

Centre for Educational Studies

Open Society Fund Lithuania

**EVALUATION OF THE DRAFT LAW ON EDUCATION
OF THE REPUBLIC OF LITHUANIA**

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2002

At the request of the Seimas Committee on Education, Science and Culture of 2002 09 27 the Centre for Educational Studies of Open Society Lithuania Fund carried out the expert evaluation of the Draft Law on Education of the Republic of Lithuania.

The Expert evaluation was based on the Draft Law on Education of the Republic of Lithuania (IXP-1740), officially submitted by the Government for the review by the Seimas of the Republic of Lithuania on 2002 06 25.

The Expert Evaluation was submitted and presented to the Seimas Committee on Education, Science and Culture of the Republic of Lithuania on 2002 11 18.

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At the presentation of the Draft Law on Education of the Republic of Lithuania, in his letter of explication of 2002-06-25, the Minister of Education and Science described what would change with the adoption of the new Draft Law on Education: *“it will improve education accessibility, quality, education management will become more effective and democratic, it will ensure better coherence of individual elements of the education system”*. Experts were given an assignment to evaluate whether the Draft Law on Education really models the mentioned changes. Therefore, the following aspects were selected for evaluation:

Does the Draft Law on Education of the Republic of Lithuania guarantee the continuity of the conceptual approach to the development of the state education system?

General evaluation of the Draft Law on Education of the Republic of Lithuania;

What social implications as a result of the implementation of such a Law may be projected?

Evaluation of the model for organising financing of the education system;

What changes are modelled in education management and the distribution of functions?

How is the coherence of educational steps ensured?

Projected implications of the implementation of the Law for the network of educational institutions of the region;

Does it create opportunities for lifelong learning?

What opportunities for the development of non-state education services are modelled?

STRUCTURE OF THE PRESENTED EXPERT EVALUATION

This Expert Evaluation of the Draft Law on Education includes:

Analysis conclusions on each selected aspect, projected implications and suggestions;

Detailed comments of authors on each analysis aspect and appendices supplementing some expert evaluations.

Content

DOES THE DRAFT LAW ON EDUCATION OF THE REPUBLIC OF LITHUANIA GUARANTEE THE CONTINUITY OF THE CONCEPTUAL APPROACH TO THE DEVELOPMENT OF THE STATE EDUCATION SYSTEM	3
CONCLUSIONS	3
IMPLICATIONS	3
SUGGESTIONS	3
GENERAL EVALUATION OF THE DRAFT LAW ON EDUCATION OF THE REPUBLIC OF LITHUANIA	5
CONCLUSIONS OF GENERAL CHARACTER	5
SUGGESTIONS OF GENERAL CHARACTER	5
WHAT SOCIAL IMPLICATIONS AS A RESULT OF THE DRAFT BECOMING THE LAW AND THE IMPLEMENTATION OF THIS LAW MAY BE PROJECTED	7
CONCLUSIONS	7
IMPLICATIONS	8
SUGGESTIONS	8
EVALUATION OF THE MODELLED APPROACH FOR ORGANISING FINANCING OF THE EDUCATION SYSTEM	9
CONCLUSIONS	9
IMPLICATIONS	9
SUGGESTIONS	10
WHAT CHANGES IN EDUCATION MANAGEMENT AND THE DISTRIBUTION OF FUNCTIONS ARE MODELLED IN THE DRAFT LAW ON EDUCATION	10
CONCLUSIONS	10
IMPLICATIONS	11
SUGGESTIONS	11
DOES THE DRAFT LAW ON EDUCATION ENSURE COHERENCE OF EDUCATIONAL STEPS AND HOW	11
CONCLUSIONS	12
IMPLICATIONS	13
SUGGESTIONS	13
PROJECTED IMPLICATIONS OF THE IMPLEMENTATION OF THE LAW FOR THE NETWORK AND TYPES OF EDUCATIONAL INSTITUTIONS OF THE REGION ...	14
CONCLUSIONS	14
IMPLICATIONS	15
SUGGESTIONS	15
DOES THE DRAFT LAW ON EDUCATION CREATE OPPORTUNITIES FOR LIFELONG LEARNING?	16
CONCLUSIONS	16
IMPLICATIONS	16
SUGGESTIONS	17
WHAT OPPORTUNITIES FOR THE DEVELOPMENT OF NON-STATE EDUCATION SERVICES ARE MODELLED	17
CONCLUSIONS	17
IMPLICATIONS	18
SUGGESTIONS	19
ANALYSIS OF THE KEY WORDS OF THE DRAFT LAW ON EDUCATION, THEIR SYNONYMS, OCCURRENCE, CORRELATIONS AND CONTEXT	20
CONCLUSIONS	20

DOES THE DRAFT LAW ON EDUCATION OF THE REPUBLIC OF LITHUANIA GUARANTEE THE CONTINUITY OF THE CONCEPTUAL APPROACH TO THE DEVELOPMENT OF THE STATE EDUCATION SYSTEM

The conception of the most general category – *development* – describes the character of the education system– autocratic or democratic. In democratic societies development *provides conditions to the individual to develop* his or her physical, mental, spiritual powers, to mature for living in the democratic society, to take on, in a creative manner, and foster humanistic values of nations and world culture, while authoritarian societies *shape* the individual based on the dominating doctrines. Therefore, the conception of development is essential for the Draft Law on Education. Opportunities to disclose one or another character of the development are opened up by provisions and principles regarding education set forth by the law.

