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# DAUGAVPILS UNIVERSITĀTES 63. STARPTAUTISKĀS ZINĀTNISKĀS KONFERENCES RAKSTU KRĀJUMS

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## PART B. SOCIAL SCIENCES

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Daugavpils Universitātē docētāju un studējošo zinātniskās konferences notiek kopš 1958. gada. Konferencēm ir starpdisciplinārs raksturs un tajās piedalās gan studējošie, gan docētāji, gan arī ievērojami zinātnieki no dažādām pasaules valstīm. Daugavpils Universitātes 63. starptautiskās zinātniskās konferences pētījumu tematika bija ļoti plaša – dabas, veselības aprūpes, humanitāro un mākslas un sociālo zinātņu jomās.

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*Daugavpils Universitātes 63. starptautiskās zinātniskās konferences rakstu krājums* tiek publicēts 3 daļās: A. daļa. *Dabaszinātnes*; B. daļa. *Sociālās zinātnes*; C. daļa. *Humanitārās zinātnes*.

The annual scientific conferences at Daugavpils University have been organized since 1958. The themes of research presented at the conferences cover all spheres of life. Due to the facts that the conference was of interdisciplinary character and that its participants were students and outstanding scientists from different countries, the subjects of scientific investigations were very varied – in the domains of natural sciences, health care sciences, humanities and art, and social sciences.

The results of scientific investigations presented during the conference are collected in the collection of scientific articles ***Proceedings of the 63rd International Scientific Conference of Daugavpils University.***

*Proceedings of the 63rd International Scientific Conference of Daugavpils University* are published in three parts: part A. *Natural sciences*; part B. *Social Sciences*; part C. *Humanities.*

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# IZGLĪTĪBAS ZINĀTNES / EDUCATIONAL SCIENCE

# PROBLEMATICS OF THE SPECIFIC FIELD AND POSSIBLE SOLUTIONS WITHIN THE FRAMEWORK OF REALIZATION OF THE FOREIGN LANGUAGE STUDY COURSE AT THE FIRE SAFETY AND CIVIL PROTECTION COLLEGE


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**Abstract**

**Problematics of the specific field and possible solutions within the framework of realization of the foreign language study course at the Fire safety and civil protection college**



***Key Words:*** *foreign language study course, problematics and solutions, specific field, foreign language for officials with special service ranks*



International co-operation within professional field has become an integral part of everyday work, that is why knowledge of the mother tongue (state language) only, is not sufficient to be able to integrate innovations developed at the international level at the local level (within one country). Knowledge of a foreign language is recognized as a precondition for the integration of topical issues in the professional field and directly influences the level of development of a particular field within a country.

There is no need to look for additional arguments for the necessity to learn a foreign language, which has been confirmed by the European Commission in strategic documents. Acquisition of a professional foreign language is an integral part of any field of study and also applies to those study programs that are implemented by the Fire and Civil Protection College, which is subordinated to the State Fire and Rescue Service.

When learning a foreign language (with a professional orientation) it is compulsory to face the problems that are characteristic of each learning process, as well as difficulties (problems) that arise from the specifics and peculiarities of the specific field when training officials with special service ranks.

The following conditions should be mentioned as specific:

1. Officials with special ranks are in a subordinate relationship;
2. The students of the FSCP College study mainly technical subjects, while humanitarian subjects are given secondary importance;
3. Knowledge of English of the students is not tested, as a result the level of knowledge of a foreign language could differ significantly within one study group;
4. Insufficiency or absence of teaching aids containing field-specific terminology;
5. Unavailability of innovative technical means (special equipment) during the training process;
6. Strictly regulated algorithm of activities and procedures in the institution, including the implementation of the learning process.

In order to prevent or reduce the impact of the above-mentioned negative conditions on the study process (in general), as well as the implementation of a foreign language study course, a complex approach is required. In turn, before the implementation of certain organizational measures, it is necessary to carry out a detailed risk analysis process, which would avoid unjustified and irrational experimentation in the implementation of study courses and correspond to the findings that form the basis of the European education area and are important in terms of learning process in the context of FSCP activities.



**Kopsavilkums**

**Jomas specifikai raksturīgā problemātika un tās iespējamie risinājumu svešvalodas studiju kursa realizācijas ietvaros Ugunsdrošības un civilās aizsardzības koledžā**



***Atslēgvārdi:*** *svešvalodu studiju kurss, problemātika un risinājumi, profesionālās jomas specifika, svešvaloda amatpersonām ar speciālajām dienesta pakāpēm*



Starptautiskā sadarbība profesionālo jomu ietvaros ir kļuvusi par neatņemamu ikdienas darba sastāvdaļu, līdz ar to tikai dzimtās valodas (valsts valodas) zināšanas nav pietiekamas, lai lokālajā līmenī (vienas valsts ietvaros) spētu integrēt starptautiskā līmenī izstrādātās novitātes. Svešvalodas zināšanas ir atzīstamas par profesionālās jomas aktualitāšu integrēšanas priekšnoteikumu un tiešā veidā ietekmē konkrētās jomas attīstības līmeni vienas atsevišķas valsts ietvaros.

Nav nepieciešams meklēt papildus argumentāciju svešvalodas apgūšanas nepieciešamībai, kuru stratēģiska rakstura dokumentos ir nostiprinājusi Eiropas Komisija. Profesionālās svešvalodas apgūšana ir neatņemama jebkura studiju virziena sastāvdaļa un attiecas arī uz tām studiju programmām, kuras realizē Valsts ugunsdzēsības un glābšanas dienesta pakļautībā esošā Ugunsdrošības un civilās aizsardzības koledža.
Apgūstot svešvalodu (ar profesionālo ievirzi) ir jāsaskaras ar problēmām, kas ir raksturīgas ikvienam mācību procesam, kā arī ar grūtībām (problēmām), kas izriet no konkrētās jomas specifikas un īpatnībām apmācot amatpersonas ar speciālajām dienesta pakāpēm.
Kā specifiski ir jāmin šādi apstākļi:
1. Amatpersonas ar speciālajām dienesta pakāpēm atrodas subordinētās attiecībās;
2. Ugunsdrošības un civilās aizsardzības koledžas apmācāmie pamatā apgūst tehniska rakstura mācību vielu, savukārt humanitāriem mācību priekšmetiem tiek piešķirta sekundāra nozīme;
3. Kandidātu angļu valodas zināšanas netiek pārbaudītas, kā rezultātā vienas mācību grupas ietvaros būtiski atšķiras svešvalodas zināšanu līmenis;
4. Jomas specifisko terminoloģiju saturošu mācību līdzekļu nepietiekamība vai neesamība;
5. Inovatīvu tehnisko līdzekļu (speciālā tehnika) nepieejamība apmācības procesa laikā;
6. Strikti reglamentēts darbību un procedūru algoritms iestādē, tajā skaitā realizējot mācību procesu.

Lai novērstu vai mazinātu iepriekš minēto negatīvi vērtējamo apstākļu ietekmi uz mācību procesu (kopumā), kā arī svešvalodas studiju kursa realizēšanu ir nepieciešama kompleksa pieeja. Savukārt pirms atsevišķu organizatoriska rakstura pasākumu realizēšanas nepieciešams veikt detalizētu risku analīzes procesu, kas ļautu izvairīties no neattaisnotas un neracionālas eksperimentēšanas studiju kursu realizēšanas ietvaros un atbilstu tām atziņām, kuras veido Eiropas izglītības telpas pamatus un ir saistošas arī UCAK mācību procesa realizēšanā, tajā skaitā nosakot svešvalodas apgūšanas nozīmi UCAK darbības ietvaros.

## Introduction

*The aim of the article* is to identify the range of problems that arise from the specifics of the professional field of the learners and academic staff during the implementation of the study courses. Within the framework of the article, the author will primarily evaluate the problems related to the acquisition of a foreign language courses, however, it would be important to point out that they are largely applicable to other study courses.

*In order to achieve the aim of the research, the author sets the following objectives:*

1. to substantiate the importance of foreign language studies as a precondition for professional development;
2. to identify difficulties (problems) arising from the specifics and peculiarities of the professional field in training officials with special service ranks;
3. to describe the identified difficulties (problems) and to indicate the causal relations of their occurrence;
4. to develop proposals and recommendations for solving the identified problems.

The author of the article would like to point out that for the convenience of the reader, within the article the author will indicate possible solutions to the problem after describing the problem as such and identifying the causal relationships, thus structuring the content of the article more transparently.

*Research methods of the article.* Within the framework of the article, the methods of analysis and synthesis would be used to synthesize correlations, formulate regularities and identify problems, both by evaluating the specifics of the field. The methods of analysis and synthesis will be the basis for the conclusions and proposals made. In turn, the induction method would be used to

form general opinions and establish correlations from individual facts established within the framework of professional activity.

*The central problem of the research* is formed by the combination of the problems identified in the practical work and indicated in the article, due to which the full-fledged and effective realization of the study course is significantly encumbered.

**Problematics of the Specific Field and Possible Solutions**

Knowledge of a foreign language and international cooperation are recognized as a precondition for the integration of topical issues in the professional field and directly influence the level of development of a particular field within a single country. Consequently, it should be mentioned, that knowledge of a foreign language is not only a factor influencing the professional competence and skills of one particular official, but also indirectly influences the whole field of professional activity.

There is probably no need to look for additional arguments for the need to learn a foreign language, which the European Commission has strengthened in strategic documents by developing initiatives to create a European learning area where all young people can make the most of education and training and find work across Europe and / or be able to integrate technological innovations in the field of professional activity within the national state. Consequently, the acquisition of a professional foreign language is an integral part of any field of study and also applies to those study programs that are implemented by the Fire Safety and Civil Protection College, which is subordinated to the State Fire and Rescue Service.

When learning a foreign language (with a professional orientation) it is very possible to face the problems that have characteristics of each learning process, as well as the difficulties (problems) that arise from the specifics and peculiarities of the particular field when training officials with special service ranks.

The following conditions should be mentioned as specific:

1. *Officials with special ranks are in a subordinate relationship.*

Specific nature of the fact that the expressions of individuality in a subordinate relationship are to some extent limited, should be taken into consideration. This fact is justified by the specific nature of the performed functions. In addition to the tasks related to the implementation of any study course, the teacher must take into account and simultaneously with the acquisition of study material promote the corporate culture of (future) officers, the ability to work in a team and the ability to make decisions.

A possible solution in this aspect is the need for an individual approach to training, taking into account the personal characteristics of the learners. Education plus practical work in the field of fire safety, firefighting and civil protection is a high intensity, workload that requires a lot of moral,

physical, emotional load of mental abilities, strictly regulated activities, work from lecturers. The lecturer does not have to be an officer-official, but must have an understanding of teamwork, the concept of an official, the corporate culture of officers.

Given these nuances, the lecturer will be the one, who need to find balance, the right approach, successful teaching methods and forms. The lecturer should see individuality with his abilities and talents.

2. *The students of the Fire Safety and Civil Protection College study mainly technical subjects, while humanitarian subjects are given secondary importance.*

The lecturer of humanities subjects must take into account the priority role of the field of professional activity with its specifics - technical vocabulary and terminology, as well as the peculiarities of its application. The teacher of any humanitarian study course should be ready to balance and to some extent subordinate the pedagogical approach used, taking into account the priority nature of the technical discipline. As a possible solution for this aspect, should be mentioned - orientation of the material to be applied in practical work with the specifics of its technical nature, keeping in mind the militarized nature of the service. It must be remembered that each professional field has an impact on the education system and has its own specifics and features of specialist training (Голубев, Маслов, Селихина 2017: 210).

At the same time it is necessary: to promote the creative abilities of the learners, the development of an innovative approach in the process of problem solving. It would be wrong to follow just instructions, regulated and formed procedures for most activities.

Furthermore, students who have a different learning style than the teacher may have difficulty absorbing the material. Teachers often present information in the way they feel most comfortable, but their styles might not fit with all students' styles. And just as students vary, so do teachers: in motivation, in overall aptitude, in self-efficacy as teachers, in teaching/learning style, and in preferred strategies. Self-knowledge can be as important for teachers as it is for students. A case in point is the teacher, who has worked comfortably for years teaching one particular topic or using one particular method to the students early in the program, and is suddenly faced with a strongly inductive student, who feels that the teacher is getting into his or her learning space by teaching in more comfortable manner for teacher. Sometimes it helps for the teacher to understand how genuine desire to help can become interference for a learner whose approach to learning differs from the teacher's preferences (Ehrman, Leaver 2003: 324).

3. *Professionals in the specific field (SFRS officials) may not always formulate precisely the desired professional knowledge, skills and competences for the educational institution (FSCPCollege) proportionally balancing them with the time allocated for the implementation of the study process.*

The root of the problem lies in the fact that the content of the curriculum implemented by FSCPCollege is greatly influenced and determined by the SFRS strategic development plan, within which the confirmed, although recognized as correct, is unattainable within the training implementation for objective reasons. For example, in order to achieve the goal set by the SFRS, the level of knowledge, skills and competence required - cannot be achieved objectively due to the limited time allocated for the implementation of the study course. Possible solutions - to review and re-evaluate the content of the study course, for example, by reducing the range of topics or leaving the content of the study course unchanged, but to increase the amount of time required obtain and learn the study course.

4. *Knowledge of English of the students is not tested, as a result the level of knowledge of a foreign language could differ significantly within one study group.*

There is a variety of levels. It is not possible to divide into levels, because the groups are formed according to the specialty, the qualification to be obtained.

The influencing factor is foreign language knowledge and application skills that were developed during secondary education. Consequently, those with a low level of foreign language proficiency (although this is not always reflected in low grades in secondary education) partially need to repeat aspects of the secondary education curriculum, especially grammar issues.

As a possible and positive solution, could be mentioned tasks, which are designed for different levels or designed to allow different levels to get involved. The lecturer should use a multifaceted / creative approach, taking into account the individual characteristics of the learners. As a positive example could be mentioned the experience of South-Eastern Finland University of Applied Sciences, project "KIVAKO": Those learners who know the language well teach those, who do not know it well (systematic work; there are some topics, tasks). But could be also vice versa: those who know poorly - train those who know the language well (The Language Centre of the Estonian Academy of Security Sciences 2021).

5. *Lack of motivation to learn a foreign language, which, in fact, reflects the learners' misunderstanding of the need to acquire innovations within lifelong learning.*

Motivation arises - if personal goals of the learners coincide with the goal of the course (study course) and the learners see the application of the acquired knowledge in practice. In our everyday and professional life it is impossible to divide the importance and necessity of foreign language(-es) knowledge. XXI century was announced by UNICEF as century of polyglots and offered a slogan: "Lifetime language learning" (UNICEF. Exploring the future of 21st century skills: 22).

As the solution could be mentioned observation of the dynamics of progress and/or regression and identification and coordination of the causal relationship of the changes available to the respective individual, to create a rating system. Practitioners of pedagogical science always name

one of the most important values: Creating a psychologically comfortable environment. The approach must be systematic and coherent.

A systemic approach of motivation correcting (increasing) is necessary (Kegan 2012: 4), not a temporary approach (1-2 times a year). Increasing motivation requires a complex approach, where a team of teachers/lecturers and administration would be involved instead of one lecturer of a specific subject. Only such way is possible to create serious results.

6. *Insufficiency or absence of teaching aids containing field-specific terminology.*

The use of modern information technologies, digital education, internet, media and other resources, a unified digital field of education is one of the essential elements for finding solutions within the framework of the implementation of foreign language study courses. Unfortunately, sufficient resources are necessary in order to solve this issue and specific teaching aids to be available. The issue could be raised and discussed if all parties involved in the operation of educational institutions are able to cooperate and communicate at the same level.

7. *Problematics arising from the lack of common terminology also at the international level.*

Specialists in the field, communicating with each other in English, call the same technical means differently, thus creating misunderstandings and unclearness. What is why the following is needed: a common EU dictionary, booklet or algorithms, website, information material, source (ex.:electronic dictionary). Although it should be mentioned, that such an idea is utopian due to its global nature. It would be much more effective to use technical terminology that has become entrenched in the environment of professional organizations that use English as an everyday language.

Integration of capacity building is the way to achieve sustainable development. Capacity is very fluid and has multiple utility. Any strategy to address capacity building must therefore recognize that developing capacities for global environmental action is closely related to and must be integrated with on-going initiatives to enhance capacities for broader environmental development in general (United Nations 2004: 20).

