backed by statistical data provided by WHO and some of the national organizations in the introductory chapter of the Thesis. The issue is prevalent.

Children's right to education in Lithuania (as is in many other countries worldwide) is not only a constitutional right, but also a duty, thus, children are given but the 'imperative choice' by the state to attend school in order to implement their right to education.[645] However, frequent bullying is the most common and prevalent form of school violence in Lithuania.[646] The forms and consequences of bullying are detrimental, direct and indirect, resulting in various violations of the individual rights (such as right to dignity, right to integrity, right to privacy, to name a few) of children who suffer from bullying at school.

Legal acts of all legislative and administrative levels form the legal system of the children's rights in Lithuania. These legal acts serve as basis for institutional framework of implementation and protection of the rights of children, which could be analyzed at length in many aspects thereto. The focal point of the Thesis calls for a concentrated analysis of the legal, institutional and policymaking levels in the context of the constitutionally guaranteed and protected right of children – the right to education. Due to the fact that prevalence of being bullied and *bullying* others at school remains relatively high, and Lithuania, as a state on an international context, continues to prevail among numbers of bullying cases at school the system of general education (compulsory education including) of Lithuania, its legal regulation, shall be further analyzed in regard to *bullying* related individual rights, duties, obligations and accountability of the state's stakeholders involved in the process of compulsory education of children.

1. STATE'S DUTIES AND OBLIGATIONS IN REGARD TO THE RIGHT TO EDUCATION AND OTHER RELEVANT RIGHT IN EDUCATION

The following part of the chapter analyses the national legal and institutional and policy framework of Lithuania in regard to the state's rights, duties, obligations and accountability related to the issue of *bullying* during the process of general education. Objective reasons for presenting the national framework in this particular order were suggested by findings of international and national surveys that are carried out periodically and that monitor the phenomenon of *bullying* at schools, as well as research of legal acts of various jurisdictions, that adopted specific legal acts and secondary norms and principles, in regard to different aspects of the rights of the learners to safe educational environment during the process of compulsory education.

The right to education is a social right that arises from a positive duty that rests and is carried out by the state – to provide an education to a child.[647] The right to education is also the object of international and regional treaties and its guarantee and implementation

645 *Constitution of Republic of Lithuania, supra note* 78, Art. 41;

646 Vilija Targamadzė and Džiuginta Valeckienė, *supra note* 102, p. 171;

647 Neville Harris, *supra note* 435, p.35;

rests upon the states legislations at national levels, where the states must formally enact appropriate legislation in compliance with their international obligations. However, the formal acknowledgement of the obligation in regard to the right to education (or any other human right) does not remain static. Both the national and international law must adapt and does so due to the ongoing inevitable changes on the economic, technological, social and political setting. The latter influence both the capacities of the states compliance as well as dictate the urgencies that need to be addressed by law – both international and subsequently national or vice versa. Due to these factors the levels of compliance by the states are not considered invariable standards.[648] For the purposes of this Thesis it is attempted to apply *bullying* at school as variable of certain negative social behavior in determining the compliance of a system of compulsory education with the universally applied 4A principles of international human rights law. Such rationale seems relevant, since the constitutional duty to provide a sound system of compulsory education is inherently related to state's obligations arising from the ratified international treaties.

The state serves and individual in abiding the constitutional order as well as the international legal obligations. The right to compulsory education within the context of the constitutional rights guaranteed by the Constitution of Republic of Lithuania is, undoubtedly, a very important right, that is explicitly protected and is given the constitutional status. This notion is supported by the constitutional provisions that make the right to education not only an individual right, but also a positive duty of its citizens, obliges the state to provide education in state and municipal schools of general and vocational education free of charge, while making higher education accessible based on individual capabilities.[649] Based on the supporting statements of the Thesis, the process of compulsory education in Lithuania is burdened with cases of bullying among learners. As is discussed in Chapter One of this Thesis, the issue of bullying as a form of violence during compulsory education is directly related to ensuring safe and healthy environment at school. Therefore, the duties (or obligations)[650] of the state, within the context of this chapter, are researched in two aspects – general duty to provide compulsory education and ensuring safe and healthy learning environment during the process of compulsory education.

Article 40 of the Constitution of Lithuania not only determines right of establishment of autonomous secular state and non-state educational institutions, but also puts an obligation on the state to oversee the activities of such institutions.[651] State's duties in the field of education are prescribed by the Law on Education[652] and are implemented trough a socially just system of education which is based on the core principles of equal opportunities, context adaptability, effectiveness and continuity. Research of the provisions of the main legal act regulating the system of education in Lithuania allows making a conclusion, that the constitutional duty of the state to ensure the right to education is fulfilled by safeguarding main principles of education, granting the right to execute certain functions and adopt

648 Jan De Groof, *supra note* 597, p.28-30;

649 *Constitution of Republic of Lithuania, supra note* 78, Art. 41;

650 Terms of duty and obligation are used synonymously.

651 *Constitution of Republic of Lithuania, op. cit.,* Art. 40;

652 *Law on Education, supra note* 299, Art.1;

necessary decisions (on different levels of governance of education), and distributing duties and obligation among the subjects of the education system.

'State obligations in the field of education' is a notion explicitly recognized within the context of the *purpose* if the Law on Education.[653] However, it must be stated that the actual duty *vis-à-vis* state obligations is 'diluted' within the wording of the same law. The provisions of the Law are explicit in directly enumerating duties of subjects of education such as, for example, duties of the learner,[654] duties of parents or guardians,[655] and duties of teachers.[656] There are very few provisions that support the explicit notion of 'state obligations' recognized in Article 1 of The Law on Education. For example, it is determined that the Government is responsible for implementation of the National Strategy of Education and the part of the Program of Government in the field of education.[657] The Ministry of Education and Science is 'empowered … to be responsible for quality of education.'[658] The wording of the Law on Education implies the obligation of the state to 'ensure quality,' while the same provision explicitly determines that the provider of education is responsible for the quality of education.[659] In fact, the notion of 'duty' or 'obligation' in regard to rights and obligation of the Government and The Ministry of Education and Science is not used at all. The obligation of the state to ensure the right to education is at large reflected not by determining obligations *per se*¸ but by scope of powers of the state[660] in the field of education that are determined by empowerments of the Government and the Ministry of Education and Science in the Law on Education.

In implementing its empowerments, duties and obligations in the field of education the state has bound itself (as well as other subjects of education governance) to principles of the system of education – principle of *equal opportunities*, *contextuality*, *effectiveness* and *continuity*.[661] The principle of *equal opportunities* obligates the state to provide a system of education that is socially just, accessible, and ensures implementation of individual rights of every person. Principle of *contextuality* is based on interrelatedness of the educational system and its adaptability in relation to the general context of economical, social and cultural development of the region, as well as to the needs of the society.[662] The later principles embedded within the legal system of regulation of the system of education are important within the context of the Thesis, because they are related to the obligation of the state to provide a just system of education where rights of all individuals are taken into consideration and upheld.

653 *Law on Education, supra note* 299, Art.1;
654 *Ibid.,* Art.46 para.2;
655 *Ibid.,* Art.47 para.2;
656 *Ibid.,* Art.48 para.2;
657 *Ibid.,* Art.55 para.1 sec.4;
658 *Ibid.,* Art.56 para.1 sec.2;
659 *Ibid.,* Art.37 para.1;
660 Alfonsas Vaišvila, *supra note* 80, p.204;
661 *Law on Education, op.cit.,* Art.5;
662 *Ibid.,* Art.5;

The government of Lithuania does comply with its constitutional duty to provide certain forms of education free of charge, thus, ensuring and protecting the right to compulsory education. However, there are some issues submerged within current system of compulsory education, that open up an interesting discourse on the balance of all individual rights that come into play during the process of compulsory education.[663] One of the issues is *bullying*. In the context of the Thesis, it is important to analyze, whether through implementation of its duties, the state has provided the system of compulsory (as well as general) education that is balanced in regard to other individual rights of the students that are infringed by other learners who are exercising their right (as well as duty) through the system of compulsory education provided by the state.

The first aspect of this chapter deals with the general duty of the state to provide the system of compulsory education. Article 41of the Constitution of Republic of Lithuania explicitly states that education is compulsory until the age of sixteen and that education in state and municipal schools of general, vocational and higher education is free of charge. Based on the legal regulation of the system of education discussed in Chapter Two, compulsory education is mandatory to the citizens (on foreigners that have obtained permanent or temporary residence status) until the age of sixteen, and is guaranteed by the state according to the programs of primary and main education. According to the definition– both programs of primary and main education, together with secondary education constitute general education. [664] Age and duration wise, it is provided that primary education main education programs are provided for the period of four and six years, and last accordingly until the learner comes ten and sixteen years of age, accordingly. Formally, secondary education *per se* is not considered part of the compulsory education. However, the Law on Education explicitly provides that apart from primary and main education, the state is obliged to take measures that every child in Lithuania is educated according to the secondary education, therefore the state guarantees primary, main and secondary education.[665] Since secondary education is commenced only after completion of primary and main education consecutively and continues for two years, it means that it lasts until the learner has reached eighteen years of age. Thus, the state meets its constitutional obligation by guaranteeing and providing education two years beyond the age limit of compulsory education.

In complying with its obligation to guarantee the right to compulsory and universal education to all subjects[666] who have the right to education the state has created the network of education providers that consists of state, municipal, non-state schools, vocational education institutions, higher and non-formal education schools, freelance teachers and other providers of education. The network of education providers provides access to both compulsory education and universal education (that can last throughout an individual's lifetime). Since compulsory education falls within the category of formal education, out

663 The legal discourse and approach on the balance of rights in education is a fairly new subject.

664 *Law on Education, supra note* 299, Art. 2;

665 *Ibid.,* Art. 24.2,3;

666 It is to be pointed out that the right to education is formally guaranteed only to the citizens of Lithuania and foreigner who have obtained a right of permanent or temporary residence.

the different types of networks that constitute the general network of education providers[667] - the legislator distinguishes the notion of the network of schools that provide formal education, that constitute the framework of educational institutions responsible for providing compulsory education, and the Ministry of Education and Science and municipalities are responsible for planning and providing the optimal amount of relevant state and municipal schools within the network of schools that provide formal education. The School network is also referred to as the School system in the Rules of Creating the Network of Schools Providing Formal Education.[668]

The duty of the state to provide a system of general education in Lithuania it fulfilled. Thus, the universal principle of *availability* and *accessibility* is adhered to.[669] Children, in general, exercise their universal right to education freely. However, it can be argued that the focus of the state to provide the system of compulsory education in order to comply with its constitutional duty to do so, and the process of reforming of the latter system has actually given the right to acquire compulsory education a supra legal character when compared to other individual rights of the participants of the compulsory (and general) education. For example, the system of compulsory education is structured in a way that the state makes sure that individuals are always guaranteed that their right to education is protected and exercised.[670] This notion, without a doubt, is logical and plausible, because without the efforts of the governments, the right to education of children would most likely be doomed due to the fact that not all parents, thus, children would be able to afford it, nor have proper means to provide it to its fullest. Having a responsible and resourceful government acting in *loco parentis* in order to ensure that children's right to education is upheld is crucial.[671]

However, it is important that the government in implementing its constitutional duty to ensure every child's right (and duty) to free compulsory education keep the balance of all individual rights (and duties) of the stakeholders of compulsory education, especially the learners. In light of the fact that different and vigorous manifestations of violence (for this instance, *bullying* during the process of compulsory education) in the school environment are prevalent, the legislators, the government and other responsible subjects carry an obligation to provide a system of education where a child (while exercising his or her right

667 In the Law on Education the legislator distinguishes between the different kinds of networks that provide education: 1) the minister of education and science together with municipalities and the government are responsible for sufficiency of the networks of state and municipal schools of vocational and general education for students with need for special education; 2) the government is responsible for sufficiency of the network of state colleges; 3) the parliament is responsible for sufficiency of the network of state universities; 4) municipalities are responsible for having an optimal network of primary, main, secondary and non-formal education for children and adults network, as well as network of institutions that provide assistance for students and teachers. The law also distinguishes the notions of the network of schools providing formal education and network of providers of non-formal education. – *Law on Education*, *supra note* 299, Article 28.

668 *Decision of The Government of Republic of Lithuania Regarding the Rules of Creation of Network of Schools That Implement Programs of Formal Education , supra note 545,* Section II Art. 3, 4;

669 *General Comment No. 13, The right to education, supra note* 112, Art.6(a)(b);

670 *Law on Education, supra note* 299, Art. 28 para.6;

671 Katarina Tomaševski, *supra note* 416, p. 75;

to education) is developing and realizing the full potential in a safe, healthy, inclusive and non-discriminatory learning environment.[672]

One of the principles of the system of education is the principle of *contextuality,*[673] which as a legally recognized principle binds the subjects of governance of education in an obligatory and imperative way and indicates the projected aim of the legal regulation in the system of education.[674] The principle of *contextuality* as defined[675] by the Law on Education, corresponds to the universally recognized principle of *adaptability* as interpreted by the Economic and Social Council of the UN.[676] Thus, suggesting that the state has a general duty to comply with the two principles of *contextuality* and *adaptability* in implementing its duty to ensure compulsory education as well as efficiently utilize its discretionary powers in compliance with the said principles.

2. CERTAIN ASPECTS OF DISCRETIONARY POWERS OF LEGISLATIVE BRANCH IN THE FIELD OF EDUCATION AND THEIR RELEVANCE TO THE ISSUE OF *BULLYING*

The state's rights *per se* are limited and realized *vis-à-vis* realization of powers (or functions) by institutions of legislative, executive and judicial branches, as well as administrative units such as municipalities, districts, etc. The constitutional principle of limitation of the state powers provides that the state's powers are limited by the Constitution, and that state institutions serve the people.[677] As a rule, governments are individually obliged to secure human rights for their own population.[678]

The state, *vis-à-vis* legislative and executive branches respectively, is granted a constitutional power to pass legislation in form of laws and post-legislative acts,[679] as well as develop policies in accordance with the constitutional values and in relevance with the best interests of the society. Such discretionary powers enable the via respective institutions to tackle the issue of *bullying* by adopting legislation that makes it imperative for providers of compulsory education to implement programs or policies of *bullying* prevention.[680]

For example, the Parliament of Lithuania, based on its constitutional powers has a right to adopt decisions[681] as acts of post-legislative power, which provide criteria to the govern-

672 Pieter W.A. Huisman, "Providing a safe educational environment; a scan of legal situation in the Netherlands," *The International Journal for Education Law and Policy; Special Issue* (2013):17;

673 *Law on Education, supra note* 299, Art. 5 para.1 sec.2;

674 Alfonsas Vaišvila, *supra note* 80, p.146-147;

675 The principle of *contextuality* means that the system of education is interrelated with the of economical, social and cultural development context of the region, is renewed together with it and adapts to the changing needs of the society - *Law on Education, supra note* 299, Art. 5 para.1 sec.2;

676 *General Comment No. 13, The right to education, supra note* 112, Art.6(c);

677 *Constitution of Republic of Lithuania, supra note* 78, Art. 5;

678 K.Tomaševski, *supra note* 113, p. 10;

679 *Constitution of Republic of Lithuania, op. cit.,* Art. 69, Art. 95;

680 Mary Ann Zehr (Education Weekly), "Legislatures Take on Bullies With New Law," (May 2001) // http://www.edweek.org/ew/articles/2001/05/16/36bully.h20.html ;

681 *Constitution of Republic of Lithuania, op. cit.,* Art. 94 para.1 subsec.2;

ment for implementation of the laws adopted[682] and that the government is obligated to execute.[683] The Parliament as a collegiate body realizes its legislative powers *vis-à-vis* the members of parliament that make up the legislative body. The members of Parliament are granted a discretionary right to initiate legislation,[684] and to act in consideration of the interests of the state and according to their own conviction.[685]

In 2015 a group of parliamentarians used their discretionary power and proposed a draft of a Decision Regarding the Right of Learners to Safe Environment in Educational Institutions.[686] This was the first time that the right to safe environment of the learners was addressed by a post-legislative act of the Parliament. The Decision Regarding the Right of Learners to Safe Environment in Educational Institutions was adopted by the Parliament in March 2016 and within its content it recognizes the right of the learner to be educated in an emotionally and physically safe environment enshrined in the Law on Education, and acknowledges that the right of the learners to such safe environment is implemented in sufficiently.[687]

The latter Decision in essence contains proposals to the Government of Republic of Lithuania and the Ministry of Education and Science of Republic of Lithuania. It is proposed by the Parliament that Government should ensure implementation of at least one program of violence and *bullying* prevention in all schools across Lithuania.[688] It is also explicitly proposed that the Government includes specific budgetary resources to fully implement the programs of violence and *bullying* prevention within the content budgetary provisions for the budgetary year of 2017 (including that of the budget allocations on national and municipal levels, as wells as that of the programs of EU structural funds).[689] The Decision also proposes that the Ministry of Education and Science includes an "indicator of evaluation of emotional environment" in the legal acts that regulate appointment and assessment of heads of schools, and seeks new measures to strengthen and expand the status of the class educator[690] as an important party involved in the development of the student.[691] The Constitution explicitly states that the Government carries out laws and Parliamentary decisions in regard to implementation of the laws.[692]

---

682 Mantas Varaška and Arminas Lydeka, „Seimo nutarimas: sapmrata ir istorinė raida" [Parliamentary Decision: the Concept and Historic Development], *Law Review* No.1 (12), 2015: 210;

683 *Constitution of Republic of Lithuania, op. cit.,* Art. 94 para.1 subsec.2;

684 *Constitution of Republic of Lithuania, supra note* 78, Art. 68 para.1;

685 *The Statute of Seimas of Republic of Lithuania,* Official Gazette, (1994, No. 15-249), Art. 1 para.2;

686 Parliament of Republic of Lithuania, *supra note* 300 (accessed December 16, 2016);

687 *Decision of the Seimas of Republic of Lithuania Regarding the Right of Learners to Safe Environment in Educational Institutions, supra note* 298, Preamble;

688 *Ibid.,* Art.1.1;

689 *Ibid.,* Art.1.2;

690 Class educator is the status of a teacher who acts as an advisor and is responsible for overseeing a class of students during the course of their entire education at school;

691 *Decision of the Seimas of Republic of Lithuania Regarding the Right of Learners to Safe Environment in Educational Institutions, supra note* 298, Art.2;

692 *Constitution of Republic of Lithuania, op. cit.,* Art. 94 para.1 subsec.2;

The Government is granted the discretionary powers of preparing, drafting and executing the State Budget,[693] and the Minister is granted the power to oversee the respective area by adopting necessary decisions.[694] **However, the instrumentality and imperativeness of the Decision of the Parliament in this case is substantially diminished by its wording –the measures proposed by the Parliament within the content in both cases are 'suggestions' not an imperative orders *per se*[695] that the respective executive institutions should follow.** Therefore, the instrumentality of the Decision discussed above in regard to taking explicit measures to improve the situation related to prevalence of *bullying* at school relies on further disposition (not obligation to execute) of the Government and the Minister of Education and Science.

Another important discretionary power in the context of powers (besides the power to initiate legislation) granted to the representatives of the legislative branch is the right to submit propositions in regard to the laws that are debated during the phase of deliberations in Parliamentary Sessions.[696] For example, during deliberations of the proposed budgetary provisions for the year 2016 several Members of Parliament pointed out that the sum allocated for prevention of *bullying* at school in the budgetary provisions was the same as in that of 2015 and amounted to 75 000 Euros, *bullying* prevention programs are implemented only by every other school due to lack of funding. Therefore, two explicit proposals in regard to *bullying* by Members of Parliament were submitted. It was proposed to either increase the funding of the student's purse by 3 EUR (from 1014 Euros to 1017 Euros per student per year) in order to increase the specific funding of *bullying* prevention programs at schools to approximately 990 000 Euros, or to increase the funding of specific *bullying* prevention programs from 75 000 Euros to 150 000 Euros, respectively. Both proposals were rejected by the Government.

2.1. On the latest amendments of the Law on Education of Republic of Lithuania

In 2016 the proposal by the President[697] to amend the Law on Education initiated a process of deliberations which resulted in adoption of slightly altered provisions of the Law on Education[698] by the Parliament than those proposed by the President, but nevertheless relevant in ensuring a more safe educational environment of the learners in Lithuania. **Therefore, by jointly exercising the state rights *vis-à-vis* implementation of their**

693 *Constitution of Republic of Lithuania, supra note* 78, Art. 94 para.1 subsec.4;

694 *Ibid.,* Art. 98 para.1;

695 *Decision of the Seimas of Republic of Lithuania Regarding the Right of Learners to Safe Environment in Educational Institutions, supra note* 298, Art.1, Art.2;

696 *The Statute of Seimas, supra note* 685, Art.9 para.1 subsec.6;

697 *Decree Regarding Submitting the Project of the Amendment of the Law on Education No. I-1489 to the Parliament of Republic of Lithuania by Amending Articles 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 of the Law on Education and Supplementing the Law on Education with Articles 23^1, 23^2,* Registrar of Legal Acts (2016, No. 12232);

698 *Law on the Amendment of the Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 and Supplementing with Articles 23^1, 23^2 of the Law on Education No. I-1489, supra note* 303;

discretionary powers of initiation and adoption of legislation in form of the law – the executive and the legislative branches took explicit measures in addressing both the issue of violence and *bullying* at school within the scope of the right to and the rights in education. The latter step adds significantly in promoting the notion of the law of education as well as advocating for the rights of the learners in Lithuania.

The latter amendment of the Law on Education sets a zero tolerance of any forms[699] of violence at school[700] and clarifies the scope of its application in light of the general aims of the Law on Education. It is to be noted that the legislators, by amending the Law on Education, redrafted its purpose specifically referencing to its application in light of other laws that regulate safety of public information, prevention and control of violence.[701] The provision defining the general purpose of the Law on Education explicitly states,[702] that application of the provisions of the Law on Education shall be in conformity with the Law on Fundamentals of Protections of the Rights of the Child,[703] Law on Protection from Violence in Immediate Surroundings,[704] Law on Informing the Public,[705] Law on Protecting the Minors from the Negative Effect of the Public Information.[706] The Law on Education also explicitly indicates the Law on Cyber Security[707] and the Law on Electronic Communications[708] when explaining any other applicable cyber security notions. **Therefore, the Law on Education becomes not only a legal act shaping the framework of the system of education in Lithuania, but also a recognized legal tool, among other laws, of the system of protection of the child from all forms of violence, including violence at school in all of its recognized forms**. Including the finalized list of the legal acts that are applicable in case of conflict of the provisions of the Law on Education and the enumerated laws, provides for a more comprehensive system of referral in the context of violence control and prevention and control in schools. The most notable advancement of legal regulation of education after adoption of the said amendments of the Law on Education are in legally recognizing the definition of violence, *bullying* and *cyber bulling*, setting legal grounds of a mandatory reporting system regarding school violence, and expanding obligations of certain subjects.

699 Any form of violence is prohibited in regard to violence of learners against learners; school staff against learners; learners against school staff; school staff among each other; parents against school staff. – Art. 23^1 para.1 of the Law on Education;

700 *Law on the Amendment of the Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 and Supplementing with Articles 231, 232 of the Law on Education No. I-1489, op. cit.,* Art.5;

701 *Ibid.,* Art.1;

702 Art.1 para.1 of the Law on Education provides that its purpose is to determine aims of education, principles of the system of education, basis of the structure, activity of education, and relations of education, as well as obligations of the state in the field of education. - *Law on Education, supra note* 299, Art. 1.1;

703 *Law on Fundamentals of Protections of the Rights of the Child,* Official Gazette (1996, No. 33-807);

704 *Law on Protection from Violence in Immediate Surroundings, supra note* 302;

705 *Law on Informing the Public,* Official Gazette (1996, No. 71-1706);

706 *Law on Protecting the Minors from the Negative Effect of the Public Information,* Official Gazette (2002, No. 91-3890);

707 *Law on Cyber Security,* Registrar of Legal Acts (2014, No. 20553);

708 *Law on Electronic Communications,* Official Gazette (2004, No. 69-2382);

2.2. On prevention programs

Duty of the school as the main institution providing compulsory education to ensure safe environment of the learners is unambiguous. According to the Law on Education, schools, among other obligations, are explicitly obliged to ensure a healthy, safe, environment that prevents violence, coercion and harmful habits. As of January, 2017, the duty of ensuring safe environment of the learners of the school was supplemented by an explicit obligation to ensure conditions for learners to participate in at least one prevention program that is devoted to long-term development of knowledge and coping skill of emotional and social nature, prevention of substance abuse and violence.[709] Long-term consistent education and violence (including *bullying*) prevention programs became legally recognized as most instrumental and mandatory measures to be implemented by the schools in light of the current level of prevalence of *bullying,* violence and its prevention.

The Law, thus, also recognizes the efficiency of consistent and long term education programs in the field of emotional development and prevention of violence (among other negative phenomena, such as, drug and alcohol abuse) by supplementing obligations of education providers to provide such education, and the rights of the learners to receive such education.[710] One of the ways of including consistent long term education in regard to *bullying* (as well as violence in general) is through alternative forms of education that may be applicable within the system of compulsory education. Such method was discussed in Chapter Two of the Thesis via analysis of *content* and *plans* education as effective tools of incorporating programs of non-formal education into the curricula of formal education.[711] Analysis of practical implementation of two programs of non-formal education was analyzed with the rational that event though, that non-formal education, due to its formal status within the system of general education – can also be used as an effective tool to educate the learners of the programs of compulsory education in regard to important issues, such as, for example, violence at school, and have a continuous effect on the way the actual content of the programs of general education are structured (as was the case with the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances[712]). A program of non-formal education can be incorporated into the curricula of formal education by both adopting a program of non-formal education and by adopting the *content* and *plans* of the programs of education – via discretionary powers prescribed to the Ministry of

709 *Law on Education, supra note* 299; Art.43.11;

710 *Law on the Amendment of the Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 and Supplementing with Articles 231, 232 of the Law on Education No. I-1489, supra note* 303, Art.7-10;

711 The analysis of content and plans of education was carried outin the context of two programs of non-formal education (The National Program of Drug Control and Prevention of Drug Addiction and the General Program of Health Education, General Program of Civil Safety, Development of Life Skills) both of which are incorporated within the teaching content of the programs of compulsory education.

712 The subsequent programs of National Program of Drug Control and Prevention of Drug Addiction for the periods of 2004-2008 and 2010-2016 were adopted by the Parliament. The measures of implementation of the said Programs were adopted by the Order of the Government in 2005, as well as the Order of the Minister regarding the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances at school. The latter post-legislative acts are still valid and have had a continuous effect on the way the actual content of primary, main and secondary education is structured.

Education and Science is entitled to.[713] In such a case, a program of non-formal education becomes supplementary to the programs of formal education, the purpose of is to develop and systematically expand knowledge, skills and competencies in certain areas.[714]

The current amendments of the Law on Education strengthens the instrumentality of such tools as programs of non-formal education, supplementary programs of education, prevention programs by explicitly recognizing their mandatory status within the system of education, their correlation to the phenomenon of violence at school and the rights of the learners. For example, the rights of the learners are supplemented with and explicit right to receive long term and consistent education on social and emotional competencies, and participate in long term and consistent prevention programs (the type of programs, is, however, not specified and can only be implied).[715] The Law now also requires that the school (in the context of its obligation to provide safe and secure and secure environment) must ensure conditions for every learner to take part in at least one long term and consistent program of violence, alcohol, tobacco and substance abuse prevention, according to recommendations.[716] The recommendations regarding the prevention programs that the school is required to provide conditions for participation are to be adopted by the order of the Minister of Education and Science.[717] The latter provision expands the obligation of the school in the context of ensuring safe school environment. Its wording, however, is ambiguous.

Linguistic analysis of the amended provision clearly suggests that the school is only to ensure conditions for participation of the students in the prevention programs. The provision, however, does not explain if the prevention program is to be provided by the school itself, what the prevention program actually is, because no provision of the Law on Education provides a definition of a prevention program. Analogous definition of the prevention program according to its purpose (helping to systematically strengthen abilities and skills in particular areas) and specifications (long term and systematic) is found in the provision of the Law on Education defining the purpose and specifications of non-formal education.[718] Hence, the referral to the programs of non-formal education as supplementary to the program of formal education acquired during compulsory education.

The prevention program recognized by the amended provision on school obligations clearly does not fall within the notion of one of the education programs of the compulsory education; therefore, it is not compulsory, nor free of charge. Expanding obligations of the school by imperatively requiring to add on certain prevention programs will always have financial implications on the school that usually translate in need of greater funding. In fact, it is possible to account for the general amount of financing that was allocated by the state in previous attempts to implements similar measures, albeit, on a voluntary basis of participation of the school.

---

713 *Law on Education, supra note* 299, Art. 56.12;

714 *Ibid.,* Art. 15.2;

715 *Ibid.,* Art. 46 para.1 sec.6, 12;

716 *Ibid.,* Art. 43 para.11;

717 *Ibid.,* Art. 43 para.11;

718 *Ibid.,* Art. 15 para.1;

In 2008, the government of Lithuania has enumerated three concrete prevention programs as measures of elimination of violence and *bullying* at school within the context of the National Violence against Children Prevention and Assistance Program of 2008 – 2010.[719] The overall financial resources estimated for the implementation of the three violence and *bullying* prevention programs during the period of 2008 – 2010 amounted to 2,94 mln. Euros. 2,2 mln. Euros of the amount were allocated to gradual integration of the OLWEUS program within the system of general and secondary education that was implemented under the supervision of the Ministry of Education and Science.[720] Integration of the OWEUS program was carried out by the Center of Special Psychology and Pedagogy (a national agency subordinate to the Ministry of Education and Science). Based on the report of the Center, 93 schools (over the period of 2008 – 2010) underwent full training and integration of the prevention methods of the OLWEUS *bullying* prevention program.[721] This allows projecting an estimate of financial resources required to integrate and implement such a measure of violence and *bullying* prevention at one school, which amounts to 31,6 thousand Euros per school. By the end of the school year 2015/2016, there were 282 schools that have undergone integration of the OLWUES *bullying* prevention program, only 72 of which continued to implement the measures of the program.[722] The cost of integration and consistent implementation of the said prevention program to the rest of the schools[723] providing general education would amount to an estimate of 27,5 mln. Euros.[724]

The Law, however, only provides provisions of financing the programs of formal education and its supplementary education (which are financed from the national budget and state budget assignations),[725] which the prevention programs are not. The new provision in question (regarding the added obligation to provide conditions for participation) does explain that the latter prevention programs shall be implemented according to 'recommendations' of the Minister of Education and Science 'regarding implementation of violence prevention at school.'[726] It is unclear, however, as to what significance these recommendations might imply on the implementation of the actual prevention programs, since recommendations *per se* carry no imperative obligation and are recommendatory nature, the provisions of the Law of Education as a legal act – are not. **The ambiguity of the new provision in regard to the notion of the prevention program, subject of its implementa-**

719 *Decision Regarding Confirmation of the National Violence Against Children Prevention and Assistance Program of 2008 – 2010;* Official Gazette (2008, No. 51-1893); Art. 7;

720 *Ibid.,* Art. 7.3;

721 Center of Special Psychology and Pedagogy, "Implementation of the Olweus Program in 2010. IV quarter Activity Report," (December, 2010) // http://www.sppc.lt/index.php?875478875 (accessed January 28th, 2017);

722 Center of Special Psychology and Pedagogy, "Information for the administrators of the schools willing to participate in the Olweus program," (2016) // http://www.sppc.lt/index.php?-485726843 (accessed January 28th, 2017);

723 Education Management Information System, "Main statistical information on education (estimate projection) for the year 2016-2017," (September 2016) // http://svis.emokykla.lt/ (accessed January 29, 2017);

724 The calculation is done on the estimate amount of the current number of schools (1151) and the cost of integration and implementation of the single Olweus program per school unit.

725 *Law on Education, supra note* 299, Art. 67 para.1, 2;

726 *Ibid.,* Art. 43 para.11;

tion, its financing resources puts it practical implementation in reasonable doubt of feasibility. Therefore, the obligatory provision for schools to include and ensure implementation of mandatory programs of prevention and education should be reflected in the financing of the learners education, i.e., be accounted for within the framework of the 'student's purse.'

Despite the ambiguity in regard to interpretation of such measure and, thus, their financing sources (i.e., who – the state or the school shall be responsible for pooling the necessary human and financial resources for integration and the upkeep of any of the additional programs of education and prevention), the necessity of the such programs is imminent. The obligation by the school to provide such type of long term education[727] as well as implement prevention programs[728] also explicitly resonates within the framework of the rights of the learners. The school is, thus, under mandatory obligation to implement of measures against *bullying* at school, such as, long-term consistent education and prevention programs.

There are several *bullying* prevention programs that schools are at liberty to choose from for obligatory implementation.[729] However, the implementation of the programs over a period of nearly ten year has proven to be inconsistent. For example, the Olweus *bullying* prevention program that has been explicitly recognized as a measure of prevention of violence and *bullying* against learners at schools within the framework of the national measures against violence, has been approved by the Center of Special Pedagogy and Psychology[730] and is currently being implemented by 57 schools[731] (out of the 1151[732] schools).