CONCLUSIONS

1. *The conception of development* defined in the Draft Law is not sufficiently democratic (article 2/34).
2. Holistic *conceptual principles* established in the currently effective law, the 1992 Concept and the Guidelines published in 2002 – humanity, democracy, nationality (identity of Lithuania) and renewal – have been either omitted or replaced in the Draft by education *development provisions*– accessibility, contextuality, efficiency and continuity (article 4/1-4).
3. Presenting the conception of development as “the shaping of values and beliefs” of the individual, singling out the teaching of divinity from the entire cohesive direction of moral development and emphasis on it (article 30/1-7) effectively pre-programs potential world-outlook pressure on educational institutions.

IMPLICATIONS

1. The conception of development – “teaching, training, shaping of values and beliefs” – would provide conditions for strengthening of the dictate on the pupil’s consciousness and deny the freedom and responsibility of the individual to self-develop, mature as a personality through the discovery of the world, responsible choice of values, acquisition of competence, which would be unacceptable in a democratic state.
2. *Failure to declare the principle of humanity* would threaten the real education-related life with subordination of the individual’s will to the will of a union, the society and the state; *failure to declare the principle of democracy* would threaten with the return of hierarchical education relationships among individuals and among education management structures and centralisation of education management; *failure to declare the principles of nationality and renewal* would provide preconditions for not subjecting the development of the national reformed school and global education tendencies or “fad” ratio to critical analysis.

SUGGESTIONS

1. To present a democratic/humanistic conception of the *development* concept: *development is providing conditions to the individual to develop his or her physical, mental and spiritual powers, to mature for living in the democratic society, to take on, in a creative manner, and foster humanistic values of nations and world culture.* Such a conception of

development is the basis for the entire conceptual foundation of the school under reform presented in the Concept (1992) and the Guidelines (2002).

2. To state in the preamble of article 4 of the DLE that “**The general principles of Lithuania’s education** are *humanity, democracy, nationality and renewal*”. To supplement **provisions on education development** presented further in article 4 of the DLE with the provision on diversity, just as suggested in the Guidelines (2002, p 83). Thus formulated conceptual fundamentals of Lithuania’s education would ensure continuity of provisions on Lithuania’s education and would correspond provisions of the Guidelines (p 80-83).
3. The next suggestion is to swap article 3 and 4, because education principles presented in article 4 (if suggestion 2 is accepted, in particular) are of more general nature than the goals described in article 3.
4. To change the title of article 30 to *the right to shape one own world outlook*; to outline its parts so that they reflect such a right; or else to remove article 30 altogether, because article 26 of the Constitution of the Republic of Lithuania gives a very detailed guarantee to the individual regarding practicing religion and the freedom of parents and guardians to take care of religious education of their children and wards according to their beliefs, in addition, this right is sufficiently established in another article of the DLE s (article 45/1.3; article 46/2.4).

GENERAL EVALUATION OF THE DRAFT LAW ON EDUCATION OF THE REPUBLIC OF LITHUANIA

CONCLUSIONS OF GENERAL CHARACTER

1. The Draft is entitled the Law on Education, however, after studying it, one is left with the impression that this was the Law on Comprehensive Education. The content and terminology of the Draft is close to comprehensive education, while other educational links, currently defined by separate laws, are only supplements to this educational link. Nearly one third of the Draft articles (23 out of 75) are directly concerned only with comprehensive education, whereas others that just hint at other educational steps or links are only an insignificant part of what is discussed in detail in such articles from the point of view of comprehensive education (e. g. article s 37, 48, 66, etc.).
2. The Draft Law on Education contains numerous articles of general character giving declarative or explanatory information. Such presentation of material is fitting for a concept or strategy, but not the law – the regulatory legal act of the supreme state power subjecting civic relationships to legal regulation.
3. There is a certain logical (conceptual) contradiction between the education goals named in the DLE (article 3) and efficiency of the education system (article 4/3). The education goals focus on the human being (individual) and his or her qualitative characteristics, while the category of efficiency of the education system is not based on the individual's dimension at all. From the system point of view efficiency should be understood as the maximum match between its designation (goal) and functioning.
4. Consistent analysis gives no confirmation as to the existence of sufficient preconditions to assert that “adoption of the Law on Amendment of the Law on Education will improve education accessibility, quality, education management will become more effective and democratic, it will ensure better coherence of individual elements of the education system” (cf. the letter of explication regarding the DLE by the Minister of Education and Science). In comparison to the currently effective law, the DLE effectively places stronger emphasis only on some factors desired by the minister, however, many articles (4, 16, 17, 18, 20, 25, 31-33, 46, 72, etc.) lack adequately named guarantees and state obligations.
5. The DLE hardly at all reflects the encouragement of private initiative, does not suggest use of market mechanisms for the development of the education system and provision of respective services.

SUGGESTIONS OF GENERAL CHARACTER

1. To give a more clear definition of functions and responsibility of respective institutions, to name specifically who and under what conditions is responsible for what, to set evaluation criteria for service provision, the control mechanism and sanctions (article 4, 18, 20, 24, 25, article 29/3, etc.). It is advisable to include into the law description of the content of existing, potential and required bylaws.
2. The DLE often uses the category “to assist”, which is an undefined concept. It is advisable to use in the law an obligating category – to provide conditions or to ensure conditions.
3. Currently, in addition to the DLE, *Lithuania's Strategic Provisions Regarding Education Development (the Guidelines)* are being reviewed, however, *there are considerable differences between the two draft documents*. Because both documents are intended for the same society, it would be advisable: a) to align them or b) to give a more clear emphasis to the alternative character of the later document, or c) to complete the development of the Draft Law on Education after the Lithuanian Education Development Strategy has been approved, or d) to acknowledge that the Guidelines are in many respects a more

progressive and future-gearred, as opposed to stating the present, document and to transfer its provisions into the Law, giving them a legal language formulation.