8. *Unavailability of innovative technical means (special equipment) during the training process.*

The lack of authentic materials as well as working in the classrooms that do not meet the requirements can ruin any, even potentially most productive learning process. Authentic materials are needed, modern teaching materials, tools (especially audio / video materials). During the teaching process of educational institutions of the Ministry of Interior social, political areas (covid, pandemic, emergency, chemical pollution, weather, floods, etc.) must be touched upon. All the topics and spheres mentioned have got direct connection with SFRS, that is why with FSCPCollege as well.

For teachers of a foreign language, the issue of choice is also relevant authentic materials for organizing contact and independent work of learners. According to the requirements of the educational institutions and authorities, learning process should contain modern, updated sources. When it comes to text content, audio and video material on a foreign language, this problem becomes especially significant. For example, texts on social and political topics should reflect important, contemporary issues. The determining factors in the selection of authentic materials are the informative and substantial side of the materials, their type and type, as well as the purpose of their use in the educational process (Чикунова 2010: 139).

When it comes to equipment (devices), then modern technologies, innovations, and materials containing them must be used. Important for the material:

- Necessity, topicality
- Form (text, video/task)
- The educational purpose of using this material

Video projectors, informational communications (social networks), interactive whiteboards, Internet, video / audio equipment, "simulators" (if there are such), programs on the Internet (via telephone, Internet), etc. - should be used for work during the lessons and preparation process.

Classroom management problems which stem from technical problems may be handled by technologically well-equipped classrooms. Departments can provide training activities for language instructors to overcome unexpected simple technical problems. Choosing well-designed and pedagogically efficient tools on the Web which have interesting interfaces for learners can result in longer attention span. Furthermore, cooperative learning activities through innovative and user-friendly multimedia tools can promote collaboration among learners (Yuce 2019).

9. *Strictly regulated algorithm of activities and procedures in the institution, including the implementation of the learning process.*

It should be mentioned, that the work of lecturer in the colleges of the Ministry of the Interior is associated with certain risks in the context of academic freedom, because in fact the work of a teacher/lecturer is strictly regulated at the level of internal regulatory enactments. It must be concluded that there are actual situations when the lack or incompleteness of regulation in the work of a teacher/lecturer creates difficulties within the implementation of the study course. It should also be noted that the problems are caused by the fact that legal norms are most often interpreted based only on grammatical interpretation, as a result of which the same legal norm regulating pedagogue's work in civil educational institutions is interpreted one way, but in colleges of the Ministry of the Interior – the other way, unfortunately, quite often contrary to the existing education system as a whole. The optimal and logical option here is the fact that the work of teachers/lecturers in the

institution should be organized taking into account both the IEM binding regulations and the existing education system as a whole.

10. *Organization (administration) of the study process, which is performed by SFRS officials without knowledge of study process management.*

We are used to divide the problem into parts and solve it, but we need a complex approach. There should be a common system with related components. (O'Connor, McDermott 1997: 5-10). The administrative management of the colleges of the Ministry of the Interior is performed by officials with special service ranks and most often with knowledge that is not related to the management of educational processes. When forming the administration, a balance should be performed between specialists in the field and specialists who know the processes of education management.

**Conclusions**

Within the framework of the article, the author has identified 10 problems, arising from the specifics of the field of professional activity and the specifics of the educational institution as a structural unit of the SFRS (also a part of the Ministry of the Interior). It should be mentioned that the identified problems - their total impact is significant and can be assessed as significant and generally negatively affecting the study process. This is manifested not only in the context of lowering the level of learning achievements, but in general also has a negative impact on the future professional development opportunities of graduates.

In order to prevent or reduce the impact of the above-mentioned negative conditions on the study process (in general), as well as the implementation of a foreign language study course, a complex approach is required. In turn, before the implementation of certain organizational measures, it is necessary to carry out a detailed risk analysis process, which would avoid unjustified and irrational experimentation in the implementation of study courses and correspond to the findings that form the basis of the European education area and are important in terms of learning process in the context of FSCP activities.

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# PATRIOTIC UPBRINGING IN VOCATIONAL EDUCATION IN THE CONTEXT OF NATIONAL DEFENCE TRAINING: THEORETICAL ASPECTS

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**Abstract**

**Patriotic upbringing in vocational education in the context of national defence training: Theoretical aspects**

***Key Words:*** *patriotism, patriotic upbringing, National Defence Education, professional education*

In scientific literature, patriotism is most often described as special affection for one's country, a sense of personal identification with it, a special concern for its well-being and willingness to make sacrifices for its benefit. However, an interdisciplinary context suggests other approaches to understanding and interpreting the concept of patriotism. A 2018 study by SKDS Research Centre, "The situation in the field of patriotism in Latvian society", concludes that Latvian society separates patriotism from political and economic processes, a distinction that maintains a high level of patriotism and a highly negative attitude towards current processes in political and economic life. Public withdrawal from political and economic activity is a longstanding problem in the Latvian context. A new curriculum of National Defence Training (NDT) to educate patriotic Latvian citizens has been proposed as a potential solution. The main task of the programme is to nurture an active, mobile, and capable citizen who has the willingness and ability to defend themselves, their fellow citizens, and Latvia in the event of a crisis. The NDT programme aspires to develop patriotism, civic consciousness, fellowship, courage and physical abilities, concern for the common good and public welfare. School year 2024 is the intended deadline for the first round of NDT in the Latvian education system. However, it is essential to introduce this mandatory subject not only in general education but also in vocational education institutions, given the recent emphasis on vocational education development in the country. Efforts to address Latvia's socio-demographic problems, including the migration of professional labour, should include patriotic upbringing, especially in vocational education institutions, for which the new NDT programme could become an effective platform. Against this background, this theoretical review will examine (1) the concept of patriotism and its understanding in the educational and interdisciplinary context; (2) the outcomes of patriotism research in the Latvian setting and (3) the potential of - Latvia's vocational secondary education and the opportunities for its development. Insights from the analysis will help build a theoretical framework for a future study of NDT as an important resource for patriotic upbringing in vocational education institutions.

**Kopsavilkums**

**Patriotiskā audzināšana profesionālajā izglītībā Valsts aizsardzības mācības kontekstā: teorētiskie aspekti**

***Atslēgvārdi:*** *patriotisms, patriotiskā audzināšana, Valsts aizsardzības mācība, profesionālā izglītība*

Zinātniskajā literatūrā patriotisms visbiežāk tiek raksturots kā īpaša mīlestība pret savu valsti, identifikācija ar valsti, īpašas rūpes par valsts labklājību un vēlme upurēties, lai veicinātu valsts labumu. Tomēr starpdisciplinārā kontekstā pastāv arī citi patriotisma jēdziena izpratnes un interpretācijas virzieni. Nesenā pētījumā "Situācija patriotisma jomā Latvijas valsts sabiedrībā" (SKDS, 2018) secināts, ka Latvijas sabiedrībā patriotisms tiek nošķirts no politiskajiem un ekonomiskajiem procesiem, tā saglabājot augstu patriotisma līmeni un augstu negatīvu attieksmi pret procesiem politiskajā un ekonomiskajā dzīvē. Distancēšanās no aktīvām darbībām politikas un ekonomikas jomā tiek identificēta kā ilgtermiņa problēma. Kā viens no šīs problēmas risinājumiem tiek piedāvāta jaunas mācību programmas (Valsts aizsardzības mācība/VAM) ieviešana ar mērķi audzināt patriotiskus Latvijas valsts pilsoņus. Programmas galvenais uzdevums ir veidot aktīvu, mobilu un rīkoties spējīgu sabiedrības locekli, kurš grib un spēj aizstāvēt sevi, līdzcilvēkus un Latviju krīzes gadījumā. VAM programmas standarta aprakstā minēti tādi uzdevumi kā patriotisma, pilsoniskās apziņas, biedriskuma, drošsirdības un fizisko spēju attīstība, kopējā valsts labuma un sabiedrības labklājības veicināšana. Pirmo reizi Latvijas izglītības sistēmā VAM ir paredzēts integrēt 2024. mācību gadā, tomēr ir svarīgi ieviest šo priekšmetu ne vien vispārizglītojošās, bet arī profesionālās izglītības iestādēs, ņemot vērā lielo uzsvaru uz profesionālās izglītības attīstību Latvijā. Risinot Latvijas sociāli demogrāfiskās problēmas, tai skaitā profesionālā darba spēka migrāciju, īpaša uzmanība jāvelta patriotiskajai audzināšanai profesionālajās iestādēs. Par vienu no šādas audzināšanas avotiem var kļūt jaunā VAM programma. Tādējādi šajā teorētiskajā pārskatā tiek aplūkots patriotisma jēdziens un tā izpratne izglītības un starpdisciplinārā kontekstā, patriotisma pētījumu rezultāti Latvijā, profesionālās vidējās izglītības potenciāls un attīstības iespējas Latvijā, lai izstrādātu teorētisko pamatojumu VAM kā patriotiskās audzināšanas nozīmīga resursa izmantošanas iespējām profesionālās izglītības iestādēs.

## Introduction

The basis of each country are its citizens and their desire to be its citizens. Depending on their number and personal involvement in the country's development, it is possible to determine how successfully the country is developing. In the development and education of an individual the family is primary involved, and the school or education system is secondarily involved. Often the education system is also positioned as a primary resource for development. In order for an individual to develop successfully and be useful to society, great emphasis must be placed on the quality, goals and objectives of the education system. Unsuccessfully formulated goals and tasks can have a serious impact on the development of the country as a whole.

The European Centre for the Development of Vocational training (Cedefop 2015) emphasizes that Latvia's goal is to provide better labour market prospects and attractive vocational training opportunities for the target group of young people, whose number is decreasing as a result of demographic trends.

As indicated in the regulations of the Cabinet of Ministers (Republic of Latvia, Cabinet Regulation No. 416), the aim of the implementation of general secondary education is to "strengthen values and virtues" so that a pupil, according to his or her own future objectives, acts responsibly, innovatively, and productively in the creation of himself or herself, family, welfare, and sustainable State of Latvia and the world." In order to successfully achieve the mentioned goals in Latvia, with the involvement of the Ministry of Defense and the Youth Guard Center, a new training program has been created - "National Defense Training" (NDT). It is expected that this program, starting from the school year 2024, will be taught for two years in the secondary school program of general secondary education institutions and vocational education institutions. The task of the NDT program (according to General Secondary Education Subject Standard program) is to build an active, mobile and operational member of society who wants to and is able to defend himself or herself, fellow human beings and the country in case of crisis. In turn, one of the goals mentioned in the standard description of the curriculum, is to develop patriotism, civic consciousness, fellowship, courage and physical abilities.

This theoretical review examines the concept of patriotism and its understanding in an interdisciplinary context, thus constructing a theoretical understanding of patriotism relevant to the field of education. Patriotic upbringing in a global context allows us to draw attention to the treatment of patriotism in different countries and the peculiarities of explanation in the specific circumstances of these countries. Looking at the features of patriotic upbringing in Latvian education in general and in vocational secondary education in particular, it is possible to conclude what are the possibilities of using NDT program as an important resource of patriotic upbringing in vocational education institutions.

**The concept of patriotism**

The explanation of patriotism is associated with love for one's country, but this seemingly simple explanation contains many substantive nuances. Studies of patriotism conducted in the context of different countries show the goals and methods of a particular country, why and how patriotism is integrated into society. For example, in Russia a scientist Kolesnikov (Колесников 2015) studies the peculiarities of patriotism in relation to the impact of political parties on society, while in France there are studied the positive and negative effects of patriotism during the Great French Revolution (Lemay 1992). In China, patriotism is studied in the context of correct interpretation of history and the study of patriotism is carried out using computer games (Associated Press of China 1997), while in Kazakhstan the emphasis is put on preserving the country's love and traditions (Ibrayeva, Oshakbaev, Sangilbayev 2019). Although in the Constitution of the Republic of Latvia (the Constitution of the Republic of Latvia 1922) it is determined that Latvian traditions, Latvian wisdom, Latvian language, general human and Christian values must be respected, research on patriotism and patriotic upbringing in Latvia has not been found in databases.

Theoretical literature highlights directions that can improve patriotism at the individual and national levels. Costa (2017) divides patriotism into two main directions - emotional and practical patriotism, explaining that feelings stimulate action, but action can stimulate feelings. Patriotism is described in more detail in the scientific literature using four components: the affective, behavioural, ethical and identity. We will look at them in more detail below.

The affective component - feelings and emotions is one of the main directions in the explanation of patriotism. Kosterman and Feschbach (1989) emphasize the importance of love and pride towards their country. Baumeister (2021) explains patriotism as love for the state and mentions nationalism as loyalty to the state, calling both terms synonymous. Curren and Dorn (2018) treat patriotism as an expression of love for the state, as well as connect it with nationalism (showing love for a nation, race or community) and civic upbringing - mandatory involvement in state processes and protection of the state with any resources. This indicates that the affective component or feelings cannot exist without works - the behavioural component.

The behavioural component (work) dedicated to the state at all levels of society, as Archard (1999) emphasizes, is necessary for the state to develop. The misappropriation of property and selfish work contradict the explanation of patriotism. One of the components of patriotism is the duty to the state, based on national identity, the nation's past and the duty to repay the contribution made to personal development. Axinn (2008) points to the duty to obey laws and regulations because they are designed to protect and educate, a moral duty of the citizen that points to both action and morality.

The ethical component is based on the inclusion of civic morality in the explanation of patriotism. Porath (2007) explains patriotism as virtue, which depends on a specific place and time and is demonstrated by specific activities, such as participation in elections, thus improving the future of the country.

The identity component is another, no less important derivative of patriotism, which includes identification with a particular country or part of it. Primoratz (2006) explains that there is reason to develop and take special care of the moral identity and integrity of one's country. In doing so, it takes place at addressing important over beige individual's moral identity and integrity aspect. MacIntyre (1984) explains this as a comparison of the state with the project - the state has given a certain identity that a patriot should develop and improve.

By focusing on four components: affective (love of the state), behavioural (selfless work for the state, duty to the state), ethical (civic morality) and identity component (identity, self-image), it is possible to develop a model that offers criteria that can be develop to achieve national and individual progress of patriotism.

**Patriotic upbringing in a global context**

In the world, the national education system and its components depend on the historical characteristics of each country, the socio-economic context and other aspects. Let's look at the connection between the education systems of Finland, France, Moldova and Kazakhstan with patriotic upbringing and related concepts.

The Finnish National Board of Education states (FNBE 2016) - The Finnish education system places great emphasis on the components of ethics and identity, or cultural diversity, and the rights of each individual, including education about Finnish history and traditions in the subjects. Bromley and Mäkinen (Bromley, Mäkinen 2011) note that the primary goal of Finnish civic education is to form a citizen of the country and to move towards a new perspective, emphasizing the diversity, opportunities and equality of people in globally interconnected areas of the world.

The Ministry of Education, Culture and Research of Moldova (Ordinul Ministerul Education, Culturii şi Cercetării no.1124 din 20 Iulius 2018) in the general and vocational education curriculum indicates personal development as one of the goals of these programs. Within this goal, students' personal competencies are developed, including patriotism and love of the state. All the components of patriotism mentioned above are in line with the goal of civic education (educat Civic 2010)- to train an active and responsible citizen, to prepare a student for life and to act consciously in a democratic society, to take responsibility for one's own and society's destiny. Attention is paid to knowledge about fundamental human rights and responsibilities and the need to implement them in everyday life. The tasks to achieve this goal are to instil respect for national laws and symbols, to

develop national consciousness and civic spirit, to form a responsible attitude towards one's health as a personal and social value, to stimulate social, economic and political activity.

Ibrayeva, Oshakbayev, Sangilbayev (2019) point out that in Kazakhstan the expression "If not me, then who?" serves as an idea for educating young people about patriotism. Onalbek (2007) emphasizes that the task of patriotic upbringing is seen as inculcating love for one's homeland, mother tongue, national culture, spiritual and moral values, folk traditions and customs, and that the state language is the main basis for education and development and a means of civic understanding; in the formation of national self-confidence and the development of spiritual, moral qualities.

Patriotism boom, according to Kemilainen (Kemiläinen1989) in France begins at the end of the 18th century during the French Revolution and is interpreted as a love for the country, even a village, and loyalty, or the idea that patriotism refers to the country in which an individual lives, rather than the country the individual identifies as his homeland. Today, patriotic upbringing is integrated into the curriculum for students aged 5-15 (Programme d'enseignement moral et civique 2008), with the explanation that civic education refers to the principles and values necessary for living together in a democratic society. Morality taught in school is civic morality, which is closely connected with the principles and values of republican and democratic citizenship. These values are freedom, equality, fraternity, secularism, solidarity, a spirit of justice, dignity and the absence of all forms of discrimination.

