

Questionnaire of the Fourth Commission.

Working conditions for children.

Answers by the Lithuanian Association of Judges

1. Has your country provided for a legislation or protective measures concerning children at work?

In the affirmative, specify the purpose and main lines, particularly:

- **minimum age for employment;**
- **differences in rights based on age;**
- **special working conditions for children.**

In Lithuania a set of laws and other legal acts are connected to the protection of children at work, in particular:

1. Law on Fundamentals of Protection of the rights of the Child (adopted on 14th of March 1996) ;
2. Law on the Inspector for the protection of the rights of the Child (adopted on 25th of May 2000) ;
3. Law on Employment Contract (adopted on 28th of November 1991);
4. Law on Safety and Health at work (adopted on 17th of October 2000);
5. Law on Holidays (adopted on 17th of December 1991).

In addition, Lithuania has ratified several important international documents, related to children protection at work, as UN Convention on the Rights of the Child, (ratified by Lithuania on 21st of July 1995), ILO C138 Minimum Age Convention, 1973 (ratified by Lithuania on 22nd of June 1998), ILO CO79 Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (ratified by Lithuanian on 26th of September 1994), ILO C90 Night Work of Young Persons (Industry) Convention (Revised), 1948 (ratified by Lithuania on 26th of September 1994). According to Article 138 of the Constitution of the Republic of Lithuania, international agreements, which are ratified by the Seimas (the parliament), are the constituent part of the legal system of the Republic of Lithuania.

Generally, the observance of labour laws in Lithuania is controlled by the State Labour Inspection, which has a right to inspect all kinds of undertakings, offices and organizations and penalize the employers in case of breach of labour laws according to the Administrative Code of the Republic of Lithuania.

Observance of children rights (including labour rights) may also be supervised by the Office of Inspector on Protection of Rights of a Child – an institution accountable to the Seimas, which is empowered to submit a claim to the court in case of violation of the rights of children.

Minimum age for employment

Para 1 of the article 4 of the Law on Employment Contract states a general principle that only a permanent resident of Lithuania who is 16 years of age or older may be a party to the employment contract. Para 2 of the same article however allows an exception, providing that it shall be allowed to conclude employment contracts with children under 16 years of age, but only for performance of light works, which suit their physical capabilities and the list whereof is approved by the Ministry of Social Security and Labour and the Ministry of Health Care, and

under the conditions of employment laid down in the Law of the Republic of Lithuania on Safety and Health at work.

Following the aforementioned provision, on the 11th of September 1996 the Government of the Republic of Lithuania has approved the order and conditions of employment of persons from 13 to 14, from 14 to 16 and from 16 to 18 years of age and the list of works that persons from 13 to 14 years of age are allowed to perform.

Thus there are the following two age limits for employment in Lithuania:

- 1) 16 years of age as a general principle, and
- 2) 13 years of age as exceptional minimum age for employment.

Differences in rights based on age

Article 39 of Law on Fundamentals of Protection of the rights of the Child states that the child shall have the right to work commensurate with his/her age, state of health, general education level and professional expertise. Work shall be chosen freely. Having attained 16 years of age and unwilling or incapable of continuing the studies, he/she may work.

After analysis of correspondent national legal acts, the following 3 groups of children employees may be indicated subject to the scope of rights and protective measures applied:

- 1) From 13 to 14 years of age,
- 2) From 14 to 16 years of age.
- 3) From 16 to 18 years of age

After reaching the age of 16, a child may sign the employment contract under the Law on Employment Contract and has virtually the same rights and duties as adult employees. Yet certain safeguards remain until the child reaches the age of 18, as for example:

- 1) Employment of children from to 18 years old is prohibited for work, which:
 - a) is beyond their physical and psychological capacity;
 - b) which young person might not be able to perform safely due to lack of experience or attention to safety,
 - c) which involves exposure to agents which are toxic, carcinogenic, cause genetic mutation or are harmful to health,
 - d) which involves possible exposure to ionizing radiation or other hazardous and (or) harmful,
 - e) which involves a higher risk of accidents or occupational diseases and work.

On the 11th of September 1996 the Government of the Republic of Lithuania has approved the list of works performance of which is prohibited for the persons under 18 years of age. The list contains 68 subsections, and deals mainly with hazardous, potentially harmful works or works involving the complicated technologies.

2) Before hiring a person under 18 years of age, the employer must assess:

a) whether or not the work to which the young person is to be assigned is on the list of jobs for which employment of young people is prohibited, whether or not the work involves harmful exposure to hazardous, dangerous factors which affect human health and work involving exposure to which may not be assigned to young people;

b) the workstation and the working environment with regard to compliance with the requirements for safety and health at work;

c) the use of dangerous chemical agents in the undertaking and exposure to their potential effect (nature, degree and duration of exposure);

d) the technical condition of work equipment, conditions of storage of hazardous and dangerous substances, in order to avoid young person's exposure to them due to absence of awareness of existing or potential danger;

e) the organization of work, technological processes and layout of work equipment in order to prevent young persons from entering the areas of workplaces where hazardous chemical agents are used;

f) the ability of the young person to understand and fulfill the requirements of safety and health at work and his physical capacity to perform the assigned work.