Schools, as discussed above, due to the facts that over 96% of them are state schools, are financially dependent on the state. Taking into consideration that obligatory implementation of additional long-term education and prevention programs will have an impact on human resources and financial capabilities of school as institutions, **the regulatory provisions in regard to actual implementation of such programs shall be provided in form of 'recommendation' of the Minster of Education and Science (as the current wording of**

727 *Law on Education, supra note* 299*,* Art.46.1.12,

728 *Ibid.,* Art.46.2.4,

729 Such as, for example, 'Safe school,' 'Olweus bullying prevention program,' 'Second step,' Zipy's friends,' LIONS Quest program of 'You + Me = We,' 'Teenage at crossraods,' 'Key to success,' 'I know,' - Ministry of Education and Science of Republic of Lithuania, "Patyčių problema mokykleoje ir prevencija" [Problem of Bullying at School and Prevention], (September, 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/buf_Patyciu-problema-mokykloje-ir-prevencija.pdf (accessed July 23, 2014);

730 An institution under the subordination of the Ministry of Education and Science responsible for training, licensing and overseeing the implementation of all Olweus programs in the country. – Center of Special Pedagogy and Psychology // http://www.sppc.lt/index.php?-1194004933 (accessed January 29th, 2017);

731 Order No. (1.3)V-18 of the Director of the Center of Special Pedagogy and Psychology Regarding the List of Certified Schools of Olweus, September 8th, 2016;

2) Order No. (1.3)V-49 of the Director of the Center of Special Pedagogy and Psychology Regarding the List of Certified Schools of Olweus, August 31st, 2015;

732 Education Management Information System, "Main statistical information on education (estimate projection) for the year 2016-2017," (September 2016) // http://svis.emokykla.lt/ (accessed January 29, 2017);

the Law on Education provides).[733] However, for the purpose of regulatory clarity the latter should be provided not in a recommendatory manner, but be adopted in form of a ministerial order, a post-legislative act, containing concrete available and recognized measures of prevention of *bullying* (among other factors) in form of an exhaustive list of long-term educational and prevention programs, their costs, and the source of additional financing in question. An imperative provision that prescribes an obligation to implement explicit measures, such as, implementation of long-term education and prevention programs, cannot be supported with acts of post-legislative level that only constitute a recommendation.

2.3. On psychological assistance

The latter amendments of the Law on Education fortify the status of *psychological assistance.* The general purpose of assistance for school and teacher is also expanded by including *psychological assistance* within the framework of other tools provided in raising the effectiveness of education and stimulating improvement of activity of the school and professional development of the teachers.[734] The legislator expands the conditions under which learners are generally provided with *psychological assistance*, which is to be generally provided not only to those learners who experience personality and educational disorders, but also to those who commit or experience violence.[735] Such adaptation of the provisions related to *psychological assistance* strengthens the status of victims violence by ensuring that they are included into the number of subjects who are entitled to such type of assistance, as well as recognizes, that the perpetrators of violence are also learners who should be subjected to *psychological* assistance due to their own problems that cause them to commit acts violence. Thus, direct relevance of *psychological assistance* in regard to *bullying* at school is recognized by law and is subject to post-legislative acts involving other institutions such as, for example, the Ministry of Education and Science *vis-à-vis* discretionary powers of the Minister who is responsible for adaptation the order of implementation of *psychological assistance.*[736] Legal and practical analysis of *psychological assistance* is continued below, within the context of the positive rights of the executive branch.

2.4. On legal definitions of *bullying* and *cyber bullying* and certain aspects of their reporting system

As of January 1st, 2017, the Law on Education of Lithuania (as discussed in the Chapter One regarding the definition of *bullying*) is the first law that explicitly recognizes *bullying* and *cyber bullying* as forms of violence against children, provides their legal definitions, and expands the scope of the notion of child neglect. The latter aspect raises questions of

733 *Law on Education, supra note* 299, Art.43.11,

734 *Law on the Amendment of the Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 and Supplementing with Articles 231, 232 of the Law on Education No. I-1489, supra note* 303, Art.4. para. 1;

735 *Ibid.,* Art.3;

736 *Law on Education, op.cit.,* Art.19 para.4;

responsibility and liability in regard of child neglect, which will be discussed in later chapters of the Thesis.

Bullying is defined as 'intentional repetitive acts against a person by committed by a person or a group of persons with superior psychological or physical power, intended to diminish reputation or dignity, insult, hurt or cause other psychological or physical harm.'[737] *Cyber bullying* is referred to as 'bullying in cyber-space' and is defined as 'bullying of other person by use of information technologies and (or) means of mass information with intent to intimidate that person, hurt that person's reputation or humiliate the person in other way, despite the fact whether the bullying content is delivered in person or provided to an undetermined number of recipients.'[738]

Contextual aspects of the legal definitions of *bullying* and *cyber bullying* are discussed and analyzed in the context of comparative analysis provided in Chapter One. While some of the aspects are argumentative, recognition of the latter notions as legal categories by the legislators is intended to further adapt the system of compulsory education, in regard to rights of the learners and functions of education providers in ensuring physical and emotional safety in the school environment (for example duty to report, right to receive mandatory psychological help). One of the purposes of the recently adopted amendments of the Law on Education was to establish an effective system of reporting on the acts of violence at school. The Law set grounds for implementing a mandatory reporting mechanism in cases of violence[739] and *cyber bullying*, incompliance with which, in some cases, translates in administrative liability.[740]

The current version of Law on Education sets legal grounds for two types of reporting mechanisms of cases of violence and *cyber bullying.* One mechanism is relevant in regard to the cases of violence (including *bullying* and *cyber bullying*, since the latter are also legally recognized as forms of violence) within the school community (regulated within the context of Article 23^1 of the Law on Education). Another mechanism is relevant in regard to mandatory reporting obligation of the parents or guardians of the victim and the perpetrator of violence, and the right of the general society to report on cases of *cyber bullying.*

The reporting mechanism at school is embedded in Article 23^1 paragraph 2 of the Law on Education and is directly related to the obligation of the members of the school community[741] to report any cases of violence at school as provided in Paragraph 1 of the same Article to the principle of the school.[742]

737 Law on Amending Articles 1, 2, 19, 23, 43, 46, 47, 49, 56, 58, 59, and Supplementing with Articles 23^1, 23^2 the Law on Education No I-1489, *supra note* 303, Art.2.2;

738 *Ibid.,* Art.2.2;

739 *Ibid.,* Art.5;

740 *Ibid.,* Art.6;

741 According to the definition of the school community provided by the Law on Education – members of school community are teachers, students, their parents or guardians, other individuals that are related by the process of teaching and common goals of education. - *Law on Education, supra note* 299, Art.2 para.13;

742 *Ibid.,* Art.23^1 para.1,2;

Table 17: *Comparison of subjects of school community and subjects of protection from all forms of violence at school:*

Subjects of school community	Subjects of protection and forms of violence at school
Teachers, students and their parents (or guardians), other individuals who are interrelated through teaching and common goals of education.[743]	Students (from violence by students, employees of the educational institution, parents or guardians of students), Teachers (from violence by students, parents or guardians of students), Employees of the educational institution (from violence by other employees of the educational institution).[744]
Duty to report witnessed cases of violence is mandatory only to members of the school community.[745]	

The Table 17 discloses a relation between the obligation to report violence, definition of the school community, and the forms and subjects of violence at school. It is to be noted that not all subjects that are subjected to protection from violence at school (as recognized by the Law on Education) carry the same obligation to report to the principle the witnessed cases of violence portrayed on other subjects, because the obligation to report the witnessed cases of violence is only mandatory to 'members of the school community'. Subjects listed in Paragraph 1 of Article 23^1 coincide with the subjects listed within the context of definition of the school community as provided by Paragraph 13 of Article 2. And Paragraph 2 of Article 23^1 is implicit, because its wording suggests that the subjects listed in Paragraph 1 of the same Article do, in fact, correspond to the actual school community as described by its definition. It is to be noted that the common denominator of all the subjects of the school community is the 'teaching relation' and 'the common goals of education'. However, it is evident that not all of the staff of the school is related to the school community via a 'teaching relation' *per se* (for example, a school bus driver, janitor, etc.), but nevertheless comprises a permanent staff of the school as a teaching institution in general. Therefore, the subjects that fall under the category of the 'employees of the educational institution' (as provided by Paragraph 1 of Article 23^1) but are not related to other subjects through a 'teaching relation' are a) not considered part of the school community; b) do not carry an obligation to report cases of violence at school to the principle as per Paragraph 2 of Article 23^1. **Therefore, it is to be noted that the provision prescribing an imperative obligation to report cases of violence at school only for members of school community is legally inconsistent, because it should also be prescribed to those employees of the school as an educational institution who do not have teaching ties to the rest of the school community, but are employed as other staff of the school. It could also be argued that the current definition of the school community is too narrow, because it provides that members of community be interrelated via common teaching relation or general aims of education. The notion of the school community should be expanded to include all members of the school community that actually provide to an orderly operation of a school as a teaching institution.**

743 *Law on Education, supra note 299,* Art.2 para.13;

744 *Ibid.,* Art.23^1 para.1;

745 *Ibid.,* Art.23^1 para.2;

Recognition of the reporting mechanism in regard to violence and *cyber bullying* is instrumental in consequences that the fact of reporting creates. When speaking about the reporting mechanism on general acts of violence at school (*bullying* and *cyber bullying* included) there two points of reference to be made in regard to the position of school principle and the instrumentality of *psychological assistance,* both of which will be discussed in more detail in the following chapters.

The Second mechanism recognized by the Law on Education, is on reporting on cases of *cyber bullying,* which is based on prescribing an imperative obligation (for parents and guardians of the victim and the perpetrator) and a right for all others to inform the Communications Regulatory Authority of Republic of Lithuania (CRA). However, the latter mechanism is only applicable in certain cases of *cyber bullying,* i.e., those that are public and those that are carried out by way of visual information.[746] The latter mechanism of informing the CRA about public and visual cases of *cyber bullying* is instrumental due to the discretionary powers that are granted to the CRA. It is granted authority to seek and remove, or obstruct access to all harmful visual information, as well as give out obligatory orders to the hosting site operators to remove or deny access to the harmful content in question.[747]

As it can be concluded from the definition of *cyber bullying* as an act of violence provided above, the latter form of *bullying* is referred to as an act of *cyber bullying* committed by any means of IT (not necessarily excluded to cyber space) both in a private or public manner. Therefore, the second mechanism recognized by the Law on Education is not applicable to all acts of *cyber bullying* – only to those that are public and contain visual information. Since *cyber bullying* is a recognized form of violence, all other acts of *cyber bullying* are to be reported under the provisions of Article 23^1, as discussed above, without the explicitly recognized involvement of the CRA, however.

2.5. On analogy with the notion of violence within the context of immediate environment

In addition to legally recognizing the notions of *bullying* and *cyber bullying* as two forms of violence within the context of the system of education, the Law on education determines that the definition of violence is the same as the one provided by the Law on Protection from Violence in Immediate Surroundings.[748] Thus, the Law on Education makes a direct reference to the Law on Protection from Violence in Immediate Surroundings, which recognizes violence in immediate surroundings as a violation of human rights and freedoms and, among other aspects, determines measures of protection applied for victims of violence in immediate surroundings.[749] One of the most instrumental aspects of the latter Law at the time of its adoption in 2011 was the establishment of the system of certain measures of protection (which were made enforceable on knowledge, even if there was no sufficient

746 *Law on Education, supra note* 299, Art.23^2 para.1;

747 *Ibid.,* Art.23^2 para.3;

748 *Ibid.,* Art.2 para. 25^1;

749 *Law on Protection from Violence in Immediate Surroundings, supra note* 302, Art.1 para.2;

evidence for an investigation) of victims in cases of such type violence, such as, obligation for the perpetrator of violence to temporarily move out of the immediate environment (if the perpetrator resides with the victim), or keep a distance from the victim, end communication, and not seek the victim out in any way.[750]

Based on the relevance of violence at school within the context of the Law on Education and the notion of violence within the context of the Law on Protection from Violence in the Immediate Environment an analogy of the notions of immediate environment in the context of both legal acts is relevant. The legal notion of the 'immediate environment' of individuals is based on their current or past marital, partnership, in-law or other close ties, their shared residence or household situation.[751] The latter notion of immediate environment resembles the immediate environment where a childe spends most of his or her time with – the domestic environment surrounded by the family members (or guardians). The only other environment that can be put in comparison to that particular domestic family environment is the school environment, where a child spends most of his or her time between the ages 6 – 18. As established previously, the members of the school environment are defined by the notion of 'school community,' which is based on the 'teaching relation' and 'common goals of education' of the members of that community.[752]

Both environments (family and school) that children are related to through ties of familial nature or teaching and education, as is evident, are subjected to violence. B*ullying* and *cyber bullying* as forms of violence are only legally recognized within the context of school environment. Violence as an act is recognized according the same provision of the Law on Protection from Violence in Immediate Surroundings in immediate surroundings of both family and school. **Comparing the legally recognized measures of protection of victims in cases of violence in both types of immediate surroundings (family and school) makes it evident that they differ.** For example, in case of notification of an act of violence in immediate surroundings, the perpetrator of such an act can be obligated to temporarily move out of the premises of immediate surroundings and cease any form of communication with the victim.[753] Cases of violence in the immediate surroundings of the school environment based on the provisions of the Law on Education are reported to the principle in obligatory manner by the members of the school community. Based on the gravity of the act of violence, the principle of the school is in obligatory discretion to notify institutions in accordance with their field of competence. However, since the acts of *bullying* and *cyber bullying* stand out of the general context of violent acts as non-criminalized acts of violence, **the only immediate measures applied in regard to the victim and the perpetrator of *bullying* or *cyber bullying* consists of receiving free mandatory *psychological assistance*.**[754]

Analogy suggests that similar protection measures of victims of violence in immediate surroundings of family and home could be applied in protecting the victims of violence in

750 *Law on Protection from Violence in Immediate Surroundings, supra note 302,* Art.5 para.1;

751 *Ibid.,* Art.2 para.1;

752 *Law on Education, supra note* 299, Art.2 para. 13;

753 *Law on Protection from Violence in Immediate Surroundings, supra note* 302, Art.5 para.1;

754 *Law on Education, op.cit.,* Art.23[1] para.5;

immediate environment of school surroundings. Such as, for example, a measure of displacing a learner who has violated the rights of other learners of the immediate school environment by committing an act of violence (*bullying* and *cyber bullying* included), not the other way around. Experience of the past victims of *bullying* or *cyber bullying* shows that the protective measures taken by the parents or guardians of the victims include displacing their child from the harmful environment by homeschooling their child or transferring their child to a different school. Despite the fact that the only asset to making the school environment harmful is the perpetrator of violence in forms of *bullying* or *cyber bullying,* a victim is displaced from the school environment, as opposed to the bully, who continues to thrive by further distressing his or her immediate environment, with no or very little consequences on his or her rights or duties as a learner. Different aspects of rights and duties of the learners in regard to *bullying* and *cyber bullying* are discussed in the later chapters of the Thesis. The main point of reference in regard to displacing the wrong doer within the context of this chapter is to show that **the current system of compulsory education does provide a legal framework for implementing a feasible system of displacing the perpetrators of acts of violence in the immediate environment of the learners at schools.** Referring back to the analysis of the different forms of group and solitary education available under the current legal regulation of the system of compulsory education in Lithuania, ***distance learning*** **can be used as an alternative way of group or solitary education for perpetrators of violence in the immediate learning environment of the school.**

According to the Law on Education – the discretionary power to set the provisions of the post-legislative legal acts in regard to different forms of education available within the system of compulsory education is prescribed to the Minister of Education and Science.[755] The ability to apply a form of group and solitary form of *distance learning* was legally established in 2012 after the Minister of Education and Science adopted an order describing different available forms and organizational methods in compulsory education.[756] Analysis of the practical application of the method of ***distance learning*** **during compulsory education presented in the second chapter of the Thesis concluded that currently** ***distance learning*** **in form of group or solitary from of education is too restrictive. Order of organization in which** ***distance learning*** **is provided should be revisited to enable the educational institutions utilize** ***distance learning*** **in form of solitary or group education as an effective measure of protection for victims (learners) of violence in the immediate school environment, and as a disciplinary measure for the perpetrators (learners) of violence, especially** ***bullying*** **and** ***cyber bullying.***

It can be concluded that the right of the legislative branch in the field of protecting the learners from prevalent forms of violence (*bullying* and *cyber bullying*, among others) lies within its discretion to pass and adapt legislation in accordance with the needs of the subjects in question. It is apparent that the Law on Education goes beyond advocating for the rights of the learners by also ensuring the right from all recognized forms of violence of other members of the community of educational institution. The legislators intent to

755 *Law on Education, supra note* 299, Art.27 para. 2;

756 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education, supra note* 507;

prevent and protect the school community from the prevalent negative phenomena (as mentioned above the Law also addresses such negative behavioral issues among adolescents as use of alcohol, drugs, other psychotropic substances, unhealthy lifestyle habits) by passing appropriate legal provisions can be recognized as instrumental provided that the implementation of the provisions is not curtailed the responsible stakeholders in the field (the executive branch on the national and municipal levels).

3. THE RELEVANT DISCRETIONARY POWERS (AND THEIR INSTRUMENTALITY IN THE FIELD OF EDUCATION) OF THE PRESIDENT AS AN INSTITUTION OF AN EXECUTIVE BRANCH

The executive branch of the State consists of the institutions of the President and the Government.[757] The two institutions of State power are prescribed rights that make them instrumental in executing the legislative provisions in various fields of affairs of the state and society.

The President, while not directly responsible for the state affairs within the field of education, is another subject granted constitutional power to initiate legislation.[758] In 2016, the President signed a Decree which initiated the most extensive and direct amendments to the Law on Education discussed above in regard to the issue of violence, *bullying* and safe environment at school.[759] The Proposal, among other provisions, included adopting a zero tolerance of violence among learners, by learners against school staff and vice versa, implementing a reporting mechanism in cases of violence at school and *bullying* in cyber space.[760] The Proposal also included adopting definitions of the '*prevention program*,' which, according to its content, implied a systematic approach in strengthening personality of the learner and protective factors of surrounding environment by applying 'planned and systemic sequence of measures' that would also add to diminishing of the risk factors in school environment.[761]

The newly proposed amendment to the Law on Education by the President also explicitly recognized the notion of *bullying* and *cyber bullying* within the context of definition of *'violence'. Bullying* was recognized within the context of *psychological violence,* which was recognized as one of the forms of violence alongside other explicitly recognized forms of violence – physical violence, sexual violence, neglect, and *cyber bullying*.[762] Even though the newly adopted amendments of the Law on Education slightly differ from those proposed

757 *Constitution of Republic of Lithuania, supra note* 78, Art.5 para.1;

758 *Ibid.,* Art. 68 para.1;

759 *Decree Regarding Submitting the Project of the Amendment of the Law on Education No. I-1489 to the Parliament of Republic of Lithuania by Amending Articles 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 of the Law on Education and Supplementing the Law on Education with Articles 23^1, 23^2, supra note* 697;

760 *Ibid.,* Art.4, Art.5;

761 *Decree Regarding Submitting the Project of the Amendment of the Law on Education No. I-1489 to the Parliament of Republic of Lithuania by Amending Articles 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 of the Law on Education and Supplementing the Law on Education with Articles 23^1, 23^2, supra note* 697, Art.1 para.1;

762 *Ibid.,* Art.1 para.3;

by the President, the initiative of the latter branch of power was the most instrumental in adopting explicit provisions in relation to violence, *bullying* and *cyber bullying* at school.

One of the Presidential prerogatives is delivering of the annual reports at the Parliament on the situation, and the domestic and foreign policies of the Republic of Lithuania.[763] In 2015 and 2016 the issue of *bullying* has been for the first time voiced on the level of Presidential addresses while delivering the Annual Reports to the Parliament. The issue of *bullying* among learners has been explicitly addressed within the context of lack of societal security, especially in regard to such groups of society as children and women.[764] The general situation in regard to the state of violence against children was quite literally compared to the state of war by the President, who observed the lack of coherent action plan, measures, professional coordination and control within the system of control and prevention of violence (*bullying* included), and called for measures of societal security as precise as those that are adopted within the field of state security.[765] The lack of institutional deficiency within the context of *bullying* and other issues (suicide, substance abuse) was supported by the statement that the State is unable to provide proper psychological assistance, which is provided by non-governmental organizations that are able to assist only every seventh individual needing this type of assistance.[766]

The Annual Presidential Reports carry little implications of accountability of either of the branches of state power and consist of general remarks pinpointing overall situation of the state affairs nationally and internationally. However, the above mentioned remarks in regard to the issue of *bullying* among learners and violence against children and women have translated into actual amendments of the relevant laws addressing precisely these issues because of utilization of discretionary powers in legislation initiative prescribed to the President.

4. RIGHTS AND DUTIES OF THE GOVERNMENT AND THE MINISTRY OF EDUCATION AND SCIENCE AND CERTAIN ASPECTS OF THEIR PRACTICAL APPLICATION IN REGARD TO THE ISSUE OF *BULLYING* AT SCHOOL

Besides the right of legislative initiative prescribed by the same constitutional provisions as that to the President, the Government has a much broader array of positive rights and duties in regard to executing its functions in the field of education. For example, the Government has the discretionary power to draft the national budget,[767] handles the affairs

763 *Constitution of Republic of Lithuania, supra note* 78, Art.81 para.1 sec.18;

764 The President of Republic of Lithuania, "Annual Report of the President of Republic of Lithuania Dalia Grybauskaitė," (June, 2016) // https://www.lrp.lt/lt/kalbos/metiniai-pranesimai/2016-m./25366 (accessed January 11th, 2016);

765 *Ibid.,* (accessed January 11th, 2016);

766 The President of Republic of Lithuania, "Annual Report of the President of Republic of Lithuania Dalia Grybauskaitė," (June, 2015) // https://www.lrp.lt/lt/metinis-pranesimas-2015 (accessed January 11th, 2016);

767 *Constitution of Republic of Lithuania, op.cit.,* Art.94 para.1 sec.4;

of the State[768] in accordance with decisions and laws passed by the Parliament, and the decrees of the President,[769] by adopting decisions by at least simple majority of the members of the Government.[770] Each field of the state affairs is designated a ministry which is run by the minister,[771] who, in turn, has the discretionary power to adopt decisions in regard to the issues of his or her field of governance.[772]

The broad array of positive rights and very few, if any, duties of the Government is conditioned by the constitutional notion of State supervision of the education system[773] and which is directly reflected in the provisions of the Law on Education (as well as other legal acts regulating different aspects of education in general). According to the Law on Education, the subjects granted the power of governance of education are the Government, the Ministry of Education and Science, other ministries and Governmental institutions,[774] among others.[775]

4.1. On relevant aspects of *monitoring* and *planning* of education

Maintaining the focus within the scope of compulsory education and the issue of *bullying* during acquiring compulsory education several provisions of the Law on Education are of relevance, particularly in the field of *monitoring* and *planning* of education. *Monitoring* and *planning* of education are processes of governing of education explicitly recognized by the provisions of the Law on Education which reflect both positive rights and duties of the subjects of governance of education in regard to some of the aspects of the topic of the Thesis.

4.1.1. M*onitoring* of education

The process of *monitoring* of education is aimed at creating conditions for subjects of education governance to adopt reasoned decisions and implement quality based education governance.[776] Such process is applicable in case of already existing system of education and is imperative in assessing its situation based on various criteria and, thus, adopting necessary decisions in order to achieve and maintain a certain level of quality of education.[777] Therefore, *monitoring* of education not only reflects the balance of positive rights and du-

768 *Constitution of Republic of Lithuania, supra note 78,* Art.94 para.1 sec.1;

769 *Ibid.,* Art.94 para.1 sec.2;

770 *Ibid.,* Art.95 para.1;

771 *Ibid.,* Art.96 para.2;

772 *Ibid.,* Art.98 para.1;

773 *Ibid.,* Art.40 para.4;

774 *Law on Education, supra note* 299, Art.52 para.2;

775 According to the Law on Education, the subjects of governance of education also are – the Parliament, municipal institutions, owners of non-state schools, head of the school.

776 *Law on Education, op.cit.,* Art.53 para.1;

777 *Order of the Minister of Education and Science Regarding Confirmation of the Description of the State Monitoring Order of Education and Science,* Official Gazette, (2012, No. 98-5004), Art. 3-5;

ties of subjects involved, but conditions the effectiveness of the decisions that are adopted by the subjects of school governance, based on the indicators of the *monitoring*, that, in turn, condition the ultimate goal – the quality of education itself. The *quality* of education, even though a vague notion not explicitly defined by the Law on Education, can be implied as the notion relevant to the principle of effectiveness of education,[778] general accessibility of education and accessibility of services related to education, improving qualification of the teaching staff,[779] oversight of education,[780] etc. The Law on Education also explicitly recognizes that statistical information regarding health of the students and their health risk factors is applied in internal and external monitoring and assessment of the quality of operation of the school.[781] Out of all the implied criteria of assessing the quality of education, the latter notion allows making a clear conclusion that indicator (or its equivalent thereof) of student health and health risk factors is to be included among other criteria of *monitoring* of education.

The legally recognized importance of gathering statistical information regarding student health and their risk factors is inherently relevant within the context of the issue of *bullying* at school. *Bullying* at school is explicitly referenced in the General Comment No. 4 by the Committee on the Rights of the Child within the context of adolescent health and development as provided by articles 2-6, 12-17, 24, 28, 29 and 31 of the CRC.[782] It is reaffirmed within the content of the Comment that the surrounding environment is one of the main determinants in the health and development of adolescents, and that *bullying* in and outside of school is one of the factors contributing to the detrimental effects of the phenomenon to the health and development of the child.[783] Healthy and safe school environment is also recognized by the Law on Education and is supported by the notion that such environment be free of violence.[784] Since *bullying* and *cyber bullying* have been recognized as forms of violence[785] as of the latest amendments of the Law on Education, the process of *monitoring* of education is also relevant in light of the two negative phenomena of the school environment.

The prerogative to set the criteria, indicators and process of the *monitoring* of education is delegated to the Minister of Education and Science,[786] who adopted the relevant decision in 2012. Out of the 49 indicators of the *monitoring* of education provided by The Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring[787] only one indicator is related to statistical information regarding health issues or risks. The particular indicator requires that the number of

778 *Law on Education, op.cit.,* Art.5 para.1 sec.4;

779 *Ibid.,* Art.23 para.2;

780 *Ibid.,* Art.64;

781 *Law on Education, supra note* 299, Art.22 para.7;

782 *Convention on the Rights of the Child, supra note* 105, Art. 2-6, 12-17, 24, 28, 29 and 31;

783 *General comment No. 4 (2003), supra note* 273, Art. 14, 22;

784 *Law on Education, op. cit.,* Art.43 para.11;

785 *Ibid.,* Art.2 para.25[1];

786 *Ibid.,* Art.53 para.2;

787 *Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring,* Official Gazette, (2012, No. 98-5003);

persons who were registered at an outpatient or inpatient healthcare institutions with at least one illness or trauma per year.[788] It is to be pointed out that the latter indicator comprises a group of the so-called indicators of education context, which, as explained by the order, show the external conditions[789] and needs affecting the processes of the system of education.[790] Therefore, the latter indicator, though relevant in the context of health related issues of general population, does not provide statistical information for monitoring and assessment of education in regard to student health and their health risk factors during the process of education in school.

4.1.2. *Planning* of education

Another integral part of governing of education is the process of education *planning* – aimed at determining long-term and short term education aims and objectives, define priorities and tools for their implementation, based on assessment of the state of education and taking into consideration educational needs of society, all of which are determined within the framework of the National Strategy of Education (prepared by the Government, approved by the Parliament for the period of ten years, with an option to be revised four years after adoption).[791] The most recent National Strategy of Education was adopted in 2013 by the Parliament for the strategic period of 2013 – 2022. It is unquestionable that the state (*vis-à-vis* the joint effort of the Government and the Parliament) recognizes *bullying* as one of the targeted problem areas of the field of education, because it enumerates *bullying* as one of the obstacles in ensuring psychologically safe school environment for all of the school community, and recognizes the need of implementing systematic changes at school in order to ensure greater psychological safety of the school community.[792] Similar to the process of *monitoring* of education, *planning* of education is carried out by setting assessment indicators, their factual situation and objectives within the framework of the National Strategy of Education. Thus, within the National Strategy of Education for the period of 2013 – 2022 *bullying* was recognized in an indicator within the context of the Third Strategic Objective devoted to attainment of greater accessibility and equal opportunities in education.[793]

According to the indicator regarding *bullying,* the factual data (44,6 % of the student body population in 2011) and the objective (70% of the student body population in 2017) in regard to *bullying* among learners is to be measured according to the formula of the *part of the student body population that has not experienced bullying within the period of the last*

788 *Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring, supra note 787,* Art. 2.1.3;

789 Such as, for example, size of the population, rate of unemployment, GDP, suicide rates, etc.

790 *Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring, supra note* 787, Art. 2;

791 *Law on Education, supra note* 299, Art.54 para.1,2;

792 *National Strategy of Education for 2013-2022,* Official Gazette (2013, No. 140-7095), Art.19.2;

793 *Ibid.,* Art.13.3;

two months.[794] The rationale of this particular formula of the indicator for evaluating the state of education in regard to frequency of *bullying* can only be presumed, although it is clear that the ultimate goal is to gradually increase the part of student body population that has not experienced *bullying* for the period of two months. However, such formula in no way portrays the recognized forms of *bullying* (such as cyber bullying) or their frequency in cases where *bullying* is experienced more frequently than every two months. The formula should reflect the universally accepted standard of measuring of prevalence of *bullying* at school applied by the WHO. Based on the methodology applied by the HBSC survey two categories of *occasional bullying* (once or more per couple months) and *chronic bullying* (2-3 or more times per month) [795] are observed. Therefore, only cases of *occasional bullying* are now taken into consideration for assessment of the situation in the field of education under the National Strategy of Education in Lithuania.

Another interesting observation (which is also related to the timing of the adoption of the Strategy) is to be made regarding the statistical data provided in the Strategy. First of all, according to the data of the Registrar of Legal Acts, the National Strategy of Education for the period of 2013 – 2022 was adopted by the Parliament on December 23rd, 2013 and came into force on December 31st, 2013. This means that the latter Strategy was actually adopted and came into force one year past the actual date of its foreseen implementation. Second of all, even though the Strategy for the period of 2013 – 2022 was adopted in 2013 the statistics supporting the factual situation regarding the indicator on *bullying* is provided from 2011. Therefore, the strategic indicator that is utilized in setting the overall long and short term goals of the system of education, is based on statistical data that is at least years old (and at the time of adoption of the Strategy, as explained, actually three years old). This raises a question of general reliability in the case of this particular indicator and in the general reliability of the Strategy as the main tool in *planning* long and short term goals and objectives in education as well as achieving the set objectives in ensuring the psychologically safe environment of the school community, and, thus, making education more accessible.

4.2. On certain aspects of accountability

Research of the processes of *monitoring* and *planning* of education *vis-à-vis* prerogative of the Government and the Ministry of Education and Science discloses certain aspects of accountability of the latter institutions of the executive power in regard to reporting on the assessment information of the state and governance of education and school. Case in point being, that under the provisions of the Law of Education, there is an implied obligation for the Ministry of Education and Science to publish a report on the state of education in the country and the regions annually.[796] Since it was established that the issue of *bullying* at school does fall under the assessment criteria within the current context of *monitoring* and *planning* of education, it is relevant to research how these criteria, as well as issues of

794 *National Strategy of Education for 2013-2022, supra note* 792, Annex – Implementation Evaluation Indicators and Objectives of the Strategy;

795 HBSC, *supra note* 19 (accessed September 16, 2015);

796 *Law on Education, supra note* 299, Art.53 para.3;

bullying at school in general is reflected within the reporting mechanism of the Ministry of Education and Science. There are two ways (both enumerated by the Law on Education) of how the Ministry of Education and Science executes this obligation.

First, the Ministry publishes annual reports on general state of education in form of annual publications on the state of education in municipalities. For example, over the reporting period of 2012 – 2016 the Ministry has published several consecutive reports on education in the country and the regions.[797] In 2012 a report on the state of education in municipalities was published presenting analysis on aspects of input, processes and results of the period 2007 – 2011. The latter analysis contained assessment of the staff of the system of education, material resources, results and achievements in education, etc.[798] In 2013 the annual report consisted on through analysis of the situation of the system of education in regard to the pedagogues.[799] The 2015 annual report included various comparative aspects of school (for example, changes in number of learners, changes in number of schools in different regions, teacher competence etc.).[800] Although the issue of extreme prevalence of *bullying* at school was imminent (and has been for over a period of time) at the time when all the above mentioned reports were published, neither of them included any assessment of indicators in regard to the state of schools regarding emotional physical safety of the school community. However, the report of 2016 did provide information in relation to provision of psychological assistance, which will be discussed later. [801]

The annual report on equal opportunities published in 2014 contains brief reference in regard to prevalence of *bullying* against girl and boys at school. The assessment in this case was based on data received from questionnaires of 6 465 students from 4th (2 826 students) and 8th (3 639 students) grades from random schools in 24 municipalities. The conclusions of the latter annual report disclosed that the learning environment in regard to *bullying* was more favorable to girl learners than boy learners, also learners of city schools and large schools.[802] It is to be noted that the amount of the questioned student body population within the scope of this annual report comprised 10% of the total student body population

797 The Ministry of Education and Science does have a duty to provide annual reports to the Government of republic of Lithuania on activity of the Ministry, according to article 15.6 of the Bylaws of the Ministry of Education and Science. However, the latter reports on activity of the Ministry are not considered the same as a report on the *state* of education as per Article 53 para.3 of the Law on Education.