**Patriotic upbringing in Latvia**

The analysis of normative documents related to patriotic upbringing in general secondary and vocational education in Latvia reveals that the concept of patriotism is replaced in the documents by civic upbringing and is emphasized as a value mainly in educational work. One of the goals to be achieved by the Cabinet of Ministers (the Cabinet of Ministers, 480, 6.9) in upbringing plans in general secondary education is the development of patriotism. In the Education Law (Education Law, Article 51, 2.1) one of the duties of a teacher is to educate Latvian patriots, while the standard of vocational education does not mention patriotism, but replaces it with the civic education. For the purposes of vocational education, civic upbringing appears only in upbringing plans. This inconsistency in the use of terminology in the documents regulating the educational process makes it difficult for teachers to understand the purpose of educational content in the context of patriotic upbringing and creates a need for a unified plan for the development of patriotism in educational institutions.

In order to improve the situation in the education system, the Ministry of Education and Science and the Ministry of Defense offer the subject NDT. NDT potentially allows the implementation of patriotic upbringing in professional institutions because the objectives of the program is to develop patriotism, civic consciousness, camaraderie, courage and physical abilities

with the main goal of creating an active, mobile and capable member of society who is willing and able to defend himself, his fellow human beings and Latvia in the event of a crisis. The presentation of the NDT course of the Youth Guard Center states (NDT presentation 2021) that the tasks of the NDT clearly overlap with the components of the explanation of the term patriotism, as evidenced by the actions to be taken to achieve the tasks and goals. To successfully achieve the objectives of the NDT program, the following activities are offered: review of Latvia's history, raising awareness of history, importance of civic responsibility, desire to protect Latvia, development of a Latvian personality based on civic values and awareness, actively participating in political and public life at local, regional and at national level.

The Constitution of the Republic of Latvia determines (the Constitution of the Republic of Latvia, 1922): The state of Latvia is based on a citizen who has formed Latvian traditions since ancient times, the Latvian way of life Latvian folk wisdom, the Latvian language, universal human and Christian values. Loyalty to Latvia, the Latvian language as the only official language, freedom, equality, solidarity, justice, honesty, work ethic and family are the foundations of a cohesive society. Each individual takes care of oneself, one's relatives and the common good of society by acting responsibly toward other people, future generations, the environment and nature.

In the education system, the definition of patriotism is often found only at the pre-school and primary school levels, at the secondary and vocational secondary education levels, emphasizing only the importance of civic and moral upbringing. The need for patriotism, civic and moral upbringing in vocational education is emphasized as one of the main tasks, while the approbation of these terms in the subjects depends on the desire of the teacher of the particular subject to include them in the subject and to develop them.

Inclusion of NDT in the education system has the potential to develop the level of patriotism among young people, especially in vocational secondary education, maintaining a sense of responsibility towards the state, promoting the involvement of graduates in the labour market in Latvia, as well as promoting progress in the national economy. One third of young people entering vocational education do not complete it (Press release: The number of students in vocational education has increased by 3.6% in 2021). Developing patriotism among young people would potentially emphasize the development of the state as a common project, respect for traditions and selfless work for the benefit of the state.

However, there are concerns about effectiveness of NDT program, which is reflected in the subject syllabus. The program places great emphasis on civic education, reflecting it primarily as military training, leaving the country's history, traditions and involvement in the country's development processes at a secondary level.

## Conclusions

Patriotism can be primarily divided into emotional and practical patriotism. The definition of patriotism is explained by four components: the affective component as love of the state, the behavioural component - selfless work and duty to the state, the ethical component - the component of civic morality and identity. In the scientific literature it is possible to get acquainted with studies in different countries, which show a specific application of the definition of patriotism in scientific research.

Patriotic upbringing in a global context is identified in the education system with the aim of preserving identity, obeying laws and respecting traditions. The normative documents of many countries' education systems include the terms "patriotism" and "patriotic upbringing", which suggests the need for patriotism and its impact on national development.

In the Latvian education system, patriotic upbringing and the concept of patriotism are actualized at all levels of education, except for vocational secondary education, where the integration of patriotism is explained only in upbringing processes. The number of students in Latvian vocational secondary education institutions is increasing every year, therefore great emphasis should be placed on promoting the development of patriotism in vocational secondary education. The introduction of the NDT program at the level of general secondary and general vocational secondary education will potentially develop the growth of patriotism in Latvia. The aims of the NDT program overlap with the theoretical explanation of patriotism, encompassing all four of the above components. Latvian educational documents mention patriotism, civic upbringing and patriotic upbringing, but in the information space there is a lack of explanation of opinion leaders about the necessity of these terms.

Both in research and in the public space, Latvia's experience for the development of patriotism in society and the education system is not explained. In order to clarify these processes, research will be continued, involving the opinions of specialists in the specific field, actively discussing and researching the development of patriotism in vocational education in Latvia.

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# POSITIVE AND NEGATIVE ASPECTS OF THE REMOTE LEARNING PROCESS IN FORM 9

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**Abstract**

**Positive and negative aspects of the remote learning process in Form 9**

***Key Words:*** *remote learning, 9th grade students, self-guided learning, positive and negative aspects*

The global pandemic caused by Covid-19 dramatically altered the daily rhythms for all the people of the world. The pandemic examined how quickly and successfully industries were able to adapt to the new conditions without losing quality of work. The education system also experienced significant changes. The usual face-to-face learning had to be replaced by the remote learning process. Although this was meant to be a temporary solution, it has been a year and students still need to continue learning remotely. With the time passing and students facing the final state tests and exams, some questions arise:

- Does the remote learning process adequately prepare pupils for exams?;
- Have the tasks given by teachers provided knowledge and skills at a sufficiently high level?;
- The public has different views on the quality of the remote learning process and provided tasks, but what is the opinion of the parties involved in this process?

The work study will analyze the survey conducted of the 9th grade students on their experience and opinions on the remote learning and its positive and negative aspects.

**Kopsavilkums**

**Attālinātā mācību procesa pozitīvie un negatīvie aspekti 9. klasē**

***Atslēgvārdi:*** *attālinātās mācības, 9. klases skolēni, pašvadīta mācīšanās, pozitīvie un negatīvie aspekti*

Covid-19 izraisītā globālā pandēmija krasi izmainīja ikdienas ritmu visiem pasaules iedzīvotājiem. Pandēmija pārbaudīja, cik ātri un veiksmīgi nozares spēj pielāgoties jaunajiem apstākļiem, nezaudējot darba kvalitāti. Būtiskas pārmaiņas piedzīvoja arī izglītības sistēma. Ierasto klātienes nācās aizvietot ar attālināto mācību procesu. Kaut gan tas bija domāts kā īslaicīgs risinājums, ir pagājis jau gads un vēl joprojām skolēniem ir jāturpina mācīties attālināti. Laiks iet uz priekšu un skolēniem tuvojas noslēguma valsts pārbaudījumi, bet rodas jautājumi:

- Vai attālinātais mācību process pienācīgi sagatavo skolēnus eksāmeniem?;
- Vai pedagogu dotie uzdevumi un skolēnu pašvadītā mācīšanās ir sniegusi zināšanas un prasmes pietiekoši augstā līmenī?;
- Sabiedrībā valda dažādi viedokļi par attālinātā mācību procesa kvalitāti, uzdotajiem darbiem un nepieciešamību, bet kāds viedoklis ir šajā procesā iesaistītajām personām?

Darba pētījumā tiks aptaujāti 9.klases skolēni par viņu pieredzi un viedokli par attālināto mācību procesu un tā pozitīvajiem un negatīvajiem aspektiem.

## Introduction

Although we have lived in a global pandemic for more than a year and no one knows for how long these non-regulatory conditions will last, nothing has stopped in the field of education. Students continue to learn, take exams and climb up the educational ladder. Universities, colleges and other educational institutions are continuing their work and recruiting young students. It is not only Latvia that has been facing these conditions, but the whole world. Remote learning for more than a year has raised questions: how qualitative has been preparing of students for state exams; what positive and negative aspects are seen by learners in the remote learning process; what kind of learning process do the students prefer. The Education Law of the Republic of Latvia defines the remote learning process as *„part of the in-person education process in which students learn by also using information and communication technologies without physically being present in one room or in a training place with the educator"* (Latvijas Republikas tiesības akti, 1999).

From March 30 to April 2, 2020, The Ministry of Education and Science (IZM) conducted a survey of 7th-12th grade students, parents, teachers and principals of educatioanl institutions of Latvia regarding the process of the remote learning (IZM, 2020a). The survey mostly showed positive and satisfactory results, however, it is important to mention that, during the survey, the remote learning process had been organised for only two weeks.

The survey carried out in this study has been organised one year after the survey conducted by the Ministry of Education and Science. As the biggest problems in the Ministry of Education and Science survey, students mentioned the increase in time spent on learning, poor internet quality or coverege, and spending a lot of time at the computer. There has beeen a lot of talk in the media about the opinions and experience of teachers and parents regarding the remote learning process. The majority of parents have been complaining about the burden imposed by the remote learning process. Less is heard about the opinions and feelings of the students themselves. D. Branekova (2020) notes the positive aspects of remote learning: students become more independent and more involved in the learning process, as well as more responsible for their learning outcomes. However, questions arise: *How is it in reality? Do students take learning more responsibly?*

The remote learning process is a rather new term. Looking at the databases, relatively little information could be found before the Covid-19 pandemic on the organisation of different types of remote learning process, while the number of such studies has reached thousands over the past year. In order to ensure high quality remote learning, it is essential to choose the right methodes and tasks (Karal, Cebi & Peksen, 2010). In the absence of Latvian-issued books on the advantages, organisation, methodological aspects, examples of successful practise, and other aspects of remote learning, this makes it difficult to provide high-quality education. Since the beginning of the remote learning process, guidelines and recommendations on the organisation of the process have been issued in Latvia (Skola2030, n.d.), however, studies and data on the effectiveness of these guidelines have been lacking, particulary in the long term.

In study year 2020/2021, 9th grade students in Latvia have been learning remotely since October 26. The emergency situation in Latvia was set till April 6. After this date, 9th grade students are allowed to study face-to-face but only in rotation order with other grades (LV portāls, 2021). Since the majority of study year for 9th grade students has been spent remotely, this means that teachers must rely on students' own responsibility to do their assignments and prepare for final exams independently at home.

**The aim of the study** is to explore the opinion and experience of 9th grade students regarding the remote learning process in Latvia.

**The questions of the study:**

- *Do 9th grade students feel prepared to pass final state exams and tests qualitatively?*
- *Are students satisfied with the remote learning process?*
- *What positive and negative aspects do 9th grade students see in the remote learning process?*

**Methods and Sample**

A survey method was selected for obtaining the study data that allows you to easily and quickly obtain quantitative data from multiple participants at the same time. The survey helps preserve the anonymity of respondents, which makes it possible to provide more accurate data (Geske & Grīnfelds, 2006, Mārtinsone & Pipere, 2011). Since several restrictions have been set in Latvia during the conduct of the survey, the survey method is suitable for obtaining data without meeting the respondents.

The aim of the survey is to find out the opinion of 9th grade students about the remote learning process. Ninety-seven 9th grade students (32 boys and 65 girls) from different Latvian schools (52 from urban and 45 from rural schools) participated in the survey in order to obtain a comprehensive view of the situation in both large and small schools, as well as to compare students' opinions and experience. The questionnaire was divided into two parts: information about the respondent (gender, location of the school (rural or urban)) and the main part with ten open-ended and closed-ended questions.

**Results**

At the beginning of the survey, students answered questions about a separate corner / room at home and their attitude towards learning since the beginning of the remote learning process (see Figure 1). 86 out of 97 of the respondents (88.7%) admitted that they have a separate study area.


Figure 1. **Answers of the respondents to the question**
***„Do you have a separate corner/room to learn at home?"* (N=97)**

Looking at the responses regarding changes in respondents' learning attitudes since the beginning of the remote learning process, it can be seen that for the majority it has either deteriorated or has not changed. The attitudes have improved in just 16 cases (see Figure 2).

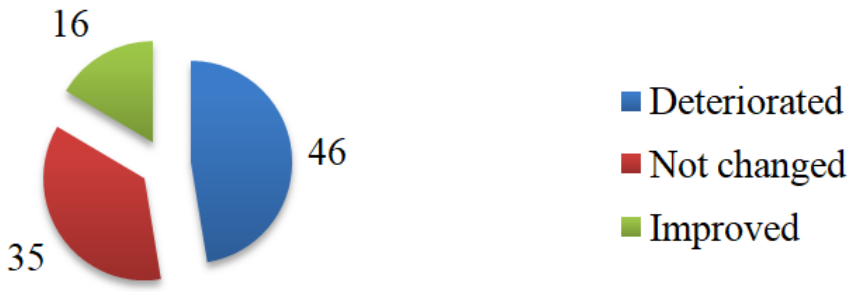


Figure 2. **Answers of the respondents to the question *„How has your attitude towards learning changed since the beginning of the remote learning process?”* (N=97)**

In order to be able to conclude how the creation of a separate learning place could have an impact on learning attitudes, it is necessary to examine separately the responses of those respondents who do not have such a place. Looking at the responses of 11 respondents who do not have a separate learning area, nine have seen their attitudes towards learning deteriorate and two have not changed them. It can be concluded that the creation of a separate learning area could help students to concentrate on learning and to separate learning from relaxation / home.

Students of both rural and urban schools mention classes on the platforms Zoom, Microsoft Team, E-klase.lv, Google Meet, as well as tasks and tests on the website uzdevumi.lv as types of study organization. In general, comparing the respondents' answers, all the lessons are organized very similarly - some online lessons and independent works that need to be reported regularly. A large proportion of rural school students mentioned that they were not satisfied with the work of teachers; as justifications, they mentioned too few online lessons, very few tasks aimed at developing new knowledge and skills. Some urban school students also admit that there are too few online lessons. Students in the city say there are too many tasks this school year that take more time than a usual lesson at school of 40 minutes.

When asked about the tasks assigned by teachers, there is nothing original and creative in the answers: students are assigned tasks from textbooks and workbooks, projects, essays, presentations, experiments, summaries, text analysis, video and photo creation, etc. One respondent explained in some detail the more interesting tasks he had received, such as going for a walk or a run, finding some objects and taking pictures of them; building a snowman, running the contour of the Latvian state.

Following the survey, respondents noted 3 to 5 main advantages / benefits of remote learning (see Figure 3). The students who took part in the survey were offered nine positive aspects of remote learning, which were obtained by summarizing the findings of the survey developed by the Ministry of Education and Science (IZM, 2020a).

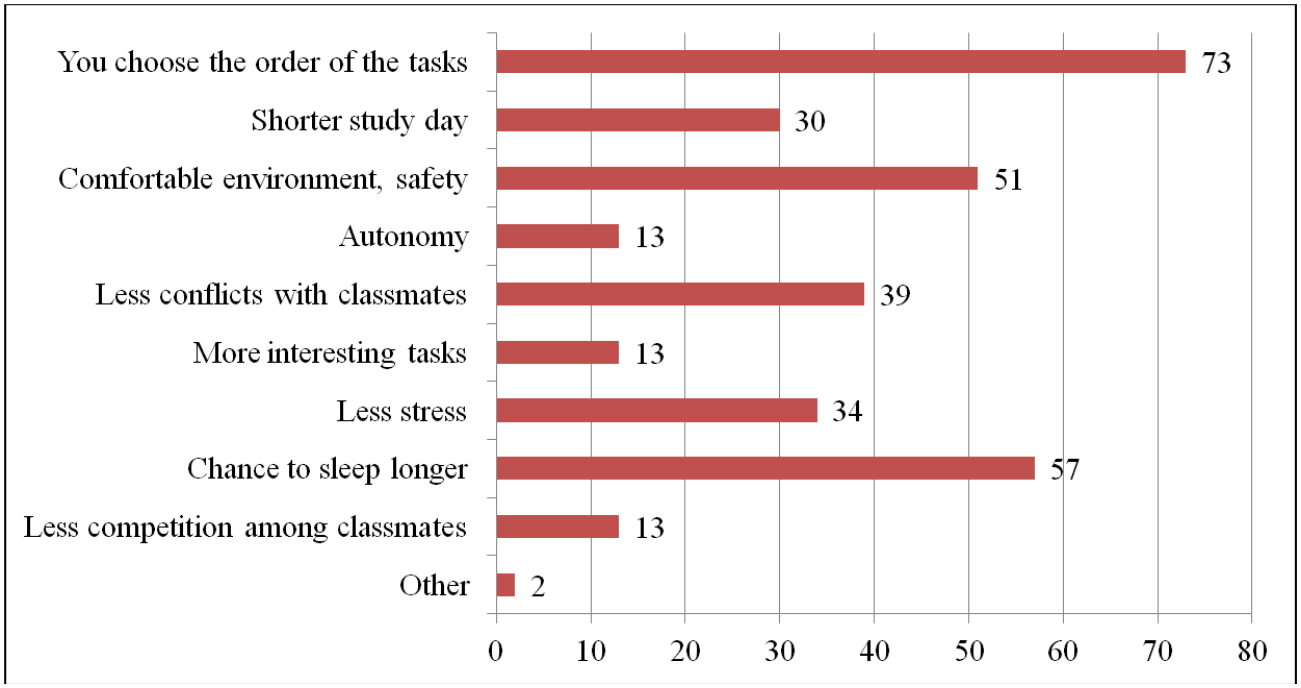


Figure 3. **Answers of the respondents to the question about positive aspects of the remote learning (N=97)**

Above all, in the remote learning process, the respondents value the ability to determine in which order to complete the tasks, to learn in a comfortable and safe environment and the opportunity to sleep longer. Independence, more interesting tasks / lessons and less competition between classmates were rated the lowest. These aspects may be the least valued because they are less important to students or they have not experienced them. Two respondents added "no need to communicate with others" and "no need to take a bus to school".