4. The legal document under review might be renamed as the Law on Comprehensive Education. To develop the Law *on the Fundamentals of Education System* reflecting the basic provisions of the Guidelines. This law should be the law that spans the entire system, giving references to laws on individual educational links that currently are sufficient in numbers (on Special Development, Vocational Training, Non-Formal Adult Education, on Higher Education). It should give legal consolidation to:
 - a) the goals of the education system;
 - b) the principles for organising and functioning of the system;
 - c) relationships between individual links of the education system, ensuring lifelong learning;
 - d) financing sources for all educational links and forms of organising education activity;
 - e) system administration;
 - f) guaranteeing quality of education, supervision forms, responsibility of all levels for quality of education.

The umbrella Law *on the Fundamentals of Education System* would ensure coherence of the education system. Moreover, such a system would be more capable to strengthen education goals named in the preamble of the Draft Law on Education.

WHAT SOCIAL IMPLICATIONS AS A RESULT OF THE DRAFT BECOMING THE LAW AND THE IMPLEMENTATION OF THIS LAW MAY BE PROJECTED

Projection of potential social implications of the Draft Law on Education (hereinafter the DLE) includes analysis of the following aspects: how the Draft creates equal study start opportunities to all children; how it models, whether it guarantees education accessibility; how/whether it models the mechanism that would develop the child's, individual's wish, ability to learn and motivation; whether information on education is accessible to all social layers; whether it models social support to the youth of all social layers for acquiring education, what it is, what the mechanisms for its provision are; whether the Draft would put in place preconditions for poverty reduction in Lithuania, whether its links to the Programme 2002-2004 for Implementation of the Poverty Reduction Strategy of the Republic of Lithuania are obvious.

CONCLUSIONS

1. In nearly all articles (article 31 in particular) education accessibility is dealt with in non-binding and non-regulating formulations. Suggested new formulations (article 32) – “education accessibility to individuals experiencing social exclusion shall be ensured through supplying them with social services and pedagogical assistance” – would be significant, unfortunately, they have no grounds, because Lithuania has no regulatory foundation for this, and the DLE does not create or specify it, either.
2. Modelling study start opportunities – conditions for all children to receive preschool and/or pre-primary development preparation (article 27/6)– contains no links to the directions of the Poverty Reduction Strategy of the Republic of Lithuania.
3. The DLE provides for an opportunity for institutions for protection of the right of the child to recommend (article 6.1.2) some families preschool development based on programs, and to assign pre-primary development on a mandatory basis (article 7/2), however, it contains no provisions whatsoever pertaining to specific legal procedure, support or procedures or their developers.
4. In resolving transportation of pupils and setting the territory of the school, the Draft Law on Education violates the accessibility principle and the right and opportunity to choose the school and its type.
5. It provides for no measures developing the child's, individual's wish, ability to learn – motivation.
6. Depending on the financing capacity of the municipality and family income level, opportunities for education accessibility, quality education in particular, are considerably differentiated by the presented “payment for education” (article 72, its part 6 in particular) and the principle of financing of teaching environment (article 69.3).
7. Non-specific and unclear state guarantees to individuals regarding not having to pay for studying at schools of higher education (article 72/12).
8. The DLE does not legitimise the currently existing practices improving education accessibility– e. g. funds set up by municipalities to provide financial support to children and youth from families in need of social assistance to learn or study, it does not model new support forms.
9. Article “The Closure and Restructuring of a School or an Assistance Institution” (43 article) is very brief and gives the school founders (the Government, municipality, etc.) an exclusive right to make decisions regarding closing down or restructuring of the school.

Such an approach may not be the subject of a long public debate, however, it hardly fits the open, right-oriented text of section 5 of the Draft Law (Rights and Duties of the Pupil, Parents, the Teacher and Other Education Provider). Closing down of the small country school has a huge impact on the life of that community (and even its survival in the future), therefore, it would probably be important for the community to have a certain legal status when such decisions are made.

IMPLICATIONS

1. The deciding role on the study start opportunities will be played by the policy of municipalities, the capacity of which, unfortunately, is very uneven, because municipalities are assigned the *obligation* (article 27/6) to have "...a sufficient network of suppliers of elementary, basic, secondary, pre-primary development and other non-formal education...", to set the price for preschool development (article 72/1). Thus, there is no modelling of the national-scale policy for equal study start opportunities. As a result they will differ depending on regional economic and social development opportunities and on the family income level.
2. The DLE would clearly give priority to one part of the preschool development – institutional pre-primary development, however, one-year pre-primary development could only alleviate problems of the child growing up in a risk-group family, but not solve them.
3. Education accessibility, e. g. for employed individuals, will depend on the good will of the employer, because the law will neither oblige him, nor encourage to support a studying employee, because effectively there is no legal document obligating or encouraging this, and the DLE contains no reference to any future legal document that would oblige for or encourage this.
4. Children of not all families, of those in need of social assistance even less so, would be able to purchase paid teaching aids with their own funds, therefore, the provision of article 72/6 may encourage children of poorly living families not to attend school, which will result in the increase of expenses of the state under a different article of the DLE– 32, i. e. targeted programmes for children not attending schools.
5. State guarantees to some individuals not to pay for education (article 72/12) may become null and void, because even now such a provision should be effective, however, the concept a "well studying" individual is construed differently in individual schools of higher education, faculties or even study programmes, in addition, it is construed differently even in each semester, depending on the semester examination results of students, thus the state is obligated for nothing new.
6. Even though provisions of the DLE basically fail to model any new impact of education on the social differentiation of the society, however, they do not indicate ways for reducing social exclusion through democratically structured education, therefore, implementation of such a Law on Education gives no reason to hope for any positive and significant social changes.
7. Designation of education supervision (article 66) includes for no evaluation of education accessibility, therefore, the DLE will have no direct influence on the education accessibility.