798 Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Input, Processes, Rezults. 2012." (2012) // http://www.smm.lt/uploads/documents/kiti/1563_Svietimas%20regionuose%202012.pdf (accessed January 13th, 2016);

799 Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Pedagogues. 2013." (2013) // http://www.smm.lt/uploads/documents/teisine_informacija/svietimo_bukles_apzvalgos/Svietimas%20regionuose%202013%20web.pdf (accessed, January 17, 2016);

800 Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. School. 2015." (2015) // http://www.smm.lt/uploads/documents/svietimas/Svietimas%20regionuose%202015%20(3).pdf (accessed January 17, 2016);

801 Ibid., (accessed January 17, 2016);

802 Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Equal Opportunities. 2014." (2014) // https://www.smm.lt/uploads/lawacts/docs/579_c915f0e2c4513e8271a45716bb37142d.pdf (accessed February 5th, 2016)

of the 4th and 8th graders attending school that reporting period, and less than 2% (1,87%) of the total student body population of the general education system.[803]

This shows that the situation on accountability in providing accurate assessment in regard to the prevalence of violence at school in general (as well as on *bullying*) in Lithuania is rather passive. For instance, statistics on the prevalence of *bullying* at school in the latest annual report by the Ministry of Education and Science on Education in the Country and Regions in 2016, is based on the HBSC report for the year 2014. It is imperative to point out that only 19 schools (out of 1192 that year) participated in the said HBSC report for the year 2014. The report on Education for the year 2016 does state that a standardized testing is applied in determining the prevalence of *bullying* at schools in Lithuania as of 2015. However, the statistical data of this report is not provided, and it is indicated that only random schools of 40 municipalities (out of 62) have completed the standardized questionnaire, and the only reference to any sort of standardized questionnaire refers back to the HBSC survey. In addition, it is to be noted that all of the annual reports lack consistency in their content and methodology applied, because each year the Ministry of Education and Science (based on its own discretion) provides assessment on completely different aspects of the state and governance of the schools in Lithuania.

The second method of how data and information necessary for the assessment and analysis of various aspects of the state of education is provided in a standardized form through the Education Management Information System (EMIS). Though imperative obligation to provide data and information through the EMIS is not explicitly set by the provision of the Law of Education, the provision of the same law recognize the EMIS as a national information system that is established according to the bylaws adopted by the order[804] adopted by the Government[805] and is overseen by the Ministry of Education and Science.[806] The purpose of the EMIS as provided by the Law on Education[807] clearly resembles aims and objectives of *monitoring* and *planning* processes of education. The latter is supported by the explicit provision of the Bylaws of the EMIS, which state that the result of the EMIS is to provide necessary IT conditions to implement Paragraph 1 of Article 52 (governance of

803 Education Management Information System, "Classes and students on September 1st," (2014-2015) // http://rsvis.emokykla.lt/cognos8/cgi-bin/cognosisapi.dll?b_action=cognosViewer&ui.action=run&ui.object=%2fcontent%2ffolder%5b%40name%3d%27Bendrasis%20ugdymas%27%5d%2ffolder%5b%40name%3d%271-mokykla%27%5d%2freport%5b%40name%3d%271.%20Klas%c4%97s%20ir%20mokiniai%20rugs%c4%97jo%201%20d.%27%5d&ui.name=1.%20Klas%c4%97s%20ir%20mokiniai%20rugs%c4%97jo%201%20d.&run.outputFormat=&run.prompt=true&cv.toolbar=true&cv.header=false (accessed January 13th, 2017);

804 The order establishing the National Education Management System was adopted by the Minister of Education and Science *(Order of the Minister of Education and Science Regarding Confirmation of Bylaws of the Education Management System,* Official Gazette (2006, No. 141-5436), even though the provision of the Law on Education states that all data of the EMIS is managed according to the order provided in the bylaws of the EMIS adopted by the Government. Thus, it is clear that the Bylaws of the EMIS were to be adopted by the order of the Government, not the Minister.

805 *Law on Education, supra note* 299, Art.53 para.4;

806 *Ibid.,* Art.56[2] para.2;

807 *Ibid.,* Art.56[2] para.1;

education) and Article 53 (*monitoring* of education) of the Law on Education.[808] The EMIS is also explicitly linked with the *planning* of education, because the National Strategy of Education for the period of 2033-2012 is cited as one of the founding post-legislative legal acts for establishment of the EMIS.[809]

The actual IT solutions that are provided by the current display of the EMIS do represent all the indicators required by the post legislative acts regulating *monitoring* and *planning* of education, processes of governance of education that are, as it is argued above, relevant in regard to the issue of *bullying* at school. As explained above the issue of *bullying* is not reflected within the content of strategic indicators of *monitoring*[810] of education,[811] but is reflected within the indicators[812] of assessment of the National Strategy of Education for the period 2013 – 2022.[813] The EMIS is fully operational and provides possibility to receive statistical information and data on both the strategic indicators of *monitoring* and indicators of the National Strategy of Education on all municipal regions of Lithuania for the period of 2011-2017. However, the data regarding the indicators is either incomplete or inconsistent. For example, when setting the criteria in the EMIS database of the strategic indicators of *monitoring* to provide statistical information on number of people in the categories from primary school to secondary school, who have been registered at the inpatient or the outpatient healthcare institution with at least one disease or trauma (for the consecutive years of 2011 – 2017), no statistical information is provided.[814] Also, the data on a relevant indicator in regard to *bullying* at school, which is provided in the database of the National Strategy of Education of the EMSI is reflected in an incomplete and inconsecutive manner. The incompleteness if the indicator is explained in the relevant section of the Thesis above. The inconsecutive manner is related to the actual representation of the indicator depicting the percentage of the student body population who has not experienced *bullying* at school in the past two months. [815] When the criteria of the search according to this particular indicator are set for the full period of consecutive years of the period of 2011 – 2017 including

808 *Order of the Minister of Education and Science Regarding Confirmation of Bylaws of the Education Management System,* Official Gazette (2006, No. 141-5436), Art.7;

809 *Ibid.,* Art.6.2;

810 The strategic *monitoring* indicator that is related to assessment of health issues and risks is from a group of indicators of context of education that reflect external conditions and needs affecting the processes of the system of education. Therefore, though relevant in the context of general health issues, it does not reflect the sate of education in regard to student health and their health risk factors during the process of education in school.

811 *Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring,* Official Gazette, (2012, No. 98-5003), Art. 2;

812 The particular indicator assesses situation in regard to those students who have not been bullied at school within the period of two months.

813 *National Strategy of Education for 2013-2022, supra note* 792, Annex – Implementation Evaluation Indicators and Objectives of the Strategy;

814 Education Management Information System, "State (Strategic) Indicators of Monitoring of Education," (2017) // http://svis.emokykla.lt/lt/index/wpage_view/42 (accessed January 14, 2017);

815 Education Management Information System, "Indicators of the Implementation Assessment of the National Strategy of Education for the Period of 2013-2022. Years 2011-2017. Indicator of the % of Students Who Have Not Experienced Bullying in Two Months," (January, 2017) // http://svis.emokykla.lt/lt/index/wpage_view/41 (accessed January 14, 2017);

all municipal regions where compulsory education is provided, the EMIS shows data of the indicators only for the years of 2011 and 2014 (years that coincide with the HBSC surveys of 2009-2010 and 2013-2014, and statistical information that is not referenced to any authoritative resources, except with the published reports of the HBSC survey).

The analysis allows making several conclusive observations in regard to the rights (and duties) of the Government and the Ministry of Education and Science. The provisions of the Law on Education are explicit in their wording regarding the positive rights of the Government and the Ministry of Education and Science, and implicit in regard to their obligations. For example, it is unclear as to whom the Minister of Education and Science is to be accountable when annually reporting on the state of education in the country and its regions as per Article 53 para.3 of the Law on Education. The obligation for the Minister of Education and Science to provide such annual report is implicit. Though similar in their enumeration as annual reports on *education in country and regions*, the reports differ in their content, providing no follow-up on the issues that were addressed within each of the annual reports. **The lack of explicit imperativeness translates in lack of accountability from the part of the main institution of executive branch that is granted the most explicitly worded empowerments in the field of general education.**

4.3. On efficiency of the reporting mechanisms in regard to the issue of *bullying* at school

The EMIS reporting database was developed by the Ministry of Education and Science in order to provide data and information on indicators used in *monitoring* and *planning* processes to assess the state of education. It is obvious that the EMIS database is an efficient on-line tool for monitoring the entire system of education (region and educational institution wise) in many different aspects (as many as there are strategic indicators as well as indicators of implementation of the National Strategy of education). However, the effectiveness of the reporting and assessment mechanism such as EMIS is diminished due to inconsistent and incomplete information in regard to the actual indicators. It is evident that statistical information and data related to the indicator reflecting the percentage of students who experience *bullying* at school less frequently than every two months is scarce and in instances of the vast majority of the reporting years inexistent. The fact that, for example, the Government used an outdated (by three calendar years) statistical data in the National Strategy of Education, or that the data for the indicator in regard to *bullying* has only been provided twice within the period of six consecutive reporting years**, shows ineffective implementation of the prerogatives by the Ministry of Education and Science prescribed to it by the Law on Education. Lack of extensive information on national levels in regard to any form of violence at school is perceived as a limiting factor in researching the issue of violence at school in general.**

International experts point out that, in fact, with exception of international bodies such as the WHO and the HBSC research, the surveys in schools are sporadic, lack consistency

in methodological approach.[816] Yet collection and research of the data on prevalence and scope of violence at school is critical in determining what and where prevention is needed the most.[817] **Analysis of practical implementation of such processes of education governance as *monitoring* and *planning,* shows that reflection of the true prevalence of the issue of *bullying* is indeed sporadic, incomplete and inconsistent. The centralized assessment of strategic indicators that fall under the supervision of the Ministry of Education and Science should include more complete representation of a safe environment at school, and should be carried out in a more consistent and timely manner.** The assessment indicators utilized by the system of EMIS should not only include the indicator of *occasional bullying* (less that every two months), but *chronic bullying* (2-3 times a month) as well.

The right to inform and the right to be informed within the framework of compulsory education are shared among members of the school community and subjects of education governance and are also relevant in the context of the *monitoring* and *planning* processes of education. The duty of the school to provide information is not explicitly stated under the obligations of the school but is implied under obligations of other subjects. For example, teachers are obligated to inform parents in compliance with the order of information set by the school about the state, educational needs, progress, behavior, school attendance of their child.[818] Municipal institutions are responsible for providing information to the Ministry of Education and Science and the general public on the state of education in the municipality,[819] a responsibility that is tied directly to obtaining relevant information from the schools, which implies that the schools, in turn, are under obligation to provide such information.

One of the major developments in the regulation of providing information by the school in regard to the issue of all types of violence at school is attempt to establish an information mechanism by prescribing imperative obligation to the members of school community to report all cases of violence among any members of the school community, as well as any other staff that does not fall under the definition of the school community *per se* to the principle of the school.[820] The principle of the school is further obligated to inform parents of the perpetrator of violence and the victim, as well as institutions of child protection of national and municipal levels, according to their competence.[821] The duty to inform is supplemented with the duty to report cases of violence at school for the purpose of providing immediate psychological assistance to all the subjects involved in the reported act of violence.[822]

However, it is to be pointed out that informing and reporting on the cases of violence should be mandatory not only within the institutional framework of protection of children

816 Rami Benbenishty, Ron Avi Astor, supra note 6, p. 61;

817 National Center for Injury Prevention and Control, "Understanding School Violence," (2016) // http://www.cdc.gov/violenceprevention/pdf/school_violence_fact_sheet-a.pdf (accessed September 14, 2016);

818 *Law on Education, supra note* 299, Art.49 para.2 sec.7;

819 *Ibid.,* Art.58 para.2 sec.10;

820 *Ibid.,* Art.23[1] para.2;

821 *Ibid.,* Art.23[1] para.3;

822 *Ibid.,* Art.23[1] para.4,5;

rights, but is imperatively required that it be completely reflected within the framework of the processes of *monitoring* and *planning* of education *governance*. **The purpose of the obligation to report cases of violence at school as implied by the provision of the Law on Education is related to the measures of protection and crisis management, while duty to inform relevant institutional bodies within the institutional system of education of the exact cases and types (including *bullying*) of violence at school could serve as a centralized mechanism of information, monitoring, assessment and planning of the general situation of violence in education.**

The Center of Special Pedagogy ad Psychology has been designated as the main institution to oversee, accredit schools train their staff, and educate learners in the field of integrating and implementing the Olweus prevention program of *bullying.*[823] The Center has been providing training services for school staff, assessing the information on schools in regard to integration and continuation of the program of prevention, providing other relevant information in regard to all programs of prevention of *bullying* and violence at school. In fact, the Center together with the Ministry of Education and Science initiated a voluntary questionnaire of all the schools of general education about any programs of prevention or methodological measures that the schools implemented during the school year of 2015 – 2016. The main purpose of questionnaire was to assess, improve and plan further development of the preventive measures.[824]

Thus, it is proposed that the Center of Special Pedagogy and Psychology as subordinate institution under the Ministry of Education and Science be the institutional unit that should gather information on all cases of violence at school, ensure proper representation of the data under the relevant criteria of the national system of *monitoring* and *planning* as provided by EMIS.

4.4. On psychological assistance in the context of post-legislative act

There are several, though scarce, provisions of the Law on Education that indicate state's obligations in relation to promoting and ensuring the safe environment at school. The main obligation to ensure safe environment at school falls under the duties of the school,[825] and the sate acts in capacity of providing assistance in ensuring the safe environment in form of *psychological assistance* and *sociopedagogical assistance.* General wellbeing and psychological health of the learners are pointed out as one of the main factors at risk in light of *bullying* at school.[826] According to the Law on Education ***psychological assistance*** **and** ***social pedagogical assistance*** **are both considered as measures in aiding both the parents and the school to promote psychological resilience, psychic health of the child, as well as en-**

823 Order No.ISAK-1344 of the Minister of Education and Science Regarding Establishment of the Management Committee and Coordination Group of the Olweus Program, May 10th, 2008; Art. 2;

824 Center of Special Pedagogy and Psychology, "Implementation of Prevention Measures in School of General Education of Lithuania During the School Year 2015-2016," (2016) // http://www.smm.lt/uploads/documents/kiti/PREVENCINI%C5%B2%20PROGRAM%C5%B2.pdf (accessed January 30, 2017);

825 *Law on Education, supra note* 299, Art.43 para.11;

826 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32, p.27;

suring safe and advantageous environment a school.[827] School psychologists and social pedagogues are explicitly cited by the experts as instrumental in implementing measures of prevention of *bullying* at schools.[828] According to the legal provisions *psychological* and *social pedagogical assistance* are measures implemented within the framework of the activity of the *provider of education*, according to two separate orders adopted by the Minister of Education and Science.[829]

Law on Education distinguishes the notion of *psychological assistance*[830] as a tool for promotion of a safe and education friendly school environment through preventive measures, strengthening psychological resilience and psychic health of the students through active cooperation with the parents (or guardians and caregivers). The legislator obligates the Minister of Education and Science to issue an order of providing the psychological assistance. The instrumentality of *psychological assistance* has been fortified by the provisions of the National Strategy of Education and the recent amendments of the Law on Education. Providing *psychological assistance* to the learners is recognized one of the strategic goals within the context of the National Strategy in ensuring a psychologically safe environment for the members of the school community.[831] The recent amendments of the Law on Education recognize *psychological assistance* as mandatory measure for coping with the acts of violence at school for the victims and the perpetrators of violence.[832]

The subjects of *psychological assistance* within the context of the Law on Education are the learner and the school environment. The purpose of such assistance encompasses aiding the learner individually by strengthening his or her individual psychological resilience and psychic health, helping the learners to restore their emotional balance, ability to live and learn (by actively cooperating with the parents, guardian or caregivers). The *provider of education* is, in turn, assisted by promoting safe and creating advantageous educational environment at school through prevention measures. The assistance is provided and the concrete measures of prevention of psychological problems are implemented based on the principle of universality by pedagogical psychological services and school psychologists of an adequate qualification.[833] Implementation of prevention programs and improvement of the *psychological climate* of the schools are considered among the protective measures of the learners against problems of psychic health and risk behavior.[834]The Description of the Order of Providing Psychological Assistance replicates the definition of the purpose of *psychological assistance*; however it expands the description of the subject of the recipient of individual psychological assistance by explicating that *children* may also be the recipients of the said assistance, in which case it would be provided by the *pedagogical psychological*

827 *Law on Education, supra note 299,* Art. 19-20;

828 Ted Feinberg, "Bullying Prevention and Intervention," *Principal Leadership* 4 (2003):11-12; 10-14;

829 Respectively – order regarding the *psychological assistance* and the order regarding *social pedagogical assistance.*

830 *Law on Education, op.cit.,* Art. 19 para.1;

831 *National Strategy of Education for 2013-2022, supra note* 792, Art.13.3, Art.19.2;

832 *Law on Education, op.cit.,* Art.23[1] para.5

833 *Ibid.,* Art. 19.1;

834 Giedrius Girdvainis and Rasa Pocevičienė, *supra note* 143, p. 127;

service (organized and coordinated by the educational subdivisions of municipal administrations), and, in case of the learner – by the *school psychologist*.[835]

The Description of the Order of Providing Psychological assistance is a post-legislative act that guarantees provision of *psychological assistance* based on the principles of *universality*[836] and *accessibility*[837] by allowing establishment of a personnel position of the *school psychologist* at the school, if the number of students taught exceeds 300 (if the circumstances allow, the position can be established at a smaller number of students), and establishment of the same position at the school of general education for learners with special education needs, despite the number of students taught at the institution.[838]

The instrumentality of the school psychologists in pursuing the general aims of the *psychological assistance* consist of areas of expertise and activity that consist of *consulting, assessment, education* and *prevention of psychological problems.* The scope of the activities on individual or school community level in *expresis verbis* consist of *assessment of demand for prevention of psychological problems, based on analysis of the groups of school community*, *development and implementation of prevention measures*, *prevention, intervention and post-intervention in cases of psychological crises.*[839] As it was described in the previous chapters of the Thesis, one of the imminent threats (that eventually become outcomes) of *bullying* is extensive emotional and psychological discomfort of the victim. Thus, with the frequency that *bullying* is encountered within the school environment by the learners, it is unquestionable, that these victims (of greater or lesser extent) do experience conditions that require expertise of a specialist, such as a *school psychologist.*

A position of a psychologist is intended to be an instrument within the school community. However, it is to be pointed out that post-legislative act uses a method of dispositive regulation by allowing and not obligating the *providers of education* to establish positions of psychologists at schools. Thus, due to the rather elusive wording of the post legislative act the *provider of the education* is placed in an ambiguous position.

First of all, the wording of the post legislative act is both explicit and implicit. For example, three out of four provisions of Article 13 of the Description of the Order of Providing Psychological Assistance explicitly state that establishment of the position of the *school psychologist*: 1) ensures the principles of *universality* and *accessibility*; 2) is based upon the number (from 301 up to 600) of students educated at a school where such staff position should be established; 3) and is entitled to general education school for students of special education needs, despite the number of students educated. Such wording, undoubtedly, supports a clear and unambiguous intent of the maker of the post legislative act by making a position of the *school psychologist* a permanent fixture on the community of certain schools. However, one provision of the same Article suggests that the establishment of the

835 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance,* Official Gazette (2011, No. 88-4220); Art. 5, 9;

836 *Law on Education, supra note* 299*,* Art. 19.2;

837 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance, op. cit.,* Art. 13;

838 *Ibid.,* Art. 13.1;

839 *Ibid.,* Art. 11;

said staff position is actually implied, because the wording provides that the position 'can be' (as opposed to 'shall' or 'must' be) established'.[840] **Such wording, in turn, overrides the explicit wording and diminishes the regulatory effect on the intended legal regulation and in reality the establishment of the position of the school psychologists lies entirely within discretion of the school manager.**

Second of all, the establishment of such staff position is implicit and explicit due to its financial implications. It obvious, that establishment of an additional staff position within any institution adds up to the increased financial burden on the institution, this time – the *provider of education*. The *aim* and *purpose* of the Description of the Order of Providing Psychological Assistance is unambiguous in the sense that such assistance should be provided in general, provision of a separate work office adaptable to the psychological assessment and consulting as well as work supplies is also guaranteed by the Description. However, being the main post legislative act that regulates the purpose, goals and organization[841] of providing *psychological assistance,* it does not provide any regulatory provision in regard to financing of the staff position of the *school psychologist.* The Description does state that providing of the assistance is organized and coordinated by the educational units of the municipality administrations,[842] however, it remains unclear as to which institution is responsible for funding the said staff positions – the Ministry of Education and Science, the municipalities, or the education providers themselves. **Such ambiguous language of the post legislative act may infringe the effectiveness of the legal regulation, because application of such a norm may infringe the intended results of the regulation.**

The instrumentality of the position of a *school psychologist* in making the learning environment safer is supported by legal provisions as discussed above. The factual reality supported by facts and figures is consistent in suggesting that a *school psychologist* is a much needed asset of the learning community at schools. However, since 96% (as was provided earlier) of all the schools of general education are state schools (based on the right of ownership and establishment), the providers of education are at large dependent on the allocation of the state or municipal budgetary resources for education needs, thus fall under the discretionary powers of the Government, the size of the budget of the school and the decision of its manager.[843] Why?

The ambiguity of the wording of the above mentioned Order of Providing Psychological Assistance, translates into a factual situation, where a staff position, though made formally available and justifiable, is scarce. Any additional staff position in any school translates in additional financial resources that are needed to pay for the said staff position. Formally, the staff position of the *school psychologist*, under conditions described above is financed by the state, according to the above mentioned Order and the Methodology of Calculation

840 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance, supra note* 835, Art. 13;

841 *Ibid.,* Art. 1;

842 *Ibid.,* Art. 2;

843 Formally, all resources needed for educational purposes are calculated and distributed according to the methodology provided by the Government. The manager of the school is responsible for prudent use of the resources received, thus he or she decides whether a staff position of the school psychologist, even though formally available according to legal provisions, will be cost effective.

and Distribution of Resources of the Student's Purse, which regulates the calculation and distribution of all resources related to the learning needs of a learner.[844]

According to the Methodology of Calculation and Distribution of Resources of the Student's Purse, *psychological assistance* is explicitly enumerated as of the categories of learning needs distributed though 'student's purse'.[845] Additionally, the said Methodology proposes that one contractual student at school is allocated an amount of 6,64 Euros per school year for the purposes of *psychological assistance.*[846] Thus, formally, if a school provides education (under contractual obligations) for over 300 (up to 600) students it is entitled to one staff position of the *school psychologist.*[847] Based on the provisions of the 'student's purse' Methodology, each contractual student would correspond to a certain amount (6,64 Euros per student per year) of resources that would be allocated for the establishment of the said staff position.

Thus, the Order of Providing Psychological Assistance sets certain quantitative criteria of when a *school psychologist* staff position can be established in a school of general education. It must be noted that the Order does not set any quantitative criteria for schools of general education for learners with special needs, which suggests that the position of *school psychologist* in such a school can be established despite the number of learners educated at the school.[848] However, the wording of the Order in both cases is up for interpretation, because it is unclear of whether the establishment of such position past the set quantitative criteria (and in cases of special needs education, when the quantitative criteria are not set) shall be established mandatory or by choice of the school. The Order also provides a right to make an autonomous decision, despite the quantitative criteria of the number of learners taught at school, to establish such position, if circumstances allow (which, as it can be presumed are of financial nature).[849]

Therefore, it can be concluded, that the right of the school as *provider of education* to receive *psychological assistance* is guaranteed by the state by way of post-legislative act which legally recognizes the possibility to establish the staff position of the *school psychologist* in accordance with the principles of *universality* and *accessibility.* The right of establishment of such position may further be classified in regard to its limitations. The right of establishment of the position of *school psychologist* in schools of general education is preconditioned by the number of learners that are educated at the school (which has to range from 300 to 600 learners). In this case the state obliges to cover a certain amount of the cost of the said position through the 'student's purse.' The said right of establishment is unlimited in cases of the schools of general education that educate children with special needs (which means that the latter schools can establish the said position even if the

844 *Decision of the Government of Republic of Lithuania Regarding Adoption of the Methodology of Calculation and Distribution of Resources of the Student's Purse,* Official Gazette (2001, No. 52-2040); Art. 1;

845 *Ibid.,* Art. 9.1, 12.1;

846 *Decision of the Government of Republic of Lithuania Regarding Amendment of the Decision No. 785 of June 27, 2001, Regarding Adoption of the Methodology of Calculation and Distribution of Resources of the Student's Purse,* Register of Legal Acts (2016, No. 6739); Appendix 2, Art. 1.1.;

847 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance, supra note* 835, Art. 13.1.2;

848 *Ibid.,* Art. 13.1.2;

849 *Ibid.,* Art. 13.1.1;

amount of learners at school does not exceed the 300). The establishment of such position at a school is also unlimited, if the possibilities allow, i.e., the school is given the autonomy to decide whether it needs to establish such a position (notwithstanding the qualitative criteria), if it is able to sustain it. **In all instances, a conclusion can be drawn that the decision of whether or not to a position of *school psychologist* should be established at school is autonomous and lies within the discretion of the principle of the school, whilst the state sets conditions of when it is obliged to allocate resources for financing of the said position.**

The quantitative criteria embedded in the legal provisions of the Order of Providing Psychological Assistance,[850] as explained by the experts of the Ministry of Education and Science, represent the normative ratio when one full-time staff position of the *school psychologist* is assigned from 301 to 600 of learners.[851] By applying such uniform quantitative criteria past which establishment of the position of the *school psychologist* becomes a guarantee, the legislator intended to conform with the criteria of *universality* and *accessibility,*[852] which means that *all* learners within the system of general education have *access* to *psychological assistance* (via *school psychologist*) according to the normative ratio of 301 to 600 students per *school psychologist.* Let's assume that the normative ratio set by the legislator is at the level which is sufficient to effectively provide the needed *psychological assistance* within a school community and to meet the raised principles of *universality* and *accessibility.* The system of general education, thus, should be able to employ the amount of *school psychologists* that meet the ratio set by the post-legislative act.

Latest statistical report provided by the Ministry of education and science makes it is possible to assess how these legal provisions related to *psychological assistance* factually translate within the system of general education. Based on the Report, the number of *school psychologists* within the system of general education has increased from 329 in the school year 2008/2009 to 437 in 2014/2015, which means that, based on the number on learners within the system of general education, *school psychologist* was assigned 1351,5 learners in 2008/2009 and 757,6 learners in 2014/2015 on average.[853] **The increase in the number of the staff positions of *school psychologists* within the system of general education and decrease of the ratio of the learners per one *school psychologist* indicates an overall improvement in providing the *psychological assistance* needed, however, the numbers of learners per one school psychologist remain relatively high above the quantitative ratio provided by the Order of the Minister of Education and Science in that regard.**

---

850 This notion refers to the provision of the Order of Providing Psychological Assistance which states that a staff position of the *school psychologist* can be established if there are from 301 to 600 learners at school. – *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance, supra note* 835, Art. 13.1.1

851 The Ministry of Education and Science, "The Level of Psychological, Special Pedagogical and Special Assistance for Students in Schools of General Education," (September 2009) // https://www.smm.lt/uploads/documents/kiti/spec%20%20pagalbos%20lygis.pdf (accessed April 19, 2016);

852 *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance, op.cit.,* Art. 13.1;

853 The Ministry of Education and Science of Republic of Lithuania, "Education of Lithuania in Numbers. 2015. General Education." (2015) // https://www.smm.lt/uploads/lawacts/docs/667_5ae2908d82c172afa0893b59aea2402e.pdf (accessed April 20, 2016);

CONCLUSIONS AND SUGGESTIONS

1. Analysis of the forms and outcomes of *bullying* explicitly recognized within the content of legal definitions of *bullying* show that the right to education and the rights in education of the victimized learners are infringed within the context of provisions of the international human rights law and the core international principles of education. The educational process of the victimized learners due to *bullying* or *cyber bullying* is incompatible with the principles of equal opportunity and treatment in education, their best interest as children is undermined, because they attend schools that do not meet the standards of safety and health, as well as child's right of development to the fullest potential is impaired.
2. *Bullying* at school is in contradiction with two of the universally accepted principles of 4A's (*accessibility, acceptability*). It violates the right of the learners to education in regard to the principle of *accessibility* in all three aspects. Victimized learners are discriminated against other learner in regard to their equal opportunity to realize their right to education to its full possible potential, they practice skip school or are forced to relocate school due to the fear of hard sustained from *bullying* at school, which also puts then in an inferior position, because the school may be in a harder to reach location and also become costlier. Because of the unsafe learning environment that *bullying* at school causes for their victims, *bullying* breaches the minimum standards of health and safety of the process of education required by the principle of *acceptability*.
3. The issue of safe environment at school (including the issue of *bullying*) is not explicitly recognized by the acts of international human rights law. However, the issue is explicitly and extensively recognized by the secondary legal acts within the international and regional legal and institutional framework. Interpretations and explanations of the provisions in regard to the right to education and freedom from harm of international and regional law by way of general comments, policies, strategies, actions plans, etc., show that violence at school, and explicitly the issue of *bullying,* are approached within the broader notion of violence against children *per se*.
4. The extralegal and legal definitions of *bullying* diverge. Analysis of the legal definitions allows to conclude that legal definitions of *bullying* conform with one component of the classic definition of *bullying* – the intentional negative behavior. Only one fifth of the legal definitions of *bullying* encompass 'repetitiveness,' and one – 'imbalance of power'. The definition of *bullying* provided by the state legislation carries over into policies, rules and internal regulations of state education boards and internal regulatory acts of the state schools.
5. The in depth comparative analysis of the content of legal definitions of *bullying* at school and extralegal research in regard to the description, forms and outcomes of the phenomenon, shows that legal definitions, despite the fact that they do not comply with the classic definition of *bullying,* within their content portray sufficient scope of elements, that should be taken into consideration when incorporat-

ing the notion of *bullying* into the framework of primary and secondary legal acts. It can be concluded, that the legal definition of *bullying,* besides the classic elements of the definition of this phenomenon, represents a legal evaluation model that encompasses other relevant aspects of *bullying* in its relation to the right to education and rights in education, and that allow to recognize and evaluate the phenomenon of *bullying* beyond its negative effect in individual victimization, but take into consideration all that is at stake: i.e., the process, mission, purpose, duration of education *per se,* as well as its happenstance and locality in regard to what is generally perceived as education within the school territory.

6. The legal definition of *bullying* explicitly provided by the Law on Education as of January 1, 2017, completely conforms to the component parts of the extralegal classic definition of *bullying,* because it contains the components of 'intentional negative behavior,' 'repetitiveness' and 'imbalance of power' between the victim and the bully. It is suggested that the definition of *bullying* at school be revised to include elements of legal definition of *bullying* that go beyond individual victimization and encompass elements of legal evaluation of *bullying* related to the right to education and the rights in education.
7. The notion of school community as provided by the Law on Education requires that a member of school community be related through ties of teaching and general goals of education. It can be concluded that such legal definition of school community is inconsistent with the actual subjects that participate in the life the school community but are not related to it through teaching ties and general goals of education. Thus, the newly adopted provision of the Law on Education prescribing an imperative obligation to report cases of violence at school only for members of school community is also legally inconsistent, because it should also be additionally be prescribed to those employees of the school as an educational institution who do not have teaching ties to the rest of the school community, but are employed as other staff of the school. It could also be argued that the current definition of the school community is too narrow because it provides that members of community be interrelated via common teaching relation or general aims of education. The notion of the school community should be expanded to include all members of the school community that actually provide to an orderly operation of a school as a teaching institution.
8. According to the constitutional provisions of Republic of Lithuania – the right to education and duty to acquire education is prescribed to individuals until the age of 16. Thus, the age limit for compulsory education is 16 years of age. However, statistical analysis of the choice of the student body population show, that 98% of learners, after completing the compulsory part of general education, choose to continue their education (until the age of 18) in the program of *secondary* education. In addition, non-formal education is not considered as part of compulsory education. But, according to legislative and post-legislative acts of education, non-formal education can be categorized as a completely separate form of education of children and as *supplementary* part of formal education, which includes all three

levels (primary, main and secondary) of general education. Programs of non-formal education are attended by 28% of the total student body population each year. The student body population of the programs of non-formal education is also susceptible to the same behavioral problems as that of formal education. Therefore, it is suggested that, not only compulsory education, but all programs that factually constitute the whole educational process of children, as well as non-formal education are taken into consideration when assessing the issue of *bullying*, its prevalence and its negative effect in regard to the right to education and the rights in education, these programs should fall under the same scrutiny and oversight in regard to the issue of *bullying* – any measures applied by the state within the system of compulsory education in the effort to prevent *bullying* should be considered for application within their framework.