In the next question, students noted the disadvantages of the remote learning process or what does not satisfy them (see Figure 4). Respondents were offered nine disadvantages of remote learning, which, like the positive aspects, were obtained by summarizing the findings of the survey conducted by the Ministry of Education and Science (IZM, 2020a).

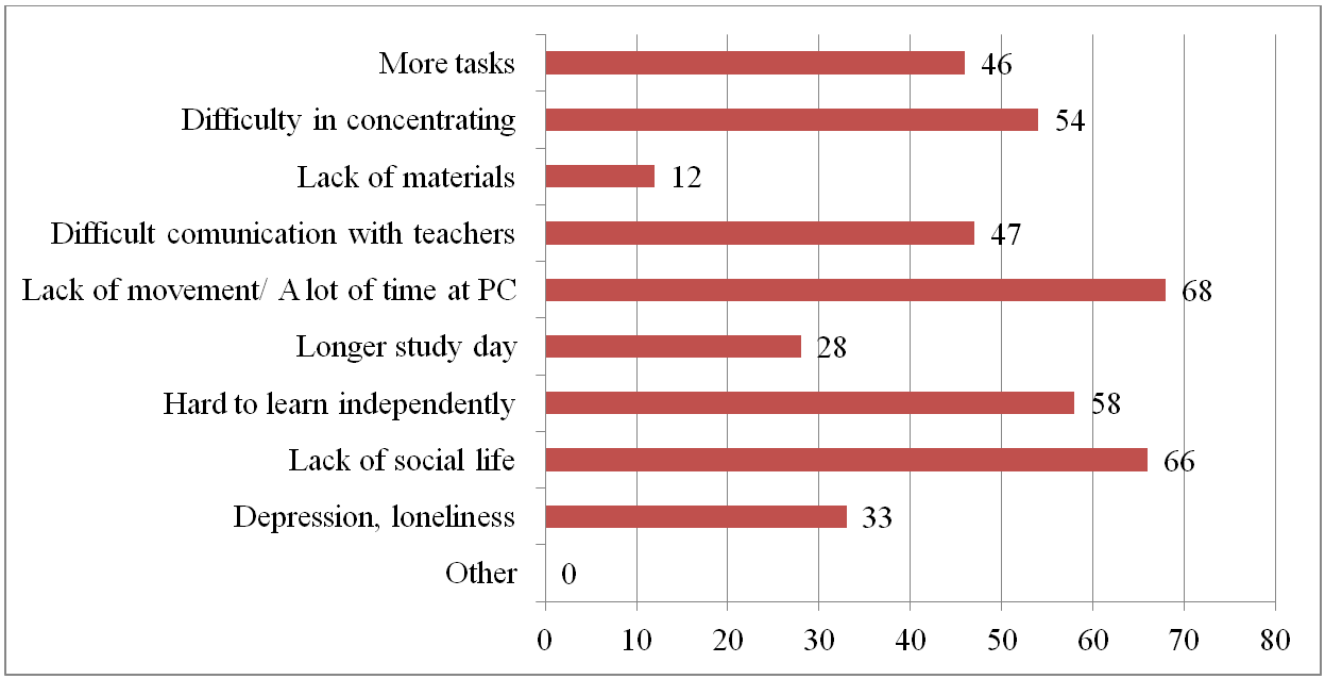


Figure 4. **Answers of the respondents to the question about negative aspects of the remote learning (N=97)**

The main disadvantages of the remote learning process mentioned by the students were: lack of social life; lack of mobility and too much time spent at the computer; difficulties in learning the subject independently and difficulties in concentrating. At the beginning of the remote learning process, many students were concerned about the lack of materials, but the results of this survey show that both rural and urban schools have the necessary teaching materials. Since the beginning of the remote learning process, both the state, municipalities and private partners have provided assistance and involvement in providing smartphones, tablets and computers to students so that everyone can receive education remotely (IZM, 2020b). Lack of materials was noted by only eight students from rural schools and four students from urban schools.

Comparing the students' answers about the positive and negative aspects of the remote learning process, 30 respondents noted that it is a shorter day, while 28 respondents are not satisfied that it is a longer day. It has been established that there is no unity among teachers in Latvia regarding the scope and organization of the assignments: this is where the biggest difference arises between rural and urban schools. Students in urban schools complain about the large number of tasks assigned, short deadlines and long school days, while students in rural schools are satisfied with the short day, but admit that they would like more tasks to improve their knowledge and skills.

After obtaining the survey data, it was announced that this school year 9th grade students will not have to take state examinations: instead, in April, students will have to take two compulsory diagnostic tests in mathematics and in Latvian. The educational institution has the possibility to additionally organize diagnostic works in a foreign language, Latvian history, natural sciences, and

state language (VISC, 2021). As this statement had not yet been published at the time of the survey, respondents had to answer the question "Do you feel properly prepared for final state examinations when studying remotely?" (see Figure 5).

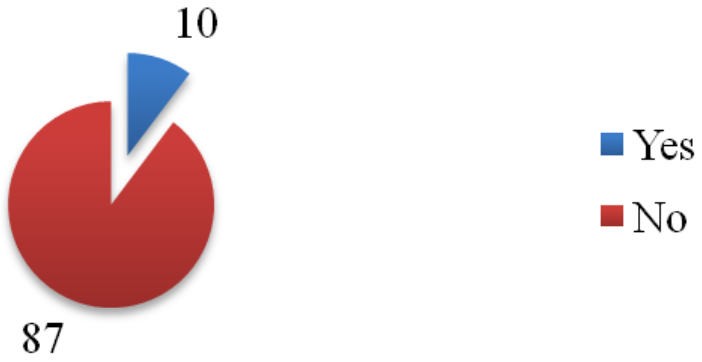


Figure 5. **Answers of the respondents to the question *„Do you feel properly prepared for state examinations when studying remotely?”* (N=97)**

The results of the survey confirm the author's suspicions that students do not feel prepared for state examinations. Not all students are able to learn the subject independently at the same level as in-person: many require the presence of a teacher. Bearing in mind the answers given above, there are many reasons that make it difficult to learn the subject, and it was mentioned that many respondents lack quality tasks that would develop knowledge and skills. These outcomes are also affected by the deterioration in students' attitudes towards learning. Students have problems concentrating at home, which makes it difficult to prepare for state examinations. It should also be noted that we cannot predict what the answers would be if these students studied in-person: perhaps this unpreparedness for the exams is due to the students' own uncertainty and not to remote learning.

As students already have a lot of experience in remote learning, they had the opportunity to give advice to other students, learning from home, as well as teachers, ensuring the learning process. Looking at the recommendations made by the students, it can be concluded that the students themselves have caused the greatest learning difficulties, which affect the learning outcomes. The following answers dominate in the respondents' recommendations to other students:

- Don’t postpone everything until the last moment and don’t be lazy;
- Plan your time;
- Take breaks;
- Move around and spend a lot of time in the fresh air;
- Don’t be afraid to ask for help.

Regarding the disadvantages of the remote learning process, the majority of respondents noted the lack of mobility, which is also discussed when making recommendations to other students. It

can be concluded that remote learning has made students more sedentary, which damages their health and makes it difficult to concentrate on learning.

Analyzing the recommendations for teachers, it can be established that students are not satisfied with the work of teachers. The following recommendations dominated the students' answers:

- Don't assign a large amount of work for a short period of time;
- Organise more online classes;
- Allow students to engage in online classes;
- Pay more attention to the purpose of the assigned work;
- Be empathetic;
- Ask for more creative work;
- Set tasks that not only strengthen existing knowledge, but create new ones.

There are some allegations that some educators assign too much work, which does not create new knowledge, but the test is organized the next day. Despite critical comments, many respondents say they are satisfied with the work of teachers: teachers are already responsive and welcoming when they are doing their best. The recommendations also include encouraging wishes for educators - "be patient", "do not forget about your well-being" and "relax".

Evaluating the disadvantages and advantages of the remote learning process, at the end of the questionnaire, Latvian 9th grade students answered which learning process they prefer. There was no consensus among the respondents (Figure 6).

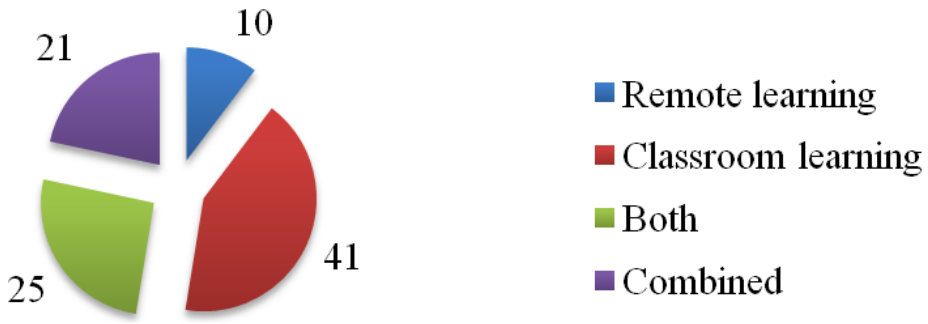


Figure 6. **Answers of the respondents to the question *„Which learning process do you prefer?"* (N=97)**

In most cases, 41 students prefer face-to-face learning. A relatively large number of respondents - 21 students - would like a combined learning process with elements of both remote and face-to-face learning. Due to the Covid-19 pandemic and the uncertainty of when it will end, this could be a real way of organizing learning in the future.

Only 10 students out of 97 respondents prefer the remote learning process: these students noted the disadvantages of this learning process the most. Looking at the other answers of these respondents, the answer to the benefits of distance learning "opportunity to sleep longer" was common to all. It can be concluded that this option justifies all the difficulties that students face in learning.

**Conclusions**

1. For 9th grade students, remote learning is generally not a big problem. There is no marked dislike or, on the contrary, support for remote learning. Some students who support remote learning do so not for learning but for personal well-being (e.g. longer sleep and a comfortable environment).
2. In the context of remote learning, the greatest problems for students are independent learning and concentration. The biggest disadvantages of remote learning are students' lack of mobility, long time at the screens and lack of social life. These conditions can have a significant impact on students' learning motivation. As positive aspects of the remote learning process, students mention the possibility to determine the sequence of tasks, the opportunity to sleep longer and the opportunity to learn in a comfortable and safe environment.
3. The biggest differences between rural and urban schools are in the amount of work assigned: rural school students acknowledge that there are too few online lessons and tasks to generate new knowledge, while urban school students complain about the high workload. In this regard, speaking about the Latvian education system in general, it is necessary to study in depth what the organization of the remote learning process should be and what the scope of the assigned tasks could be.
4. In general, 9th grade students do not feel ready to take state exams. In order to be able to conclude whether it has been affected by remote learning, additional research should be carried out on students' preparation for state exams during face-to-face studies.
5. In order to gain a comprehensive and more complete view of the positive and negative aspects of the remote learning process, in the further course of research it is necessary to find out the opinions, experiences and suggestions of other parties involved (9th grade teachers and education authorities) and compare them with students' answers.

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# TIESĪBU ZINĀTNE / LAW

# OPEN BANKING AND PSD2

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**Abstract**

**Open Banking and PSD2**

***Key Words:*** *Open Banking, PSD2, PSD, payment services, payment initiation service, account information service*
With the Open Banking, we understand "open bank data" which means bank provides third party financial service providers with access to client's data. The second Payment Service Directive established two new payment services that are based on open banking - payment initiation service and account information service. These two payment services only acquire and provides information related to the client's bank account information. It means the PSD2 goes beyond the payments. As the connection to the bank data is without any agreement between the bank and payment service provider and it means that any payment service provider can connect to the bank data. Open Banking gives the financial service providers a more competitive environment which hopefully will result in lower costs and better service within financial services.

**Kopsavilkums**

**Atvērtā sadarbības platforma un Otrā maksājuma pakalpojumu direktīva**
***Atslēgvārdi:*** *Atvērtā sadarbības platforma, Otrā maksājuma pakalpojumu direktīva, maksājumu pakalpojumu direktīva, maksājumu pakalpojumi, maksājumu ierosināšanas pakalpojumi, konta informācijas pakalpojums*
Ar atvērto sadarbības platformu mēs saprotam "atvērtās bankas datus", kas nozīmē, ka banka nodrošina trešās puses finanšu pakalpojumu sniedzējiem piekļuvi klienta datiem. Ar Otro maksājumu pakalpojumu direktīvu tika izveidoti divi jauni maksājumu pakalpojumi, kuru pamatā ir atvērtā sadarbības platforma – maksājumu ierosināšanas pakalpojums un konta informācijas pakalpojums. Šie abi maksājumu pakalpojumi saņem un sniedz tikai informāciju, kas ir saistīta ar klienta bankas konta informāciju. Minētais nozīmē, ka Otrā maksājumu pakalpojumu direktīva ir plašāka par maksājumu izpildi. Tā kā piekļuve bankas datiem notiek bez jebkādas vienošanās starp banku un maksājumu pakalpojumu sniedzēju, tas nozīmē, ka jebkurš maksājumu pakalpojumu sniedzējs var izveidot savienojumu ar bankas datiem. Atvērtā sadarbības platforma finanšu pakalpojumu sniedzējiem nodrošina konkurētspējīgāku vidi, kas, cerams, radīs zemākas pakalpojuma izmaksas un augstāku kvalitāti finanšu pakalpojumu jomā.

## Introduction

This article aims to explain the need to establish a concept of Open Banking. Furthermore, the aim is also to explain the meaning of the Open Banking concept and as well the influence on the payment service providers. In this article, it is shown how the Second Payment Service directive influenced the Open Banking Concept and the difficulties that arise from the Open Banking.

The Article was based on methods of general scientific research and interpretation of legal norms.

## Discussion

Even though Open Banking is not a legal term and it does not have any legal definition before discussing the concept of Open Banking we need to review the legal norms that encouraged this concept.

One of the reasons why Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (hereinafter – PSD) was

replaced with the Directive (the EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (hereinafter – (the PSD2) was the reason for the rapid growth of the technological solutions for financial services.

Another reason for the need to replace the PSD with the PSD2 is related to the competition. Recital 33 of the PSD2 sets that: "[..] should guarantee fair competition in that market avoiding unjustifiable discrimination against any existing player on the market. Any payment service provider, including the account servicing payment service provider of the payment service user, should be able to offer payment initiation services." In recital 33 of the PSD2 is mentioned also the two new payment services that were established with the PSD2 – payment initiation service and account information service which are essential when we are talking about Open Banking.

Following Article 4(15) of the PSD2 'payment initiation service' means service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider. According to Article 4(16) 'account information service' means an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider.

From the definitions, we can see that in both cases when the payment initiation service and the account information service are provided the payment account is held by another payment service provider. Concerning Open Banking it must be stressed out that the payment initiation service providers do not necessarily enter into a contractual relationship with the account servicing payment service providers (PSD2 recital 30), the provision of payment initiation services shall not be dependent on the existence of a contractual relationship between the payment initiation service providers and the account servicing payment service providers for that purpose (PSD2 Article 66(5)).

Also about account information service, it is important that the provision of account information services shall not be dependent on the existence of a contractual relationship between the account information service providers and the account servicing payment service providers for that purpose (PSD2 Article 67(4)).