SUGGESTIONS

1. To supplement concepts defined in the law with other significant concepts and to give their definition: *accessibility, quality (education quality or agreement regarding its indicators), social state of parents, real need, efficiency and conditions (conditions for learning)*.

2. To give a clear definition of state guarantees and to set priorities in increasing education accessibility, for the youth from families in need of social assistance and adults of low education in particular.
3. To include evaluation of education accessibility into the designation of education supervision (article 66).
4. In discussing transportation of pupils to school, to exclude the phrase “to the nearest school”.
5. Because closing down of the small country school has a huge impact on the life of that community (and even its survival in the future), to give the community a certain legal status when such decisions are made.
6. Taking into consideration the importance of provision of equal study start opportunities and the social and economic role of preschool institutions as institutions assisting the family, their impact on the socialisation of children between 5 or 6 years (from problem families in particular), it is advisable to include preschool development institutions in part 3 of article 27, in addition to the necessity of pre-primary development in the network.
7. Those developing the Law should look at preschool development as a whole rather than focusing on and emphasising any one of its parts.
8. To include provisions regarding the goal stated in the preamble of section 1 of the DLE– to assist a human being “... *to become one that is willing and able to learn on an ongoing basis and independently create his or her life*” – i. e. for the implementation of motivation development.
9. To use more extensively quantitative indicators in setting objectives (obligations) and providing adequate conditions for their implementation.
10. To provide conditions for the development of schools and cooperation of local community.

EVALUATION OF THE MODELLED APPROACH FOR ORGANISING FINANCING OF THE EDUCATION SYSTEM

CONCLUSIONS

1. According to the Draft Law on Education (hereinafter – the DLE), the financing system determines different conditions for education accessibility to pupils, because obligations of the state to citizens in the area of education financing are not clearly defined, giving opportunities to education management institutions to transfer their obligations onto pupils’ parents whose income differs (article 32/1; article 69/1, 2; article 72/2, 4, 5).
2. Teaching quality is not ensured, because quality is the responsibility of the education provider whose financial capacity depends on decisions of other state institutions, and the state does not guarantee full financing of teaching and teaching environment (article 36/1; article 60).
3. The suggested financial management system is not transparent and encourages emerging of the shadow economy in the education area and inefficient use of funds, because it legitimises fragmented financial management and supervision system dependent on various institutions (article 42/1; article 56/2; article 59).

IMPLICATIONS

1. A hidden transfer of the teaching financing burden onto citizens and the lack of public information on the financial activity of schools would have a negative impact on the confidence of residents with state institutions. Tax revenues of the state and municipal

budgets would decrease, because parents would have to allocate part of income to private tutoring of children. Opportunities available to pupils to develop their personality would depend on the income level of their parents; thus, they would be completely different, which does not guarantee equal opportunities.

2. Families residing in poorer regions would require more funds for financing additional quality education services, because municipalities of such regions will have no sufficient funds for the teaching environment. The society would have social groups, the level of comprehensive education of which would be below the national average. From the point of view of long-term prospects, this would cause an even greater underdevelopment of economically poorer regions and increasing social expenses on the state scale.
3. If financing capacity does not match the set requirements for education quality, part of non-formal development programmes and schools would have to be terminated or else this would result in provision of low quality non-formal education services.

SUGGESTIONS

1. To supplement rights and responsibilities of the Lithuanian population (article 24) with a provision regarding the right to free teaching under formal elementary, basic, secondary or respective special development programmes and to state that the right to receive quality knowledge from the financial point of view is guaranteed by the state.
2. To include into the Law provisions regarding the state providing support to financing the formal teaching environment and non-formal teaching in those municipalities, where expenses per pupil for these purposes in proportion to the municipal budget are lower than the national average.
3. To give the Ministry of Education the powers to maintain the statistics on the number of pupils and, in collaboration with the Statistics Department under the Government of Lithuania, make projections regarding the change in the number of pupils and provide this information to school founders.
4. To provide a cohesive system for organising education financing, accounting, use and supervision of funds and public accountability to the society on the level of each education provider (school) and to specify the institution in charge of this.
5. To provide the system of specific financial preconditions and incentives for individuals to engage in lifelong learning.

WHAT CHANGES IN EDUCATION MANAGEMENT AND THE DISTRIBUTION OF FUNCTIONS ARE MODELLED IN THE DRAFT LAW ON EDUCATION

The following aims of those who drafted the law were pointed out, in addition to others, during the presentation of the new Draft Law on Education (Presentation of the New Draft Law on Education. MES, 2001-10-21):

- real decentralisation;
- clear identification of competences and responsibility;
- bringing network-related decisions closer to consumers of specific education services.

CONCLUSIONS

1. One may draw a generalising conclusion that only the second one of the aims set by the authors was partially achieved. The new draft provides for neither real decentralisation nor bringing network-related decisions closer to consumers of specific education services.

2. Section 4 of the new Draft Law on Education “Establishment, Activity, Closure and Restructuring of Schools and Assistance Institutions” and Section 6 “Education Management. Self-Governance” essentially make no difference. These sections, in comparison to counterpart sections and articles of the current Law, are only more detailed, logical, more clearly separating and more specifically identifying functions of various education levels.
3. Distribution of powers among various education levels, responsibility and functions remain virtually unchanged. Respective sections of the new Draft Law encourage neither further decentralisation of the education system, nor, on the contrary, centralisation.