9. According to the provisions of the Law on Education, the state via powers prescribed to the Ministry of Education and Science is entitled to incorporate a program of non-formal education into the curricula of formal education by both adopting a program of non-formal education and by adopting the *content* and *plans* of the programs of education. This way a program of non-formal education becomes supplementary to the programs of formal education, the purpose of which is to develop and systematically expand knowledge, skills and competencies in certain areas. Legal system of education of Lithuania does poses legal instruments that allow going beyond the traditional notion of the educational *content* to make education *acceptable*, thus, adapting to the changing needs of the school community and the individual learner, in this case *advocating* for the safer environment of the learners threatened by *bullying*. Non-formal education can also be approached as supplementary part of formal education in regard to the programs of compulsory education. It is suggested that programs of non-formal education due to its formal status within the system of general education be utilized as an effective tool to educate the learners of the programs of compulsory education in regard to *bullying* and *cyber bullying*.
10. The most recently adopted structure of the process of general education allows acquiring education in group or solitary (individual) form. The relevant way (method) of group education is *daily* education (which would be considered the most traditional way and is carried out by daily attendance of the educational institution). *Distance* learning is the method that is formally made available both to group and individual forms of education. Method of *self-education* is allowed to learners who acquire education individually. However, though formally available, the alternative methods are subject to limitations in regard to issues of health and special needs, and to persons who are in detention or their freedom is constrained (without limitations). It is suggested that *distance* and *self-education* are the alternative methods that could be utilized by the learners whose rights and personal integrity are jeopardy because of the phenomenon of *bullying* during the process of acquiring their education by the traditional method.

11. Legally recognized measures of protection of victims of violence in immediate surroundings of family and school environment differ. It can be concluded that the victims of violence of immediate surroundings of family are provided with greater protection measures in regard to a possibility to displace the perpetrator, not the victim, of violence from the immediate environment subjected to acts of violence. The only immediate measures applied in regard to the victim and the perpetrator of *bullying* or *cyber bullying* at school consists of receiving free mandatory *psychological assistance*. The perpetrator is not displaced or immediately banned from the school environment. The current system of compulsory education does provide a legal framework for implementing a feasible system of displacing the perpetrators of acts of violence in the immediate environment of the learners at schools through solitary or group education in form of *distance learning,* however it is too restrictive, because such forms of education are legally available only to persons with special health condition or persons with restricted freedom. Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education which regulates the way *distance learning* is provided should be adapted to enable the educational institutions utilize *distance learning* in form of solitary or group education as an effective measure of protection for victims (learners) of violence in the immediate school environment, and as a disciplinary measure for the perpetrators (learners) of violence, especially *bullying* and *cyber bullying*.
12. The current amendments of the Law on Education strengthen the instrumentality of such tools as programs of non-formal education, supplementary programs of education, prevention programs by explicitly recognizing their mandatory status within the system of education, their correlation to the phenomenon of violence at school and the rights of the learners. The prevention program recognized by the provision of the new amendment of the Law on Education clearly does not fall within the notion of one of the formal education programs of the compulsory education, which means it is not compulsory, nor free of charge. Taking into consideration that obligatory implementation of additional long-term education and prevention programs will have an impact on human resources and financial implications on the school that usually translate in need of greater funding. Due to the fact that over 96% of schools in Lithuania are state schools, they are dependent on the state for acquiring additional financial resources. The provisions in regard to actual implementation of such programs shall be provided in form of 'recommendation' by the Minster of Education and Science (as the current wording of the Law on Education provides). An imperative provision that prescribes an obligation to implement explicit measures, such as, implementation of long-term education and prevention programs, cannot be supported with acts of post-legislative level that only constitute a recommendation. Such wording is implicit and diminishes the instrumentality of the legal norm. The ambiguity of the new provision in regard to the notion of the prevention program, subject of its implementation, its financing resources puts its practical implementation in reasonable doubt of feasibility. It is

suggested that, for the purpose of regulatory clarity, as well as the purpose of legal regulation *per se,* the latter should be provided not in a recommendatory manner but be adopted in form of a post-legislative act, containing concrete available and recognized measures of prevention of *bullying* (among other factors) in form of an exhaustive list of long-term educational and prevention programs, their costs, and the source of additional financing in question. In addition, the obligatory provision for schools to include and ensure implementation of mandatory programs of prevention and education should be reflected in the financing of the learner's education, i.e., be accounted for within the framework of the 'student's purse.'

13. It can be concluded that the lack of consistent and complete information in regard to actual level of prevalence of *bullying* at school is due to the fact that there is no uniform system of assessment of such prevalence. It is also evident, that exact level of prevalence of *occasional bullying* and *chronic bullying* in schools of general education of Lithuania is not known. So far, the estimate level of prevalence of *bullying* is based on the HBSC surveys and sporadic efforts by non-governmental or governmental institutions not entirely related to the system of education *per se*. Analysis of practical implementation of relevant provisions of the Law on Education of Republic of Lithuania shows that the obvious shortcoming of the state institutions responsible for *monitoring* and *planning* processes of the *governance* of education in regard of ensuring adequate psychological environment is: 1) lack of gathering and providing complete and consistent information in that regard, and 2) as well as in specific regard of the phenomenon of *bullying cyber bullying* at school. Lack of accurate information is evident both within the context of the National Education Strategy and the national EMIS system of monitoring and assessment of education. The Ministry of Education and Science adopted the main strategic planning document – the National Education Strategy of 2013 – 2011 a year past the commencement of the date of its actual implementation period, had applied data on *bullying* at school within the context of the latter Strategy that was at least three years old at the time of the adoption of the strategic document. The centralized assessment of strategic indicators within the reporting system of EMIS that fall under the supervision of the Ministry of Education and Science reflect sporadic data only on *occasional bulling* for the years of 2011 and 2014. It is proposed that the national reporting system of EMIS additionally include the indicator of *chronic bullying* and provide accurate information on prevalence of both types of *bullying* annually.

LIST OF RESOURCES:

Books and monographs:

1. Aisling Parkes, *Children and International Human Rights Law, The Right of the Child to be Heard,* Routledge, 2013.
2. Alfonsas Vaišvila, *Teisės teorija [Theory of Law],* ed. Genovaitė Bbachinaitė, Saulius Katuoka, Justitia, Vilnius, 2004.
3. Apolinaras Zaborskis et all, "Moksleivių gyvenimo būdas ir sveikata. Pasaulinės sveikatos organizacijos 1994 m. tarptautinės moksleivių apklausos rezultatai," [Life-style and Health of the Learners. Rezults of the International Survey of the Learners by the World Health Organization], Vilnius: Leidybos centras; 1996.
4. Chris Watkins and Patsy Wagner, *Improving School Behavior.* London: Paul Chapman, 2000.
5. Daiva Malinauskienė and Aušrinė Gumuliauskienė, „Smurto raiškos mokykloje socioedukacinė prevencija: mokinių požiūris [Socio-Educational Prevention of Violence Expression in School: Pupils' Opinion], *Socialinis ugdymas: smurto ir patyčių prevencija ugdymo įstaigose: recenzuojamas tęstinis mokslinių – praktinių straipsnių rinkinys,* V, Šiauliai, VšĮ Šiaulių Universiteto leidykla, 2010.
6. Evaldas Karmaza, Neringa Grigutytė and Elena Gauda Karmazė, *Smurtas mokykloje: prevencija ir pagalba [Violence at school: prevention and practice]*, ed. Roma Jusienė, Vilnius: Švietimo aprūpinimo centras, 2007.
7. Geraldine Van Bueren, *Child Rights in Europe, Convergence and divergence in judicial protection,* Council of Europe Publishing, 2007.
8. Haris Assimopolous et al., *Patyčių prevencija klasėje: vadovas mokytojams [Bullying Prevention in the classroom: Guide for Teachers],"* ed. Ioanni Tsiantis, Vilnius: Margi raštai, 2010.
9. Jan Urbanski and Steve Permuth, *The Truth About Bullying. What Educators and Parents Must Know And Do,* Rowman & Littlefield Education, 2009.
10. John Holt, *Freedom and Beyond,* HoltGWS LLC, 2017.
11. K.Tomaševski, *„Human rights obligations: making education available, accessible, acceptable and adaptable", Right to Education Primers No. 3,* p. 13, Swedish International Development Cooperation Agency, Gothenburg, 2001.
12. Neil Marr and Tim Field, *Bullycide: Death at Playtime – An Expose' of Child Suicide Caused by Bullying,* Success Unlimited, 2001.
13. Neville Harris, *Education, Law and Diversity,* Hart Publishing Oxford and Portland, Oregon, 2007.
14. Dan Olweus, *Bullying at School: What We Know and What Can We Do.* Oxford, England: Blackwell Publishers, 1993.
15. Paul Timm, *School Security, How to Build and Strengthen a School Safety Program,* ed.Brian Romer, Elsevier, 2015.
16. Philippe Legrain, *Open World: The Truth About Globalization,* 2002.
17. R.Česonienė ir G.Bičiukienė, *Vaiko teisių mokymai per žaidimą [Learning Childrens' Rights Through Playing],* Elektrėnai, 2009.

18. Rasa Norkutė, *"Tadas į mokyklą negrįžo: tėvai ir vaikai, mokytojų ir vaikų tarpusavio santykiai, mokytojų klaidos, vaikų patyčios, vaikų savižudybių priežastys" [Tadas Did Not Return to School: Parents and Children, Relations Between Children and Teachers, Teachers' Mistakes, Child Bullying, Causes of Suicide of Children],* Kaunas: Indigo Print, 2014.
19. Tim Gill, *No Fear: Growing up in a Risk Averse Society,* Calouste Gulbenkian Foundation, 2007.
20. 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.
21. Stan Davis and Julia Davis, *Schools Where Everyone Belongs: Practical Strategies for Reducing Bullying,* 2nd ed., Champaign, IL: Research Press, 2007.
22. Valdas Pruskus, *Smurto fenomenas mokykloje [The Violence Phenomenon at School],* Vilniaus Gedimino technikos universitetas. Vilnius: Technika, 2012.

Articles in books:

23. Charles Glenn, "The Concept of Educational Autonomy"; in *Autonomy in Education. Yearbook of the European Association for Education Law and Policy. Volume III,* Walter Berka, Jan De Groof and Hilde Penneman, eds., the Hague/London/Boston: Kluwer Law International 2000, 42.
24. Charles L. Glen and Jan De Groof, "Introduction to Volume Two", in: *Balancing Freedom, Autonomy and Accountability in Education,* Charles L.Glen and Jan De Groof, eds., Volume 2. Wolf Legal Publishers (WLP), 2012.
25. Dainius Pūras, "Foreword," in *"Patyčių prevencija mokyklose" [Prevention of Bullying at Schools],* Robertas Povilaitis and Jurgita Valiukevičiūtė, Vilnius: Multiplex, 2006, 1-8.
26. Jan de Groof. "Introduction " in Promoting a Human Rights Culture in Education: Responsibilities and opportunities in a transforming society, Jan de Groof, Willy Legotlo, Rassie Malherbe and Johan Potgieter, eds., Mys & Breeschm publishers, Ghent, 1999, 1-22.
27. Neville Harris, "Pupil Bullying, Mental Health and the Law in England" in *Children, Education and Health, International Perspectives on Law and Policy,* Neville Harris and Paul Meredith, eds., ASHGATE, 2005, 31-58.
28. Robertas Povilaitis and Jurgita Smiltė Jasiulionė, *Mokykla gali įveikti patyčias: rekomendacijos mokytojams [School can Conquer Bullying: Reccomendations for Teachers],* Vilnius: Center of Educational Assistance of the Ministry of Education and Sicence, 2010.
29. Robertas Povilaitis and Jurgita Valiukevičiūtė, *"Patyčių prevencija mokyklose" [Prevention of Bullying at Schools],* ed. Laima Bulotaitė (Vilnius: Multiplex, 2006).

Journal articles:

30. Albinas Bagdonas and Indrė Padarauskaitė, „Paauglių kūno vaizdas ir patyčių patirtis“ [Body-Image and Bullying in Adolescents], *Psichologija* 46 (2012): 45-59.
31. Aldona Palujanskienė and Juozas Vytautas Uzila, „Agresija ir kofliktai mokykloje“ [Agression and Conflict in the School of Our Days], *Pedagogica: mokslo darbai, Vilnius* 73 (2004):124-127.
32. Apolinaras Zaborskis and Inga Vareikienė, “Bullying prevalence in Lithuanian schools during 1994-2014 period,” *Visuomenės sveikata* 2(69) (2015): 40-47.
33. Apolinaras Zaborskis and Inga Vareikienė, „School Bullying and its Assocication With Health and Lifestyle Among Schoolchildren,“ *Medicina (Kaunas)* 2008, 44(3): 232-239.
34. Apolinaras Zaborskis and Nida Žemaitienė, „Moksleivių įvardijamos savižudiškų polinkių priežastys“ [Schoolchildren's Self-reported Explanations of Suicidal Ideation], *Psichologija* 29 (2004): 115-130.
35. Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, “Bullying in Lithuanian schools in 1994-2002,“ *Medicina (Kaunas)* 2005, 41(7): 614-620.
36. Artemis K. Tsitsika, Efi Barlou, Elizabeth Andrie and Maria Tsolia, “Bullying Behaviors in Children and Adolescents: „An Ongoing Story“,” *Frontiers of Public Health* 2:7 (February, 2014):1-4. DOI: 10.3389/fpubh.2014.00007.
37. B. Jessie Hill, “Constituting Children's Bodily Integrity,” *Duke Law Journal* Vol. 64, Number 7 (April 2015): 1295-1362.
38. B.Pranevičienė and A.Pūraitė, “Right to Education in International Legal Documents,” *Jurisprudencija [Jurisprudence]* 3(121) (2010): 133–156.
39. Bilić V., Flander G.B. and Rafajac B., “Life satisfaction and school performance of children exposed to classic and cyber peer bullying,” *Collegium Antropologicum* 38 (1) (March, 2014): 21-29..
40. Brigita Kairienė and Donalda Ščerbakova, „Vaikų patiriamo smurto mokykloje prevencinės galimybės“ [Preventive Measures for Violence at School Experienced by the Children], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 7(2) (2008): 67-75.
41. Brigita Kairienė, Ieva Kuginytė Arlauskienė, Tomas Butvilas and Romas Prakapas, ”Mokinių smurto mkykloje raiškos tendencijos“ [Tendencies of Expressing Student Violence at School], *Klutūra – Ugdymas – Visuomenė: mokslo darbai* 2 (2007): 169-175.
42. Charles J. Russo, “Bullying and New School Violence: An American Perspective”, International Journal for Education Law and Policy” Issue 2 (2014): 127-139.
43. D. Lynn Hawkins, Debra J. Pepler and Wendy M. Craig, “Naturalistic Observations of Peer Interventions in Bullying,” *Social Development* 10(4) (2001): 512-527.
44. Daiva Malinauskienė, „Vaikų smurtinį elgesį mokykloje skatinantys veiksniai“ [Factors Stimulating Violent Behavior at School], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 10(2) (2011):229-240.
45. Dan Olweus, “Bullying – Victim Problems Among School Children: Basic Facts and Effects of a School Based Intervention Programs” in *Development and Treatment of*

Childhood Aggression, Debra J. Pepler and Kenneth H. Rubin, eds., (Hillsdale, NJ: Lawrence Elbraum Associates, Inc., 1991): 411-448.
46. Dan Olweus, "Bully/Victim Problems in School: Facts and Intervention," *European Journal of Psychology of Education* 1997, Vol. XII: 495-510.
47. David R. Dupper and Nancy Meyer-Adams, "Low-level Violence: A Neglected Aspect of School Culture," *Urban Education* Vol. 37 No. 3 (2002): 350-364.
48. Diana Bukeikaitė and Valdas Pruskus, „Agresyvus nepilnamečių elgesys mokykloje: priežastys ir raiškos ypatumai" [Agressive Behavior of Teenagers at School: Causes and Aspects of Expression], Šiuolaikinė mokykla sociologų objektyve, 2006.
49. Fernando Reimers, "Educational Chances of the Poor at the End of the Twentieth Century," *Prospects* Volume 29, Issue 4 (1999-12): 480-491. DOI: 10.1007/BF02736899.
50. Furniss C., "Bullying in schools: it's not a crime is it?" *Education and the Law* 12(1) (2000):9-21.
51. George M. Batche and Howard M. Knoff, "Bullies and their victims: Understanding a pervasive problem in the schools," *School Psychology Review* 23(1993): 165-175.
52. Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, „Į patyčias įsitraukusių Kauno mokyklų mokinių savijauta, rizikinga elgsena ir vaidmenys tyčiojantis" [The Health, Risk Behavior and Bullying Roles of Children Involved in School Bullying Behaviors in Kaunas], *Visuomenės sveikata* 2(41) (2008): 27-32.
53. Giedrius Girdvainis and Rasa Pocevičienė, „Patyčių problema ir jos prevencijos bendrojo lavinimo mokykloje analizė" [Analysis of Problem of Bullying and its Prevention at Comprehensive School], *Socialiniai mokslai. Jaunųjų mokslininkų darbai* 4(25), 2009: 127-135.
54. Heather A. Turner, David Finkelhor, Anne Shattuck, Sherry Hamby, and Kimberly Mitchell, "Beyond Bullying: Aggravating Elements of Peer Victimization Episodes," *School Psychology Quarterly* Vol. 30(3) (September, 2015):366-384.
55. Hertz M.F., Everett Jones S., Barrios L., David-Ferdon C., and Holt M., "Association Between Bullying Victimization and Health Risk Behaviors Among High School Students in the United States," *The Journal of School Health* 85(12) (December 2015): 833-842. DOI: 10.1111/josh.12339.
56. Ian Rivers and Peter K. Smith, "Types of Bullying Behaviour and Their Correlates," *Aggressive Behavior* 20(5) (1994): 359-368.
57. J. Gary Knowles, Stacey E. Marlow, and James A. Muchmore, "From Pedagogy to Ideology: Origins and Phases of Home Education in the United States, 1970-1990": 223-225.
58. Jack Donnelly, The Relative Universality of Human Rights Human Rights Quarterly Volume 29, Number 2, May 2007: 281-306. DOI: 10.1353/hrq.2007.0016.
59. Jan De Groof, *Report. Fulfilling the Right to Education* (Paris, UNESCO, September 2009): 28-30.
60. John Dayton, Anne Proffitt Dupre and Ann Elizabeth Blankenship, "Model Anti Bullying Legislation: Promoting Student Safety, Civility, and Achievement through Law and Policy Reform," *Education Law Reporter* 272 (2011): 19 – 37.

61. John H. Hoover, Ronald L. Oliver and Keith A. Thomson, "Perceived victimization by school bullies: New research and future directions," *Journal of Humanistic Education and Development* 32 (1993): 76-84.
62. June Kane, "Violence and school," *Daphne Booklets: Issues and experiences in combating violence against children, young people and women* (August 2008):11. DOI:10.2758/24116.
63. Katarina Tomaševski, "Globalizing What: Education as s Human Right or as a Traded Service?," *Indiana Journal of Global Legal Studies*, Volume 12, Issue 1 (2005):1-78.
64. Kal Raustiala, "Form and Substance in International Agreements," *The American Journal of International Law* Vol. 99, No. 3 (July, 2005): 581-614.
65. Kathleen Vail, "Words That Wound," *The American School Board Journal* (September 1999): 37-40.
66. Kathryn S. Whitted and David R. Dupper, "Best Practices for Preventing of Reducing Bullying in Schools," *Children & Schools* 27(3) (Jul 2005): 167-175.
67. Kayleigh L. Chester, Mary Callaghan, Alina Cosma, Peter Donnelly, Wendy Craig, Sophie Walsh and Michal Molcho, "Cross-national time trends in bullying victimization in 33 countries among children aged 11, 13 and 15 from 2002 to 2010," *European Journal of Public Health* Vol. 25 (Supplement 2, 2015): 61-64. DOI: 10.1093/eurpub/ckv029.
68. Ken Rigby, "What schools can do about bullying," *Professional Reading Guide for Educational Administrators* 17(1) (1995): 1-5.
69. Linda D.Voss and Jean Mulligan, "Bullying in school: are short pupils at risk? Questionnaire study in a cohort," 320(7235) (March, 2000): 612-613.
70. Loreta Bukšnytė-Marmienė, „Mokinių patiriamo smurto bei savijautos ypatumai skirtingo tipo mokyklose" [The Link Between Violence Experienced by Adolescents and Their Emotional State in Different Types of Schools], *Pedagogika: mokslo darbai* 91 (2008):60-65.
71. Mantas Varaška and Arminas Lydeka, „Seimo nutarimas: sapmrata ir istorinė raida" [Parliamentary Decision: the Concept and Historic Development], *Law Review* No.1 (12), 2015: 203-224. DOI: http://dx.doi.org/10.7220/2029-4239.12.1.7.
72. Margaret S. Stockdale, Saidou Hangaduambo, David Duys, Karl Larson, and Paul D. Sarvela, "Rural elementary students', parents', and teachers' perceptions of bullying," *American Journal of Health Behavior* 26(4) (July, 2002): 266-277.
73. Mark A. Schuster, Marc N. Elliott, Laura M. Bogart, David J. Klein, Jeremy Y. Feng, Jan L. Wallander, Paula Cuccaro, Susan R. Tortolero, "Changes in Obesity Between Fifth and Tenth Grades: A Longitudinal Study in Three Metropolitan Areas," *Pediatrics* Vol. 134 No. 6 (December, 2014): 1051-1058. DOI: 10.1542/peds.2014-2195.
74. Mark G. Borg, "The extent and nature of bullying among primary and secondary schoolchildren," *British Journal of Educational Psychology* 62 (1999): 137-153.
75. Motoko Akiba, Gerald K. LeTendre, David P. Baker, Brian Goesling, "Student victimization: National and school systems effects on school violence in 37 nations," *American Educational Research Journal* 39(4): 829-853.

76. Pieter W.A. Huisman, "Providing a safe educational environment; a scan of legal situation in the Netherlands," *The International Journal for Education Law and Policy; Special Issue* (2013): 17-25.
77. Pranevičienė B. and Margevičiūtė.A., "Challenges to the Implementation of Institutional Reform in the Lithuanian General Education System," *Baltic Journal of Law & Politics* Volume 8, Issue 1 (October 2015): 106–138, DOI: 10.1515/bjlp-2015-0013.
78. Rami Benbenishty and Ron Avi Astor, "School Violence in an International Context," *International Journal of Violence and School* 7 (December, 2008): 59-80.
79. Rasa Pilkauskaitė Valickienė, Saulė Raižienė and Rita Žukauskienė, „Elektroninių patyčių paplitimas tarp Klaipėdos apskrities vyreniųjų klasių moksleivių" [The Prevalnce of Bullying Among the Klaipėda District Highschool Students], *Socialinis darbas: mokslo darbai* 8(2) 2009: 114-121.
80. Riley J. Steiner and Catherine N. Rasberry, "Brief report: Associations between in-person and electronic bullying victimization and missing school because of safety concerns among U.S. high school students," *Journal of adolescence* 43 (August, 2015): 1-4. DOI: 10.1016/j.adolescence.2015.05.005.
81. Rimantas Zelvys, "Development of education policy in Lithuania during the years of transformations," *International Journal of Educational Development* 24 (2004): 559.
82. Robertas Povilaitis, "Patyčių dviejose Vilniaus mokyklose paplitimas" [Prevalence of Bullying in Two Vilnius Schools], *Visuomenės sveikata* 2(41) (2008): 33-38.
83. Roberto Forero, McLellam, Rissel, Bauman, "Bullying behavior and psychosocial health among school students in New South Wales, Australia," *British Medical Journal* 319(1999): 344-348.
84. Sally Varnha, Joan Squelch, Education and the Law, Vol. 20, No. 3, September 2008: 193 – 208; ISSN 0953-9964 print / ISSN 1469 – 5774 online.
85. Stephen J. Lepore and Wendy Kliewer, "Violence exposure, sleep disturbance, and poor academic performance in middle school," *Journal of abnormal child psychology* 41(8) (November, 2013): 1180-1189. DOI: 10.1007/s10802-013-9709-0.
86. Susan J. Roberts, Carol A. Glod, Reo Kim and Julie Hounchell, "Relationships between aggression, depression, and alcohol, tobacco: Implications for healthcare providers in student health," *Journal of American Academy of Nurse practitioners* 22 (2010): 369-375.
87. Ted Feinberg, "Bullying Prevention and Intervention," *Principal Leadership* 4 (2003): 10-14.
88. Tomi Kiilakoski and Atte Oksanen, "Cultural and peer influences on homicidal violence: A Finnish perspective," *New Directions for Youth Development,* Volume 2011, Issue 129 (2011): 31–42. DOI: 10.1002/yd.385.
89. Tonja R. Nansel, Mary D. Overpeck, Denise L. Haynie, W. June Ruan and Peter C. Scheidt, "Relationships Between Bullying and Violence Among US Youth," *Archives of Pediatrics & Adolescent Medicine* Vol 157, No. 4 (April 2003): 348, doi:10.1001/archpedi.157.4.348.

90. U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service, *Analysis of State Bullying Laws and Policies* (Washington, D.C. 2011).
91. Valdas Pruskus and Gerda Tuzienė, „Agresyvaus elgesio prieš bendramokslius priežastys. Dažnumas ir formos: mokinių, mokytojų ir tėvų vertinimas“ [Agressive Behavior Among Learners. Freequency and Forms: Assesment by Learners, Teachers and Parents], *Santalka: filologija, edukologija* 19(2), 2011.
92. Valdas Pruskus and Gerda Tuzienė, „Mokinių agresyvaus elgesio prieš mokytojus dažnis, formos ir prevencija: mokinių, mokytojų ir tėvų vertinimas“ [Freequency, Forms and Prevention of Agressive Behavior of Learners Against Teachers: Assesment by Learners, Teachers and Parents], *Socialinis Ugdymas* Vol. 20 Issue 31 (2012): 35-62.
93. Viktorija Grigaliūnienė, "Patyčių psichosocialiniai ir ekonominiai aspektai Kauno rajono bendrojo lavinimo mokyklose" [Economical and Psychosocial Impact on Bullying in Schools of Kaunas Region], *Sveikatos mokslai, Vilnius: Sveikata* 22 (3), 2012.
94. Vilija Targamadzė and Džiuginta Valeckienė, "Patyčių bendrojo lavinimo mokykloje samprata: priežasčių, formų ir pasekmių diskursas [Concept of Bullying at School of General Education: Discourse on Causes, Forms and Consequences," *ACTA PAEDAGOGICA VILNENSIA* 19 (2007): 159-171.
95. Young Shin Kim and Bennett Leventhall, "Bullying and suicide. A review," *International Journal of Adolescent Medicine and Health* 2008; 20(2): 133-154.
96. Žemaitienė N., „Mokyklos patrauklumas ir moksleivių sveikata," [Fascination of School and the Health of Schoolchildren], Socialiniai mokslai. Sociologija 1996, 3(7).
97. Živilė Jonynienė, „Vaiko teisių įgyvendinimas: mokyklos demokratėjimo rdiklis," *Socialinis darbas: mokslo darbai* 8(2) (2009): 52-64.
98. Živilė Vilma Jonynienė, Agnė Bartkutė and Tomas Butvilas, "Teisinis švietimas kaip prevencinė priemonė prieš patyčias mokyklose: mokinių ir mokytojų sampratos" [Legal Education as the Prevention for Bullying at Schools: Conceptions of Students and Teachers], *Socialinis darbas/Social Work* 2011, 10(2): 217-228.

Legal acts:

99. Alabama House Bill No. 216 (2009), *The Alabama Student Harassment Prevention Act* No. 2009-571, Alabama Code §16-28B-3.
100. Alaska House Bill No.482 (2006), *Harassment, Intimidation, and Bullying Policy*, Alaska Statute §14.33.250.
101. Arizona House Bill No. 2368 (2005), Arizona Revised Statute §15-341.36.
102. Arkansas House Bill No. 1708 (2005), *Act to Define Bullying and Cyberbullying,* Arkansas Code Annotated §6-18-514.
103. California Assembly Bill No. 606 (2008), California Education Code §48900.
104. *Charter of Fundamental Rights of European Union*, Official Journal of the European Communities (2000, No. C 364/1).

105. Colorado Senate Bill No. 01-080 (2001), *Concerning the Prevention of Bullying,* Colorado Revised Statutes §22-32-109.
106. Connecticut House Bill No. 5563 (2006), Connecticut General Statutes §10-222.
107. *Constitution of Republic of Lithuania*, Official Gazette (1992, no. 33-1014).
108. *Convention on the Rights of the Child*, UN General Assembly (1989, General Assembly resolution 44/25).
109. *Criminal Code of Republic of Lithuania*, Official Gazette (2000, No. 89-2741).
110. *Decision No. 745 of The Government of Republic of Lithuania Regarding the Rules of Creation of Network of Schools That Implement Programs of Formal Education*, Official Gazette (2004, No. 95-3509).
111. *Decision of Seimas of Republic of Lithuania Regarding Adoption of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008*, Official Gazette, (Žin., 2004, Nr. 58- 2041).
112. *Decision of Seimas of Republic of Lithuania Regarding adoption of the National Program of Drug Control and Prevention of Drug Addiction for the years 2010-2016*, Official Gazette (2011, No. 132-6720).
113. *Decision of Seimas of Republic of Lithuania Regarding the Institution of the Ombudsman for Children Rights*, Official Gazette (2000, No. 60-1769).
114. *Decision of Seimas of Republic of Lithuania Regarding the Right of Learners to Safe Environment in Educational Institutions,*" Legal Acts Registrar (2016, No.5720).
115. *Decision of the Government of Republic of Lithuania Regarding Adoption of Implementation Measures for the year 2005 of the National Program of Drug Control and Prevention of Drug Addiction for the year of 2004-2008*, Official Gazette (2005, No.: 33-1066).
116. *Decision of the Government of Republic of Lithuania Regarding Adoption of the Methodology of Calculation and Distribution of Resources of the Student's Purse*, Official Gazette (2001, No. 52-2040).
117. *Decision of the Government of Republic of Lithuania Regarding Amendment of the Decision No. 785 of June 27, 2001, Regarding Adoption of the Methodology of Calculation and Distribution of Resources of the Student's Purse,* Register of Legal Acts (2016, No. 6739).
118. *Decision of The Government of Republic of Lithuania Regarding the Rules of Creation of Network of Schools That Implement Programs of Formal Education*, Official Gazette (2011, No. 79-3869).
119. *Decision of the Minister of Education and Science Regarding Adoption of the Program of Prevention of Use of Alcohol, Tobacco and Other Psychotropic Substances*, Official Gazette (2006, No.: 33-1197).
120. *Decision Regarding Confirmation of the National Violence Against Children Prevention and Assistance Program of 2008 – 2010;* Official Gazette (2008, No. 51-1893).
121. *Decree Regarding Submitting the Project of the Amendment of the Law on Education No. I-1489 to the Parliament of Republic of Lithuania by Amending Articles 2, 19, 23, 43, 46, 47, 49, 56, 58, 59 of the Law on Education and Supplementing the Law on Education with Articles 23^1, 23^2,* Registrar of Legal Acts (2016, No. 12232).

122. Delaware House Bill No. 7 (2007), Delaware Code Annotated Title 14 §4112D.
123. En. Sec. 2, Ch. 253, L. 2015, Montana Code Annotated (2015)§20-5-208.
124. Florida Senate Bill No. 114 (2007), Florida Statutes Annotated §1006.147.
125. Georgia House Bill No. 84 (1999), Georgia Code Annotated §20-2-751.4.
126. Hawaii State Board of Education Administrative Rules §8-19-2.
127. Idaho House Bill No. 750aa (2006), Jared's Law, Idaho Code §18-917a.
128. Illinois Senate Bill No. 1026 (2006), 105 Illinois Compiled Statutes §5/27-23.7.
129. Indiana Senate Enrolled Act (2005), Indiana Code Annotated §20-33-8-0.2.
130. Iowa Senate File No. 61 (2007), Iowa Code §280.28.
131. Kansas House Bill No. 2310 (2008), Kansas Statutes Annotated §72-8256.
132. Kentucky House Bill No. 91, Chapter No. 25 (2008), *The Golden Rule Act*, Kentucky Revised Statues Annotated §158.148.
133. *Law on Amending and Supplementing the Law on Education of the Republic of Lithuania*, Official Gazette (1994, No. 8-122).
134. *Law on Cyber Security*, Registrar of Legal Acts (2014, No. 20553).
135. *Law on Education*, Official Gazette (1991, No. 23-593).
136. *Law on Education*, Official Gazette (2003, No. 63-2853).
137. *Law on Education*, Official Gazette (2011, No. 38-1804).
138. *Law on Education*, Official Gazette (2015, No. 11181).
139. *Law on Electronic Communications,* Official Gazette (2004, No. 69-2382).
140. *Law on Fundamentals of Protections of the Rights of the Child,* Official Gazette (1996, No. 33-807).
141. *Law on Informing the Public,* Official Gazette (1996, No. 71-1706).
142. *Law on Protecting the Minors from the Negative Effect of the Public Information,* Official Gazette (2002, No. 91-3890).
143. *Law on Protection from Violence in Immediate Surroundings*, Official Gazette (2011, No. 72-3475).
144. *Law on Special Education*, Official Gazette (1998, No. 115-3228).
145. Louisiana Laws Revised Statue (2010), Louisiana Revised Statutes Annotated §17:416.13.
146. Maine Revised Statute Annotated (2011) Title 20-A §6554.
147. Maryland House Bill No. 199 (2008), Maryland Education Code Annotated §7-424.
148. Michigan House Bill No. 241 (2011), Michigan Compiled Laws §380.1310b.
149. Minnesota House File No. 826 (2014), Minnesota Statute §121A.031.
150. Mississippi Senate Bill No. 2015 (2010), *Bullying and Harassing Behavior in Public Schools*, Mississippi Code Annotated §37-11-67.
151. Missouri Senate Bill No. 894 (2006), Missouri Revised Statutes §160.775.
152. *National Strategy of Education for 2013-2022,* Official Gazette (2013, No. 140-7095).
153. Nebraska Legislative Bill No. 205 (2008), Nebraska Revised Statutes §79-2,137.
154. Nevada Assembly Bill (2009), Nevada Revised Statutes Annotated §388.122.
155. New Hampshire Senate Bill No. 360 (2000), New Hampshire Revised Statutes Annotated §193-F:3.