We can see that when providing payment initiation service and account information service there is no need to have a contractual relationship with the account service provider. It means that the account information service provider shall allow connecting to the needed data any payment initiation service provider and account information service providers if they are compliant with the technical regulatory standards. The fact that there is no contractual relationship is very important in

relation to the concept of Open Banking. Therefore, it is "Open" as anyone who is compliant can freely connect and receive needed data.

As it is mentioned before the Open Banking is not a legal term. Therefore, there is no clear definition of Open Banking. However, in some source, we can find a rather poetic explanation of Open Banking. For example, the Open Banking story is one part of a broader global trend towards digital finance driven by the global financial crisis of 2008 and the parallel advances in mobile communication technology (Zeller, Dahdal 2021).

In another source broad concept of Open Banking is also stressed out: "Open Banking has quickly evolved into a synonym for change in our industry. The key dimensions of Open Banking are threefold: a driver (customer relevance and regulation), an enabler (Open API technology) and a key bank asset (digital identity). This combination allows for attractive, secure propositions and successful partnerships between a bank and non-bank service providers of financial and non-financial services" (Euro Banking Association 2017).

Some other source to explain Open Banking uses comparison with traditional banking: "in a traditional online interaction between banks and customers, the customers use the software provided by the banks; they login to the online banking platform or use an app from the bank. Account data is stored in the IT system maintained by the bank. The goal of Open Banking is to open up access to our bank accounts and data to third parties while maintaining the same security we are used to. This way we can access many different services and control who has access to what (Grasso 2019).

We can see from the definitions above that Open Banking is highly related to the regulations that allow accessing the information collected mostly by the banks and to allow to use this information to provide payment initiation service and account information service without having a contractual relationship with the account service provider. Or shorter with the Open Banking we understand open bank data of the information collected mainly by the banks. The rights to access the information collected by the account service provider without having a contractual relationship also means that accessing the information shall be free of charge. Otherwise, if the charge is applicable the parties have a contractual relationship. Therefore, the Open Banking and the PSD2 regulations allow to reach one of the aims of the PSD2 – increase the competition between the financial service providers.

However, even Open Banking is not greeted with the open arms. The European Commission confirms that on 3 October 2017 its officials carried out unannounced inspections in a few Member States concerning online access to bank account information by competing service providers. The Commission has concerns that the companies involved and/or the associations representing them may have engaged in anti-competitive practices in breach of EU antitrust rules that prohibit cartels and restrictive business practices and/or abuse of dominant market positions (Articles 101 and 102

respectively of the Treaty on the Functioning of the European Union). These alleged anti-competitive practices are aimed at excluding non-bank owned providers of financial services by preventing them from gaining access to bank customers' account data, despite the fact that the respective customers have given their consent to such access (European Commission 2017).

Also in the United Kingdom, there was some resistance from the bank side regarding Open Banking. In light of the UK's Competition and Markets Authority issued enforcement directions to five banks (Bank of Ireland, Danske Bank, HSBC, and Lloyds Banking Group), for missing deadlines set to facilitate third-party access to account information (Finextra 2019).

We can see that there was and still might be some resistance from the banks regarding Open Banking. Therefore, Open banking was not greeted with the open arms by the banks. The concept of Open Banking should be encouraged by the competent authorities in the European Union member states and if it is necessary also it must be investigated if the account service providers do not allow to connect the payment initiation service providers and account information service providers to the bank accounts otherwise on of the aims of the PSD2 to increase the competition in the financial service might be endangered.

**Conclusions**

Taking into account the above the author makes the following conclusions:

1) Open Banking is highly related to the regulations that allow accessing the information collected mostly by the banks and to allow to use this information to provide payment initiation service and account information service without having a contractual relationship with the account service provider. The rights to access the information collected by the account service provider without having a contractual relationship also means that accessing the information shall be free of charge. Otherwise, if the charge is applicable the parties have a contractual relationship. Therefore, the Open Banking and the PSD2 regulations allow to reach one of the aims of the PSD2 – increase the competition between the financial service providers;
2) We can find some examples when Open Banking was not greeted by the banks with open arms. However, it is important to follow whether all the banks in the EU allow the new payment service providers to enter the financial service providers in the financial service market as the increase of the competition is one of the aims of the PSD2.

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# VIOLENT CRIMES AGAINST WOMEN IN CRIMINAL LAW OF LITHUANIA IN 1919-1940[1]

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**Abstract**

**Violent Crimes against Women in Criminal Law of Lithuania in 1919–1940**

***Key Words:*** *violent crimes, violence against women, criminal law, Lithuania, Interwar*

The paper investigated the development of legal concepts of most common types of violent crimes against women in the Interwar Lithuania's criminal law focusing on three chapters of Penal Statute of Lithuania: deprivation of life, bodily injury and violence, indecency. Criminal law that defined violent crimes against women did not change dramatically and was static during 1919–1940 period. It can be assumed that violence against woman was firstly a latent phenomenon in the conservative society that was not understood as a social problem and society did not encourage the legislators to evolve the laws to better protect woman who were psychologically, physically, and sexually abused. Another reason for no changes in the laws could be the martial law effect on the whole penal system with capital punishment for the most serious crimes – mostly political ones, but also for the homicides. It was believed that there was no need to change the laws as the capital punishment had to work as a preventative measure for homicides against women as well.

**Kopsavilkums**

**Vardarbīgi noziegumi pret sievietēm starpkaru Lietuvas Krimināllikumā, 1919–1940**

***Atslēgvārdi:*** *vardarbīgi noziegumi, vardarbība pret sievietēm, krimināllikums, Lietuva, starpkaru posms*

Rakstā apūkota visbiežāk sastopamo juridisko jēdzienu attīstība, kas atrodami starpkaru Lietuvas Krimināllikumā attiecībā uz vardarbīgiem noziegumiem pret sievietēm. Krimināllikums, kas definēja dimumvardarbības noziegumus pret sievietēm laika gaitā nepiedzīvoja lielas izmaiņas un 1919.–1940. gadu periodā bija statisks. Var apgalvot, ka, pirmkārt, vardarbība pret sievietēm konservatīvajā sabiedrībā tika uzlūkota kā latents fenomens, to neuztvēra kā sociālu problēmu un sabiedrība neizdarīja spiedienu, lai likumdošanu attīstītu tā, lai sievietes, kuras bija psiholoģiski, fiziski vai seksuāli izmantotas, būtu labāk pasargātas. Cits iemesls, kāpēc minētajā virzienā netika izdarītas likumdošanas izmaiņas, bija nāvessoda kā visbargākā soda pielietojums attiecībā uz smagākajiem noziegumiem (galvenokārt politska rakstura, bet arī par slepkavībām) un tā iespaids uz visu valsts sodu sistēmu. Tika uzskatīts, ka nav nepieciešams izdarīt izmaiņas likumdošanā, jo nāvessoda iespējamībai būtu preventīvi jākalpo, lai pasargātu sievietes no pret viņām vērstiem smagiem noziegumiem.

## Introduction

Two main groups of legal sources in Lithuania in 1919–1940 must be distinguished: civilian criminal law and special military criminal law. The imperial Russian Criminal Code of 1903 came into force in Lithuania in 1919 and was called Penal Statute of Lithuania.

Lithuania declared its Independence from the Russian Empire on February 16th, 1918. In November the decision was made to adopt 1903 Criminal code of Russian Empire as much as it did not contradict temporary constitution that was enacted on 2nd of November, 1918. It should be mentioned, that in Czarist Russia only the sections on political and religious crimes came into effect, as the rest of the code was considered too much liberal for Russia. In Lithuania, German military administration introduced 1903 Russian Criminal code in full in 1917 (Maksimaitis 2001: 55, 56).

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The special Part of the Statute defined serious crimes, their elements, stipulated the punishments. In 1919, the State of emergency was declared and the Special Articles of State Protection that regulated martial law raised punishments for violent crimes against a person for civilians as well as military officers and gave the power to examine these type of crime cases in military courts. General violent crimes were described in the Military Criminal Statute, also other special criminal laws raising the punishments for it.

In the paper primary historical sources of law were analysed: The Penal Statute of Lithuania and its amendments, the Special State Protection Articles, Military Criminal Statute as well as the publications and archival sources of the Interwar Lithuanian law enforcement authorities. The research is based on three chapters of Penal Statute of Lithuania: deprivation of life, bodily injury and violence, indecency. The legal concepts of most common types of violent crimes against women in the Interwar Lithuania's criminal law will be analysed.

**Discussion**

*Deprivation of life* chapter (rus. *о лишеніи жизни***)** of the Penal Statute of Lithuania described the most violent crime form – homicide. Intentional homicide was defined in 453–460 articles (henceforth –art.). It should be stressed that Criminal code of 1903 made a decisive step ahead of the codes of that time: it abolished such distinctions as murder in the first and in the second degree, premeditated and non-premeditated murder, and simplified murder distinguishing it to murder as intentional homicide, and homicide by negligence (Timasheff 1953: 456). In the Penal statute of Lithuania murder was not made a capital offense, however it became punishable by death when martial law was introduced in Lithuania in 1919 and was defined in Special state protection articles that were in act almost all Interwar period (Laikinosios Vyriausybės žinios, 05 03 1919).

Domestic violence was rather common phenomenon in the interwar Lithuania, which was not considered a sufficient basis for a woman to separate or leave the violent environment voluntarily. On the contrary, women hoped that situation would improve creating a family with an abuser and having kids, and the woman's family often did not support divorce either but encouraged reconciliation with the abusive men. The most common female homicides were committed in the families. Where mothers, sisters, daughters, wives, or lovers were killed because of the family strife. A few cases of homicide were singled out in the Lithuanian Penal statute, to be punished by hard labour for life for example for the murder of a family member – father or mother (BS: art. 454). For the murder of family member like husband, wife, sister, or brother it was punished by not less than 10 years of hard labour prison up to hard labour for life. (BS: art. 455). In comparison ordinary homicide without aggravating or mitigating circumstances was punishable not less than 8 years of hard labour prison.

Punishment was reduced if committed in a state of serious tension; especially if the tension was provoked by an unlawful attack or an insult on the part of the victim; infanticide and mercy

killing formed other privileged cases (Timasheff 1953: 456). It should be noted that the court was more inclined to declare mitigating circumstance of a husband or lover being in a serious tension when man had evidence of the woman's infidelity.

Since 1919, when martial law was declared, Special Articles of State Protection came into act, it determined that for the homicides defined in the Penal statute of Lithuania articles 453–457, which meant ordinary homicide and homicides with aggravating circumstances (for example for the murders of close relatives) could have been punished by military courts in major situations with death penalty (Laikinosios Vyriausybės žinios, 05 03 1919). For example, a husband V. B. was jealous of his wife M. B. and suspected her infidelity. Husband also thought that she is trying to poison him. One night of 1924 V. B. killed his wife with a shaving knife. Military court sentenced to death V. B. for his wife murder, the crime defined by BS article 455 and 14th article of Special state protection articles. However, the president commuted the punishment to life imprisonment of hard labour (LCVA, F. 507, inv. 5, f. 193, p. 2, 40, 54). Martial law in different sizes of its territory was in act in Lithuania until the very end of 1938, and in 1939 new law of Emergency were declared which brought back the norms of Special Articles of State Protection into force meaning death penalty for some forms of homicides (Černevičiūtė S. Kaubrys S. 2014:62).

For the ordinary homicide (BS: art. 453) and homicide with aggravating circumstances (BS: art. 455) punishments in Penal statute (ordinary criminal law) were changed only on May 16$^{th}$ of 1940, just before the occupation. For ordinary homicide it was raised from not less than 8 years of hard labour before to life in hard labour prison. For the homicide of close relative like brother, sister, wife, husband before punishment was 10 years of hard labour to life imprisonment. It changed punishment to only life in hard labour prison which made it an absolute sanction. For other aggravating circumstances for example for the murder committed by the gang it was raised even up to capital punishment (Vyriausybės žinios, 16 05 1940).

Chapter 23 of *bodily injury and violence* (rus. *О тѣлесношъ поврѳшдевіи и насиліи надъ личностью*) was not improved much in Lithuanian penal statute comparing to original of 1903. And the name of the chapter describes those two main groups of crimes against a person: bodily injuries were defined in articles of 467–474 and 480; and violence in articles 475–480.

Bodily injuries were treated into gradation of three: *Very heavy injury* was defined as dangerous to life, causing mental disease, the loss of a few organs, irreparable disfiguration etc. *The injury was heavy* if, though not disturbed the functions of an organ. Any other *injury was light.* These crimes were punishable by ordinary prison or hard labour prison up to 8 years. The same as with homicides bodily injury crimes committed in a state of serious tension, beyond the limits of self-defence, committed accidentally formed privileged cases and were punishable by arrest (Timasheff 1953: 456, 457).

*Violence* against a person was defined in article 475 "Whoever intentionally throws a wrench or engages in any other act of violence that violates the integrity of the body shall be punishable by arrest for that violence." (BS). But it must be pointed out that only some of the battered women filed complaints against their abusers, especially when the injuries were not life threatening. Others filed the complaint but retracted it after the reconciliation with abuser. One example of a bodily injury with aggravating circumstances was found from February of 1940. A mother I. B. filed a complaint to interrogator of District Court of Kupiškis saying that her son P. B. often beats her up for no reason. This time she was so severely beaten up, that she needed a doctor. However, she regretted that she did not have enough money to pay the doctor for the written testimony of her injuries therefore she asked to call witnesses to confirm the crime. However not less than after a month mother and her son reconciled. Son confessed that he punched his mother 3 times to the face and promised not to beat her again and mother forgave her son and withdrew the complaint. This case serves as an example that violence against women cases were mostly latent, and even if they filed complaint, they did not go through the whole process of the investigation and trial (LCVA, F. 842, inv. 10, f. 12, p. 1.; p. 4.).

In the Penal Statute of Lithuania, sex crimes mostly against women were defined in the chapter 27, called "*indecency*" (rus. *О нѣпотрѣбствѣ*), articles 513–529. It should be mentioned that the name of the chapter Indecency, even though showed a more modern concept of sex crimes described in a separate chapter based on the sexual component of crimes (than it was in the XIX century Russian empire when it was considered a public order offence) but it was still related to a morality rather than social aspect of the society (Engelstein 1988: 470).

In Lithuania sex crimes definitions were not changed from the original Russian but were only translated to Lithuanian language. In the 1933 police handbook Indecency was described as intercourse between a man and a woman in the form of lewdness (Jakobas 1933: 186). The concept of indecency in Lithuania was primarily associated with indecent acts, that were dangerous to human health and to the female. In the Penal statute indecency was described as various lewd acts, pimping, to have sex with the underage women or without their, or women consent (Černevičiūtė 2020: 29).

There were two different level crime groups: *sanguliavimas* (rus. *любодеяние*) – which meant prohibited sexual intercourse. It was described as satisfaction of sexual desire through the act of sexual intercourse; and *gašlavimas* (rus. *любострастные действия*) – which meant lewd acts. It described satisfaction of sexual desire without engaging in the intercourse, so for example to touch somebody with its reproductive organ. Both, lewd acts and prohibited sexual intercourse could have happened without consent, with violence or by taking advantage of somebody's virginity (Vazbys 1932:53).

Sex with children under 14 years old taking advantage of their virginity was always considered a crime, and for older from 14 to 16 years old it had to be determined in individual cases. *Gašlavimas* – mostly described different kind of illegal sexual acts against children, mostly girls, but theoretically also boys could have been victims of molestation as well (Engelstein 1988: 477).

The term of rape, the act of sexual intercourse without a consent or against woman's will, was not mentioned in Penal statute of Lithuania. There were only described *sanguliavimas* (prohibited sexual intercourse) with a girl or a woman forcing them by violence, or threatening to kill her or her family, etc. For this crime, the punishment was 10 years of hard labour prison. Though it should be mentioned that rape term was used unofficially in the academic or non-academic literature, police documents and by victims as well (Černevičiūtė 2020: 30).

In the case of prohibited sexual intercourse without a consent, or in the core of the meaning rape that was described in the Penal statute – the victim's state of mind that was decisive. The victim's insanity or other organic limitations were considered valid grounds for the charge of rape in the absence of physical compulsion (Engelstein 1988: 478). But for the women who were older than 16, and were mature it had to be proven, that a woman had resisted the perpetrator. For example, in 1939 High tribunal examined the case of a rapist J. K. crime against his maid J. B. High tribunal explained that a woman should not have to resist hard, screaming and without stopping until the very end of the sexual intercourse. Sometimes the victim was afraid of her life after the offender threatened to kill her, or was overpowered by a man suddenly as it happened in J. B. case. The article of 522 described making a woman to have sex violently or threatening to kill, but nothing about nature of violence or resistance. Therefore, in this case, High tribunal overthrew Chamber of Appeal judgement of discharging rapist J. K. because there were no *corpus delicti* of rape described in 2nd clause of 522 article and gave the case back to the Chamber of Appeal to try it again (Vyriausiojo Tribunolo baudžiamųjų kasacinių bylų sprendimai 1939:36, 37). However, in most of the court cases it was still usually asked of a woman to prove that she loudly and clearly opposed the attacker.