IMPLICATIONS

Projecting potential implications of the Draft Law on Education as it is now, one may draw the following conclusions:

1. It would not inspire any more significant changes in the area of education management and self-governance.
2. The Lithuanian education system would continue to be strictly centralised.
3. All decisions of any significance would be made on the central government level or only upon its approval.

SUGGESTIONS

1. The essential contradiction of the present education system is that the existing developed multi-step education model is by far more fitting for decentralised education rather than centralised.
2. If a final decision is made that the Lithuanian education system is to remain centralised (the new Draft Law on Education allows to make such a conclusion), this multi-step model must then be simplified.
3. Interim educational links hold no real powers, therefore, county education divisions must be abolished, and municipal education divisions to be cut down in size as much as possible.
4. Further, all auxiliary agencies must be restructured into public institutions, with financing for performing auxiliary functions to be allocated through a public tendering procedure.

DOES THE DRAFT LAW ON EDUCATION ENSURE COHERENCE OF EDUCATIONAL STEPS AND HOW

From the point of view of coherence of educational steps the Draft Law on Education (the DLE) has been subjected to the analysis of the following aspects:

- Strategic planning of coherence of educational steps. Relation and compatibility of goals of educational programmes (preschool, elementary, basic, secondary, postsecondary, college, university, postgraduate) and programmes;
- Interaction of formal, non-formal and informal education;
- Diversity of education forms able to implement programmes of different levels; interaction of academic and vocational education; individual’s opportunities to move within the education system and to resume studies under programmes of a respective level upon discontinuation of learning;
- *Analysis of the DLE with reference to lifelong learning is presented in the next section.*

CONCLUSIONS

1. The DLE fails to create the whole of the permanent, consistent and cohesive education system. The Draft seems to contain division of the education system into individual areas rather than trying to achieve their functioning as an interacting whole.
2. Formulations of programme goals of each education level emphasise different aspects.
3. Analysis of the Draft with reference to the connections of the education system raises doubts related to separation of preschool and pre-primary development (articles 6 and 7), because, according to the Lithuanian Education Classification (1999), pre-primary development programmes are part of the preschool development level.
4. The DLE provides for the opportunity for institutions for protection of the rights of the child to recommend (article 6.1.2) some families preschool development based on programs, and to assign pre-primary development on a mandatory basis (article 7/2), however, it contains no provisions whatsoever pertaining to either the specific legal procedure, procedures or their developers.
5. Coherence of pre-primary development, as part of the preschool development, and elementary development and equality of school start opportunities are violated by setting mandatory pre-primary development only for part of children growing up in problem families.
6. Programme diversity of each teaching step is not stated, placing emphasis on one programme of each step, which restricts opportunities to individuals to choose the most optimum ways for moving within the education system.
7. The Draft attempts to join and combine secondary and vocational, secondary and college, college and higher education study programmes and special development, however, coherence in the presented articles is not fully defined, not specifying who will be responsible for the programme accreditation procedure and its preparation; in addition, assignment of the right to study programme modules of college and higher education schools to the secondary development step (article 10/4) violates the separation of specific objectives and designation of secondary development and postsecondary education.
8. The Law does not give a clear definition to the formalisation and accreditation system of non-formal and informal development, recognition of competences they provide (article 15-17).
9. While regulating the right and duty of Lithuanian residents to learn (article 24), the Draft does not state the main right – to receive quality education services, and in case of learning difficulties– to receive pedagogical psychological assistance on time.
10. The DLE does not give the concept of the individual that dropped out of education (article 28), while the reference to the 16th century does not comply with the EU provisions: in European countries this group includes individuals of 18-24 years of age having acquired at least secondary education.
11. Information, psychological, social pedagogical, special pedagogical and special, medical assistance that may be operational in an educational institution or outside it are provided for in articles 18-23, however, there is no article providing for cooperation of these assistances and action coordination of their activity.
12. The Draft gives a too narrow definition of the designation of monitoring, failing to reflect the need to evaluate situation in educational institutions with reference to functioning of the network/types and education accessibility.
13. The DLE was developed emphasising the diversity of educational programmes, therefore, it seems to be strange that it is not based on the Lithuanian Education Classification

(1999), developed on the basis of the International Standard Classification of Education (ISCED).

IMPLICATIONS

1. Due to vagueness of articles 10-14 describing programmes of individual learning steps educational institutions might interpret them differently, i. e. whatever way is more beneficial to the institution; assignment of the opportunity to study under modules of college and higher educational programmes to the secondary development step would not only confuse the designation of secondary and postsecondary education, but also would legitimise unlimited learning load of pupils that is even currently too big because some subjects are already taught under programmes and textbooks of schools of higher education at secondary schools, and gymnasia in particular; stating such a provision, authors of the DLE are possibly trying to cover up the gaps of the poorly structured content of development, not developed according to the model of profiled teaching.
2. If the DLE does not regulate and only explains the interaction of formal, non-formal and informal education, it would leave out the guarantee that programmes of non-formal education and competence acquired during informal education would be recognised as part of the formal education. The authors of the Law seem to be inclined to join these areas of education, indicating that this “may be” done, in accordance with the procedure established by the Government or its authorised institution, however, formulations “may be” partly deny this, because it may or may not be implemented.
3. The DLE emphasises pedagogical psychological assistance only to individuals seeking basic education, which would lower opportunities to provide such assistance in the form of counselling to individuals potentially willing and able to learn, helping them to find the optimum learning way and to come back to the education system.
4. The DLE (article 28) focuses on the right of the school to expel pupils from school, not providing for the preventive assistance to the pupil helping to adapt in a different learning environment; in addition, setting the age of the individual that dropped out of the education system at 16 years would pre-program by law a lower education and, consequently, competitive level of Lithuanian citizens, because schools would be inclined to expel easily teenagers that turned sixteen with problems of growing up, because this would not put down the indicators of the school and the education system.
5. Education monitoring, based on received information and projections, would allow to state and project the education system as the state and functioning of the whole. Failure of the Law to define these aspects, thus failing to evaluate the situation, would make it difficult to see educational institutions of what type are functioning, and of what type - are not, programmes of what level and forms are operational and whether opportunities are available, upon discontinuation of learning, to come back to programmes of one or another respective level.
6. Designation of education supervision (66 article) does not include evaluation of education accessibility; therefore, adoption of the DLE will not improve education accessibility.