156. New Jersey Assembly Bill No. 3466, Chapter No. 122 (2011), N.J. Stat. Ann. §18A-37-14.
157. New Mexico Department of Public Education Rule Title 6, Chap. 12, Part 7 (2006), *Bullying Prevention,* New Mexico Administrative Code §6.12.7.7.
158. New York Assembly Bill No. 3661 (2011), *Dignity for All Students Act 1987B*, N.Y. Educ. Law §11.
159. North Carolina Senate Bill No. 526 (2006), *School Violence Prevention Act*, N.C. Gen. Stat. §115C-407.5.
160. North Dakota House Bill No. 1465 (2011), North Dakota Century Code Chapter §15.1-19-17.
161. Ohio House Bill No. 276 (2006), *Harassment, Intimidation, and Bullying Policy, Adopt Own*, Ohio Rev. Stat. Ann. §3313.666.
162. Oklahoma House Bill No. 2215 (2002), *School Bullying Prevention Act*, Okla. Stat. Ann. Tit. 70, §24-100.3.
163. Order No. (1.3)V-18 of the Director of the Center of Special Pedagogy and Psychology Regarding the List of Certified Schools of Olweus, September 8th, 2016.
164. Order No. (1.3)V-49 of the Director of the Center of Special Pedagogy and Psychology Regarding the List of Certified Schools of Olweus, August 31st, 2015.
165. Order No.ISAK-1344 of the Minister of Education and Science Regarding Establishment of the Management Committee and Coordination Group of the Olweus Program, May 10th, 2008;
166. *Order of Amendment of the Order on Self-Education*; Official Gazette (2007, No. 95-3860).
167. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education for 2005-2007,* Official Gazette (2005, No.: 59-2085).
168. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education for* 2007-2008, Official Gazette (2007, No.: 44-1691).
169. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education for 2008-2009*, Official Gazette (2008, No.: 61-2320).
170. *Order of the Minister of Education and Science Regarding adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2013-2014 and 2014-2015*, Official Gazette (2013, No.: 58-2934).
171. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2015-2016 and 2016-2017*, Register of Legal Acts (2015, No.: 6051).
172. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2009-2011,* Official Gazette (2009, No.: 61-2447).
173. *Order of the Minister of Education and Science Regarding Adoption of the General Plans of Education of the Programs of Main and Secondary Education for 2011-2013,* Official Gazette (2011, No.: 74-3561).
174. *Order of the Minister of Education and Science Regarding Adoption of the General Program of Health Education*, Official Gazette (2012, No.: 105-5347).

175. Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Organizing Schooling of Students at a Stationary Institution of Healthcare and Home; Ministry of Education and Science (2012, No. V-1405).
176. *Order of the Minister of Education and Science Regarding Adoption of the Description of the Order of Providing Psychological Assistance*, Official Gazette (2011, No. 88-4220).
177. *Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education*; Official Gazette (2012, No.: 76-3957).
178. *Order of the Minister of Education and Science Regarding Confirmation of the Description of the State Monitoring Order of Education and Science,* Official Gazette, (2012, No. 98-5004).
179. *Order of the Minister of Education and Science Regarding Confirmation of the State (Strategic) Indicators of Education Monitoring,* Official Gazette, (2012, No. 98-5003).
180. *Order of the Minister of Education and Science Regarding Confirmation of Bylaws of the Education Management System,* Official Gazette (2006, No. 141-5436).
181. *Order of the Minister of Education and Science Regarding Recommendations Regarding Application of Measures Of Impact in Cases of Inappropriate Behavior by Students,* Informational Bulletin (2012, No. 71-632).
182. *Order of the Minister of Education and Science Order on Self-Education*; Official Gazette (2003, No. 33-1397).
183. *Order Regarding Illnesses, Defects and Pathological Conditions Under Which a Child Under the Age of 16 has to be Permanently or Temporarily Schooled at Home;* Ministry of Healthcare, Ministry of Culture and Education (1993, No. 49/116).
184. *Order Regarding Organization of Self-Education*, Official Gazette (1997, No. 104-2694).
185. *Order Regarding the Procedure of Organizing Schooling of Students at Home,* Minister of Healthcare, Minister of Education and Science (2000, No. 259/153).
186. *Order of the Minister of Education and Science*, Official Gazette (2012, No. 42-2102).
187. Oregon House Bill No. 2599 (2009), Or. Rev. Stat. §339.351.
188. Pennsylvania House Bill No. 1067 (2008), 24 Pennsylvania Consolidated Statute §13-1303.1-A.
189. Rhode Island House/Assembly Bill No. 7213 (2008), R.I. Gen. Law §16-21-26, 34.
190. Senate Bill No. 2404, Chapter 92 (2010), *Bullying in Schools Act,* Massachusetts General Laws Chapter §71, Section 37O.
191. South Carolina House Bill No. 3573 (2006), *Safe School Climate Act*, South Carolina Code Annotated §59-63-120.
192. South Dakota Codified Law (2012) §13-32-15.
193. Tennessee Senate Bill No. 283 (2009), Tenn. Code Ann. §49-6-1015.
194. Texas House Bill No. 1942 (2011), Texas Education Code Annotated §37.0832.
195. *The Statute of Seimas of Republic of Lithuania,* Official Gazette, (1994, No. 15-249).

196. UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education* , 17 April 2001, CRC/GC/2001/1.
197. Utah House Bill No. 325 (2008), Utah Code Annotated §53A-11a-102.
198. *Valstybinė švietimo 2013-2022 metų strategija* [State education strategy 2013-2022], Official Gazette (2013, no. 140–7095).
199. Vermont House Bill No. H629 (2004), Vermont Statute Annotated Title 16, §11(a) (32).
200. Virginia Code Annotated (2013) § 22.1-276.01.
201. Washington Substitute House Bill No. 2801 (2010), *Harassment, Intimidation, and Bullying*, Washington Revised Code §28A.300.285.
202. West Virginia House Bill No. 3225 (2011), W.Va. Code Ann. §18-2C-2.
203. Wisconsin Senate Bill No. 154 (2010), Act No. 309, Wisconsin Statute §118.46.
204. Wyoming House Bill No. 0223 (2009), Wyo. Stat. Ann. §21-4-312.

Other documental resources:

205. Bylaws of the "Žemyna" main school of Pakruojis (adopted by the Pakruojis region Municipality Council, Decision No. T-109, April 27, 2012).
206. *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.
207. Council of Europe, *Parliamentary Assembly Resolution Education against Violence at School* No.1830 (2011).
208. Council of Europe, *Recommendation of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education,* May 11, 2010, CM/Rec (2010)7.
209. European Court of Human Rights – The Belgian Linguistics Case, Judgement of July 23, 1968, Series A, vol. 6.
210. *General Comment No. 13, The right to education*, Economic and Social Council (1999, No. E/C.12/1999/10).
211. *Report of the independent expert for the United Nations study on violence against children,* General Assembly (2006, No. A/61/299); Sec. II A.26.
212. Resolution, *General Assembly* (2006, No. 60/231).
213. The Order of the Forms and Organization of Education According to Programs of Formal Education at "Atžalynas" secondary school (adopted by the Order of the Director of "Atžalynas" Secondary School, August 31, 2012, Order No. V-189).
214. UN Committee on the Rights of the Child (CRC), *General comment No. 4 (2003), Adolescent health and development in the context of the Convention on the Rights of the Child* , 1 July 2003, CRC/GC/2003/4.
215. UN Committee on the Rights of the Child (CRC), *General comment No. 9 (2006), the Rights of Children with Disabilities*, 1 July 2003, CRC/C/GC/9.
216. UN Committee on the Rights of the Child (CRC), *General comment No. 12 (2007), The right of the child to be heard*, 20 July 2009, CRC/C/GC/12.

217. UN Committee on the Rights of the Child (CRC), *General comment No. 13 (2011), The right of the child to freedom from all forms of violence*, 18 April 2011, CRC/C/GC/13.
218. UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013), The right of the child to freedom from all forms of violence*, 4 May 2013, CRC/C/GC/14.
219. UN Committee on the Rights of the Child (CRC), *General comment No. 17 (2013)* on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), 17 April 2013, CRC/C/GC/17.

On-line resources:

220. "Nacionalinis švietimo plėtotės raportas" [National Report on Education Development] (1993) // http://old.smm.lt/svietimo_bukle/docs/apzvalgos/RAPORTAS__taisymai_.pdf. (accessed December 12th, 2016).
221. 7th European Forum on the Rights of the Child, "Supporting Child Protection Systems Through the Implementation of the EU Agenda for the Rights of the Child," (November, 2012) // http://ec.europa.eu/justice/fundamental-rights/files/general_background_paper_en.pdf (accessed December 7, 2016).
222. 8th European Forum on the Rights of the Child, "The role of child protection systems in protecting children from bullying and cyber bullying. Background paper for session 3," (December, 2013) // http://ec.europa.eu/justice/.../8th_forum_session3_bullying_and_cyberbullying_en.pdf (accessed December 7, 2016).
223. 8th European Forum on the Rights of the Child, "Towards integrated child protection systems through the implementation of the EU Agenda for the rights of the child. General background paper." (December, 2013) // http://ec.europa.eu/justice/fundamental-rights/files/8th_forum_general_background_paper_en.pdf (accessed December 7, 2016).
224. American Association of Suicidology, "Experts Release Consensus Derived List of Warning Signs for Youth Suicide," (September, 2015) // http://www.suicidology.org/Portals/14/docs/NSPW/WS%20Press%20Release%20Final.pdf (accessed October 3, 2016).
225. American Association of Suicidology, "U.S.A. SUICIDE: 2014 OFFICIAL FINAL DATA," (December, 2015) // http://www.suicidology.org/Portals/14/docs/Resources/FactSheets/2014/2014datapgsv1b.pdf (accessed September 29, 2016).
226. An institution under the subordination of the Ministry of Education and Science responsible for training, licensing and overseeing the implementation of all Olweus programs in the country. – Center of Special Pedagogy and Psychology // http://www.sppc.lt/index.php?-1194004933 (accessed January 29th, 2017).
227. Angela Melchiorre, "At What Age?... Are School Children Married, Employed, and Taken to Court?," (2004) // http://unesdoc.unesco.org/images/0014/001427/142738e.pdf (accessed July 11, 2016).
228. Anti-bullying Alliance, "Focus on: Bullying. A report from the Anti-Bullying Alliance, hosted by National Children's Bureau," (2015) // http://www.anti-bullyingalliance.org.uk/media/35507/Focus-on-bullying-2015.pdf (accessed September 18, 2016).

229. Apolinaras Zaborskis et all for WHO/HBSC Forum, "Lithuania: Youth Mental Health – From Research to Policies, Practice and Partnerships," (2007) // http://www.euro.who.int/__data/assets/pdf_file/0006/74769/Hbsc_Forum_2007_Lithuania.pdf (accessed July 18th, 2016).
230. Bernardinai.lt, "Jurga Juodkazytė. Namų mokymas turėtų būti laikomas natūraliu dalyku – ne anomalija," [Jurga Juodkazyte. Home-schooling should be considered a natural phenomenon – not an anomaly] (May 2013) // http://www.bernardinai.lt/straipsnis/2013-05-06-jurga-juodkazyte-namu-mokymas-turetu-buti-laikomas-naturaliu-dalyku-ne-anomalija/100376, accessed March 1, 2016.
231. Brian K. Perkins, National Board of Education, "Where We Learn: The CUBE Survey of Urban School Climate," (2006) // https://www.nsba.org/sites/default/files/reports/Where-we-learn_1.pdf (accessed August 12, 2016).
232. Bullying.gov, "Key Components in State Anti-Bullying Laws," (March, 2014) // http://www.stopbullying.gov/laws/key-components/index.html (accessed August 15, 2016).
233. Bullying.gov, "Policies & Laws," (May, 2015) // http://www.stopbullying.gov/laws/index.html (accessed August 16, 2016).
234. Cambridge Dictionaries Online, "Meaning of "integrity" in the English Dictionary" // Meaning of "integrity" in the English Dictionary (accessed September 23, 2015).
235. Center of Special Pedagogy and Psychology, "Implementation of Prevention Measures in School of General Education of Lithuania During the School Year 2015-2016," (2016) // http://www.smm.lt/uploads/documents/kiti/PREVENCINI%C5%B2%20PROGRAM%C5%B2.pdf (accessed January 30, 2017).
236. Center of Special Psychology and Pedagogy, "Implementation of the Olweus Program in 2010. IV quarter Activity Report," (December, 2010) // http://www.sppc.lt/index.php?875478875 (accessed January 28th, 2017).
237. Center of Special Psychology and Pedagogy, "Information for the administrators of the schools willing to participate in the Olweus program," (2016) // http://www.sppc.lt/index.php?-485726843 (accessed January 28th, 2017).
238. Centers for Disease Control and Prevention, "Understanding School Violence. Fact Sheet 2015," (2015) // http://www.cdc.gov/violenceprevention/pdf/school_violence_fact_sheet-a.pdf (accessed September 22, 2015).
239. Centers of Disease Control and Prevention, "Bullying and Absenteeism," (October, 2015) // http://www.cdc.gov/healthyyouth/health_and_academics/pdf/fs_bullying_absenteeism.pdf (accessed November 19, 2016).
240. Centers of Disease Control and Prevention, "Suicide Rates for Females and Males by Race and Ethnicity: United States, 1999 and 2014," (April, 2016) // http://www.cdc.gov/nchs/data/hestat/suicide/rates_1999_2014.htm (accessed September 30, 2016).
241. Cindy Long, "Bulliyng of Teachers Pervasive in Many Schools," (May, 2012) // http://neatoday.org/2012/05/16/bullying-of-teachers-pervasive-in-many-schools-2/ (accessed August 31, 2016).

242. Coalition for Responsible Home Education, "A Brief History of Homeschooling" (2013-2015) // http://www.responsiblehomeschooling.org/homeschooling-101/a-brief-history-of-homeschooling/ (accessed February 8, 2016).
243. Communication of the Commission of the European Communities (COM(2006) 367 final), "Toward an EU Strategy on the Rights of the Child," (July, 2006) // http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0367:FIN:en:PDF (accessed December 7, 2016).
244. Council of Europe, "Children's Strategy," (2016) // http://www.coe.int/en/web/children/children-s-strategy (accessed September 12, 2016).
245. Council of Europe, "Council of Europe Strategy for the Rights of the Child, 2012-2015" // https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d224 (accessed September 12, 2016).
246. Council of Europe, "Council of Europe Strategy for the Rights of the Child, 2016-2021" (March, 2016) // https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8 (accessed September 14, 2016).
247. Council of Europe, "Tackling Violence in Schools," (June, 2011) // http://www.coe.int/t/dg3/children/violence/OsloReport_en.pdf (accessed September 25, 2015).
248. Council of Europe, *Additional Protocol to the European Social Charter providing for a System of Collective Complaints*, 9 November 1995, ETS 158 // http://www.refworld.org/docid/3ae6b37e0.html (accessed 5 December 2016).
249. Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5 // http://www.refworld.org/docid/3ae6b3b04.html (accessed 4 December 2016).
250. Council of Europe, *European Convention on the Legal Status of Migrant Workers*, 24 November 1977, ETS 93 // http://www.refworld.org/docid/3ae6b388c.html (accessed 5 December 2016);Art. 14(1).
251. Council of Europe, *European Social Charter*, 18 October 1961, ETS 35 // http://www.refworld.org/docid/3ae6b3784.html (accessed 5 December 2016); Art. 7(1);
252. Council of Europe, *Framework Convention for the Protection of National Minorities*, 1 February 1995, ETS 157 // http://www.refworld.org/docid/3ae6b36210.html (accessed 5 December 2016); Art. 12(3).
253. Council of Europe, *Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*, 20 March 1952, ETS 9 // http://www.refworld.org/docid/3ae6b38317.html (accessed 4 December 2016).
254. Daily News, New York, "Staten Island boy, 13, kills self after Holy Angels Catholic Academy staff 'didn't do anything' to stop bullying," (August, 2016) // http://www.nydailynews.com/new-york/staten-island-boy-13-kills-school-bullying-article-1.2749245 (accessed November 18, 2016).
255. Debra J. Pepler and Wendy Craig, "Report #60. Making a difference in bullying," (April, 2000) // http://peacefulschoolsinternational.org/wp-content/uploads/making_a_difference_in_bullying.pdf (accessed September 23, 2016).

256. Department of Education, "Preventing and tackling bullying. Advice for head teachers, staff and governing bodies," (October, 2014) // https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444862/Preventing_and_tackling_bullying_advice.pdf (accessed August 13, 2016).
257. Department of Statistics of Republic of Lithuania, "Schools of General Education. Distinctions: Administrative Territory, Type of the Educational Institution," (2011-2012) // http://db1.stat.gov.lt/statbank/selectvarval/saveselections.asp?MainTable=M3110302&PLanguage=0&TableStyle=&Buttons=&PXSId=3841&IQY=&TC=&ST=ST&rvar0=&rvar1=&rvar2=&rvar3=&rvar4=&rvar5=&rvar6=&rvar7=&rvar8=&rvar9=&rvar10=&rvar11=&rvar12=&rvar13=&rvar14= (accessed March 5, 2016).
258. Dinah L. Shelton in Handbook of International Law (Routledge Press), "Soft Law" (2008) // http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty_publications (accessed December 3, 2016).
259. Education Management Information System, "Classes and students on September 1st," (2014-2015) // http://rsvis.emokykla.lt/cognos8/cgi-bin/cognosisapi.dll?b_action=cognosViewer&ui.action=run&ui.object=%2fcontent%2ffolder%5b%40name%3d%27Bendrasis%20ugdymas%27%5d%2ffolder%5b%40name%3d%271-mokykla%27%5d%2freport%5b%40name%3d%271.%20Klas%c4%97s%20ir%20mokiniai%20rugs%c4%97jo%201%20d.%27%5d&ui.name=1.%20Klas%c4%97s%20ir%20mokiniai%20rugs%c4%97jo%201%20d.&run.outputFormat=&run.prompt=true&cv.toolbar=true&cv.header=false (accessed January 13th, 2017).
260. Education Management Information System, "Indicators of the Implementation Assessment of the National Strategy of Education for the Period of 2013-2022. Years 2011-2017. Indicator of the % of Students Who Have Not Experienced Bullying in Two Months," (January, 2017) // http://svis.emokykla.lt/lt/index/wpage_view/41 (accessed January 14, 2017).
261. Education Management Information System, "Main statistical information on education (estimate projection) for the year 2016-2017," (September 2016) // http://svis.emokykla.lt/ (accessed January 29, 2017).
262. Education management information system, "Preliminari 2015-2016 m. m. pagrindinė švietimo statistinė informacija," [Preliminary Main Statistical Information for the 2015 – 2016 School Year] (January 2016) // http://www.svis.smm.lt/ (accessed January 24, 2016).
263. Education Management Information System, "State (Strategic) Indicators of Monitoring of Education," (2017) // http://svis.emokykla.lt/lt/index/wpage_view/42 (accessed January 14, 2017).
264. European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committees and the Committee of the Regions," (February, 2011) // http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0060:FIN:EN:PDF (accessed August 14, 2016).
265. European Commission, 8th European Forum on the Rights of the Child, "Background Paper for Session 3: the Role of Child Protection Systems in Protecting Children

From Bullying and Cyber-bullying," (December, 2013) // http://ec.europa.eu/justice/fundamental-rights/files/s3_forum_bullying_en.pdf (accesses August 13, 2016).
266. European Commission. Compulsory Education in Europe 2014/2015 // http://eacea.ec.europa.eu/education/eurydice/documents/facts_and_figures/compulsory_education_EN.pdf (accessed September 21, 2015).
267. European Council, "EU Guidelines for the Promotion and Protection of the Rights of the Child," (December, 2007) // http://www.consilium.europa.eu/uedocs/cmsupload/16031.07.pdf (accessed December 7, 2016).
268. European Court of Human Rights, Article 2 of the Protocol to the Convention for Protection of Human Rights and Fundamental Freedoms (1952) // https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Convention_ENG.pdf (accessed September 18, 2015).
269. European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02 // http://www.refworld.org/docid/3ae6b3b70.html (accessed 5 December 2016).
270. European Union, *Consolidated version of the Treaty on European Union*, 13 December 2007, 2008/C 115/01 // http://www.refworld.org/docid/4b179f222.html (accessed 5 December 2016).
271. European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01 // http://www.refworld.org/docid/476258d32.html (accessed 5 December 2016).
272. General Assembly of North Carolina, "SESSION LAW 2013-57, SENATE BILL 189, AN ACT to amend the law defining home schools," (May, 2013) // http://www.ncleg.net/Sessions/2013/Bills/Senate/HTML/S189v3.html (accessed February 8, 2016).
273. HBSC, "Member Countries" // http://www.hbsc.org/membership/countries/index.html (accessed October 5, 2015).
274. Home School Legal Defense Association, "Homeschooling Expands Around the Globe" (October, 2001) // http://www.hslda.org/hs/international/200110020.asp (accessed February 4, 2016).
275. http://www.tomasevski.net/documents/2006GlobalReport.pdf .
276. Institution of the Ombudsman for Children Rights of the Republic of Lithuania, "Activity Report for the year 2013," (March, 2014) http://www3.lrs.lt/docs2/ATMQTAUA.PDF (accessed January 22, 2017).
277. Institution of the Ombudsman for Children Rights of the Republic of Lithuania, "Activity Report for the year 2015," (March, 2016) // http://www3.lrs.lt/docs2/NIUFMFGU.PDF (accessed January 22, 2017).
278. Jandhyala B G Tilak, "Book reviews" (October, 2007) // http://www.tomasevski.net/documents/2006GlobalReport.pdf.
279. Kathryn Hatter, "The History of Cyberbullying," (2016) // http://www.ehow.com/about_6643612_history-cyberbullying.html (accessed September 18, 2016).
280. Laura Clark, "Coping with the bullies 'is part of growing up', says child expert," (September, 2007) // http://www.dailymail.co.uk/news/article-490250/Coping-

bullies-growing-says-child-expert.html#ixzz3mYCaE8mw (accessed September 23, 2015).
281. Legislation.gov.uk, "Education and Inspections Act 2006," (2006) // http://www.legislation.gov.uk/ukpga/2006/40/pdfs/ukpga_20060040_en.pdf (accessed August 15, 2016).
282. Legislation.gov.uk, "The Education (Independent School Standards) Regulations 2010," (August, 2010) // http://www.legislation.gov.uk/uksi/2010/1997/pdfs/uksi_20101997_en.pdf (accessed August 15, 2016).
283. MailOnline, "Bullies force 12,000 students a year to move to new school," (November, 2013) // http://www.dailymail.co.uk/news/article-2485397/Bullies-force-12-000-pupils-year-to-new-schools.html (accssed November 28, 2016).
284. Mary Ann Zehr (Education Weekly), "Legislatures Take on Bullies With New Law," (May 2001) // http://www.edweek.org/ew/articles/2001/05/16/36bully.h20.html.
285. Milda Kniežaitė, „Europos dugne: nelaimingi ir apsvaigę," [On the Bottom of Europe: Unhappy and Intoxicated] (March, 2016) // http://lzinios.lt/lzinios/Mokslas-ir-svietimas/europos-dugne-nelaimingi-ir-apsvaige/220444 (accessed April 4, 2016).
286. Ministry of Education and Science of Republic of Lithuania, "Bullying in Schools of Lithuania: Problems and Solutions," (December 2009) // http://www.smm.lt/uploads/documents/kiti/sv_prob11_Patycios_mokykloje.pdf (accessed April 28, 2015).
287. Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Input, Processes, Results. 2012." (2012) // http://www.smm.lt/uploads/documents/kiti/1563_Svietimas%20regionuose%202012.pdf (accessed January 13th, 2016).
288. Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Pedagogues. 2013." (2013) // http://www.smm.lt/uploads/documents/teisine_informacija/svietimo_bukles_apzvalgos/Svietimas%20regionuose%202013%20web.pdf (accessed, January 17, 2016);
289. Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. School. 2015." (2015) // http://www.smm.lt/uploads/documents/svietimas/Svietimas%20regionuose%202015%20(3).pdf (accessed January 17, 2016).
290. Ministry of Education and Science of Republic of Lithuania, "Lithuania. Education in Regions. Equal Opportunities. 2014." (2014) // https://www.smm.lt/uploads/lawacts/docs/579_c915f0e2c4513e8271a45716bb37142d.pdf (accessed February 5th, 2016).
291. Ministry of Education and Science of Republic of Lithuania, "Neformaliojo švietimo programų kaita pagal amžių ir būseną 2003 – 2016," [Changes in Programs of Non-formal Education According Age and Status] (January 2016) // https://www.aikos.smm.lt/_layouts/15/Asw.Aikos.Reports/ViewReport.aspx?report=%2fStatistin%C4%97s+ataskaitos%2fKTPRR+statistin%C4%97s+ataskaitos%2fKTPRRPagalAmziuBusenaKaita (accessed January 24, 2016).
292. Ministry of Education and Science of Republic of Lithuania, "Patyčių problema mokykloje ir prevencija" [Problem of Bullying at School and Prevention], (September, 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/buf_Patyciu-problema-mokykloje-ir-prevencija.pdf (accessed July 23, 2014).

293. Ministry of Education and Science of Republic of Lithuania, "Patyčių problema mokykleoje ir prevencija" [Problem of Bullying at School and Prevention], (September, 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/buf_Patyciu-problema-mokykloje-ir-prevencija.pdf (accessed July 23, 2014).
294. Ministry of Education and Science, "Distance Learning: Expanding the Educational Opportunities," (June, 2012) // https://www.smm.lt/uploads/documents/kiti/Nuotolinis_mokymas.pdf (accessed March 5, 2016).
295. Ministry of Education and Science, "Summer Education of Children," (November 2014) // http://www.sac.smm.lt/wp-content/uploads/2016/01/nf_Vaiku-edukacija-vasara-2.pdf (accessed March 7, 2016).
296. Ministry of Education and Science, "Švietimo ir mokslo institucijos pagal grupes, tipus ir priklausomybę" [Institutions of education and science according to groups, types and dependence] (January 2016) // https://www.aikos.smm.lt/_layouts/15/Asw.Aikos.Reports/ViewReport.aspx?report=%2fStatistin%C4%97s+ataskaitos%2fSMIR+statistin%C4%97s+ataskaitos%2fSMIRInstitucijosPagalGrupesPriklausomybeTipus (accessed January 21, 2016).
297. Morbidity and Mortality Weekly Report 2014; 63 (No.4), "Youth Risk Behavior Surveillance – United States, 2013," (June 2014) // http://www.cdc.gov/mmwr/pdf/ss/ss6304.pdf?utm_source=rss&utm_medium=rss&utm_campaign=youth-risk-behavior-surveillance-united-states-2013-pdf (accessed September 22, 2015).
298. Nadya Labi, "Let Bullies Beware," (March 2001) // http://content.time.com/time/nation/article/0,8599,103822,00.html (accessed September 18, 2015).
299. National Center for Injury Prevention and Control, "Understanding School Violence," (2016) // http://www.cdc.gov/violenceprevention/pdf/school_violence_fact_sheet-a.pdf (accessed September 14, 2016).
300. National Centre for Social Research, "Estimating the prevalence of young people absent from school due to bullying," (May, 2011) // http://www.natcen.ac.uk/media/22457/estimating-prevalence-young-people.pdf (accessed November 19, 2016).
301. National Education Association, "Nation's educators continue push for safe, bully-free environments." (October, 2012) // http://www.nea.org/home/53298.htm (accessed November 19, 2016).
302. National Vital Statistics Reports (Volume 65, Number 4), "Deaths: Final Data for 2014," (June, 2016) // http://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_04.pdf (accessed November 18, 2016).
303. Nobullying.com, "The Top Six Unforgettable Cyber Bullying Cases Ever," (September, 2015) // http://nobullying.com/six-unforgettable-cyber-bullying-cases/ (accessed September 22, 2015).
304. Official Statistics Portal, "Deaths by cause of death," (August, 2016) // http://osp.stat.gov.lt/statistiniu-rodikliu-analize?portletFormName=visualization&hash=330c8147-39c3-4ff3-aad9-72bd96d44a1b (accessed September 29, 2016).
305. Oxford English Dictionary, "Integrity, n." // http://www.oed.com/view/Entry/97366?redirectedFrom=integrity& (accessed September 23, 2015).

306. Oxford University Press, "Definition of *persistent* in English," (2016) // http://www.oxforddictionaries.com/us/definition/american_english/persistent (accessed August 22, 2016).
307. Pamela Kulbarsh, "Bullycide: Suicide as a Result of Bullying," (January, 2012) // http://www.officer.com/article/10611621/bullycide-suicide-as-a-result-of-bullying (accessed August 13, 2016).
308. Parliament of Republic of Lithuania, "Draft of the Decision Regarding the Right of Learners to Safe Environment in Educational Institutions," (April 2015) // http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=1024606 (accessed December 16, 2016).
309. President Dalia Grybauskaitė's Nationwide Social Campaign "For a Safe Lithuania" (2015) // http://www.uzsaugialietuva.lt/english (accessed July 8, 2016).
310. Apolinaras Zaborskas, "Patyčių tarp mokinių paplitimas HBSC tyrimo duomenimis: pokyčiai Lietuvoje ir tarptautinis palyginimas [Prevalence of Bullying Among Learners According to HBSC: Changes in Lithuania and International Comparison]," (October, 2014) // http://vaikulinija.lt/media/filer_public/b5/00/b5007589-d5fa-4184-88ab-b8a1a986e6f3/apolinaras_zaborskis.pdf (accessed October 1, 2015).
311. Public organization "Child Line", "Public opinion survey on bullying in 2014," (February, 2014) // http://www.bepatyciu.lt/kampanija-be-patyciu/tyrimai-apie-patycias/ (accessed September 23, 2015).
312. Public organization "Child Line", "Public opinion survey on solving the problem of bullying in 2014," (May, 2014) // http://www.bepatyciu.lt/kampanija-be-patyciu/tyrimai-apie-patycias/ (accessed September 17, 2015).
313. Random House, Inc., "Dictionary.com Unabridged" // http://dictionary.reference.com/browse/integrity (accessed: September 23, 2015).
314. Robertas Povilaitis, Jurgita Smiltė Jasiulionė, „Mokykla gali įveikti patyčias" [„Schools can overcome bullying"] (2008) // http://www.bepatyciu.lt/media/files/downloadable/6_mokykla_gali_iveikti_patycias.pdf (accessed April 28, 2015).
315. Saulius Girdvainis; Patyčios tarp mokinių bendrojo lavinimo mokykloje: samprata, dalyviai, priežastys ir padariniai http://www.su.lt/bylos/mokslo_leidiniai/jmd/2013_2_40/girdvainis.pdf, acessesd on April 28, 2015.
316. Site officiel de l'Etat de Genève, "Charte Européenne pour une école démocratique sans violence," (October, 2004) // http://www.geneve.ch/coe/ (accessed December 7, 2016).
317. Švietimo valdymo informacinė sistema [Education Management Information System], „Klasės ir mokiniai rugsėjo 1 d. 2013/2014 [Classes and Students on September 1, 2013/2014]" // http://rsvis.emokykla.lt/cognos8/cgi-bin/cognosisapi.dll?b_action=cognosViewer&ui.action=run&ui.object=%2fcontent%2ffolder[%40name%3d%27Bendrasis%20ugdymas%27]%2ffolder[%40name%3d%271-mokykla%27]%2freport[%40name%3d%271.%20Klas%C4%97s%20ir%20-0mokiniai%20rugs%C4%97jo%201%20d.%27]&ui.name=1.%20Klas%C4%97s%20ir%20mokiniai%20rugs%C4%97jo%201%20d.&run.outputFormat=&run.prompt=true&cv.toolbar=false&cv.header=false# (accessed October 6, 2015).