The legal definition of sexual offences in the Penal statute was revised only in 1935, but it only added one aggravating circumstance – the punishment was harsher if a person transmitted venereal disease during *sanguliavimas* (the illicit sexual intercourse). But the definition either for *sanguliavimas* or *gašlavimas* was not changed in its core for the whole Interwar period (Vyriausybės žinios 30 03 1935).

It is also important to note that homicide and rape were also defined in the Military Criminal Statute that raised punishments for the military officers (KBS: art. 279). For these offences they were tried in court-martials or Military courts and were subject to death penalty.

## Instead of Conclusions

Criminal law that defined violent crimes against women did not change much and was static during 1919–1940 period. It can be assumed that violence against woman was firstly a latent phenomenon in the conservative society that was not understood as a social problem and society did not encourage the legislators to evolve the laws to better protect woman who were psychologically, physically, and sexually abused.

Another reason for no changes in the laws could be the martial law effect on the whole penal system with capital punishment for the most serious crimes – mostly political ones, but also for the homicides. It was believed that there was no need to change the laws as the capital punishment had to work as a preventative measure for homicides against women as well.

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*BS – Baudžiamasis statutas su papildomaisiais baudžiamaisiais įstatymais ir komentarais, sudarytais iš Rusijos Senato ir Lietuvos Vyriausiojo Tribunolo sprendimų bei kitų aiškinimų* 1934 [Penal statute with additional legislation and comments, made from Senate of Russia and Lithuanian High Tribunal verdicts and other interpretation]. Editors M. Kavolis, S. Bieliackinas. Kaunas: D. Gutmano knygynas.

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*KBS – Karo baudžiamasis statutas* [Military Criminal Statute] 1922. Editor J. Papečkys, Kaunas: Karo mokslo skyrius.

*LCVA*– Lietuvos centrinis valstybės archyvas [Lithuanian central state archive], fund 507, inventory. 5, file 193.

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# HISTORICAL DEVELOPMENT OF THE CISG

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**Abstract**

**Historical development of the CISG**

***Key Words*:** *CISG, ULIS, ULFC*

The interpretation of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is stated by its Article 7 (1), which requires the law interpreters, to interpret it uniformly within every CISG country. Although the CISG does not say anything about on how to reach this uniformity, the well know recognized academics in international sales law (amongst them a few drafters of the CISG) have "agreed" on certain persuasion. In order not to danger the aim of uniform interpretation, when certain rules of the CISG are analysed, it is necessary to read (evaluate) the academic writings, to evaluate the case law of other CISG country, and to analyse so called "*travaux préparatoires*" (the legislative history of the CISG). Therefore, it is necessary to look at the historical development of the CISG.
The aim of this study is to examine the preconditions for the emergence of the CISG, to study the legal norms in international trade existing before the adoption of the CISG. Therefore, the author analyses the Official Records of the Vienna Conference, as well the academic writings on related issues. The author also considers whether and how the pre-existing international rules, for instance, Convention relating to a Uniform Law on the International Sale of Goods (ULIS) and Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (ULFC) affected the content of the CISG.

**Kopsavilkums**

**CISG vēsturiskā attīstība**

***Atslēgvārdi:** CISG, ULIS, ULFC*

Apvienoto Nāciju Organizācijas Konvencija par starptautiskajiem preču pirkuma – pārdevuma līgumiem (CISG) interpretēšanā ir jāievēro tās 7. panta 1. punkts, kas tās piemērotājiem "pieprasa" tās vienveidīgas piemērošanas veicināšanu visās CISG dalībvalstīs. Lai gan CISG pašā nekas vairāk netiek minēts par to, kā panākt šo vienveidīgo piemērošanu, labi pazīstami starptautisko tirdzniecības tiesību akadēmiskās vides pārstāvji (starp tiem arī daži no CISG izstrādātājiem) ir "vienojušies" par zināmu kopēju viedokli. Lai neapdraudētu vienotas interpretācijas mērķi, analizējot dažus CISG noteikumus, ir jālasa un jāanalizē akadēmiskie raksti, jāseko un jāizvērtē citu CISG dalībvalstu tiesu (arī šķīrējtiesu) prakse, un jāanalizē tā sauktie "*travaux préparatoires*" (CISG veidošanās vēstures dokumenti). Tāpēc ir nepieciešams aplūkot CISG vēsturisko attīstību.
Šī pētījuma mērķis ir izpētīt CISG rašanās priekšnoteikumus, izpētīt tiesību normas starptautiskajā tirdzniecībā, kas pastāvēja pirms CISG pieņemšanas. Tāpēc autore analizē Vīnes konferences oficiālos dokumentus, kā arī attiecīgus akadēmiskos rakstus. Autore pēta, vai un kā pastāvošie starptautiskie noteikumi, piemēram, Konvencija par vienotu preču starptautiskās pārdošanas likumu (ULIS) un Konvencija par vienotu likumu par starptautiskās preču pārdošanas līgumu veidošanu (ULFC) ietekmēja CISG saturu.

## Introduction

Nowadays, the cross-border trade and the possibility to buy goods from merchants in other countries is accessible to almost everyone. Nevertheless, some decades ago, the situation on international level was diverse and cross-border trade was complex and unpredictable.

The aim of this paper is to examine the preconditions for the emergence of the United Nations Convention on Contracts for the International Sale of Goods (hereinafter – CISG), to study the legal norms in international trade existing before the adoption of the CISG. The author considers whether and how the pre-existing international rules affected the content of the CISG. In order to achieve this aim and bring out the conclusions, the author uses analytical and descriptive methods.

First, here will be briefly discussed the necessity of uniform laws in international sales area, revealing some reasons why national laws fail to meet the needs of international trade. Next, the

author takes closer look at the CISG predecessors - Convention relating to a Uniform Law on the International Sale of Goods (ULIS) and Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (ULFC). Then the author discovers the reasons why they failed and explores the creation of the CISG - one of the most successful international convention, which celebrated its 40th anniversary last year.

**The necessity of uniform law in international sale of goods**

As mentioned above, some decades ago, the international sale was complicated. The possible outcome of disputes between traders was influenced by local customs, culture and various rules of diverse legal systems of various countries. The disputes were resolved based on the rules of private international law, sometimes by the *Lex loci contractus*, *the Lex loci solutionis* or *the Lex fori* (Felemegas 2007:1). This caused the legal uncertainty and unpredictability. In contrast, the obligations, responsibility, rights and remedies of the seller and buyer operating within one country were determined by certain domestic law rules and the outcome of possible dispute between them was in most cases clear. In addition, if the transaction costs (e.g., costs related to the implementation of contract – starting from the negotiations of the parties until its full execution and possible dispute resolution), on national level could be more or less predictable, then, it was not the case of international trade actions. Thus, it can be concluded that only national and private international law did not answer to the needs of international traders and prevented them from active participating in world markets. On the contrary, these laws created barriers and hindered international trade. This shows that the variety of different legal systems and the legal uncertainty (including unpredictable transaction costs) were the most important reasons why national laws and private international laws were not enough. At that time, it was considered that these problems which inherent in differences in national legal regimes in foreign trade could best be reduced by combining conflict-of-law rules (Bergsten 2017:8). The harmonization of legal provisions in various areas of the international private law begun around the end of the nineteenth century and the beginning of the twentieth century (Bergsten, 2017:8). The unification of substantive law led to the adoption of a number of international instruments, for instance, the International Convention concerning carriage of goods by Rail (adopted 1890), the Hague Rules on bill of lading (adopted 1924), the Warsaw Convention on the carriage of goods by Air (adopted 1929) (Bergsten 2017:8). At that time, the harmonization of international sale law was acknowledged and desirable. However, harmonization road was gradual. It took decades and was affected by various sources of law.

In fact, the origin of the harmonized law in the international sale of goods can be seen in as early as the twelfth century in the *Lex Mercatoria* (Roggers, Lai 2014:8), which could be called as the unification of then existing sales law among merchants. There are different opinions regarding

the *Lex mercatoria* among scholars. Some believe that it is a "*non-state positive law emerged from a variety of functionally uniform international commercial practices*" (Mazzacano 2012:71). The old *Lex Mercatoria* importance was re-evaluated with the activities of the United Nations and International Chamber of Commerce; thus it was re-born as the *new Lex Mercantoria.* According to Professor Bernard Audit the *Lex Mercatoria* aims to recognize the rules formed in commercial usages and practice, sometimes even taking precedence over the CISG rules itself (Audit, 1998:173). Indeed, Article 9(1) of the CISG states: *the parties are bound by any usage to which they have agreed and by any practices, they have established between themselves* (CISG, Article 9(1)). Thus, for instance, under the CISG, such generally not binding, soft law rules as International Incoterm rules or UNIDROIT principles are made binding. However, given the limitations of this article, further analysis of *Lex Mercatoria and its role in the development of the CISG* will not be carried out. Yet, is clear that the *Lex Mercatoria* should be recognized as a significant source of transnational sales law.

The harmonization of sales laws in modern times began after the creation of the International Institute for the Unification of Private Law (UNIDROIT), founded in 1926, which undertook the work for the unification of private international law. This intergovernmental organization concentrated the studies on the needs of traders and worked on modernizing, harmonizing and coordinating private and in particular commercial law of the States. In accordance with UNIDOIRT Statutes, its main tasks also include the *preparing of draft laws and conventions to establishing uniform internal law* (UNIDROIT Statues, Article 2).

At the beginning of the twentieth century, the Institute for Comparative Law in Berlin, headed by Professor Ernst Rabel, also conducted research in the area of the law of the sale of goods. According to a study by Professor Schlechtriem, Rabel advised the president of UNIDROIT on the idea of merging the sales law and proposed a very first draft of international sales convention. (Schlechtriem 1983: 310).

**ULIS and ULFC**

Rabel as a member of UNIDROIT committee together with other members from different countries representing major legal systems – Anglo – Saxon, Latin, Germanic and Scandinavian systems for four years regularly met in order to discuss, evaluate and elaborate the uniform sales law draft (Roggers, Lai 2014:10). The committee's work ended in 1939; however, after (the Second World War) it continued and resulted in adoptions of two important conventions – Convention relating to a Uniform Law on the International Sale of Goods (ULIS) and the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (ULFC). Both Conventions came into force in 1972, however, only nine countries joined the Conventions.

ULIS had 101 Article as the CISG has now. It contained the obligation of the seller and buyer, included the provisions on damages and remedies similar those that the CISG has. The structure and couple of key concepts are now in the CISG. According to the observations of Professor Schlechtriem commercial court judges emphasized the importance of ULIS and pointed out, that ULIS very facilitated the work of judges, since the uncertainties of conflict-of-law rules could be avoided by application of ULIS (Schlechtriem, 1983:310). Yet the ULIS itself contained conflict of law rule, according to which, the place where the contract was concluded and performed, mattered. The CISG made basic application simpler, since it requires that the parties should have their places of business in different states (Schlechtriem 1983:318). The significant difference between ULIS and the CISG was that contrary to as is it now in the CISG, under Article 5 of ULIS and under the Article 1 (6) of ULFC the sale of goods bought for personal, family or household use were not excluded from the scope of the ULIS and ULFC. Accordingly, such non-commercial feature made buyers as the weaker party and in the higher position and thus, in principal parties were deprived from being under similar factual and legal circumstances. The author agrees that, in order to balance the obligations of both parties (buyer and seller), such a rule should not exist in commercial relations, and in the CISG it was eliminated. As correctly points out Professor John Hannold "*this step enormously simplified drafting by avoiding fears of collision between the Convention and various types of legislation designed to protect consumers*… since "… *the most international sale are for commercial purposes*" (Hannold 1979: 227). While ULIS was designed to accommodate the scope of the buyer's and seller's obligations and remedies (recovery of damages), ULFC mainly reflected the terms of the contract formation and the concept of the offer and the acceptance, which was further developed in the CISG.

**CISG**

However, despite efforts made by UNIDROIT to encourage the States to participate in both Conventions, they did not achieve the desired effect and international reception. Both Conventions were much criticized for being too Eurocentric. It was believed, that the ULIS and ULF was in more favor of the sellers of manufactured goods in the industrialized nations than in developing countries (Explanatory Documentation prepared for Commonwealth Jurisdictions 1991). The efforts in the unification process further undertook the UNICITRAL.

In 1966, United Nations established the United Nations Commission on International Trade Law (UNCITRAL) in order to promote the harmonization and unification of international trade law. One of the first assignments of then newly established UNCITRAL in international sales law was to evaluate the ULIS and ULF and to evaluate whether there is a future for both. Since countries were not in a hurry to recognize them. For instance, out of all developing countries only Egypt and

Yugoslavia participated in Hague Conference when ULIS and ULF were adopted. According to Honnold this was one of the reasons, why the Hague Conventions failed (Hannold 1998: 183).

In 1968, UNCITRAL faced a dilemma. It had to decide, whether to concentrate on a wider adoption of the 1964 Hague Sales Conventions or prepare a new one. It was decided by UNCITRAL to make a survey of both Conventions, namely, to determine, whether countries are even considering joining them and, if not, what the reasons for their positions is (Explanatory Documentation prepared for Commonwealth Jurisdictions 1991). The questionnaire made in 1968-1969 by the Secretary-General, showed that the majority of the countries were not even planning to adopt these Conventions, among them common law countries (except the United Kingdom) and developing countries. According to Secretariat notes, if Hague Conventions would be amended, it would not change a lot, because the rules mainly reflected the legal traditions and economic realities of continental Western Europe. An analysis of the answers revealed that "*ULIS pointed more to external trade between common boundary nations geographically near to each other; insufficient attention had been given to international trade problems involving overseas shipments*" (Explanatory Documentation prepared for Commonwealth Jurisdictions 1991). It was also objected, that ULIS contains complex civil law concepts that may lead to confusion and errors, and common law lawyers or businesspersons could not easily understand these abstract concepts. (Explanatory Documentation prepared for Commonwealth Jurisdictions 1991). Although the common law system was also represented by the United Kingdom during the development of ULIS and ULCF, however, its presence in the working group was clearly not sufficient, if the results of the survey showed that both Conventions turned out to be so Civil law tended. A few countries did confirm that, they are planning to adhere these Conventions; yet, such statement was irrelevant, since it was clear that wide acceptance ULIS and ULFC will not achieve. Hague conventions were perceived as "*the product of the Civil law tradition of Western Europe*" (Hannold 1979: 225), therefore further future of ULIS and ULF was jeopardized.

It took several years and nine sessions of UNCITRAL Working Group consisting of 15 State members, to debate the indicated shortcomings and to deal with the biggest concerns of involving representatives of different states coming from different legal systems, and to prepare a new draft convention, where both ULIS and ULF were used as a starting point. The elaborated 1978 Draft Convention on Contracts for the International Sale of Goods formed the basis for the Vienna Conference of 1980, in which 42 of the 62 countries gathered voted in favor of the adoption of the CISG. After the required number of ratifications, it finally entered into force on January 1, 1988, thus presumably giving the so desired predictability, certainty of legal rules in international sales law for trades all over the world.

## Conclusions

To sum this up, the national laws and private national law are not suitable of international trade. Only uniform laws, such as the CISG, that is applied uniformly in all countries provides the legal certainty and predictability that is so essential in globalization and trade development.

The CISG has managed to be attractive many countries worldwide (different in their legal systems) and countries still join it, currently already – 94.

The CISG predecessors, ULIS and ULFC, play an important role in the creation of the CISG; however, the influence of the *Lex Mercantoria* is also being felt, as the CISG itself makes clear. These sources of law may still help in the interpretation on unclear CISG issues.

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# LEGAL FRAMEWORK FOR THE ENFORCEMENT OF JUDGMENTS ON THE EXERCISE OF CROSS-BORDER ACCESS RIGHTS

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**Abstract**

**Legal Framework for The Enforcement of Judgments on The Exercise of Cross-Border Access Rights**

***Key Words:*** *access rights; enforcement; best interests of the child*

Decisions regarding access rights are different from decisions in most other civil and commercial matters. Children grow and develop, their circumstances change, they have their own views. Decisions cannot be applied to children as if they were goods or money. Everyone must keep in mind that wasting time in cases that affect the rights of a child is unacceptable and contrary to the child's interests to know their parents, to maintain meaningful and direct contact with them.