SUGGESTIONS

1. To integrate strategic education plans (53/2-7) into human resources development plans, so as to expand the opportunity to use funds of EU structural funds for the development of all areas of education (as they could not be used for the development of education directly).
2. When emphasising the coherence of the education system and relying on the existing Lithuanian Education Classification, it would be advisable to integrate part of articles on special development and vocational training with programmes of respective levels, which

would allow to state that, according to the Law, special development is an integral part of general development and hope for interaction of general and vocational education.

3. Authors of the Law should orient at preschool development as a whole, placing no emphasis or focus on its either one part.
4. The Law on Education should reflect programme diversity according to the Lithuanian Education Classification.
5. Designations of secondary and postsecondary education should not be confused, programmes should not be moved from a higher step to a lower one, legitimisation of unrestricted learning load on pupils may not be allowed.
6. Articles 15-17 of the Law should be adjusted, because they only partly provide for the interaction between formal and non-formal learning; informal education (self-study) should not be left separate.
7. Pedagogical psychological assistance should be directed not only at individuals oriented at basic education, but also at counselling of individuals, seeking to return them into the education system and suggesting to them an optimum route of learning and study.
8. To give a conception of the individual that dropped out of the education system and to raise age limits of the individual that dropped out of the education system, not placing restriction at 16 years, but rather extending the age until at least 18 years; orientation at meeting and coordination of supply and demand of returning individuals back into the education system should emphasise coherence and diversity of programmes (see Appendix 1) and forms (full time, evening, external, correspondence, distance) offered by educational institutions.
9. To adjust the designation of monitoring and education supervision and the definition of powers of institutions performing them (article 66 in particular), where supervision institutions are assigned more powers than the ministry (article 56), while the supervision and monitoring of the functioning efficiency of the education policy and the education system is not provided for.

PROJECTED IMPLICATIONS OF THE IMPLEMENTATION OF THE LAW FOR THE NETWORK AND TYPES OF EDUCATIONAL INSTITUTIONS OF THE REGION

CONCLUSIONS

1. The Draft Law on Education (the DLE) only partly guarantees coherence of education within county and municipal competence, because public participation is ensured in councils of individual education areas (63/1), rather than in a civic institution (council) of education (in the broad sense) or human resource development.
2. The Draft Law on Education allows (59.4) the founder (county, municipality) to create (establishment and termination of a school is restricted by 41.1.5-6 and 43.1), in a partly more liberal way, types of educational institutions and their network.
3. The Draft Law on Education gives the gymnasium as a type that by content does not differ from the type of the secondary school.
4. In resolving transportation of pupils to school and setting the school territory, the Draft Law on Education violates the accessibility principle and the right and opportunity to choose the school and its type.

5. The current formulations of articles of the Draft Law on Education do not clearly define the strategy for special development: what is encouraged in Lithuania– is it integration of special-needs children into schools of comprehensive education, or expansion of the network of special schools.

IMPLICATIONS

1. Fragmented management of various education areas (on all levels) allows to forecast that only institutions of some education areas will be able to use the European Union structural funds.
2. Municipalities would become more independent from one point of view– setting up a network of institutions, one just needs to hope that, using this independence and lack of money, municipalities would not make education less accessible to children from rural areas and poorer social layers.
3. The DLE would not radically solve the relation between the gymnasium and secondary school, but rather establish a status quo, therefore, resolution of the issue may be transferred to municipalities, giving no criteria for the differences of these types, in addition, it would not help the supreme authorities of the country to take clear decisions on the issue of gymnasias and secondary schools.
4. Such solutions of transportation of pupils to school and setting the school territory would effectively restrict the right of children and their parents to choose and select the school for the child by the provided education quality and would partly conflict with the opportunities for movement and choice put in place by the pupil's basket. One guess is that this way the Ministry of Education and Science would attempt to supply children, i. e. to retain them in unpopular schools closer to home. However, such methods would make opportunities for children from poorer social layers to choose quality education services even fewer, effectively determining placement at a school nearby.
5. Regarding education quality:

The DLE does not define education quality (no agreement is reached on its indicators), therefore, the whole article “Education Quality” (article 36) will hold no legal power.