318. The Description of the Order of Self Education of the "Žara" School (http://zarosmokykla.lt/index.php/dokumentai/savarankisko-mokymosi-tvarka (accessed February 8, 2016).
319. The Health Behaviour in School-aged Children (HBSC), "Survey Methods" (2015) // http://www.hbsc.org/methods/index.html (accessed September 16, 2015).
320. The Ministry of Education and Science of Republic of Lithuania, "Education of Lithuania in Numbers. 2015. General Education." (2015) // https://www.smm.lt/uploads/lawacts/docs/667_5ae2908d82c172afa0893b59aea2402e.pdf (accessed April 20, 2016).
321. The Ministry of Education and Science, "Life Skills Development Program," (2004) // http://www.smm.lt/uploads/documents/gyvenimo-igudziu-programa/Gyvenimo_igudziu_ugdymo_programa.pdf (accessed March 16, 2016); (p.8, 24)
322. The Ministry of Education and Science, "The Level of Psychological, Special Pedagogical and Special Assistance for Students in Schools of General Education," (September 2009) // https://www.smm.lt/uploads/documents/kiti/spec%20%20pagalbos%20lygis.pdf (accessed April 19, 2016).
323. The President of Republic of Lithuania, "Annual Report of the President of Republic of Lithuania Dalia Grybauskaitė," (June, 2016) // https://www.lrp.lt/lt/kalbos/metiniai-pranesimai/2016-m./25366 (accessed January 11th, 2016).
324. The President of Republic of Lithuania, "Annual Report of the President of Republic of Lithuania Dalia Grybauskaitė," (June, 2015) // https://www.lrp.lt/lt/metinis-pranesimas-2015 (accessed January 11th, 2016).
325. The Stationery Office Limited, "School Standards and Framework Act 1998," (July, 1998) // http://www.legislation.gov.uk/ukpga/1998/31/pdfs/ukpga_19980031_en.pdf (accessed August 13, 2016).
326. The Washington Post, "After years of alleged bullying, an Ohio teen killed herself. Is her school district responsible?" (May 23, 2016) // https://www.washingtonpost.com/news/morning-mix/wp/2016/05/23/after-years-of-alleged-bullying-an-ohio-teen-killed-herself-is-her-school-district-responsible/ (accessed November 18, 2016).
327. The Washington Post, "Gifted and Tormented," (May, 2006) // http://www.washingtonpost.com/wp-dyn/content/article/2006/05/15/AR2006051501103.html (accessed September 24, 2015).
328. Tim Walker, "Violence Against Teachers – An Overlooked Crisis?," (February, 2013) // http://neatoday.org/2013/02/19/violence-against-teachers-an-overlooked-crisis-2/ (accessed August 31, 2016).
329. uKnowKids, „Bullycide: the Dark Side of Cyberbullying," (January, 2014) // http://www.breakfreeyouthministry.com/Other%20Stuff/Ministry%20Documents/Bullycide_-_Book.pdf (accessed, September 30, 2016).
330. UN Economic and Social Council, "ECONOMIC, SOCIAL AND CULTURAL RIGHTS. Annual report of the Special Rapporteur on the right to education, Katarina Tomaševski, submitted in accordance with Commission on Human Rights resolution 2000/9. UN Doc. E/CN.4/2001/52," (January, 2001) // https://documents-

dds-ny.un.org/doc/UNDOC/GEN/G01/101/77/PDF/G0110177.pdf?OpenElement (accessed July 11, 2016).
331. UN Educational, Scientific and Cultural Organization (UNESCO), *Convention Against Discrimination in Education*, 14 December 1960 // http://www.refworld.org/docid/3ae6b3880.html (accessed 2 December 2016).
332. UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, // http://www.refworld.org/docid/3ae6b3970.html (accessed 3 December 2016).
333. UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106, available at: http://www.refworld.org/docid/45f973632.html (accessed 3 December 2016).
334. UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, // http://www.refworld.org/docid/3ae6b3940.html (accessed 2 December 2016).
335. UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158 // http://www.refworld.org/docid/3ae6b3980.html (accessed 3 December 2016).
336. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3 // http://www.refworld.org/docid/3ae6b36c0.html (accessed November 20, 2016).
337. UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III) // http://www.refworld.org/docid/3ae6b3712c.html (accessed 2 December 2016); Art.26(1)(2).
338. UNESCO, "Monitoring Progress for all 2015," (2015) // http://unesdoc.unesco.org/images/0023/002322/232205e.pdf (accessed September 21, 2015).
339. UNICEF, "State of the World's Children" (1999) // http://www.unicef.org/sowc99/sowc99a.pdf (accessed September 18, 2015).
340. United Nations, "Interactive dashboard," (September, 2015) // http://indicators.ohchr.org/ (accessed September 17, 2015).
341. US Department of Education, "Key Policy Letters from the Education Secretary and Deputy Secretary," (December, 2010) // http://www2.ed.gov/policy/gen/guid/secletter/101215.html (accessed August 15, 21016).
342. USLegal, Inc., "Bullying Law & Legal Definition" (2001-2016) // http://definitions.uslegal.com/b/bullying/ (accessed August 13, 2016).
343. USLEGAL, Inc., "Homeschooling Law & Legal Definition," (2001-2016) // http://definitions.uslegal.com/h/homeschooling/ (accessed February 8, 2016).
344. Virginia Board of Education, "Student Conduct Policy Guidelines," (January, 2015) // www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf (accessed November 16, 2016).
345. World Health Organization Regional Office for Europe, "Health Behavior in School-Aged Children: The School Experience" (June 2000) // http://www.hbsc.org/documents/HealthofYouth3.pdf (accessed September 30, 2015).

346. World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.4," (2004) // http://www.euro.who.int/__data/assets/pdf_file/0008/110231/e82923.pdf?ua=1 (accessed September 30, 2015).
347. World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.5," (2008) // http://www.euro.who.int/__data/assets/pdf_file/0005/53852/E91416.pdf?ua=1 (accessed September 30, 2015).
348. World Health Organization Regional Office for Europe, "Health Policy for Children and Adolescents No.6," (2012) // http://www.euro.who.int/__data/assets/pdf_file/0003/163857/Social-determinants-of-health-and-well-being-among-young-people.pdf?ua=1 (accessed September 30, 2015).
349. Zhang, A., Musu-Gillette, L., and Oudekerk, B.A., National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (Washington DC), "Indicators of School Crime and Safety: 2015 (NCES 2016-079/NCJ 249758)," (May, 2016)// http://nces.ed.gov/pubs2016/2016079.pdf (accessed August 31, 2016).

MYKOLAS ROMERIS UNIVERSITY

Agnė Margevičiūtė

PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL

Summary of Doctoral Dissertation
Social Sciences, Law (01S)

Vilnius, 2018

The doctoral dissertation was prepared during the period of 2015-2017 at Mykolas Romeris University under the right of doctoral studies granted to Mykolas Romeris University and Vytautas Magnus University by the Order No. V-1019 of the Minister of Education and Science of the Republic of Lithuania on 8th of June, 2011.
The doctoral dissertation is defended externally.

Scientific Consultant:

Prof. Dr. Birutė Pranevičienė (Mykolas Romeris University, Social sciences, Law, 01S)

The dissertation is defended at the Law Research Council of Mykolas Romeris University and Vytautas Magnus University:

Chairwoman:

Prof. Dr. Edita Gruodytė (Vytautas Magnus University, Social sciences, Law, 01S).

Members:

Prof. Dr. Eglė Bilevičiūtė (Mykolas Romeris University, Social sciences, Law, 01S);
Assoc. Prof. Dr. Andrejus Novikovas (Mykolas Romeris University, Social sciences, Law, 01S);
Assoc. Prof. Dr. Aurelija Pūraitė (Mykolas Romeris University, Social sciences, Law, 01S);
Prof. Hab. Dr. Waldemar Zubrzycki (Police Academy in Szczytno, Poland, Social Sciences, Political Sciences, 02S).

The doctoral dissertation will be defended in the public meeting of the Law Research Council at 13:00 hours, June 18th, 2018, at auditorium I-414 of Mykolas Romeris University. Address: Ateities g. 20, LT-08303 Vilnius,

The summary of doctoral dissertation was sent out on May 18th, 2018.

The doctoral dissertation is available at Martynas Mažvydas National Library of Lithuania (Gedimino ave. 51, Vilnius) and the libraries of Mykolas Romeris University (Ateities str. 20, Vilnius) and Vytautas Magnus University (K.Donelaičio str. 52, Kaunas).

Agnė Margevičiūtė

PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL

School is an institution that ensures implementation of the right to education as a fundamental right of every child. It is an environment where children develop, excel, and acquire skills and knowledge with dignity, confidence and self-esteem. Education has a unique potential where non-violent behavior can be learned and attitude condoning violence ousted.[854] In fact, for many children school is the safest place to be.[855] However, ordinary school days of millions of children are marred with by acts of school violence, thus, the prospect of the right to education provided by the school system becomes rather a disillusion than an opportunity for many learners. Bullying, as an act of violence, may occur anywhere where peers gather making the school environment extremely susceptible to such phenomenon. Therefore, due to obligatory duty to attend school until a certain age, school is precisely the environment where quantitatively children experience bullying the most, because it is the place where most children by way of imperative choice spend most of their time.[856]

Relevance of the thesis:

One of the supporting arguments for the relevance of the Thesis is the analysis of the factual situation, which clearly implicates that cases of bullying are up to this day not unique, but rather multiple. The statement is backed by statistical research, review of individual bullying cases covered by the media in different countries of the world, analysis of numerous leading empirical studies that examine and monitor school violence and bullying worldwide. Factual situation in the context of bullying at school is supported on the findings of the research reports carried out in as many as 40 countries,[857] reports in academic journals and of authoritative bodies such as the World Health Organization, UNESCO.

The cross-country comparison allows evaluating the perspective on how extreme or less severe the situation regarding bullying and its prevalence at school is on national levels in specific countries. Among other surveyed countries, Lithuania stands out as the country where bullying at school has been the most prevalent for a period of over two decades now, despite extensive joint individual, local, national and international effort to improve the situation and make school environment safer. School is where children still experience

854 Council of Europe, *supra note 3* (accessed September 25, 2015);

855 Paul Timm, *supra note 4*, p.106;

856 Robertas Povilaitis, Jurgita Smiltė Jasiulionė, *supra note 5* (accessed April 28, 2015);

857 The HBSC currently surveys at least 44 countries and regions worldwide - Albania, Armenia, Austria, Belgium (Flemish and French regions), Bulgaria, Canada, Croatia, Czech Republic, Denmark, England, Estonia, Finland, France, Germany, Greece, Greenland, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, TFYR Macedonia, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Scotland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, USA, Wales – HBSC, *supra note 15* (accessed October 5, 2015);

most cases of bullying in Lithuania.[858] This factor was the determinant in supporting the relevance of the Thesis based on the national context of Lithuania and devoting much of the research to the case study of Lithuania.

International surveying provides an opportunity to evaluate a country not only within the national limits, but within a broader context when compared to other countries. The pattern on a comparative scale in case of Lithuania has been and continues to be clearly negative– statistically, among other HBSC surveyed countries, Lithuania continues to be the number one country where children experience bullying at school most frequently. It is extremely disturbing that violence against and among children has been prevalent in Lithuanian society for decades now. In 2009 27% of pupils in Lithuania stated that they experienced acts of bullying at least 2-3 times a week.[859] And even though statistical numbers show a fairly positive shift in the situation over an extended period of time, Lithuania, in comparison to other HBSC countries, is nowhere close to being on the single digit indicator level.

Originality of the research

The issue of *bullying* at school has been researched and analyzed within the broader context of the public health and pedagogical issues. In fact, experts of the fields of medicine and public health care were one of the first researchers to initiate scientific discourse on the matter *circa* 1994, when the first HBSC study was carried out in Lithuania.[860] Another prevailing approach to the issue of *bullying* has been through submerging the latter issue

858 Ministry of Education and Science of Republic of Lithuania, *supra note* 16 (accessed September 30, 2015);

859 *Ibid.* (accessed April 28, 2015).

860 Discussions on detrimental effects of bullying on the health of the children firstly appeared in publications by Žemaitienė N. („Mokyklos patrauklumas ir moksleivių sveikata," [Fascination of School and the Health of Schoolchildren], Socialiniai mokslai. Sociologija 1996, 3(7)); In 1996, Apolinaras Zaborskis *et all* sarted publisihing series of articles devoted to discussion on the national context of Lithuania, based on interpretation of the HBCS Cross-Nation Study implemented by the World Health Organization:

2) Apolinaras Zaborskis et all, "Moksleivių gyvenimo būdas ir sveikata. Pasaulinės sveikatos organizacijos 1994 m. tarptautinės moksleivių apklausos rezultatai," [Life-style and Health of the Learners. Rezults of the International Survey of the Learners by the World Health Organization], Vilnius: Leidybos centras; 1996;

3) Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, "Bullying in Lithuanian schools in 1994-2002," *Medicina (Kaunas)* 2005, 41(7): 614-620;

4) Apolinaras Zaborskis and Inga Vareikienė, „Schol Bullying and its Assocication With Health and Lifestyle Among Schoolchildren," *Medicina (Kaunas)* 2008, 44(3): 232-239;

into the broader context of school violence,[861] as a social phenomenon.[862] Experts agree that there is a lack of consistent sociological research on prevalence of *bullying* at schools and tendencies thereof,[863] as well as scientific research of the issue of *bullying* at schools in Lithuania is still scarce.[864][865] It is also imperative to stress, that the discourse related to the issues of *bullying* at school in Lithuania is carried out in the fields of an *extralegal*[866] nature at large, while the legal discourse in the context of education law *per se* is vastly lacking.

As of a decade ago, the issue increasingly became the focus of attention in the fields of behavioral habits, such as aggression and conflict behavior of learners at schools,[867] the mental health of the children population,[868] the wellbeing of the learners,[869] even its economic[870] aspects. Some authors have also recognized the importance of *legal* education of

---

861 Valdas Pruskus, *Smurto fenomenas mokykloje [The Violence Phenomenon at School],* Vilniaus Gedimino technikos universitetas. Vilnius: Technika, 2012;

2) Brigita Kairienė, Ieva Kuginytė Arlauskienė, Tomas Butvilas and Romas Prakapas, "Mokinių smurto mkykloje raiškos tendencijos" [Tendencies of Expressing Student Violence at School], *Klutūra – Ugdymas – Visuomenė: mokslo darbai* 2 (2007):169-175;

3) Brigita Kairienė and Donalda Ščerbakova, „Vaikų patiriamo smurto mokykloje prevencinės galimybės" [Preventive Measures for Violence at School Experienced by the Children], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 7(2) (2008):67-75;

4) Daiva Malinauskienė, „Vaikų smurtinį elgesį mokykloje skatinantys veiksniai" [Factors Stimulating Violent Behavior at School], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 10(2) (2011);229-240;

5) Loreta Bukšnytė-Marmienė, „Mokinių patiriamo smurto bei savijautos ypatumai skirtingo tipo mokyklose" [The Link Between Violence Experienced by Adolescents and Their Emotional State in Different Types of Schools], *Pedagogika: mokslo darbai* 91 (2008):60-65;

862 Rasa Norkutė, *supra note* 36, p.397;

863 Ministry of Education and Science of Republic of Lithuania, *supra note* 30 (accessed July 23, 2015);

864 Robertas Povilaitis, *supra note* 28, p.33;

865 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32;

866 Philippe Legrain, *supra note* 33, p. 110-111;

867 Aldona Palujanskienė and Juozas Vytautas Uzila, „Agresija ir kofliktai mokykloje" [Agression and Conflict in the School of Our Days], *Pedagogica: mokslo darbai, Vilnius* 73 (2004):124-127;

2) Diana Bukeikaitė and Valdas Pruskus, „Agresyvus nepilnamečių elgesys mokykloje: priežastys ir raiškos ypatumai" [Agressive Behavior of Teenagers at School: Causes and Aspects of Expression], Šiuolaikinė mokykla sociologų objektyve, 2006;

3) Valdas Pruskus and Gerda Tuzienė, „Agresyvaus elgesio prieš bendramokslius priežastys. Dažnumas ir formos: mokinių, mokytojų ir tėvų vertinimas" [Agressive Behavior Among Learners. Freequency and Forms: Assesment by Learners, Teachers and Parents], *Santalka: filologija, edukologija* 19(2), 2011;

4) Valdas Pruskus and Gerda Tuzienė, „Mokinių agresyvaus elgesio prieš mokytojus dažnis, formos ir prevencija: mokinių, mokytojų ir tėvų vertinimas" [Freequency, Forms and Prevention of Agressive Behavior of Learners Against Teachers: Assesment by Learners, Teachers and Parents], *Socialinis Ugdymas* Vol. 20 Issue 31 (2012): 35-62;

868 World Health Organization / HBSC Forum 2007, "Lithuania: Youth Mental Health – From Research to Policies, Practice and Partnerships," (2008) // http://www.euro.who.int/__data/assets/pdf_file/0006/74769/Hbsc_Forum_2007_Lithuania.pdf?ua=1 (accessed July 23, 2016);

2) Inga Vareikienė, „Mokinių psichologinės savijautos pokyčiai, įvykdžius Olweus patyčių prevencijos programą Kauno miesto mokyklose" [

869 Giedrė Širvinskienė, Nida Žemaitaitienė and Alina Didžiokienė, *supra note* 32;

870 Viktorija Grigaliūnienė, *supra note* 40;

the learners, teachers and parents as an effective measure in preventing[871] *bullying* at school as well as other issue related methodological material.[872]

It can thus be concluded that a significant increase in scientific interest related to the phenomenon of *bullying* as one of the most prevalent forms of aggressive behavior at schools[873] has been observed as of 2008 in Lithuania.[874] The period of the initial scientific research of the phenomenon of *bullying* at schools in Lithuania, therefore, extends a little over a decade. However, the interdisciplinary scientific discourse on the issue of *bullying* at school is still rather limited to the fields that are directly or closely related to education and which, as a rule, are of an *extralegal* nature, while *legal* approach is vastly lacking. The negative phenomenon of *bullying,* per se*,* remains outside the scope of legal evaluation, while its negative consequences (such as endangered health, life, dignity, property) are legal categories.

The structure of the correlation between the child, the school and bullying provides a strong legal background of the Thesis, which raises the main question of – how does bullying at school affect the general integrity of the learner and what legal measures can be applied in mitigating or preventing such negative phenomenon? The answer to the question is presented throughout the content of the Thesis and consists of analysis of relevant legal norms of national, regional and international level, that embed the rights related to the question at stake, and research of institutional systems on national, regional and international levels, that guarantee the proper implementation and protection of the rights of children in question. The above-mentioned mindset provides the basis for legal rationale and structure of the Thesis, which also includes a thorough analysis of state's rights and duties within the institutional framework of compulsory education.

---

871 Daiva Malinauskienė and Aušrinė Gumuliauskienė, „Smurto raiškos mokykloje socioedukacinė prevencija: mokinių požiūris [Socio-Educational Prevention of Violence Expression in School: Pupils' Opinion], *Socialinis ugdymas: smurto ir patyčių prevencija ugdymo įstaigose: recenzuojamas tęstinis mokslinių – praktinių straipsnių rinkinys,* V, Šiauliai, VšĮ Šiaulių Universiteto leidykla, 2010;

2) Živilė Vilma Jonynienė, Agnė Bartkutė and Tomas Butvilas, "Teisinis švietimas kaip prevencinė priemonė prieš patyčias mokyklose: mokinių ir mokytojų sampratos" [Legal Education as the Prevention for Bullying at Schools: Conceptions of Students and Teachers], *Socialinis darbas/Social Work* 2011, 10(2): 225; 217-228;

872 Legal education encompasses methodological means such as guides for teachers, learners and parents by –

1) Robertas Povilaitis and Jurgita Valiukevičiūtė, „*Patyčių prevencija mokyklose*" *[Bullying Prevention at Schools],* Vilnius, Multiplex, 2006;

2) R.Česonienė ir G.Bičiukienė, *Vaiko teisių mokymai per žaidimą [Learning Childrens' Rights Through Playing],* Elektrėnai, 2009;

3) Robertas Povilaitis and Jurgita Smiltė Jasiulionė, *Mokykla gali įveikti patyčias: rekomendacijos mokytojams [School can Conquer Bullying: Reccomendations for Teachers],* Vilnius: Center of Educational Assistance of the Ministry of Education and Sicence, 2010;

4) Haris Assimopolous et al., *Patyčių prevencija klasėje: vadovas mokytojams [Bullying Prevention in the classroom: Guide for Teachers],*" ed. Ioanni Tsiantis, Vilnius: Margi raštai, 2010;

873 Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26,p. 159;

874 The statement in case of Lithuania is backed by research of over 70 scientific publications and 6 published books related to the issue of violence at school in general, where *bullying* is recognized as one of the prevalent forms of violence at schools.

By exercising their right to education children are given an imperative choice to attend schools where some of them encounter violence. It is a universally known fact that schools are susceptible to different forms of violence resulting in physical and emotional harm, injuries or even death. The rationale of the Thesis is based on the findings that prove bullying to be the most prevalent acts of school violence,[875] thus the Thesis is focused on bullying rather than a broader notion of school violence. Apart from its prevalence, another important supporting factor for excluding bullying as an object of research, is the increasing pattern of cyber bullying that is school related but carries well outside the school property[876] generating spinoffs of impressive magnitudes thus increasing the harm suffered by the victims.[877] An incident in a school in one corner of the world may carry a devastating effect on many worldwide, because of internet, media and changing social behavior.[878]

Based on the brief analysis of international, regional and national acts, it can be concluded that a child, as an individual, is not given a free, but rather an *imperative choice*. Thus, school attendance or acquiring an education is not an option *per se* for a child, at least for a definite period of his or her life time. The right and duty to education carries an impressive multidimensional character and provides us with an extensive amount of issues to back the research. The list is not exhaustive. The main issue that backs this research is related to the right of education as an individual right and as a duty (of the state) in the context of safe school environment. National legal systems obligate a child (as an individual) to exercise his or her universally recognized right to education by acquiring compulsory education within an imposed system of education. Based on statistics, it is evident that schools (universally), that constitute the main institutional body of educational system, are not able to provide a safe school environment and children suffer from inflicted harm through different forms of violence daily, bullying being its one of the most frequent forms.

Aim of the thesis:

The aim of the Thesis is to determine the biggest dysfunctionalities of legal regulation of the system of compulsory education in ensuring the right to safe environment of the learner and protecting the learner from the negative effect of bullying.

875 Morbidity and Mortality Weekly Report 2014, *supra note* 85 (accessed September 22, 2015);

876 Centers for Disease Control and Prevention, *supra note* 86 (accessed September 22, 2015);

877 For example, the reported case of Jessica Logan - an 18-year-old Sycamore High School senior who sent nude photo of herself to her boyfriend, but the Cincinnati Enquirer reported that the photo was sent to hundreds of teenagers in at least seven Cincinnati-area high schools after the couple broke up. Jessica hanged herself. Another school related bullying is the reported case of Hope Sitwell - a 13-year-old, who hanged herself after a picture of her breasts that she "sexted" to her boyfriend was shared amongst students at six different schools in area of Ruskin, Florida. There reportedly also was a "Hope Hater Page" that was started on MySpace that led to additional cyber bullying: Nobullying. com, "The Top Six Unforgettable Cyber Bullying Cases Ever," (September, 2015) // http://nobullying.com/six-unforgettable-cyber-bullying-cases/ (accessed September 22, 2015).

878 Rami Benbenishty, *supra note* 6,p. 59;

Objective of the thesis:

1) Carry out an in depth comparative analysis of the notion of *bullying* from an extralegal and legal perspective.
2) Analyze the phenomenon of *bullying* and in the context of compulsory education and formulate the model of legal evaluation.
3) Disclose the negative effect of bullying at school in the context of realization of the learner's right to education and the right to safe environment.
4) Discuss analysis of the relevant state rights, duties and obligations in ensuring the right to the safe environment of the learner.

Methodology of the thesis:

Following methods of research were applied:

Method of documentary analysis – for analysis of written documents, legal acts (of national, regional and international level);

Method of scientific literature analysis – for disclosure of theoretic aspects presented by various scholars regarding the concepts of right to education, compulsory education, right to safe environment, etc., as supporting arguments for the scientific reasoning;

Method of systemic analysis – for systematic approach to the object of the research from the extralegal and legal perspective, based on certain systematic criteria of analysis of the phenomenon of *bullying* as well as the right to education and the rights in education;

Method of synthesis – for presenting a comprehensive synthesis between the phenomenon of *bullying* at school and the learner's right to education by separately analyzing and combining different elements of the notion of *bullying* and the said right;

Method of meta-analysis – for combining data of several primary statistical studies on prevalence and consequences of *bullying,* aggregating relevant information of multiple qualitative studies on the issue of *bullying* at school with the purpose to present a more complete approach of the situation in regard to *bullying* and unsafe school environment in Lithuania;

Method of analytical-critical analysis – for evaluation of the legal regulation and disclosure the loopholes in regard to certain aspects of *bullying* at school of legal regulation related to the right to education and the process of compulsory education, as well as right, duties and obligations of the state;

Method of content of the source analysis – for analysis of the scientific literature and legal acts of national and international scholars;

Method of comparative analysis – for analysis of the concept, legal framework, theoretical and practical aspects of the right to education, the notions of *bullying* and its negative effect on the learner;

Method of historic analysis – for analysis of the historic development of the international, regional and national legal framework related to the right to education and secure environment, their conceptual changes.

Methods of logic and generalization – were used in summarizing the analyzed theoretical and practical scientific material and providing the conclusive remarks.

Structure of the thesis:

The Thesis consists of an Introduction, three chapters, Conclusions and Suggestions. The Introductory chapter presents the *factual relevance* (based on meta-analysis of the statistical data provided by the authoritative researchers on international and national level), the *legal rationale* that the topic of the Thesis is based upon (referring to it as an '*imperative choice*' and deriving it from universally recognized human right, as well nationally guaranteed right and required obligation to acquire education and attend institutions of compulsory education), *aims*, *objectives* and the *methodology* applied.

The First Chapter of the Thesis presents and extensive synthesis between the negative phenomenon of *bullying* at school and the right to education *per se.* The Chapter consists of interdisciplinary analysis (based on legal and extralegal) approach of the notion of *bullying,* its negative implications on the learner and other members of the school community. The correlation of the negative effect of *bullying* and the right to education and rights in education is presented *vis-à-vis* the universally recognized principles of 4A's of the law of education. Development and recognition of the legal definition of *bullying* is done by consistent analysis of the international, regional and national legal acts and provisions of the 'soft law.'

The Second Chapter of the Thesis presents an analysis of the relevant legal, institutional and policy frameworks on international, regional and national levels. Children's right to education and the phenomenon of *bullying* are presented through thorough analysis of the provisions of the international and regional human rights law and their secondary sources. Extensive multidimensional analysis of the system of compulsory education of Lithuania is presented in the context of its susceptibility to the phenomenon of *bullying.*

Chapter Three presents an extensive analysis of the positive rights, obligations and duties of the state of Lithuania in ensuring the safe environment of the learners at school. The legislative and the relevant institutions of the executive branches of power are analyzed in regard to fulfilling their respective rights and obligations prescribed by the Constitution and the corresponding laws related to both the right to education, safe environment. Special focus of the analysis in this chapter is devoted to the existing legal regulation and its utilization by relevant institutions to its full potential.

CONCLUSIONS AND SUGGESTIONS:

1. Analysis of the forms and outcomes of *bullying* explicitly recognized within the content of legal definitions of *bullying* show that the right to education and the rights in education of the victimized learners are infringed within the context of provisions of the international human rights law and the core international principles of education. The educational process of the victimized learners due to *bullying* or *cyber bullying* is incompatible with the principles of equal opportunity and treatment in education, their best interest as children is undermined, because they attend schools that do not meet the standards of safety and health, as well as child's right of development to the fullest potential is impaired.
2. *Bullying* at school is in contradiction with two of the universally accepted principles of 4A's (*accessibility, acceptability*). It violates the right of the learners to education in regard to the principle of *accessibility* in all three aspects. Victimized learners are discriminated against other learner in regard to their equal opportunity to realize their right to education to its full possible potential, they practice skip school or are forced to relocate school due to the fear of hard sustained from *bullying* at school, which also puts then in an inferior position, because the school may be in a harder to reach location and also become costlier. Because of the unsafe learning environment that *bullying* at school causes for their victims, *bullying* breaches the minimum standards of health and safety of the process of education required by the principle of *acceptability*.
3. The issue of safe environment at school (including the issue of *bullying*) is not explicitly recognized by the acts of international human rights law. However, the issue is explicitly and extensively recognized by the secondary legal acts within the international and regional legal and institutional framework. Interpretations and explanations of the provisions in regard to the right to education and freedom from harm of international and regional law by way of general comments, policies, strategies, actions plans, etc., show that violence at school, and explicitly the issue of *bullying,* are approached within the broader notion of violence against children *per se.*
4. The extralegal and legal definitions of *bullying* diverge. Analysis of the legal definitions allows to conclude that legal definitions of *bullying* conform with one component of the classic definition of *bullying* – the intentional negative behavior. Only one fifth of the legal definitions of *bullying* encompass 'repetitiveness,' and one – 'imbalance of power'. The definition of *bullying* provided by the state legislation carries over into policies, rules and internal regulations of state education boards and internal regulatory acts of the state schools.
5. The in depth comparative analysis of the content of legal definitions of *bullying* at school and extralegal research in regard to the description, forms and outcomes of the phenomenon, shows that legal definitions, despite the fact that they do not comply with the classic definition of *bullying,* within their content portray sufficient scope of elements, that should be taken into consideration when incorporat-

ing the notion of *bullying* into the framework of primary and secondary legal acts. It can be concluded, that the legal definition of *bullying,* besides the classic elements of the definition of this phenomenon, represents a legal evaluation model that encompasses other relevant aspects of *bullying* in its relation to the right to education and rights in education, and that allow to recognize and evaluate the phenomenon of *bullying* beyond its negative effect in individual victimization, but take into consideration all that is at stake: i.e., the process, mission, purpose, duration of education *per se,* as well as its happenstance and locality in regard to what is generally perceived as education within the school territory.

6. The legal definition of *bullying* explicitly provided by the Law on Education as of January 1, 2017, completely conforms to the component parts of the extralegal classic definition of *bullying,* because it contains the components of 'intentional negative behavior,' 'repetitiveness' and 'imbalance of power' between the victim and the bully. It is suggested that the definition of *bullying* at school be revised to include elements of legal definition of *bullying* that go beyond individual victimization and encompass elements of legal evaluation of *bullying* related to the right to education and the rights in education.
7. The notion of school community as provided by the Law on Education requires that a member of school community be related through ties of teaching and general goals of education. It can be concluded that such legal definition of school community is inconsistent with the actual subjects that participate in the life the school community but are not related to it through teaching ties and general goals of education. Thus, the newly adopted provision of the Law on Education prescribing an imperative obligation to report cases of violence at school only for members of school community is also legally inconsistent, because it should also be additionally be prescribed to those employees of the school as an educational institution who do not have teaching ties to the rest of the school community, but are employed as other staff of the school. It could also be argued that the current definition of the school community is too narrow because it provides that members of community be interrelated via common teaching relation or general aims of education. The notion of the school community should be expanded to include all members of the school community that actually provide to an orderly operation of a school as a teaching institution.
8. According to the constitutional provisions of Republic of Lithuania – the right to education and duty to acquire education is prescribed to individuals until the age of 16. Thus, the age limit for compulsory education is 16 years of age. However, statistical analysis of the choice of the student body population show, that 98% of learners, after completing the compulsory part of general education, choose to continue their education (until the age of 18) in the program of *secondary* education. In addition, non-formal education is not considered as part of compulsory education. But, according to legislative and post-legislative acts of education, non-formal education can be categorized as a completely separate form of education of children and as *supplementary* part of formal education, which includes

all three levels (primary, main and secondary) of general education. Programs of non-formal education are attended by 28% of the total student body population each year. The student body population of the programs of non-formal education is also susceptible to the same behavioral problems as that of formal education. Therefore, it is suggested that, not only compulsory education, but all programs that factually constitute the whole educational process of children, as well as non-formal education are taken into consideration when assessing the issue of *bullying*, its prevalence and its negative effect in regard to the right to education and the rights in education, these programs should fall under the same scrutiny and oversight in regard to the issue of *bullying* – any measures applied by the state within the system of compulsory education in the effort to prevent *bullying* should be considered for application within their framework.