This paper analyses the regulation of Brussels IIbis Regulation in relating the enforcement procedure of cross borders decisions relating to access rights. The study stresses the possible problems of rapid and effective enforcement of judgments relating to access rights in case law. It also points out that the court often plays a substantial role in the actual process of enforcement of the access rights decisions, e.g. Brussels IIbis Regulation permits the courts of a Member State of enforcement to decide on practical arrangements for organizing the exercise of rights of access, if the necessary arrangements have not or have not sufficiently been made in the decision given by the courts of the Member State having jurisdiction.

**Kopsavilkums**

**Nolēmumu izpildes tiesiskais regulējums pārrobežu saskarsmes lietās**

***Atslēgvārdi:*** *saskarsmes tiesības; nolēmumu izpilde; bērna labākās intereses*.

Nolēmumu izpilde saskarsmes tiesību lietās atšķiras no nolēmumu izpildes citās civillietās. Šie nolēmumi neattiecas uz naudu vai priekšmetiem, tie skar bērnus. Ar bērniem saistītu nolēmumu izpilde, īpaši pārrobežu gadījumos, var būt ārkārtīgi sarežģīta. Ikvienam ir jāpatur prātā, ka pārlieka vilcināšanās gadījumos, kas ietekmē bērna tiesības, ir nepieņemama un ir pretrunā ar bērna interesēm pazīt vecākus, uzturēt ar viņiem jēgpilnus un tiešus kontaktus.

Šajā rakstā analizēta Briseles IIbis regulas regula saistībā ar pārrobežu lēmumu izpildes procedūru attiecībā uz saskarsmes tiesībām. Pētījums uzsver iespējamās problēmas, kas saistītas ar ātru un efektīvu spriedumu izpildi saistībā ar saskarsmes tiesībām. Tiesai bieži ir būtiska loma saskarsmes tiesību lēmumu izpildes procesā, piem. Briseles IIbis regula ļauj izpildes dalībvalsts tiesām izlemt par praktiskiem pasākumiem, lai organizētu saskarsmes tiesību izmantošanu, ja dalībvalsts tiesas, kura jurisdikcijā bija nolēmuma izskatīšana pēc būtības, nav to izdarījusi vai ir veikusi to nepietiekamā apmērā.

## 1. Introduction

Decisions regarding access rights are different from decisions in most other civil and commercial matters. Children grow and develop, their circumstances change, they have their own views. Enforcing decisions relating to children, especially in cross border cases, can be incredibly difficult. At the same time everyone must keep in mind that wasting time in cases that affect the rights of a child is unacceptable and contrary to the child's interests to know their parents, to maintain meaningful and direct contact with them.

In cross-border cases, the level of difficulty in exercising access rights increases and often becomes insurmountable, as the parties have to overcome considerable geographical distances as well as legal, linguistic and cultural differences in other countries. For this article the author uses descriptive, case study, observational and analytical research method.

## 2. General insight of Brussels II bis Regulation provisions for the enforcement of access judgments

In July 2000, France submitted a detailed proposal to the European Commission on the procedure for enforcing facilitated access decisions in the Brussels II bis Regulation (C 234, Vol.43, 15 (2000). The proposal consisted of two parts, one of which was to abolish the exequatur procedure for the enforcement of judgments in access rights cases.

The abolition of exequatur, of course, saves time and financial resources of the parties involved, and the time factor in the enforcement of judgments governing the exercise of access rights is invaluable, therefore direct and immediate enforcement is particularly important. Given that judgments access rights in cases affect the rights of the child, then both the rule of law and the parties must consider the principle of the best interests of the child, which, according to Professor Jonathan Herring, says: "forget your own rights, give preference to the rights of your child / children" (Herring 2011). The principle of the best interests of the child has been introduced relatively recently - for the first time in Article 3 of the 1989 UN Convention on the Rights of the Child - in all actions concerning children, whether taken by public or private bodies. social security issues, judicial, administrative or legislative bodies, the primary focus is on the best interests of the child (Convention on the Rights of the Child 1989).

The facilitated procedure for the enforcement of access judgments is governed by Chapter 4 of the Brussels II bis Regulation, while the first paragraph of Article 40 of the Brussels II bis Regulation makes it clear that Chapter 4 of the Brussels II bis Regulation applies only to access judgments and return decisions taken in accordance with Article 11, paragraph 8. The 'fast track' procedure is not possible for other decisions concerning responsibility of the child, only the two types of decisions mentioned above can be enforced under a facilitated procedure. The second part of Article 40, on the other hand, contains a regulation which, in parallel with the "fast track", maintains the usual system of recognition and enforcement of a decision.

Article 41 of the Brussels II bis Regulation applies to access decisions which are directly enforceable in the member states without any additional procedure exempting the access holder from the recognition and enforcement procedure. It should be emphasized that the provisions of the Brussels II bis Regulation apply not only to the decisions of access rights in divorce cases, but also to any decision of access rights, including cases where access is established with the child's grandparents and *loco parentis* (Shannon 2005).

However, in order for a judge of origin to be able to issue a standardized certificate as provided for in the second paragraph of Article 41 of the Brussels II bis Regulation, three conditions must be met simultaneously, namely:

(1) in the case of a judgment rendered in absentia, if the document instituting the proceedings or an equivalent document was served on the person absent in sufficient time and in such a manner as to enable that person to defend himself or herself, or the person has been presented with the relevant document, but this has been done in violation of these conditions, it has been established that the said person has explicitly consented to the decision;

(2) All interested parties were given the opportunity to be heard.

and

3) the child has been given an opportunity to be heard, unless a hearing was considered inappropriate having regard to his or her age or degree of maturity (Council Regulation (EC) No 2201/2003).

**3. Enforcement of access rights in practice**

While not denying the positive impact of the abolition of exequatur on the enforcement of access decisions, author agree with Professor Katharina Boele-Woelki "that focusing on the abolition of exequatur removes much more important aspects, namely the enforcement of judgments as such" (Boele-Woelki 2003).

Obtaining a judgment in the access case one does not yet ensure the implementation of the access, it often depends on the parent living with the child and the ability of the person entitled to communicate to cooperate, trust and reach a compromise. It is particularly important to provide for such measures in cases concerning cross-border access rights - in such situations, the parent living with the child usually fears that the person entitled to access will return the child at the end of the access period (Kruger 2011) [unlawful detention / removal]. Access rights abroad can be ensured by the commitment of the parent who has access rights, for example by returning the child on a certain date, or by the court's discretion to include instructions and / or conditions (Bainham 2003) in the access decision. In such and other cases, the courts of may, in accordance with its national law, order measures to enforce the access decision in order to facilitate the enforcement of the access decision.

Problems with the enforcement of a judgment of access certified in accordance with Article 41 of the Brussels II bis Regulation arise when a measure which is unknown to that state has to be provided in the state where judgement should be enforced. For example, the United Kingdom court, recognizing the mother's concerns about the illegal transfer of the child as justified, has ruled in the judgement on the procedure for exercising the right of access that the child's father spends the first week of each month with the child in Latvia. Article 48 of the Brussels II bis Regulation provides that the courts of the state of enforcement may establish practical arrangements for organizing the exercise of the right of access if the necessary measures are not or are insufficiently laid down in a judgment given in the state having jurisdiction the basic positions of the judgment in question

(Council Regulation (EC) No 2201/2003). The Brussels II bis Regulation thus sets clear limits on the extent to which a liaison judgment can be adapted to the law of the executing State (European Commentaries on Private International Law 2013).

By supplementing the Civil Procedure Law with this chapter, the existing, very vague and formal regulation was replaced, namely, the second part of Article 644.[2] of the Civil Procedure Law, which stipulated that a district (city) court in whose territory a foreign court decision is enforceable the certificate referred to in Article 41 (1) of Brussels II bis Regulation may, upon receipt of an application by a party on the basis of Article 48 of the said Brussels II bis Regulation, decide to take practical enforcement measures. Returning to the above example of passing a passport to the police, the author would like to point out a situation where it is possible to find an appropriate legal institute in Latvian law or to adapt Latvian legal institutes to foreign law institutes. It should be considered that the identity document is the property of the Latvian state, as well as - the person to whom the passport or identity card has been issued is the holder of the identity document and is responsible for the preservation of this document.

**4. Suspension or refusal of enforcement proceedings due to significant change in circumstances of the case**

In accordance with Section 620.[29] paragraphs one and two of the Civil Procedure Law, the debtor may request the district (city) court in the territory of which the foreign ruling is enforced or the enforcement document specified in section 540 paragraph 7.[1] of Civil Procedure Law is suspended or refused. because of a material change in circumstances. For the purposes of Paragraph one of this Section, the opinion of a psychologist appointed by the Orphan's Court, which confirms that the child objects to his or her transfer to the recovery officer for the implementation of communication, shall be considered a significant change of circumstances.

The author wishes to indicate the vague wording of the provision, namely that "such a request may be made if more than a year has elapsed since the decision in the case of access rights", it is not clear for how long the legislator is the running of the time limit must begin to count, i.e.:

1. Is this the date on which the decision entered into force?
2. Is this the date from which the decision and the certificate were issued for enforcement?
3. Is it the date when the Latvian court has decided on the recognition and enforcement of a foreign judgment?

The vague wording allows manipulation of this legal provision in cases when a person who has moved to Latvia with a child does not want to comply with a foreign court decision and seeks any justification for non-compliance with the decision. For example, it is common for a foreign court to allow a child to change habitual residence with a parent if this parent promises to the judge

that he/she will not impose on a non-resident parent any barriers to contact with the child (Decision of the Cantonese Court of Bellinzona 2009).

The author shares the view of Professor Katharina Boele-Woelki that if the application of national law regarding enforcement proceedings hinders or even makes it impossible to enforce foreign judgments, it is misleading to refer to the free movement of judgments within the European Union. Likewise, it is difficult to talk about mutual trust between countries and the consequences that follow from it. If, in a Member State, national law makes it difficult or even impossible to enforce judgments for which the exequatur procedure has been abolished, other countries could become cautious, for example when deciding whether or not to allow a person to change the child's place of residence to Latvia.

**5. Conclusions**

The decision to restrict access rights can only be made by a court and not by one of the child's parents. In practice there are often situations when, contrary to the law, the right of access to the other parent is denied by the parent living with the child. In order to promote the observance of the established cross-border access procedure and to avoid violation of the established procedure, a wide and flexible range of guarantees and protection legal mechanisms for the exercise of access rights is required.

The implementation of the Brussels II bis Regulation, by abolishing the exequatur procedure, has considerably speeded up the process of enforcing access decisions [has created a so-called "fast track"], while leaving up to the person the choice of the ordinary or traditional enforcement process.

In cross-border enforcement process, the claimant may face the problem that the state of the enforcement "does not know" the practical arrangements for exercising the right of access set out in the judgment of the court of origin. As the cross-border communication case affects the interests of the child, namely the right to meaningful and direct contact, as well as taking into account that the applicant in these cases is a person unfamiliar with the local legal system, in the author's opinion it is appropriate to lay down that the judge shall perform the adjustment of the rights and obligations specified in the ruling of a foreign court for their implementation in the Republic of Latvia unilaterally.

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# INADMISSIBILITY TO IDENTIFY ADVOCATE WITH HIS CLIENT

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**Abstract**

**Inadmissibility to identify advocate with his client**

***Key Words:*** *Advocate's professional identity, Identification of advocate with his client, Inadmissibility, Lawyer and advocate, Money laundering and terrorism financing and proliferation evasion, Principle of sound legislation, Harmonization of law*

Advocate's professional identity is irrevocably linked with the ability to perform Advocate's duty. Advocate's professional identity arouses from ethical, professional and legal principles as well as privileges that come along with Advocate's professional status. In the era of money laundering and terrorism proliferation evasion, with adoption of a new legal enactment on the legislator's level, red lines guarding the framework of this legal profession, are becoming overstepped more and more. As a result, the tendency emerges to identify an Advocate with his client, to draw the line of equality between two legal professionals, namely a lawyer an advocate without distinction in their professional activity, qualification and requirements towards their professional activity, thus creating chaos in the legal system and also on the level of state division of powers.

Article provides an insight about the recently adopted legislative act – Law on the activity of Real Estate Agents - which can be used as the most striking and clear example of identification of an advocate with his client as well analysis between two legal professionals – a lawyer and an advocate.

The purpose of the article is to show, that nonobstant the overall and dominating need for maximum transparency in the anti-money laundering sector, it can not and must not be reached at all costs, ignoring the role of an Advocate in the basic framework of division of state powers, his ability to act as an instrument securing rights to defence and fair trial in the democratic society, professional qualities and principles.

The price that we might have to pay in continuing in the same manner to develop the legal thinking, is a risk to shake the balance that should be at the basis of the division of state powers as a result that might lead to the threaten of democracy and fundamental values.

**Kopsavilkums**

***Atslēgvārdi:*** *Advokāta profesionālā identitāte, Advokāta identifikācija ar tā klientu, Nepieļaujamība, Jurists un advokāts, Noziedzīgi iegūtu līdzekļu un terorisma proliferācijas finansēšanas apkarošana, Labas likumdošanas princips, Tiesību aktu saskaņošana*

Advokāta profesionālā identitāte ir neatņemami saistīta ar tā spēju veikt advokāta pienākumus. To veido advokāta profesionālā statusa pamatā esošie ētiskie, profesionālie, juridiskie principi, kā arī ar tiem saistītās privilēģijas. Naudas atmazgāšanas un terorisma proliferācijas finansēšanas novēršanas laikmetā, ar jauna juridiskā akta pieņemšanu likumdevēja līmenī, šo juridiskās profesijas ietvaru aptverošās sarkanās līnijas tiek pārkāptas arvien vairāk un vairāk. Rezultātā, parādās tendence identificēt advokātu ar tā klientu, likt vienādības zīmi starp diviem juridiskajiem profesionāļiem – juristu un advokātu, neievērojot atšķirības to profesionālajā darbībā, kvalifikācijā un prasībās attiecībā uz ikdienas darbu, tādejādi radot haosu tiesību sistēmā un arī valsts varas dalīšanas līmenī.

Rakstā tiek sniegts ieskats par samērā nesen pieņemto tiesību aktu - Nekustamā Īpašuma darījumu starpnieku darbības likums – ko var izmantot kā vienu no spilgtākajiem un precīzākajiem piemēriem, kur advokāts tiek identificēts ar savu klientu, kā arī analīze starp diviem juridiskajiem profesionāļiem – juristu un advokātu, lai parādītu starp tiem pastāvošās atšķirības.

Šī raksta mērķis ir parādīt, ka, neskatoties uz visaptverošo un dominējošo nepieciešamību pēc maksimālas izgaismošanas naudas atmazgāšanas novēršanas sektorā, tā nevar un nedrīkst tikt īstenota par katru cenu, ignorējot advokāta lomu valsts varas dalīšanas pamata ietvarā, tā spējā rīkoties kā instrumentam, nodrošinot tiesības uz aizstāvību un, līdz ar to, taisnīgu tiesu demokrātiskā sabiedrībā.

Cena, ko mums var nākties maksāt, turpinot šādā veidā attīstīt juridisko domu, ir tāda, ka riskējam izjaukt līdzsvaru, kādam būtu jābūt valsts varas dalīšanas pamatā, kas ved pie demokrātijas un fundamentālo vērtību apdraudējuma.

## Introduction

This article is devoted to the analysis of concept of advocate's professional identity within the era of money laundering and terrorism financing and proliferation evasion. The era is characterised by the dominating need to reach maximum transparency and exposure of activities of all the

participants which are qualified as legal entities from the angle of anti-money laundering. This dominating need is being satisfied by adopting new legislative enactments or, according to the author, "at all costs", ignoring the principle of state division of powers in a democratic society and advocate's role in it. As a result, we have to face a situation where tendency emerges to limit the advocate's identity and to draw a sign of equality between advocate and his client as well as between lawyer and advocate which is in clear contradiction to what the Advocacy Law of the Republic of Latvia[2] says and to which advocate is directly and exclusively subjected in his professional activity.

The novelty of the article expresses itself in that there has been quite few research upon the question of advocate's professional identity within the context of anti-money laundering theme as a priority.

The importance of the analysis provided lies in that it might help to form a new pattern of legal thinking; it's ideas might be used to overlook the tendency to limit advocate's identity in the name of anti-money laundering threats without real legal basis and try to reach the balance between the law's dual natures of ideal and real.