SUGGESTIONS

1. The following is suggested with reference to strengthening of self-governance and public participation and coherence of education areas: to rephrase 63/1 to read as follows “...established ...education council and its associated councils of individual education areas”.
2. To integrate strategic education plans (53/2-7) with regional development and human resource development plans, so as to widen the capacity to use funds of the European Union structural funds for the development of education of all levels (as they cannot be used for the development of education directly).
3. Regarding the secondary and gymnasium school type:

There are two options for resolving the difference between these two school types – the secondary development, the second main centre of development content and the international bachelor's degree programme: – a) the secondary school may also provide such a formation of programmes and; b) to name schools offering the secondary development programme of the highest level gymnasias.
4. Regarding licensing principles:

To make the licensing procedure identical for all schools irrespective of the founder, educational step and programme.

5. Regarding violation of the accessibility principle:
 - In discussing transportation of pupils to school, to exclude the phrase “to the nearest school”.
 - In discussing admission of pupils to school, to exclude the phrase “priority is given to individuals residing in the servicing area assigned to that school by the founder”.
 - Not to restrict school territory with reference to admission of children to them.
6. Regarding education assistance:
 - To discard the principle of strict centralisation (41/1.6) through establishment of institutions of assistance to the teacher, pupil and school, or to have additional discussions regarding who will perform supervision of their activity.
7. Regarding education quality:
 - To establish agreement regarding the concept of education quality.

DOES THE DRAFT LAW ON EDUCATION CREATE OPPORTUNITIES FOR LIFELONG LEARNING?

CONCLUSIONS

1. The Draft fails to reflect the provisions of the Lifelong Learning Memorandum announced by the European Commission on October 30, 2000 and the provisions of the Guidelines for Lithuanian Education Development for 2002-2013 and to create the whole of links of the education system, cohesive and consistently complementing one another, establishing provisions subject to regulation of individual educational links only (see arguments in the author’s text).
2. The Draft provides for the education system (article 5) not including individuals who, for various reasons, are not learning, which contradicts the principles of lifelong learning.
3. Provisions of the Draft express real concern only with learning until the age for compulsory learning (16) and models specific actions and structures geared at this, rather than creating the system that would ensure a closer connection of individual links and, simultaneously, opportunities for lifelong learning.
4. Suggested provisions on monitoring do not obligate and encourage to consider to-be-created opportunities for lifelong learning an indicator of education quality.
5. Shaping and acceptance of the modern conception of lifelong learning in the society will be obstructed by the Draft language and terminology creating psychological and cultural barriers.
6. This Draft effectively fails to discuss issues of the financing of lifelong learning (section 7).

IMPLICATIONS

1. The Draft Law on Education suggests no real foundation for lifelong learning, thus, it would be left to its own resort, which, in the context of Lithuania, means - to vegetation. Therefore, it is not clear how optimistic statements of the Guidelines could be implemented, while the Draft gives no foundation for that.
2. Failure of the Draft Law on Education to orient at the memorandum of the European Commission immediately pre-programs the situation of Lithuania dropping out from the European education space from the lifelong learning point of view, failing to give opportunities to citizens to acquire required abilities and competences under changing labour market conditions demanding competitiveness, while failing to put in place conditions for being competitive in the European labour market.

SUGGESTIONS

1. The DLE provides for no specific *financial preconditions and incentives* for individuals to engage in lifelong learning and does not encourage to provide them (section 7). Article 31 “Education Accessibility to Working Individuals” of the Law provides for no incentive conditions for the employer to invest into training of his or her employees. Following the approval of the Guidelines, the LE would have to be aligned with the national taxation policy, if, according to the Guidelines, taxation procedure, under which “*these taxes encourage investment by citizens and companies into education*”, is to be created over the next 2 years.
2. Rephrasing individual articles would not change the essence of the Law from the point of view of legitimising lifelong learning, the point of view of the EC memorandum and the point of view of the Guidelines.
3. To make radical changes in the law (for more details see Suggestions of General Character), once a decision is made that the principle of lifelong learning is the key factor of Lithuania’s human resource development.
4. [A more detailed analysis text (see the author’s comments below) includes suggestions on how defective formulations of articles could be edited.]

WHAT OPPORTUNITIES FOR THE DEVELOPMENT OF NON-STATE EDUCATION SERVICES ARE MODELLED

The goal to be set for the regulation on non-state education is to create non-discriminating conditions for providing education that would use acceptable means to help achieve desired results, under any institutional structure.

Evaluation of the conformity of the Draft Law on Education with this goal requires to analyse its provisions from a number of perspectives:

- whether the non-state school is defined accurately and adequately and separated from the state school;
- whether conditions are put in place for the establishment of non-state educational institutions;
- whether non-state educational institutions are adequately regulated, in comparison to state and municipal institutions;
- whether allocation of state and municipal financing does not provide for the discrimination of pupils and students of non-state educational institutions;
- whether regulation of the education process by other means does not, for no reason, make or encourage pupils and students to choose state education.

CONCLUSIONS

1. The definition of the non-state school is doubtful: the definition (article 2/19) gives an unsupported reference to the fact of establishment; the definition does not adequately solve the issue of how to interpret cooperation of the state and municipality in setting up schools.
2. The Law contains no direct provisions for exclusive restrictions on establishing non-state schools. However, the Draft offers no safety fuses preventing such restrictions and does not establish the principle of non-discrimination, rather providing for different licensing procedures applicable to state and non-state educational institutions (42/5).
3. The provision of the Draft (article 42/1) that the school is either a budgetary institution or a public institution blocks setting up of non-state schools holding a different status of a

non-profit organisation (a charity and support fund, an association, a civic organisation) and a status of a company (even though profit-seeking educational institutions are becoming increasingly popular throughout the world).