9. According to the provisions of the Law on Education, the state via powers prescribed to the Ministry of Education and Science is entitled to incorporate a program of non-formal education into the curricula of formal education by both adopting a program of non-formal education and by adopting the *content* and *plans* of the programs of education. This way a program of non-formal education becomes supplementary to the programs of formal education, the purpose of which is to develop and systematically expand knowledge, skills and competencies in certain areas. Legal system of education of Lithuania does poses legal instruments that allow going beyond the traditional notion of the educational *content* to make education *acceptable*, thus, adapting to the changing needs of the school community and the individual learner, in this case *advocating* for the safer environment of the learners threatened by *bullying*. Non-formal education can also be approached as supplementary part of formal education in regard to the programs of compulsory education. It is suggested that programs of non-formal education due to its formal status within the system of general education be utilized as an effective tool to educate the learners of the programs of compulsory education in regard to *bullying* and *cyber bullying*.

10. The most recently adopted structure of the process of general education allows acquiring education in group or solitary (individual) form. The relevant way (method) of group education is *daily* education (which would be considered the most traditional way and is carried out by daily attendance of the educational institution). *Distance* learning is the method that is formally made available both to group and individual forms of education. Method of *self-education* is allowed to learners who acquire education individually. However, though formally available, the alternative methods are subject to limitations in regard to issues of health and special needs, and to persons who are in detention or their freedom is constrained (without limitations). It is suggested that *distance* and *self-education* are the alternative methods that could be utilized by the learners whose rights and personal integrity are jeopardy because of the phenomenon of *bullying* during the process of acquiring their education by the traditional method.

11. Legally recognized measures of protection of victims of violence in immediate surroundings of family and school environment differ. It can be concluded that the victims of violence of immediate surroundings of family are provided with greater protection measures in regard to a possibility to displace the perpetrator, not the victim, of violence from the immediate environment subjected to acts of violence. The only immediate measures applied in regard to the victim and the perpetrator of *bullying* or *cyber bullying* at school consists of receiving free mandatory *psychological assistance.* The perpetrator is not displaced or immediately banned from the school environment. The current system of compulsory education does provide a legal framework for implementing a feasible system of displacing the perpetrators of acts of violence in the immediate environment of the learners at schools through solitary or group education in form of *distance learning,* however it is too restrictive, because such forms of education are legally available only to persons with special health condition or persons with restricted freedom. Order of the Minister of Education and Science Regarding Confirmation of the Description of the Forms of Education and the Order of Organization of Education which regulates the way *distance learning* is provided should be adapted to enable the educational institutions utilize *distance learning* in form of solitary or group education as an effective measure of protection for victims (learners) of violence in the immediate school environment, and as a disciplinary measure for the perpetrators (learners) of violence, especially *bullying* and *cyber bullying.*
12. The current amendments of the Law on Education strengthen the instrumentality of such tools as programs of non-formal education, supplementary programs of education, prevention programs by explicitly recognizing their mandatory status within the system of education, their correlation to the phenomenon of violence at school and the rights of the learners. The prevention program recognized by the provision of the new amendment of the Law on Education clearly does not fall within the notion of one of the formal education programs of the compulsory education, which means it is not compulsory, nor free of charge. Taking into consideration that obligatory implementation of additional long-term education and prevention programs will have an impact on human resources and financial implications on the school that usually translate in need of greater funding. Due to the fact that over 96% of schools in Lithuania are state schools, they are dependent on the state for acquiring additional financial resources. The provisions in regard to actual implementation of such programs shall be provided in form of 'recommendation' by the Minster of Education and Science (as the current wording of the Law on Education provides). An imperative provision that prescribes an obligation to implement explicit measures, such as, implementation of long-term education and prevention programs, cannot be supported with acts of post-legislative level that only constitute a recommendation. Such wording is implicit and diminishes the instrumentality of the legal norm. The ambiguity of the new provision in regard to the notion of the prevention program, subject of its

implementation, its financing resources puts its practical implementation in reasonable doubt of feasibility. It is suggested that, for the purpose of regulatory clarity, as well as the purpose of legal regulation *per se,* the latter should be provided not in a recommendatory manner but be adopted in form of a post-legislative act, containing concrete available and recognized measures of prevention of *bullying* (among other factors) in form of an exhaustive list of long-term educational and prevention programs, their costs, and the source of additional financing in question. In addition, the obligatory provision for schools to include and ensure implementation of mandatory programs of prevention and education should be reflected in the financing of the learner's education, i.e., be accounted for within the framework of the 'student's purse.'

13. It can be concluded that the lack of consistent and complete information in regard to actual level of prevalence of *bullying* at school is due to the fact that there is no uniform system of assessment of such prevalence. It is also evident, that exact level of prevalence of *occasional bullying* and *chronic bullying* in schools of general education of Lithuania is not known. So far, the estimate level of prevalence of *bullying* is based on the HBSC surveys and sporadic efforts by non-governmental or governmental institutions not entirely related to the system of education *per se.* Analysis of practical implementation of relevant provisions of the Law on Education of Republic of Lithuania shows that the obvious shortcoming of the state institutions responsible for *monitoring* and *planning* processes of the *governance* of education in regard of ensuring adequate psychological environment is: 1) lack of gathering and providing complete and consistent information in that regard, and 2) as well as in specific regard of the phenomenon of *bullying cyber bullying* at school. Lack of accurate information is evident both within the context of the National Education Strategy and the national EMIS system of monitoring and assessment of education. The Ministry of Education and Science adopted the main strategic planning document – the National Education Strategy of 2013 – 2011 a year past the commencement of the date of its actual implementation period, had applied data on *bullying* at school within the context of the latter Strategy that was at least three years old at the time of the adoption of the strategic document. The centralized assessment of strategic indicators within the reporting system of EMIS that fall under the supervision of the Ministry of Education and Science reflect sporadic data only on *occasional bulling* for the years of 2011 and 2014. It is proposed that the national reporting system of EMIS additionally include the indicator of *chronic bullying* and provide accurate information on prevalence of both types of *bullying* annually.

LIST OF SCIENTIFIC PUBLICATIONS ON THE TOPIC OF THE THESIS:

14. Agnė Margevičiūtė, "The Definition of Bullying in Compulsory Education: From a General to a Legal Perspective," Baltic Journal of Law & Politics 10:1 (2017): 205–229, http://www.degruyter.com/view/j/bjlp, DOI: 10.1515/bjlp-2017-0008;
15. Agnė Margevičiūtė, „Teisė į švietimą: tarptautinis, regioninis ir nacionalinis lygmuo (Lietuvos atvejis)," [Right to Education: international, regional and National level (case of Lithuania)] Visuomenės saugumas ir viešoji tvarka 2016 (17) : mokslinių straipsnių rinkinys = Security of society and public order: proceedings of scientific articles 2016 (17), Mykolo Romerio universitetas, Viešojo saugumo fakultetas [Mykolas Romeris University, Faculty of Public Security]: 104-118;
16. Agnė Margevičiūtė, „Bullying and the right to education: legal and factual relevance," Visuomenės saugumas ir viešoji tvarka 2016 (16) : mokslinių straipsnių rinkinys = Security of society and public order : proceedings of scientific articles 2016 (16) / Mykolo Romerio universitetas, Viešojo saugumo fakultetas [Mykolas Romeris University, Faculty of Public Security]: 115-133;
17. Birutė Pranevičienė, Agnė Margevičiūtė, „Challenges to the implementation of institutional reform in the Lithuanian general education system," Baltic Journal of Law & Politics Volume 8, Number 1 (2015): 106-138;
18. Birutė Pranevičienė, Agnė Margevičiūtė, "Implementation of the Right to Education: General Education in Lithuania," International Journal for Education Law and Policy (IJELP) Volume 9, Issue 1-2, 2013: 67-74;
19. Birutė Pranevičienė, Agnė Margevičiūtė, „International regulation of the right to general education and implementation of this right in Baltic States," Порівняльно-аналітичне право: електронне наукове видання, 2013 (№ 4): 327-332;
20. Birutė Pranevičienė, Agnė Margevičiūtė, in „Balancing, freedom, autonomy and accountability in education. Vol. 2," eds. Charles L. Glenn, Jan De Groof, (Willem-Jan van derWolf, 2012): psl.289-298;
21. Agnė Margevičiūtė, „Institutional system of children's rights protection in Lithuania," Visuomenės saugumas ir viešoji tvarka (4) : mokslinių straipsnių rinkinys = Security of Society and public Order : Proceedings of scientific articles (4) [Elektroninis išteklius] / Mykolo Romerio universitetas. Viešojo saugumo fakultetas [Mykolas Romeris University, Faculty of Public Security] 2010(4): 77-92;
22. Agnė Margevičiūtė, „Konkretizuotų konstitucinių teisės normų suponuojama socialinė tikrovė, vaiko, kaip ginamos ir globojamos vertybės, atžvilgiu," [Social reality preconditioned by concretization of constitutional norms in the context of the child as valued and protected virtue] Jurisprudence (2008 Nr.4(106)): 75-80.

PRESENTATION OF THE RESEARCH IN SCIENTIFIC VENUE:

Agnė Margevičiūtė, presentation on the topic of "Bullying and its Implications on the Right to Privacy of Learners During the Process of Compulsory Education", international scientific conference in Nicolas Copernicus University (Torun, Poland), June 17-18, 2016.

SCIENTIFIC INTERNSHIPS:

September 13 – October 11, 2015, scientific research visit at The European Association for Education Law and Policy (ELA), Antwerp, Belgium.

January 18 – 31, 2016, scientific research visit at The European Association for Education Law and Policy (ELA), Antwerp, Belgium.

CURRICULUM VITAE:

Contact information: agne4444@gmail.com

Education:

2014 – current	Doctoral studies in the field of law
2002 - 2006	Bachelor of Law Mykolas Romeris University, Faculty of Law and Management
2002 - 2005	Master of International Law Vytautas Magnus University, Faculty of Law
1999 - 2002	Bachelor in Political Science Vytautas Magnus University, Institute of Political Science and Diplomacy Minor in Business and Administration Vytautas Magnus University, Faculty of Economics and Management

Occupation:

2005 – current	Lawyer
2010 – current	Lecturer at Mykolas Romeris University
2000 – 2005	International project manager

MYKOLO ROMERIO UNIVERSITETAS

Agnė Margevičiūtė

MOKINIO TEISĖS Į SAUGIĄ APLINKĄ UŽTIKRINIMO PROBLEMINIAI ASPEKTAI: PATYČIŲ ATVEJIS

Daktaro disertacijos santrauka
Socialiniai mokslai, teisė (01S)

Vilnius, 2018

Daktaro disertacija rengta 2015-2017 metais Mykolo Romerio universitete, pagal Mykolo Romerio universitetui su Vytauto Didžiojo universitetu Lietuvos Respublikos švietimo ir mokslo ministro 2011 m. birželio 8 d. įsakymu Nr. V-1019 suteiktą doktorantūros teisę.
Mokslo daktaro disertacija ginama eksternu.

Mokslinė konsultantė:
prof. dr. Birutė Pranevičienė (Mykolo Romerio universitetas, socialiniai mokslai, teisė, 01S)

Daktaro disertacija ginama Mykolo Romerio universiteto ir Vytauto Didžiojo universiteto teisės mokslo krypties taryboje:

Pirmininkė:
prof. dr. Edita Gruodytė (Vytauto Didžiojo universitetas, socialiniai mokslai, teisė, 01S)

Nariai:
prof. dr. Eglė Bilevičiūtė (Mykolo Romerio universitetas, socialiniai mokslai, teisė, 01S);
doc. dr. Andrejus Novikovas (Mykolo Romerio universitetas, socialiniai mokslai, teisė, 01S);
doc. dr. Aurelija Pūraitė (Mykolo Romerio universitetas, socialiniai mokslai, teisė, 01S);
prof. habil. dr. Waldemar Zubrzycki (Ščytno policijos akademija, Lenkijos Respublika, socialiniai mokslai, politikos mokslai, 02S).

Mokslo daktaro disertacija bus ginama viešame teisės mokslo krypties tarybos posėdyje 2018 m. birželio 18 d. 13 val., Mykolo Romerio universitete, I-414 auditorijoje.
Adresas: Ateities g. 20, 08303 Vilnius.

Daktaro disertacijos santrauka išsiųsta 2018 m. gegužės 18 d.

Daktaro disertaciją galima peržiūrėti Lietuvos nacionalinėje Martyno Mažvydo bibliotekoje (Gedimino pr. 51, Vilnius), Mykolo Romerio universiteto bibliotekoje (Ateities g. 20, Vilnius) ir Vytauto Didžiojo universiteto bibliotekoje (K. Donelaičio g. 52, Kaunas).

Agnė Margevičiūtė

MOKINIO TEISĖS Į SAUGIĄ APLINKĄ UŽTIKRINIMO PROBLEMINIAI ASPEKTAI: PATYČIŲ MOKYKLOJE ATVEJIS

Mokykla – tai institucija, kuri užtikrina fundamentaliosios vaiko teisės į švietimą įgyvendinimą. Tai aplinka, kurioje vaikai vystosi, mokosi, tobulėja, įgyja žinias bei įgūdžius paremtus orumu ir pasitikėjimu, o daugeliui pasaulio vaikų tai vieta, kurioje jie jaučiasi saugiausiai.[879] Švietimas turi unikalią savybę – potencialą išgyvendinti paviršutinišką požiūrį į smurtą, ugdant nesmurtinį elgesį.[880] Kadangi patyčios gali atsirasti bet kur, kur renkasi ir bendrauja bendraamžiai, o vaikai yra įpareigoti lankyti mokyklą iki tam tikro amžiaus, mokykla tampa būtent ta aplinka, kurioje vaikai patiria kiekybiškai daugiau patyčių.[881] Pasaulinė statistika rodo, kad patyčios mokykloje yra globalus reiškinys,[882] kuris sudaro didžiąją dalį visų smurto mokykloje atvejų[883] ir yra nuosekliai susijusios su visų rūšių smurtinio pobūdžio elgesiu tarp bendraamžių,[884] dėl ko mokiniai jaučiasi nesaugūs, patiria įvairaus pobūdžio neigiamas pasekmes, todėl kyla pagrįstas klausimas, ar nėra pažeidžiama patyčių aukų teisė į švietimą ir teisės švietime.

Disertacijos aktualumas:

Disertacijos aktualumas paremtas faktinėmis aplinkybėmis švietimo sistemoje pasauliniu ir Lietuvos mastu, kurios liudija tai, kad patyčių atvejai tebėra labiau dažni nei pavieniai. Šis teiginys grindžiamas gausia kompetentingų tarptautinių ir kai kurių nacionalinių lygiu atliktų tyrimų statistika, empiriniais tyrimais. Faktinis patyčių paplitimas paremtas tyrimais, atliktais daugiau nei 40 pasaulio šalių.[885] Remiantis šešių Pasaulio sveikatos organizacijos Mokyklinio amžiaus vaikų sveikatos elgesio (*angl.*, Health Behavior in School-aged Children – HBSC) tyrimų ciklų Europoje ir Šiaurės Amerikoje duomenimis (iš viso 32 valstybės) galima teigti, kad bendras patyčių paplitimo mastas mažėja. *Atsitiktinių patyčių* (vieną ar daugiau kartų per porą mėnesių) mokykloje paplitimas tarp mergaičių ir berniukų sumažėjo iki 29,2%, o *chroniškų patyčių* (2-3 kartai per mėnesį) – iki 11,3%.[886] Tačiau nuoseklus patyčių paplitimo mažėjimo dėsningumas taikytinas tik 12 iš 32 HBSC tyrime nuolatos dalyvaujančių valstybių, tai reiškia, jog likusiose valstybėse patyčių paplitimas tai pa-

879 Paul Timm, *supra note* 4, p.106;

880 Europos Taryba, *supra note* 1;

881 Robertas Povilaitis, Jurgita Smiltė Jasiulionė, *supra note* 5;

882 UNESCO, *supra note 8* (prieiga rugsėjo 21, 2015);

883 John Dayton, Anne Proffitt Dupre and Ann Elizabeth Blankenship, *supra note* 9, p. 19;

884 Tonja R. Nansel et all, *supra note* 10, p. 348;

885 HBSC, *supra note* 15 (prieiga spalio 5, 2015);

886 Kayleigh L. Chester et all, *supra note* 20, p. 62;

didėja, tai sumažėja.[887] Tai reiškia, kad trečdalis mokyklinio amžiaus vaikų nuolatos patiria patyčias (maždaug kas du mėnesius), o dešimtadalis dažniau nei du kartus per mėnesį. Dėl to patyčios išlieka vienu iš sunkiausiai išgyvendinamų neigiamo socializavimosi elgesio formų mokykloje, darančių poveikį ne mažiau nei trečdaliui Europos ir Šiaurės Amerikos mokyklinio amžiaus vaikų.[888]

Patyčios tarp Lietuvos mokinių egzistuoja kelis dešimtmečius. Lietuva tarp HBSC tyrime dalyvaujančių valstybių išlieka ilgalaikė lyderė patyčių paplitimo masto kontekste.[889] Bendra patyčių paplitimo tarp mokinių tendencija per dvidešimt HBSC tyrimo metų Lietuvos atveju yra mažėjanti. Patyčių paplitimas mokykloje tarp berniukų sumažėjo nuo 41,7% (1993 - 1994 m.) iki 31,2% (2013 - 2014 m.), o tarp mergaičių nuo 39,5% (1993-1994 m.) iki 27,7% (2013 - 2014 m.), atitinkamai – besityčiojančių berniukų sumažėjo nuo 40,3% iki 29,8%, o mergaičių nuo 27,9% iki 15,3%.[890] Tačiau patyčių paplitimo mažėjimo tendencija truko iki 2005 m. 2005 – 2014 m. stebimas 3,2% patyčių paplitimo padidėjimas tarp berniukų, o 2009 – 2014 m. 4,3% tarp mergaičių.[891]

Švietimo sistemai būdingas gausus reglamentavimas. Daug tarptautinio, regioninio ir nacionalinio lygmens teisės aktų, poįstatyminių teisės aktų, o taip pat vidinio reglamentavimo aktų yra skirti įvairiems vaiko psichologinio, emocinio, socialinio, fizinio saugumo užtikrinimui. Tačiau faktinė situacija mokyklose pasaulyje ir Lietuvoje lemia tai, kad minimų teisės aktų, susijusių su vaiko teisės į saugumą mokykloje užtikrinimu, taikymas yra neveiksmingas, ypač paplitusių patyčių atveju.

Teisių ir pareigų subjektiškumo aspektu vaiko statusas teisės į švietimą kontekste yra ypatingas, kadangi vaikui, kaip valstybės piliečiui, konstitucinė teisė į švietimą yra garantuojama, tačiau „pasirinkimas" įgyvendinti savo teisę į švietimą yra imperatyvus (nes LR Konstitucija sukuria pareigą mokytis piliečiams iki šešiolikos metų[892]). Todėl valstybė, sukurdama tokio pobūdžio imperatyvų „pasirinkimą", privalo užtikrinti ne tik formalųjį teisės (pvz.: teisės į saugumą privalomojo švietimo procese) įtvirtinimą teisės aktuose, tačiau užtikrinti ir šių teisės aktų įgyvendinimą.

Lietuva yra prisijungusi prie aktualių nagrinėjamai temai tarptautinių deklaracijų, konvencijų, sutarčių, o vaiko *teisė į švietimą,* taip pat vaiko *teisės švietime* nacionalinėje švietimo sistemoje yra susijusios su minimų tarptautinių teisės aktų įsipareigojimų įgyvendinimu, visuotinai pripažintų teisės principų taikymu. Būtent

887 World Health Organization Regional Office for Europe, *supra note* 21 (prieiga rugsėjo 30, 2015); World Health Organization Regional Office for Europe, *supra note* 24 (prieiga rugsėjo 30, 2015);

888 World Health Organization Regional Office for Europe, *supra note* 25 (prieiga rugsėjo 30, 2015);

889 Šiame PSO vykdomame tyrime, kuris vykdomas kas 4 metai, Lietuva dalyvauja nuo 1993 m. (1993/94 m., 1997/98 m., 2001/02 m., 2005/06 m., 2009/10 m., 2013/14 m. tiriamieji periodai). Tai yra vienintelis tokios apimties ir nuoseklumo tyrimas apie patyčių paplitimą Lietuvos mokyklose.

890 Apolinaras Zaborskas, *supra note* 64 (prieiga spalio 1, 2015);

891 Kayleigh L. Chester et all, *supra note* 20, p. 61-64; Apolinaras Zaborskas, *op.cit.,* (accessed October 1, 2015);

892 LR Konstitucija, *supra note* 78, 41 str.;

tarptautinė teisė įtvirtina minimalius standartus, taikytinus visuotinai pripažintų žmogaus teisių įgyvendinimui. Tokie patys globalūs standartai yra taikomi vertinant *švietimo teisės*, kaip visuotinai pripažintos žmogaus teisės, ir *teisių švietime* įgyvendinimą. Taigi, *teisė į švietimą* yra pripažįstama, užtikrinama ir ginama nacionaliniu, regioniniu ir tarptautiniu lygmenimis.

Vaiko teisės į saugumą užtikrinimas švietimo sistemoje yra ypač aktuali tema keletu vaiko saugumo aspektų, diskutuojamų tarptautiniu, regioniniu ir nacionaliniu lygmenimis. Vaiko teisę į saugią aplinką švietimo procese įtvirtina daug įstatymų ir poįstatyminių teisės aktų, tačiau vaiko teisės į saugumą mokykloje užtikrinimas išlieka probleminis. Remiantis autoritetingų institucijų (pvz.: Pasaulio sveikatos organizacijos, LR Švietimo ir mokslo ministerijos, atitinkamos srities ekspertų susivienijimų) vykdomais tarptautinio ir nacionalinio lygmens tyrimais, teigtina, jog pastebima nuosekli (keleto dešimtmečių) tendencija, kai vaiko patiriamų įvairaus pobūdžio smurto apraiškų paplitimas mokyklos aplinkoje didėja. Todėl privalomojo švietimo sistema, jos veiksmingumo vaiko saugumo užtikrinimo požiūriu analizė šiuo metu yra itin aktualus tyrimo objektas.

Disertacijos naujumas:

Disertacijos temos apie patyčias *per se* naujumą, atrodytų, sunku pagrįsti, kadangi pats patyčių reiškinys nuo pat aštuntojo dešimtmečio tebetiriamas visame pasaulyje,[893] o Lietuvoje patyčios taip pat plačiai tyrinėjamos ir susilaukia dėmesio įvairiuose lygmenyse – žiniasklaidoje, nevyriausybiniame sektoriuje, edukologijos, psichologijos, psichiatrijos, sociologijos, elgsenos moksle ir tyrimų srityse, politiniam lygmenyje,[894] tarp aukščiausio rango pareigūnų. Tačiau ekspertai vieningai sutaria, kad Lietuvoje patyčių paplitimo, prevencijos ir tendencijų analizei trūksta nuoseklumo,[895] o taip pat pastebimas mokslinių tyrimų trūkumas.[896],[897]

Esminis argumentas, pagrindžiantis disertacijos temos naujumą, yra tas, kad patyčių tematika yra tradiciškai kitų, ne teisės srities, mokslų tyrimo objektas.[898] Dažniausiai patyčios yra tyrinėjamos platesniame visuomenės sveikatos ir pedagogikos kontekste. Galima teigti, jog Lietuvoje susidomėjimas patyčiomis kaip tyrimų objektu buvo inicijuotas būtent sveikatos mokslų srities ekspertų maždaug apie 1994 m., kai Lietuvoje buvo įvyk-

893 Robertas Povilaitis and Jurgita Valiukevičiūtė, *supra note* 27, p.14;

894 Robertas Povilaitis, *supra note* 28, p.33;

895 LR Švietimo ir mokslo ministerija, *supra note* 30 (prieiga liepos 23, 2015);

896 Robertas Povilaitis, *supra note* 28, p.33;

897 Giedrė Širvinskienė, Nida Žemaitaitienė ir Alina Didžiokienė, *supra note* 32, p.27;

898 Philippe Legrain, *supra note* 33, p. 110-111;

dyta pirmoji HBSC mokyklų apklausa.[899] Kitose srityse patyčios tradiciškai tiriamos platesniame mokyklinio smurto kontekste,[900] kaip tam tikras socialinis reiškinys.[901] Prieš maždaug dešimtmetį patyčios tapo mokinių elgsenos įpročių,[902] vaikų populiacijos psichinės sveikatos,[903] mokinių gerovės,[904] netgi ekonominių[905] tyrinėjimų aspektu. Kai kurie autoriai

899 Pirmosios diskusijos neigiamo patyčių poveikio tema buvo publikuotos N.Žemaitienės („Mokyklos patrauklumas ir moksleivių sveikata," [Fascination of School and the Health of Schoolchildren], Socialiniai mokslai. Sociologija 1996, 3(7)); 1996 m. Apolinaras Zaborskis su autorių kolektyvu pradėjo leisti publikacijų seriją paremtą HBSC tyrimų rezultatais, aptariant Lietuvos atvejį:

2) Apolinaras Zaborskis et all, "Moksleivių gyvenimo būdas ir sveikata. Pasaulinės sveikatos organizacijos 1994 m. tarptautinės moksleivių apklausos rezultatai," [Life-style and Health of the Learners. Rezults of the International Survey of the Learners by the World Health Organization], Vilnius: Leidybos centras; 1996;

3) Apolinaras Zaborskis, Lina Cirtautienė, Nida Žemaitienė, "Bullying in Lithuanian schools in 1994-2002," *Medicina (Kaunas)* 2005, 41(7): 614-620;

4) Apolinaras Zaborskis and Inga Vareikienė, „Schol Bullying and its Assocication With Health and Lifestyle Among Schoolchildren," *Medicina (Kaunas)* 2008, 44(3): 232-239;

900 Valdas Pruskus, *Smurto fenomenas mokykloje [The Violence Phenomenon at School],* Vilniaus Gedimino technikos universitetas. Vilnius: Technika, 2012;

2) Brigita Kairienė, Ieva Kuginytė Arlauskienė, Tomas Butvilas and Romas Prakapas, "Mokinių smurto mkykloje raiškos tendencijos" [Tendencies of Expressing Student Violence at School], *Klutūra – Ugdymas – Visuomenė: mokslo darbai* 2 (2007):169-175;

3) Brigita Kairienė and Donalda Ščerbakova, „Vaikų patiriamo smurto mokykloje prevencinės galimybės" [Preventive Measures for Violence at School Experienced by the Children], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 7(2) (2008):67-75;

4) Daiva Malinauskienė, „Vaikų smurtinį elgesį mokykloje skatinantys veiksniai" [Factors Stimulating Violent Behavior at School], *Socialinis darbas: mokslo darbai. Vilnius: Mykolo Romerio Universitetas* 10(2) (2011);229-240;

5) Loreta Bukšnytė-Marmienė, „Mokinių patiriamo smurto bei savijautos ypatumai skirtingo tipo mokyklose" [The Link Between Violence Experienced by Adolescents and Their Emotional State in Different Types of Schools], *Pedagogika: mokslo darbai* 91 (2008):60-65;

901 Rasa Norkutė, *supra note* 36. p.397;

902 Aldona Palujanskienė and Juozas Vytautas Uzila, „Agresija ir kofliktai mokykloje" [Agression and Conflict in the School of Our Days], *Pedagogica: mokslo darbai, Vilnius* 73 (2004):124-127;

2) Diana Bukeikaitė and Valdas Pruskus, „Agresyvus nepilnamečių elgesys mokykloje: priežastys ir raiškos ypatumai" [Agressive Behavior of Teenagers at School: Causes and Aspects of Expression], Šiuolaikinė mokykla sociologų objektyve, 2006;

3) Valdas Pruskus and Gerda Tuzienė, „Agresyvaus elgesio prieš bendramokslius priežastys. Dažnumas ir formos: mokinių, mokytojų ir tėvų vertinimas" [Agressive Behavior Among Learners. Freequency and Forms: Assesment by Learners, Teachers and Parents], *Santalka: filologija, edukologija* 19(2), 2011;

4) Valdas Pruskus and Gerda Tuzienė, „Mokinių agresyvaus elgesio prieš mokytojus dažnis, formos ir prevencija: mokinių, mokytojų ir tėvų vertinimas" [Freequency, Forms and Prevention of Agressive Behavior of Learners Against Teachers: Assesment by Learners, Teachers and Parents], *Socialinis Ugdymas* Vol. 20 Issue 31 (2012): 35-62;

903 World Health Organization / HBSC Forum 2007, "Lithuania: Youth Mental Health – From Research to Policies, Practice and Partnerships," (2008) // http://www.euro.who.int/__data/assets/pdf_file/0006/74769/Hbsc_Forum_2007_Lithuania.pdf?ua=1 (accessed July 23, 2016);

904 Giedrė Širvinskienė, Nida Žemaitaitienė ir Alina Didžiokienė, *supra note* 32, p.27;

905 Viktorija Grigaliūnienė, "Patyčių psichosocialiniai ir ekonominiai aspektai Kauno rajono bendrojo lavinimo mokyklose" [Economical and Psychosocial Impact on Bullying in Schools of Kaunas Region], *Sveikatos mokslai, Vilnius: Sveikata* 22 (3), 2012;

tyrinėjo mokyklos bendruomenės narių teisinio švietimo efektyvumą patyčių prevencijos kontekste,[906] pristatė įvairias su patyčių problematika susijusias metodines priemones.[907]

Taigi, galima teigti, jog ženklus mokslinis susidomėjimas patyčiomis, kaip viena iš labiausiai paplitusių agresyvaus elgesio formų mokykloje,[908] Lietuvoje pastebimas nuo 2008 m.[909] Tačiau tarpdisciplininis mokslinis diskursas patyčių mokykloje tema labiau sietinas su sritimis, kurios tradiciškai siejamos su švietimu ir ugdymu, o teisinio mokslinio diskurso nagrinėjama tema vis dar pasigendama.

Tas pats pasakytina ir apie pačią švietimo sritį. Teisės doktrinos atžvilgiu, privalomojo švietimo sistema Lietuvoje dažniausiai analizuojama tradicinių, su švietimo sistema siejamų, sričių (edukologija, vystymasis, švietimas, sociologija, psichologija, pedagogika, kultūra) kontekste. Tačiau švietimo sistemos analizė švietimo teisės (*law on education*), kaip savarankiškos teisės srities, požiūriu yra palyginti naujas, labai menkai analizuotas tyrimų objektas. Teisiniu požiūriu švietimo teisė Lietuvoje, nors ir būdama itin plačios aprėpties teisinio reglamentavimo sritis, ilgainiui susikoncentravo ties *teisės į švietimą* vertinimo analize, švietimo užtikrinimo problematika.

Viena iš probleminių privalomojo švietimo proceso sričių yra įvairūs vaiko saugumo užtikrinimo mokyklos aplinkoje, mokymosi metu, aspektai, kurie yra susiję būtent su vaiko *teisių švietime* užtikrinimu. Tarptautinės teisės raida suponavo tam tikrų *„4A"* (*availability* - esamumo, *accessibility* - pasiekiamumo, *acceptability* - tinkamumo, *adaptability* - pritaikomumo) doktrinos, visuotinai pripažintų tarptautinių principų, taikomų švietimo sistemoje, atsiradimą.[910] Šių visuotinai pripažintų principų taikymas leidžia įvertinti tinkamą individo teisių susijusių su *teise į švietimą,* o taip pat *teisėmis švietime* (kaip pvz.: teisė į saugią aplinką) įgyvendinimą. Šių tarptautinių teisės principų kontekste Lietuvos privalomojo švietimo sistema nėra ištirta, o tai lemia šio tyrimo aktualumą ir naujumą.

---

906 Daiva Malinauskienė and Aušrinė Gumuliauskienė, „Smurto raiškos mokykloje socioedukacinė prevencija: mokinių požiūris [Socio-Educational Prevention of Violence Expression in School: Pupils' Opinion], *Socialinis ugdymas: smurto ir patyčių prevencija ugdymo įstaigose: recenzuojamas tęstinis mokslinių – praktinių straipsnių rinkinys,* V, Šiauliai, VšĮ Šiaulių Universiteto leidykla, 2010;

2) Živilė Vilma Jonynienė, Agnė Bartkutė and Tomas Butvilas, "Teisinis švietimas kaip prevencinė priemonė prieš patyčias mokyklose: mokinių ir mokytojų sampratos" [Legal Education as the Prevention for Bullying at Schools: Conceptions of Students and Teachers], *Socialinis darbas/Social Work* 2011, 10(2): 225;

907 Robertas Povilaitis and Jurgita Valiukevičiūtė, *„Patyčių prevencija mokyklose" [Bullying Prevention at Schools],* Vilnius, Multiplex, 2006;

2) R.Česonienė ir G.Bičiukienė, *Vaiko teisių mokymai per žaidimą [Learning Childrens' Rights Through Playing],* Elektrėnai, 2009;

3) Robertas Povilaitis and Jurgita Smiltė Jasiulionė, *Mokykla gali įveikti patyčias: rekomendacijos mokytojams [School can Conquer Bullying: Reccomendations for Teachers],* Vilnius: Center of Educational Assistance of the Ministry of Education and Sicence, 2010;

4) Haris Assimopolous et al., *Patyčių prevencija klasėje: vadovas mokytojams [Bullying Prevention in the classroom: Guide for Teachers],"* ed. Ioanni Tsiantis, Vilnius: Margi raštai, 2010;

908 Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26, p. 159;

909 Teiginys grindžiamas daugiau nei 70 mokslinių publikacijų ir 6 knygų smurto mokykloje tematika, kuriose patyčios įvairiais aspektais pristatomos ir nagrinėjamos kaip dominuojanti smurto mokykloje forma.