3) Young people may not be employed in more than one undertaking (workplace) at the same time.

4) A list of persons under 18 years of age working at the undertaking must be compiled.

Work by children under 16 years of age is generally prohibited, except light work, which suits the child's physical capabilities under the certain conditions of employment.

Children from 13 to 14 years of age may be employed only for the performance of works listed in the list approved by the Government of the Republic of Lithuania. The list approved on the 11th of September 1996 contains 26 allowable works, such as selling of newspapers, packing of manufacture, gathering of herbs, pasturage, planting of saplings and brushes, auxiliary works at libraries, etc. For the performance of any other works children from 13 to 14 years of age may not be employed.

A child under 16 years of age may be employed upon a written agreement between one of the parents or other person raising the child and the employer, upon the child's request accompanied by a medical conclusion about the child's health and the doctor's permission, This agreement may be terminated at any time on the initiative of the child, one of the parents or other person raising the child or by the child's doctor. The state of health of a child must be checked periodically (once a year) until he/she reaches the age of 18.

If the child hasn't finished the comprehensive school yet (in Lithuania schooling is compulsory until the age of 16), he/she may be employed only for the time of holidays or for the spare time, under the condition that it doesn't impair the schooling and the child has enough time for doing his/her homework.

Special working conditions for children

According to Article 40 of Law on Fundamentals of Protection of the Rights of the Child, children shall have the right to shortened work time and longer vacation time than that of adults as well as other guarantees and privileges established by laws.

As it was mentioned above, children until they reach 18 years of age may not be employed for the performance of certain works, which may be too complicated, dangerous or harmful. The employer, upon the recruitment of young people and periodically in the course of employment, must inform them of possible risks and preventive and all other measures used in the undertaking to ensure safety and protect health of the workers. Moreover, the employer must also inform the parents or guardians of the young person employed about the potential risks and preventive measures.

Every employer must guarantee young people working conditions appropriate to their age and ensure that young people are protected against any work likely to harm their safety, health or physical or mental development or to jeopardize their education.

Working time for children from 13 to 14 years of age may not exceed 20 hours per week and 4 hours per day or half of the time indicated if they are employed during the school year.

It is prohibited to assign children to work during night time, on holidays and days off or to work overtime. Adolescents (from 16 to 18 years of age) may not be recruited to perform

work from 10 p.m. to 6 a.m. or from 11 p.m. to 7 a.m. The uninterrupted daily rest period for adolescents must be at least 12 consecutive hours. Children from 13 to 16 years of age may not be hired to work from 8 p.m. until 6 a.m. The uninterrupted daily rest period for them must be at least 14 consecutive hours.

Young people who work more than four hours a day are entitled to an at least 30-minute break during the working time. This break is counted as working time. They are also entitled to at least two days off a week.

The duration of the minimal annual holiday for employees under 18 years of age is 35 calendar days (when for adults – 28 calendar days).

Additional employment guarantees are applied to orphans, left without parental care (guardianship) or to children lacking in vital material support. According to Article 41 of Law on Fundamentals of Protection of the rights of the Child, to employees who shall reserve work places for such children and employ them, privileges shall be applied according to the procedure established by laws.

Article 42 of the Law on Fundamentals of Protection of the rights of the Child obliges the State and municipal institutions to prohibit natural and legal persons from exploitation of, or other discrimination against a working child. The state is obliged to protect the child from all forms of exploitation at work through use of social, legal, economic, medical and upbringing measures.

2. What are the sanctions (applied or applicable) in case of breach of children's right at work?

There are no specific sanctions foreseen for the violation of children's right at work. Article 41 of the Administrative Code of the Republic of Lithuania states that for the violation of labour laws the fine from 500 to 5000 Litas (approximately 145 – 1450 Euros) shall be imposed on the employer. This provision is applicable in any case of violation of labour laws, including the violation of children's rights and guarantees.

Any recent cases in your country on violation of children's right at work?

There are no records about recent cases of this nature.

3. Specify, if need be, the concrete measures likely to improve the conditions of children at work in your country

Annual reports of the State Labour Inspection of the Republic of Lithuania enable to maintain that the violation of children rights at work is not a major problem in Lithuania. During the year of 2001 violations of labour guarantees of children under 18 years of age were found in only 7 inspected undertakings. Most violations of labour laws in Lithuania are related to more general problems such as illegal work, violations of order of payment, etc.

Annual report of the Inspector on Protection of Rights of a Child for the year 2001 also introduces just several mostly general future-oriented proposals in the area of children rights at work, such as the need to ensure the practical realization of principle of non-discrimination, to prepare a program for the employment of children during the time of summer holidays and other free time, to prepare a program for the employment of stray children and children who have served the sentence to imprisonment.