4. The Draft proposes to set the function and duty of state institutions to ensure the optimum network of schools (article 27/4-7). Such a provision may in certain cases be interpreted unfavourably with respect to non-state schools.
5. Attempts to regulate activity of the non-state school are too petty, e.g., the start and duration of the school year (article 56/4.1).
6. The provision of the Draft that funds for the school “environment” are allocated by the founder is discriminating with respect to non-state schools (the founder of which is non-state institutions).
7. The Law does not guarantee that programme-based financing of educational programmes (with the exception of programmes financed from the “pupil’s basket”) would not discriminate non-state schools, i.e. their pupils.
8. The Draft fails to establish the general principle that self-study may not be discriminated from the point of view of institutional education, as a result, it offers very restricted alternative opportunities to implement development or study programmes or their parts.
9. The procedure for setting up institutions of assistance to the teacher, pupil and school (41/5-6) is overly centralised and may become a factor restricting their development.

IMPLICATIONS

1. The inaccurate definition may give rise to problems when the school has been established by the state, but later handed over to another individual, or, vice versa, it is set up by a private individual, but later handed over to the state; therefore, hardly all schools, setting up of which was participated by state institutions, may be considered to be state schools (article 2/38), and not all schools, setting up of which was participated by municipal council, can be considered to be municipal schools.
2. Legitimised “coordination” of proposing educational programmes may become one of the “hidden” tools for the discrimination of non-state education (article 27/3): it conceals the opportunity to impose restrictions to free provision of education services; in addition, item 2, providing for the direct involvement of state institutions in the establishment, restructuring and reorganisation of schools, indirectly provides that the state must fill each newly appearing education niche, thus leaving no space for non-state schools and institutions providing education assistance.
3. Another potential tool of discrimination is the right of state institutions to regulate the network of schools (article 27/4-7), which may encourage the latter to wish that non-state schools are positioned according to the needs of “optimum” network that may not match the strategy chosen by the non-state school.
4. Failure to set the principle of non-discrimination and transferring a lot of competence to executive authorities that, in the absence of this principle in the Law (complemented by rather complicated enforcement of the Law on Competition, prohibiting discrimination by bylaws), may result in the latter setting discriminating conditions with respect to non-state education and institutions providing education assistance;
5. The provision of the Draft Law on Education that learning environment is financed by the founder fails to provide equal basis for the financing of state and non-state schools. Moreover, it gives no alternative opportunities for financing the environment of non-state schools with public funds, effectively denying such an opportunity.

6. The Draft identifies subjects that may implement certain programmes, however, the presented extensive list does not provide that a development programme or its part (a certain course) could be implemented independently by self-employed teachers, the pupil's family or the pupil (and a student in particular). This would, for no good reason, restrict opportunities to offer educational programmes or their parts. This restriction applies to programmes of all teaching steps, and elementary development in particular, when families are more inclined to develop their children themselves.

SUGGESTIONS

1. To review the DLE and ensure that non-state education is not restricted, to legitimise not only education in non-state institutions, but also non-institutional education and self-education, acquisition of competence and vocational qualification. The Law should guarantee that competences acquired as a result of self-learning and qualification achieved as a result of self-study are recognised.
2. To adjust the provision (article 42/1) and to establish that the school may be any legal entity.
3. To adjust the legal technique: part 2 of article 42 2 is repetitive, and using the concept of "association documents or other documents", rather than the concept of "regulations (statute), transaction of the school association" in the "second" part of part 2 would be more accurate.
4. Attention should be drawn to part 1 of article 49 that, for no good reason, deals only with a self-employed teacher, implementing non-formal education, thus eliminating self-employed teachers from the formal education.
5. Non-state education is a new and still developing phenomenon, therefore, it can be expected to fill certain gaps of the state education most efficiently, rather than offer the whole alternative, therefore, part 2 of article 26 should be adjusted to state unambiguously that the pupil may choose not only the programme implementer, but also the implementer of a programme part.
6. To establish a general principle of non-discrimination for all forms of non-state education and, following the principle of non-discrimination, to review all provisions of the DLE regulating non-state education.

ANALYSIS OF THE KEY WORDS OF THE DRAFT LAW ON EDUCATION, THEIR SYNONYMS, OCCURRENCE, CORRELATIONS AND CONTEXT

Analysis of the occurrence frequency of concepts used in the Draft Law performed during the Expert Evaluation (using the *Hamlet* software *beta* version) has shown that it gave least attention to education accessibility, quality and shaping motivation for learning, even though accessibility was named as the first/key principle of the education system.

CONCLUSIONS

1. Words most frequently occurring in the Draft Law on Education (including all synonyms attributed to them) include “*education*” (*develop*, train*, scien*), “*agents*” (communit*, student*, teacher*, parent*, manage*, council*) “*institutions*” (minist*, founder*, county*, municipal*), “*assistance*” (information*, psycholog*, pedagog*, medic*, material*, marginal*, counsel*).

The least frequent occurrences were characteristic of words “*quality*” (require*, criter*, standard*, achiev*, evaluat*, responsib*), “*accessibility*” (guarant*, inform*, opportunit*, network*, select*), “*motivation*” (wish*, ability*, capability*, create*, skill*).

2. Most frequently occurring word combinations include “education” and “institutions”, “agents” and “education” and “agents” and “institutions”. This could be explained by the fact that the Draft Law places key focus on institutions coordinating the development, science, training and education process; with a lot of attention given to the status of the agents of the education area in the educational system, their rights and duties, responsibility; institutions regulating agents and their activity in the education system.
3. The Draft Law on Education gives most attention to the composition of the education system, its institutions and agents. Regulation of various types of assistance to the pupil, teacher, etc. is looked at rather extensively in the Draft Law. Least attention was given to accessibility of the education system, its quality and learning motivation.