910 Katerina Tomaševski, *supra note* 113, p.13;

Taigi, teisiniu požiūriu *patyčios* mokykloje, *teisė į švietimą* ir *teisės švietime* yra glaudžiai susijusios. *Teisė į švietimą* yra visuotinai pripažinta, įtvirtinta ir apsaugota tarptautiniuose,[911] regioniniuose[912] ir nacionaliniuose teisės aktuose.[913] Tačiau *teisės į švietimą* teisinis reguliavimas tiek tarptautinės,[914] tiek nacionalinės[915] teisės kontekste suponuoja tai, jog individas, realizuodamas savo *teisę į švietimą*, tai daro privaloma tvarka, bent jau iki tam tikro numatyto amžiaus. Tokio „imperatyvaus pasirinkimo" kontekste valstybė privalo užtikrinti, kad aplinka, kurioje mokinys privalomai realizuoja savo teisę, atitiktų su šia teise susijusius visuotinai pripažintus principus.[916] Todėl disertacijoje patyčių reiškinys mokykloje nagrinėjamas per grynai teisinę prizmę, analizuojant Lietuvos privalomojo švietimo sistemą ir jos reguliavimą.

Disertacijos tikslas:

Nustatyti didžiausias teisinio reguliavimo privalomojo švietimo sistemoje disfunkcijas, užtikrinant mokinio teisę į saugumą ir apsaugant mokinį nuo neigiamo patyčių poveikio.

Disertacijos uždaviniai:

1. Atlikti išsamią palyginamąją *patyčių* klasikinio ir teisinio apibrėžimo analizę.
2. Išanalizuoti *patyčių* reiškinį privalomojo švietimo kontekste ir suformuluoti *patyčių* teisinio vertinimo modelį.
3. Atskleisti *patyčių* mokykloje keliamą grėsmę mokinio teisės į švietimą ir teisės į saugią aplinką realizavimui.
4. Aptarti valstybės teises, įgalinimus ir įpareigojimus, užtikrinant mokinio teisę į saugią aplinką.

Disertacijos tyrimo metodai:

Disertacijos objekto analizei buvo pasitelkti įvairūs teisinio mokslinio tyrimo metodai:

dokumentų analizės metodas – tarptautinių, regioninių ir nacionalinių pirminių ir antrinių teisės šaltinių analizei;

mokslinės literatūros analizės metodas – teorinių aspektų, susijusių su teise į švietimą ir teisėmis švietime, privalomu mokslu, teise į saugią aplinką, atskleidimui;

sisteminės analizės metodas – sistemiškam disertacijos objekto – patyčių reiškinio, kaip teisinės kategorijos, ištyrimui, taikant tam tikrus sisteminės analizės kriterijus;

sintezės metodas – atskleisti visapusiškam ryšiui tarp patyčių mokykloje reiškinio ir mokinio teisės į švietimą, atskirai analizuojant ir lyginant atskirus patyčių reiškinio ir minimos teisės turinio komponentus;

911 UN, *supra note* 75 (prieiga rugsėjo 18, 2015);

912 Europos Žmogaus Teisių Teismas, *supra note* 76 (prieiga rugsėjo 18, 2015);

913 Daugelio pasaulio valstybių jurisdikcijose teisė į švietmą yra konstitucinė teisė;

914 UN, *supra note* 75 (prieiga rugsėjo 18, 2015);

915 LR Konstitucija, *supra note* 78, Art. 41;

916 *General Comment No. 13, The right to education, supra note* 112, Art.6;

metaanalizės metodas –pirminių statistinių tyrimų apie patyčių mokykloje paplitimą ir pasekmes duomenų apjungimui, siekiant atskleisti labiau visapusišką patyčių masto ir įtakos saugiai mokyklos aplinkai problematiką Lietuvoje;

analitinis-kritinis metodas –galimam teisinio reguliavimo spragų patyčių mokykloje, teisės į švietimą ir teisių švietime kontekste, atskleidimui, taip pat valstybės teisių ir pareigų minimų teisių kontekste atskleidimui;

be kitų disertacijoje taip pat naudojami palyginamosios, istorinės, turinio, loginės, apibendrinamosios analizės metodai.

Disertacijos struktūra:

Disertaciją sudaro įvadas, kuriame apibrėžiamas disertacijos tikslas ir uždaviniais, pagrindžiamas disertacijos temos aktualumas ir naujumas, aptariami darbo šaltiniai, struktūra:

Pirmoji darbo dalis – *„Patyčios ir privalomas išsilavinimas: bendroji ir teisinė perspektyva,"* skirta *patyčių* bendrojo ir teisinio apibrėžimo lyginamajai analizei, pasitelkiant klasikinį Dan Olweus suformuluotą,[917] visuotinai pripažintą ir taikomą[918] *patyčių* apibrėžimą bei JAV valstijų švietimo srities įstatymų nuostatose įtvirtintus teisinius *patyčių* ir *kibernetinių patyčių* apibrėžimus, taip pat pristatoma išsami esamų teisinių *patyčių* apibrėžimų turinio analizė, istorinės apibrėžimo raidos nacionaliniu, tarptautiniu ir regioniniu lygmenimis analizė. Šioje dalyje taip pat išsamiai pristatomi įvairūs neigiamo *patyčių* mokykloje poveikio aspektai mokinio *teisei į švietimą* ir *teisėms švietime*, pvz.: poveikis mokinio sveikatai ir gyvenimo kokybei, asmeniui ir nuosavybei, pačiam švietimo procesui. Neigiamo poveikio aspektų analizė paremta teisinio *patyčių* apibrėžimo turinio analize. *Patyčios* taip pat analizuojamos tarptautinių 4A *teisės į švietimą* ir *teisių švietime* principų kontekste, aptariant šio neigiamo reiškinio paplitimą ir jo pasekmes privalomojo švietimo procese.

Antroji darbo dalis – *„Teisinė, institucinė ir politinė teisės į švietimą dimensijos tarptautiniame, regioniniame ir nacionaliniame lygmenyse,"* pristato tarptautinės teisės (tarptautiniu ir regioniniu aspektu) aktų sisteminę – istorinę analizę teisės į švietimą ir vaiko teisių švietime srityse, bei išsamią Lietuvos privalomojo švietimo sistemos analizę minimų teisių kontekste. Tarptautiniai ir regioniniai teisės aktai (o taip pat ir antriniai teisės šaltiniai) analizuojami pristatant istorinę vaiko teisės į švietimą ir jo teisės į saugią aplinką švietimo procese raidą, taikytinas teisinio reguliavimo priemones Jungtinių Tautų, Europos Sąjungos ir Europos Tarybos instituciniame lygmenyje. Pagrindinis šios dalies dėmesys sutelkiamas į Lietuvos privalomojo švietimo sistemą bei jos teisinį reguliavimą, kurie analizuojami įvairias aspektais, sietinais su tam tikromis *patyčių*, kaip neigiamo reiškinio švietimo procese, kategorijomis. Išsami privalomojo švietimo formų, būdų ir programų analizė suponavo poreikį tirti neformaliojo švietimo reglamentavimą, šio tipo programų inkorporavimo į

917 Dan Olweus, *supra note* 139, p.8-9;

918 Kathryn S. Whitted and David R. Dupper, "Best Practices for Preventing of Reducing Bullying in Schools," *Children & Schools* 27(3) (Jul 2005):168;

2) George M. Batche and Howard M. Knoff, *supra note* 131, p. 167;

3) John H. Hoover, Ronald L. Oliver and Keith A. Thomson, "Perceived victimization by school bullies: New research and future directions," *Journal of Humanistic Education and Development* 32 (1993):76;

4) Vilija Targamadzė, Džiuginta Valeckienė, *supra note* 26, p. 159;

formalųjį švietimą galimybes per švietimo turinį ir planus. Šioje dalyje taip pat pristatomos alternatyvios teisės į formalųjį švietimą įgyvendinimo formos (pvz.: individualus mokymasis, savišvieta, nuotolinis mokymas), kaip galimos priemonės sprendžiant *patyčių* aukos ir smurtautojo iškėlimo iš artimos mokinio aplinkos mokykloje problemą.

Trečia dalis – *„Valstybės teisių, įgalinimų ir įpareigojimų kategorijos, užtikrinant mokinio teisę į saugią aplinką*" pristato įstatymų leidžiamosios ir vykdomosios valdžių pozityviąsias teises bei įpareigojimus, susijusius su mokinio teisės į saugią aplinką užtikrinimu ir įgyvendinimu. Šioje dalyje aptariamos tiesioginės abiejų valdžios šakų ir su nagrinėjamu klausimu susijusių institucijų (pvz.: Vyriausybės, Švietimo ir mokslo ministerijos) funkcijos, pareigos ir įgalinimai užtikrinant saugią aplinką mokykloje, *patyčių* prevenciją, tinkamą finansavimą, teisinio reguliavimo savalaikį atsiradimą, teisinio reguliavimo (įstatymų ir poįstatyminių teisės aktų) atitikimas teisės normos reikalavimams, siekiamam teisinio reguliavimo tikslui. Taip pat pristatomas šiuo metu galiojančių švietimo teisės normų, tiesiogiai susijusių su saugios aplinkos mokykloje užtikrinimu ir integruotų į švietimo stebėsenos ir planavimo procesus, praktinis įgyvendinimas, aptariami šio įgyvendinimo trūkumai *patyčių* kontekste.

DISERTACIJOS IŠVADOS IR PASIŪLYMAI:

1. Kadangi teisė į privalomąjį švietimą yra imperatyvaus pobūdžio valstybės (ir kitų tarptautinių ir regioninių teisės aktų) įtvirtintas pasirinkimas, mokiniai, kurie patiria *patyčias,* yra priversti lankyti privalomojo švietimo įstaigas, kuriose nuolatos pažeidžiamos vaiko bendrosios ir mokinio teisės (teisė į asmens ir turto neliečiamumą, kartais net gyvybę, teisė į švietimą, emociškai ir psichologiškai saugią aplinką). *Patyčias* patiriančių moksleivių (dėl savo formų ir pasekmių) ugdymo procesas neatitinka lygių galimybių ir vienodo elgesio principų, taip pat pažeidžiamas geriausio vaiko intereso principas, pažeidžiama vaiko teisė visiškai išnaudoti asmeninio potencialo galimybes.
2. Dėl *patyčių* mokykloje paplitimo yra pažeidžiami du iš 4A tarptautinių švietimo teisės principų (prieinamumo ir tinkamumo). *Prieinamumo* principas pažeidžiamas visiškai, kadangi *patyčias* patiriantys mokiniai yra diskriminuojami kitų mokinių atžvilgiu, nes neturi vienodos galimybės visiškai realizuoti savo teisės į švietimą, dėl patiriamų *patyčių* jie arba vengia lankyti mokyklą arba yra priversti keisti mokymo įstaigą, dėl ko jų padėtis taip pat blogėja, o taip pat dažnai didėja sąnaudos pasiekti mokyklą. Kadangi *patyčių* reiškinys mokykloje sukuria nesaugią aplinką fiziniu ir emociniu požiūriu, galima teigti, jog tokios mokyklos aplinka neatitinka minimalių sveikatos ir saugos reikalavimų, kurie yra būtini taikant švietimo *tinkamumo* principą.
3. Saugios mokyklos aplinkos sąvoka nėra eksplicitiškai apibrėžta žmogaus teisių doktrinoje. Tačiau saugios aplinkos mokykloje įgyvendinimo problema yra gausiai ir nuosekliai minima antriniuose tarptautinės ir regioninės teisės šaltiniuose. Šiuose šaltiniuose (bendrųjų komentarų, politikų, strategijų, veiksmų planų, platformų ir t.t. forma) pateikiamų pirminių teisės aktų interpretavimų ir paaiškinimų, dėl teisės į išsilavinimą ir teisės į apsaugą nuo bet kokios žalos, analizė suponuoja tai, kad *patyčios* mokykloje yra vertinamos platesniame smurto prieš vaikus kontekste.
4. Bendrasis (klasikinis) ir teisinis *patyčių* apibrėžimai skiriasi. Teisinių *patyčių* apibrėžimų analizė atskleidė, jog teisinis *patyčių* apibrėžimas atitinka tik vieną iš trijų klasikinio *patyčių* apibrėžimo komponentų, t.y. visada apibrėžia *patyčias* kaip tyčinį neigiamą veiksmą. Tačiau tik mažiau nei penktadalis egzistuojančių teisinių *patyčių* apibrėžimų savo turinyje implikuoja pasikartojamumo, o dešimtadalis – jėgos persvaros požymį. Teisinis *patyčių* apibrėžimas nustatytas pirminiais teisės aktais gali būti perkeliamas į vidinio reguliavimo teisės aktus.
5. Išsami teisinių patyčių apibrėžimų analizė tiesiogiai įvardinant patyčių sampratą, formas ir pasekmes leidžia daryti išvadą, jog nepaisant to, kad

teisinis *patyčių* apibrėžimas nevisiškai atitinka klasikinį *patyčių* apibrėžimą, teisinio *patyčių* apibrėžimo turinys suteikia galimybę perteikti pakankamą *patyčių* elgesio elementų jų formų ir pasekmių aprėptį, ir yra tinkamas inkorporuoti į vidinio reguliavimo teisės aktus (mokyklos taisykles ir pan.). Pagal teisinę *patyčių* sampratą suformuluotas *patyčių* teisinio vertinimo modelis *patyčias* vertina ne tik individualios viktimizacijos lygmenyje, bet ir teisės i švietimą ir teisių švietime lygmenyse, įvertinant tokius aspektus kaip *patyčių* įtaka švietimo procesui, misijai, tikslams ir trukmei.

6. Teisinis *patyčių* apibrėžimas, kuris Lietuvoje įsigaliojo nuo 2017 m. sausio 1 d., visiškai atitinka klasikinį *patyčių* apibrėžimą ir skiriasi nuo analizuojamų teisinių apibrėžimų, kadangi turinys apima visus klasikinio *patyčių* apibrėžimo komponentus (tyčinis, neigiamas, pasikartojantis elgesys ir jėgos persvara). Siūloma peržiūrėti šiuo metu galiojantį *patyčių* mokykloje apibrėžimą idant pastarasis apimtų ne tik klasikinius individualios viktimizacijos komponentus, bet ir *patyčių* teisinio vertinimo modelio aspektus, susijusius su teise į švietimą ir teisėmis švietime.
7. Mokyklos bendruomenės sąvoka naudojama Švietimo įstatyme nustato, jog ryšys tarp mokyklos bendruomenės narių yra paremtas mokymo santykių ir bendrų švietimo tikslų. Toks mokyklos bendruomenės apibrėžimas neapima visų subjektų, kurie dalyvauja mokyklos bendruomenės gyvenime, tačiau nėra susiję nei su mokymo santykiais, nei su bendraisiais švietimo tikslais. Naujausia Švietimo įstatymo redakcija, kuri įtvirtina pareigą pranešti apie smurto atvejus tik mokyklos bendruomenės narius, taip pat yra teisiškai netiksli, kadangi tokia pareiga turėtų būti privaloma ir kitiems mokykloje dirbantiems asmenims. Taigi, galima teigti jog mokyklos bendruomenės apibrėžimas yra per siauras ir turėtų būti peržiūrėtas, įtraukiant visus mokykloje dirbančius asmenis, kurie prisideda prie sklandaus mokymo proceso švietimo įstaigoje organizavimo.
8. LR Konstitucijoje įtvirtinta teisė ir pareiga įgyti privalomąjį išsilavinimą asmenims iki 16 m. Statistiniai duomenys rodo, kad 98 % moksleivių po pagrindinės mokyklos baigimo mokosi toliau, iki kol jiems sukanka 18 m. Be to, nors neformalusis švietimas nėra traktuojamas kaip privalomojo švietimo dalis, tačiau įstatymų it poįstatyminių teisės aktų analizė rodo, jog neformalusis švietimas gali būti vertinamas kaip visiškai atskira švietimo forma, o taip pat kaip pagrindinį švietimą papildanti švietimo forma. Tokią švietimo formą renkasi 28 % moksleivių. Siūloma, jog vertinant *patyčių* reiškinio problemą, jos paplitimą ir neigiamą poveikį, taip pat numatant ir taikant prevencines priemones, būtų vertinamos, o priemonės taikytinos visoms švietimo programoms (ne tik privalomojo švietimo), kurios faktiškai sudaro dalį vaikų švietimo proceso.
9. Švietimo ir mokslo ministerija Švietimo įstatyme įtvirtintų įgalinimų pagrindu gali įtraukti neformaliojo švietimo programą į formaliojo švietimo

programą, koreguojant pastarosios *turinį* ir *planą*. Tokiu būdu neformaliojo švietimo programa tampa dalimi formaliojo švietimo programos, kurios tikslas yra sistemiškai ugdyti ir gilinti žinias, įgūdžius ir kompetencijas. Taigi Lietuvos švietimo teisinėje sistemoje egzistuoja įrankiai, kurie per švietimo *turinį* padeda įgyvendinti *pritaikomumo* principą švietime, atsižvelgiant į moksleivių laikmečio poreikius, šiuo atveju poreikį tinkamai realizuoti teisę į saugią aplinką. Siūloma neformalųjį švietimą, dėl jo formalaus statuso švietimo sistemoje, panaudoti kaip priemonę efektyviai pritaikant privalomojo švietimo sistemą moksleivio poreikiams *patyčių* ir *kibernetinių patyčių* kontekste.

10. Vadovaujantis teisinėmis švietimo reglamentavimo nuostatomis, privalomąjį išsilavinimą galima įgyti mokantis grupėje arba individualiai. Tradicinė grupinio mokymosi forma Lietuvoje yra kasdienis mokyklos lankymas. Teisinis švietimo sistemos reglamentavimas suteikia formalią galimybę privalomąjį švietimą įgyti ir netradiciniu, o nuotolinio mokymosi būdu. Nuotolinis mokymas yra toks mokymosi metodas, pagal kurį privalomąjį išsilavinimą gali įgyti grupėje ir individualiai besimokantys mokiniai (savišvietos būdu). Atsižvelgiant į neigiamus *patyčių* elgesio padarinius aukai, yra siūloma plačiau naudoti nuotolinio mokymosi metodą, kurio pagalba *patyčių* auka galėtų mokytis toliau nuo nesaugios aplinkos. Tačiau, nors formaliai įtvirtintas, nuotolinio mokymosi būdas, yra ribotai prieinamas, kadangi juo pasinaudoti gali tik tam tikrų sveikatos sutrikimų turintys mokiniai arba asmenys, kurių laisvė yra apribota. Siūloma keisti nuotolinio mokymosi būdo organizavimo aprašą ir sudaryti sąlygas distancinio mokymo būdą naudoti kaip efektyvią priemonę apsaugant *patyčių* artimoje mokyklos aplinkoje aukas, suteikiant galimybę *patyčių* grėsmės atveju privalomąjį išsilavinimą įgyti nuotoliniu būdu.
11. Formaliai įtvirtintos smurto artimoje aplinkoje aukos apsaugos priemonės suteikia didesnę apsaugą (aukai) nei smurto artimoje mokyklos aplinkoje aukos apsaugos priemonės. Smurto artimoje aplinkoje atveju smurtautojas, ne auka, yra arba gali būti iškeldinamas iš artimos aplinkos. Švietimo srities teisiniame reguliavime numatyta vienintelė reali priemonė smurto (ar *patyčių*) mokykloje atveju yra psichologinės pagalbos suteikimas aukai ir agresoriui. Agresorius nėra įpareigojamas nesilankyti artimoje mokyklos aplinkoje, o pasitraukimo iš tokios nesaugios aplinkos galimybę dažniausiai svarsto ir įgyvendina *patyčių* auka. Švietimo sistemos teisinis reglamentavimas sudaro galimybę naudojant distancinio mokymosi būdą nedelsiant pašalinti įtariamą smurtautoją (ar *patyčių* agresorių) artimoje mokyklos aplinkoje, nepažeidžiant jo teisės į švietimą. Tačiau, nuotolinio mokymosi būdas, nors formaliai įtvirtintas, yra ribotas, kadangi juo pasinaudoti gali tik tam tikrų sveikatos sutrikimų turintys mokiniai arba asmenys, kurių laisvė yra apribota. Siūloma pakeisti nuotolinio mokymosi

būdo organizavimo aprašą ir sudaryti sąlygas distancinio mokymo būdą panaudoti kaip efektyvią priemonę apsaugant *patyčių* artimoje mokyklos aplinkoje aukas, įpareigojant smurtautoją, o ne auką įgyti privalomąjį švietimą nuotoliniu būdu.

12. Naujausi Švietimo įstatymo pakeitimai imperatyviai įpareigoja švietimo paslaugų teikėjus (t.y. mokyklas) sudaryti sąlygas ir teikti ilgalaikes neformaliojo švietimo prevencines programas kaip priemones mažinant smurto apraiškas mokykloje ir gerinant emocinę mokyklos aplinką ir mokinių sveikatą. Tačiau įstatymo formuluotė yra neaiški ir netiksli. Pirma, yra neaiškus tokios prevencijos programos statusas privalomojo švietimo proceso kontekste. Prevencijos programos sąvoka, įtvirtinta Švietimo įstatymo pakeitime, neatitinka nei formaliojo švietimo programos sąvokos, nei neformaliojo švietimo, papildančio formalųjį, sąvokos, o tai reiškia, kad tokia prevencinė programa nėra privaloma, dėl ko taip pat nėra nemokama (nes nei vienu iš minimų atvejų nėra privalomojo švietimo dalis). Taip pat svarbu tai, jog bet kokios papildomos neformaliojo švietimo programos įgyvendinimas iš švietimo teikėjo reikalaus papildomų žmogiškųjų ir finansinių išteklių. Atsižvelgiant į tai, jog daugiau nei 96% Lietuvos mokyklų yra valstybinės, padidėjusių finansinių poreikių atveju jos yra visiškai priklausomos nuo valstybės. Tačiau Švietimo įstatymo nuostatos, susijusios su minimų ilgalaikių prevencinių programų įgyvendinimu nurodo, kad programos bus įgyvendinamos vadovaujantis Švietimo ir mokslo ministro „rekomendacijomis“. Tai reiškia, kad įstatymo nuostatos, kurios imperatyviai reikalauja konkrečių prevencinių priemonių įgyvendinimo iš švietimo teikėjų yra konkretizuojamos jau tik ministro „rekomendacijų“ pagrindu, t.y. neprivalomo pobūdžio antriniu teisės šaltiniu. Toks formulavimas menkina teisinio reguliavimo funkcijos tikslingumą, kadangi imperatyvus įpareigojimas konkretizuojamas rekomenduojamojo pobūdžio dokumentu. Siekiant teisinio reguliavimo aiškumo imperatyvus Švietimo įstatymo įpareigojimas švietimo paslaugų teikėjams turėtų būti konkretizuojamas mažiausiai poįstatyminiu (privalomu švietimo teikėjams) teisės aktu, konkrečiai nurodant prevencines priemones, jų kaštus ir papildomus šių priemonių finansavimo šaltinius. Be to, tokia imperatyvi mokyklų pareiga įgyvendinti privalomąsias prevencijos ir švietimo programas turėtų atsispindėti ir „mokinio krepšelyje“.

13. Kai kurių Švietimo įstatymo nuostatų, susijusių su saugios ir emociškai sveikos aplinkos mokykloje aspektais, tiesiogiai koreliuojančiais su *patyčių* reiškiniu mokyklos aplinkoje, praktinio įgyvendinimo analizė atskleidžia švietimo valdymo trūkumus švietimo *stebėsenoje* ir *planavime*: 1) nuoseklios ir išsamios informacijos apie mokinių sveikatą trūkumas, 2) nuoseklios ir išsamios informacijos apie *patyčias* mokykloje trūkumas ir savalaikis pateikimas, kaip to reikalauja šiuo metu galiojantys švietimo

teisės aktai. Vadovaujantis Švietimo įstatymo nuostatomis, pagrindinis strateginis ilgalaikis švietimo planavimo dokumentas yra Nacionalinė švietimo strategija, kurią rengia Švietimo ir mokslo ministerija, tvirtina Seimas. 2013-2022 metų Nacionalinė švietimo strategija Seime buvo patvirtinta ir įsigaliojo 2013 m. gruodžio 31 d., t.y. metai nuo to laiko, kai šis dokumentas (logiškai) turėjo įsigalioti (t.y. nuo 2013 m. sausio 1 d.). Taip pat šiame dokumente buvo panaudota trejų metų senumo statistika (t.y. 2010/2011 m.). Strateginis *patyčių* paplitimo mokyklose indikatorius, įtrauktas į stebėsenos rodiklius, pateikiamus Lietuvos Švietimo valdymo informacinėje sistemoje, nurodo tik vieną *atsitiktinių patyčių* paplitimo kategoriją. Taip pat informacija apie *atsitiktines patyčias* yra pateikiama nenuosekliai (iki šiol ŠVIS pateikia duomenis apie *atsitiktines patyčias* tik 2011 m. ir 2014 m.), nors pagal esamą teisinį švietimo valdymo reglamentavimą informacija apie tokius rodiklius turėtų būti pateikiama kasmet. Siūloma, kad Švietimo valdymo informacinėje sistemoje nuosekliai (kasmet) būtų pateikiama informacija ne tik apie *atsitiktines patyčias,* bet ir apie *chroniškas patyčias.*

MOKSLINIŲ PUBLIKACIJŲ DISERTACIJOS TEMA SĄRAŠAS:

1. Agnė Margevičiūtė, "The Definition of Bullying in Compulsory Education: From a General to a Legal Perspective," Baltic Journal of Law & Politics 10:1 (2017): 205–229, http://www.degruyter.com/view/j/bjlp, DOI: 10.1515/bjlp-2017-0008;
2. Agnė Margevičiūtė, „Teisė į švietimą: tarptautinis, regioninis ir nacionalinis lygmuo (Lietuvos atvejis)," Visuomenės saugumas ir viešoji tvarka 2016 (17) : mokslinių straipsnių rinkinys = Security of society and public order : proceedings of scientific articles 2016 (17) / Mykolo Romerio universitetas. Viešojo saugumo fakultetas: 104-118;
3. Agnė Margevičiūtė, „Bullying and the right to education: legal and factual relevance," Visuomenės saugumas ir viešoji tvarka 2016 (16) : mokslinių straipsnių rinkinys = Security of society and public order : proceedings of scientific articles 2016 (16) / Mykolo Romerio universitetas. Viešojo saugumo fakultetas: 115-133;
4. Birutė Pranevičienė, Agnė Margevičiūtė, „Challenges to the implementation of institutional reform in the Lithuanian general education system," Baltic Journal of Law & Politics Volume 8, Number 1 (2015): 106-138;
5. Birutė Pranevičienė, Agnė Margevičiūtė, "Implementation of the Right to Education: General Education in Lithuania," International Journal for Education Law and Policy (IJELP) Volume 9, Issue 1-2, 2013: 67-74;
6. Birutė Pranevičienė, Agnė Margevičiūtė, „International regulation of the right to general education and implementation of this right in Baltic States," Порівняльно-аналітичне право: електронне наукове видання, 2013 (№ 4): 327-332;
7. Birutė Pranevičienė, Agnė Margevičiūtė, knygos dalis (psl.289-298) „Balancing, freedom, autonomy and accountability in education. Vol. 2," eds. Charles L. Glenn, Jan De Groof, (Willem-Jan van derWolf, 2012);
8. Agnė Margevičiūtė, „Institutional system of children's rights protection in Lithuania," Visuomenės saugumas ir viešoji tvarka (4): mokslinių straipsnių rinkinys = Security of Society and public Order : Proceedings of scientific articles (4) [Elektroninis išteklius] / Mykolo Romerio universitetas. Viešojo saugumo fakultetas 2010(4): 77-92;
9. Agnė Margevičiūtė, „Konkretizuotų konstitucinių teisės normų suponuojama socialinė tikrovė, vaiko, kaip ginamos ir globojamos vertybės, atžvilgiu," Jurisprudencija : mokslo darbai 2008 Nr.4(106): 75-80.

MOKSLINIO TYRIMO PRISTATYMAS MOKSLINIAME RENGINYJE

Agnė Margevičiūtė, pranešimas tema "Bullying and its Implications on the Right to Privacy of Learners During the Process of Compulsory Education", tarptautinėje mokslinėje konferencijoje Nikolajaus Koperniko Universitete (Torunėje, Lenkija), 2016 m. birželio 17-18 d.

MOKSLINĖS STAŽUOTĖS

2015 m. rugsėjo 13 – spalio 11 d. mokslinė stažuotė Europos švietimo teisės ir politikos asociacijoje, Antverpene, Belgija.

2016 m. sausio 18 – 31 d. mokslinė stažuotė Europos švietimo teisės ir politikos asociacijoje, Antverpene, Belgija.

CURRICULUM VITAE

Kontaktinė informacija: agne4444@gmail.com

Išsiliavnimas:

2014 – iki dabar	Teisės krypties doktorantūros studijos
2002 - 2006	Teisės bakalauro laipsnis Mykolo Romerio Universitetas, Teisės ir valdymo katedra
2002 - 2005	Tarptautinės teisės magistro laipsnis Vytauto Didžiojo Universitetas, Teisės institutas
1999 - 2002	Politikos mokslų bakalauro laipsnis Vytauto Didžiojo Universitetas, Politikos mokslų ir diplomatijos institutas Įgyta verslo administravimo gretutinė specialybė Vytauto Didžiojo Universitetas, Ekonomikos ir vadybos fakultetas

Darbo patirtis:

2005 – iki dabar	Teisininkė
2010 – iki dabar	Mykolo Romerio universiteto lektorė
2000 – 2005	Tarptautinių projektų vadovė

Margevičiūtė, Agnė
PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL: daktaro disertacija. – Vilnius: Mykolo Romerio universitetas, 2018. 216 p.

Bibliogr. 160-182 p.

ISBN 978-9955-19-908-3 (internete)
ISBN 978-9955-19-909-0 (spausdintinis)

The level of prevalence of bullying at school currently infringes the right to education and rights in education of at least one third of the student body population in Lithuania. Thus, resulting in violation of one of the fundamental human rights – the right to education and all that it encompasses. Education is one of the most heavily regulates spheres of public law. It is also governed by legal norms on international and regional levels. The later determine certain international principles that are universally accepted, and that allow to asses if the possibility to realize one's right to education and rights in education are sufficient. The issue of bullying at school and the level of its prevalence have been evident in the school communities for over two decades now. Despite the unfortunate longevity of the problem, it has been at large addressed within the fields of extralegal nature (sociology, psychology, medical science, etc.). Therefore, it is important to disclose the category of bullying as a legal notion, analyzing its correlation with the right to education and rights in education.

Patyčių mokykloje paplitimo mastas šiuo metu riboja bent trečdalio mokinių galimybes nevaržomai realizuoti teisę į švietimą ir teises švietime. Tokiu būdu yra pažeidžiama viena fundamentaliausių žmogaus teisių – teisė į švietimą ir visa, kas su šia teise yra susiję. Švietimas yra gausiai reguliuojama viešosios teisės sritis, kurią taip pat veikia tarptautiniai ir regioniniai teisės aktai. Pastarieji įtvirtina tam tikrus, visuotinai pripažintus tarptautinius teisės į švietimą principus, kuriais remiantis galima vertinti, ar teisės į švietimą ir teisių švietime realizavimo galimybės bet kurioje nacionalinėje jurisdikcijoje yra pakankamos. Patyčių ir jų nemenko paplitimo lygio problema Lietuvos mokyklų bendruomenėje egzistuoja jau daugiau nei du dešimtmečius. Nepaisant problemos ilgaamžiškumo, patyčios Lietuvoje tradiciškai nagrinėjamos ne teisės mokslų kontekste (sociologijos, psichologijos, medicinos mokslų ir pan.). Todėl yra itin aktualu atskleisti patyčias kaip teisinę kategoriją, ne tik kaip socialinę – psichologinę, analizuojant patyčių įtaką ir santykį su teise į švietimą ir teisėmis švietime.

Agnė Margevičiūtė
PROBLEMATIC ASPECTS OF ENSURING THE RIGHT TO SAFE ENVIRONMENT OF THE LEARNER: CASE OF BULLYING AT SCHOOL

Daktaro disertacija
Socialiniai mokslai, teisė (01 S)

ISBN 978-9955-19-908-3 (internete)
ISBN 978-9955-19-909-0 (spausdintinis)

Mykolo Romerio universitetas
Ateities g. 20, Vilnius
Puslapis internete www.mruni.eu
El. paštas roffice@mruni.eu
Tiražas 20 egz. Užsakymo Nr. 17909

Parengė spaudai UAB „Baltic Printing House“
Svajonės g. 40, LT-94101, Klaipėda
www.balticprinting.com
Maketavo Karolis Simaitis

Spausdino UAB „Baltijos kopija“
Kareivių g, 13B, Vilnius
www.kopija.lt
El. paštas info@kopija.lt

ISBN 978-9955-19-908-3