The price that we might have to pay in continuing in the same manner to develop the legal thinking, is a risk to shake the balance that should be at the basis of the division of state powers that lead to the threaten of democracy and fundamental values and it is too high.

**Discussion**

According to the author, Law on the activity of Real Estate Agents[3] (further – Real estate law) can be used as the most striking and clear example of identification of an advocate with his client and which characterizes the confusion that exists with respect to the advocate's identity notion in the legal sector in Latvia.

**Synoptic description of the necessity of Real estate law enforcement and main legal norms at focus**

In accordance with the annotation of the draft law "Law on the activity of Real Estate Agents", its purpose is to solve the existing deficiency in the sector – the lack of effective regulation of the services provided by real estate agents and the fact that a real estate agent can be any person. Even in the case when the anti-money laundering and terrorism financing proliferation evasion (further - AMLTFP) norms have been breached, it is not forbidden to continue to provide the real estate agent's services. Taking into consideration the above mentioned, it is necessary to secure stable, secure, reliable provision of the real estate services and to evase the AMLTFP threats. By

[2] Advocacy Law of the Republic of Latvia, available at https://likumi.lv/ta/id/59283.
[3] Law on the activity of Real Estate Agents, available at https://likumi.lv/ta/id/315656.

means of the Real estate law, the legal basis of the real estate agents' activity is being regulated and the surveillance of those agents is being ensured.

Article 3 point 1 of the Real estate law says that "the Law shall apply to all private persons who wish to provide or are providing the intermediation services."

Article 3, point 2 mentions exemptions of its application saying "only Sections 10 and 11 and Section 12, Paragraph one of this Law shall apply to sworn notaries, sworn advocates, sworn bailiffs, sworn auditors, commercial companies of sworn auditors, administrators of insolvency proceedings, and capital companies of a public person which alienate the property of a public person in conformity with the Law on the Alienation of the Property of a Public Person or are managing the real estate of a public person in conformity with the Law on Prevention of Squandering of the Financial Resources and Property of a Public Person."

In the Article 11 point 1 of the said Real estate law[4] about the provision of information, it has been envisaged, that a real estate agent shall provide comprehensive and true information on the concerned real estate and real estate transaction - not only on the significant components of the transaction but also on deficiencies, burdens, encumbrances, and taxes of the real estate, and also other significant information which might affect the conclusion of the real estate transaction as well as in the 2nd point – the liability about knowledge of deficiencies of the real estate.

Finally, Article 12 point 1 sets a duty[5] "to provide information to the Ministry of Economics on the intermediation services contracts concluded in the previous calendar year indicating their number and the sums of transactions, and events attended for raising of qualification".

In all other cases advocate's professional activity that expresses itself as provision of consultations about the acquisition of the real estate, including the preparation of the necessary documents and activities is being equalled to the services of a real estate agent and advocate - to a real estate agent in the professional sense.

[4] Article 11 of the Law on the activity of Real Estate Agents "Provision of information"
(1) A real estate agent shall provide comprehensive and true information in the intermediation services on the concerned real estate and real estate transaction - not only on the significant components of the transaction but also on deficiencies, burdens, encumbrances, and taxes of the real estate, and other significant information which might affect the conclusion of the real estate transaction.
(2) If the real estate agent knew about deficiencies in the real estate or he or she should have known about them and he or she has not provided an appropriate information on them, he or she shall be liable for the harm arising from deficiencies of the real estate."

[5] Article 12 point 1 of the Law on the activity of Real Estate Agents "Provision of Information to a State Authority".
"(1) A real estate agent shall, each year by 31 January, provide information to the Ministry of Economics on the intermediation services contracts concluded in the previous calendar year indicating their number and the sums of transactions, and events attended for raising of qualification."

**Synoptic description of advocate's as a person's that belongs to the to Court system, role, status, function in the society and the judicial system**

At the basis of democratic society there are two fundamental aspects – rule of law and justice. Rule of law can not exist without defence and without an advocate there is no rule of law. As well as defense is not imaginable without client's rights to freely communicate his opinion and trust advocate, expecting that all information provided will remain confidential.

The fundamental values of the state are enshrined in the Constitution including such as respect of fundamental rights of persons, division of powers, legal expectation, legal certainty, proportionality, priority of constitution, unconsistency guidelines.

State power is formed by legislative and executive power, and judicial power. "All three are equally important and mutually related and interact closely within the united system allowing to function state mechanism on the whole."

"It must be understood that these three powers complement each other and, if needed, put on brakes. How can we say what is of most importance within the human body – heart, lungs or brain? Each organ has it's own functions but can not act separately without the other. The same is with the body of the state." [6]

In accordance with the Constitution of the Republic of Latvia[7], court can be adjudicated only by those organs who have been granted these rights by law and only in the order envisaged in the law". Constitution of the Republic of Latvia and Law of the Republic of Latvia on Judicial Power[8] establishes insitutions that can adjudicate. But besides these institutions other officials and institutions belonging to the Court system are required to implement this judicial power. In section 16. of the Law of the Republic of Latvia on Judicial power provides list of persons belonging to the Court system, namely, prosecutors, sworn advocates, sworn notaries and sworn baillifs. None of these persons is more priviliedged or important than the other. Each has its own separate functions and equally important role in the ensuring of justice in the overall Court system. Article 2 of The Advocacy law of the Republic of Latvia says that "Advocacy is an integral part of a judicial system in a law-governed state."

Advocate is a person by means of which the third power is being implemented – ensuring rights to defense for his client, from which are ones that are recognised as fundamental rights – rights to fair trial – are being secured.

[6] Zemribo G., "About courts, Constitution and laws", "Latvijas Jurists", 1993., No. 6.
[7] Constitution of the Republic of Latvia, available at https://likumi.lv/ta/id/57980.
[8] Law of the Republic of Latvia on Judicial Power, available at https://likumi.lv/ta/id/62847.

**Advocate's status, role and basic principles**

Advocate's profession has a specific character when comparing it to other legal professions, specific powers are ensured in the execution of duties. At the same time it should be noted that this special status should be looked upon as medal's both sides, namely, from one side, as an advocate's privilege and, from the other side, as rights or burden of duty with respect to his chosen profession and client, and society's interests on the whole.

Advocate has a significant role in securisation of the headline target of judicial order and justice both within the court system and within the context of implementing the fundamental rights of the society. There are three principles of advocate's professional activity that support this status: namely: 1) independence; 2) loyalty and personal fairness and 3) confidentiality, as well as significant role is for the code of ethics and internationally binding principles and measures. All these three principles of activity are to be evaluated and analyzed in conjunction with and interact with that how advocate performs his duty to ensure rights to defense and form relationships with his clients.

Upon analyzing the legislative enactments adopted by the legislator, the question emerges whether there exists an understanding of the difference between two legal professionals – lawyer and advocate.

According to the author, the legislator does not take into consideration the differences that characterize the profession of a lawyer and that of an advocate upon adopting and enforcing new legislative enactment. The requirements, that follow from these new legislative enactments, are binding equally for lawyers and for advocates.

However the differences between the professionals of the legal sector exist, they are fundamental and they ground necessity for evaluated and proportionate to the professional level, application of different requirements within the level of legislative enactment.

**Differences between lawyer and advocate**

Firstly, in accordance with Article 3 and 5 of the Advocacy law of the Republic of Latvia "advocate is an independent and professional lawyer who provides legal assistance by defending and representing the lawful interests of persons in the court and in pre-court investigation [..]".

Secondly, the decisive requirement in the lawyer's profession is higher vocational education in law to provide legal services as a lawyer and previous professional experience is not obligatory required. Whereas with reference to advocates' professional activity, such an experience is a must.

Thirdly, lawyer's profession is not being regulated by a special law and code of ethics and basic principles of activity, it is subordinated the requirements of the legislation in force in Latvia, whereas the the professional activity of advocates' is being surveilled and monitored by the Advocacy law of the Republic of Latvia, Code of Ethics and specially formed Latvian Collegium of

Sworn Advocates, Disciplinary proceedings commission that, examines the infringements about the detected noncompliances in the professional activity of an advocate and has a set of requirements binding upon him to qualify and pass the exam and start to practice.

Fourthly, differences are significant especially regarding the practice. Both lawyers and advocates carry their practice forming private practice or uniting. Nonetheless the professional activity of an advocate because of its special status and fundamental role within the judicial system is being protected by law. Thus, for example, Article 6 of the Law of Advocacy says that "advocates shall be independent and shall be subject only to the Law in their professional activities. State authorities and local government institutions, courts, prosecutors and pre-trial investigation institutions shall guarantee the independence of advocate".

It is *inter alia* prohibited:

"1) interfere in the professional activities of advocates, exert influence or bring pressure upon them;
2) request information and explanations from advocates, as well as interrogate them as witnesses regarding the facts which have become known to them in providing legal assistance;
3) control postal and telegraph correspondence and the documents, which advocates have received or prepared in providing legal assistance, to examine or confiscate them, as well as to execute a search to find and confiscate such correspondence and documents;
4) control, also by applying the procedural measures referred to in Clause 3 of this Section, the information systems and means of communication, including electronic means of communication, used by advocates in providing legal assistance, to remove information from them and to interfere with the operation thereof;
5) request information from clients regarding the fact of assistance provided by advocates and the contents thereof;
6) subject advocates to any sanctions or threats in relation to the provision of legal assistance to clients in accordance with the Law;
7) hold advocates liable for written or oral announcements, which they have made while performing their professional duties in good faith.

An unlawful action of an advocate in the interests of a client, as well as an action for the promotion of an unlawful offence of a client shall not be recognised as a provision of legal assistance."

Article 7 of the Advocacy law of the Republic of Latvia clearly prohibits to identify advocate with his client or with affairs of his client, stating "advocates shall not be identified with their clients or the cases thereof in relation to the fulfilling of the professional duties of an advocate".

With respect to the aspect that constitues advocate's identity whether advocate can be simultaneously an entrepreneur, the Article 107 of the Advocacy Rule of Latvia should be referred to, in which it is stated that "the professional activities (practice) of sworn advocates shall be qualified as intellectual work, and the aim thereof shall not be the making of a profit". This norm should be regarded together with the Article 6.1. 1st part of the Code of Ethics of the Latvian Sworn Advocates that[9] "an advocate shall bear in mind that it is the interests of his/her client and the necessity for fair dispensation of justice that are of paramount importance, and not payment for his/her services."

Article 117 of the Advocacy law of the Republic of Latvia states that "sworn advocates shall practice directly and personally". This principle interacts with the special role conferred to the advocate within the Court system and secures trust. Without trust advocate can not perform his duty and enforce defence.

"It is not prohibited for any lawyer to establish a company, that provides legal services and obtains profit from its activity, but legal assistance in court cases in our country can be provided only lawfully by the members of lawyer's professional corporation, sworn advocates of the Latvian Collegium of sworn advocates, that have given oath to the President of Supreme Court and which have been acknowledged as persons belonging to the Court system and together with their presence secure fair trial in our court system. Today it has to noted, the surges of of commercialism exist over professionalism. A tendency is observed to organize advocate's work as business or entrepreneurship. This is absolutely inadmissable because in such a way the basic sense is lost of the professional activity of advocats and advocacy itself. As well as we would loose our independence and the only criterion for the advocate's work would be profit instead of mutual trust between client and advocate, personal dignity and fairness. There has to be mutual trust in our work."[10]

With respect to possible concerns of the legislator about advocate's unfair activity within the context of AMLTFP, the already existing reglamentation, included in the Advocacy law of the Republic of Latvia, should be taken into consideration. Illegal activity performed within the interests of the client is not approved as advocate's professional service. Consequently to that kind of activity the considerations forming the advocate's immunity and identity are not applicable. The said consideration is made stronger by the Article 73 point 5 part 2 of the Advocacy Law of the Republic of Latvia which states that "for activities as a result of which the requirements of the laws and regulations in the field of prevention of money laundering and terrorism financing are violated,

[9] Code of Ethics of the Latvian Sworn Advocates, available: https://www.advokatura.lv/lv/dokumenti-par-advokaturas-jautajumiem/kategorija/laws_and_regulations.
[10] Krastina I., "Advocates profession does not fit within entrepreneurship". "Jurista Vārds", 06.01. 2009., No. 1 (544), 2. lpp.

the Disciplinary Proceedings Commission shall, in accordance with the procedures laid down in this Law, apply the sanctions determined in the Law on the Prevention of Money Laundering and Terrorism Financing".

**Principle of sound legislation and striving for the harmony of law**

In order to speak about the implementation of the principle of sound legislation, author would like to refer to the theory about law's dual nature, developed by lawyer and legal scientist R. Alexy. Each law has it's ideal and practical side which very often do not match and even conflict with each other. It is important to bear in mind the primary meaning and essence of the already existant and newly adopted legal enactment. By ensuring the principle of sound legislation, legislator has to observe principle of proportionality, legal certainty, legal expectations, that all together lead to the formation of a sound legislation in practice. It is not possible to speak about the principle of sound legislation, disrespecting and not evaluation in detail already existing normative regulation, it's scope, identifying reasons why does it contain or, on the contrary, does not contain equal requirements for lawyers and advocates and why they are different.

It has to be concluded that interruption in a form of adoption of new legal enactment takes place within the scope of advocates' influence and performance, not regarding specific characteristics that refer only to advocate's profession. In it's turn, by affecting those two principles, it is not possible to ensure the headline target of an advocate – to serve as an instrument in securing justice within the system of state powers by executing the third component of the division of powers. This leads to a conclusion that in such a way the risk augments to overstep the red lines, that ensure implementation of justice at all levels of the state and significantly threatens the existence of fundamental rights to defence and justice.

**Conclusions**

Firstly, in 2008 upon introduction of amendments to Law on the Prevention of Money Laundering and Terrorism Financing, the scope of right holders of the Law was increased and the advocate was automatically included to be the subject of the Law due to his inherent nature of being a "gatekeeper" in the context of AMLFTP. Irrespective the fact that the mentioned law was developed initially for the financial sector, it got automatically expanded without evaluating the possibilities of this new range of subjects to really be able to carry out the assessment required by the law according to the requirements of Law as well as the significance of their role as "gatekeepers" according to the sector's statistics. Instead, an additional burden of duties was determined when providing the services, which sometimes are impossible to perform due to lack of access to information, for example, when interpreting information in the scope provided in the Law in respect of true beneficiaries (hereinafter referred to as beneficiaries), politically significant persons, the vast formulation about risky territories from AMLFTP viewpoint, also in respect to

resources – both regarding the requirement of due diligence research of the client and an obligation to report each and any suspicious transaction.

Secondly, within the Advocacy Law of the Republic of Latvia, the mechanism which controlls advocate's professional activity is established. Neither advocate's unlawful activity is recognized as provision of legal services nor his unlawful activity within the interests of his client. Accordingly, the considerations that form the advocate's immunity and identity are not applicable to activities of such kind.

Thirdly, the Disciplinary proceedings commission has been set up who in such cases apply the sanctions laid down by the AMLTFP legislation.

The said should clarify concerns of legislator about the possible unlegal advocate's activity and to adopt the next measures that are limiting advocate's professional activity, proportionally, looking upon the angle from responsibility of one's actions.

Fourthly, upon adopting a new legal enactment, the differences have to be taken into account that characterise the lawyer's and advocate's profession, professional activity and respective limiting measures are to be applied proportionally, respecting the clearly defined prohibition in the Advocacy law of the Republic of Latvia to identify advocate with his client and his client's affairs.

Fifthly, not focusing enough towards nuances with reference to the structure of divison of state powers and state governed by rule of law, roles and functions of the elements (officials and institutions) and automatically widening the scope of the right holders with the new legislative enactment, the balance that should be at the basis of the division of state powers becomes at risk and endangers the existance of the democracy.

Finally, it has to be concluded that in the existing legislative enactment (Law on the Prevention of Money Laundering and Terrorism Financing and Real estate law in as much it refers to sworn advocates as holders of rights, the principles that regulate and govern, the principles of legal certainty and legal expectations are not observed in the daily professional activity of advocats. In fact the interruption in a form of adoption of new legal enactment takes place within the scope of advocates' influence and performance, not regarding specific characteristics that refer only to advocate's profession. In it's turn, by affecting those two principles, it is not possible to ensure the headline target of an advocate – to serve as an instrument in securing justice within the system of state powers by executing the third component of the division of powers. This leads to a conclusion that in such a way the risk augments to overstep the red lines, that ensure implementation of justice at all levels of the state and significantly threatens the existence of fundamental rights to defence and justice.

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# THE ISSUES OF DEFENDING PUBLIC INTEREST IN CASE LAW OF LITHUANIAN ADMINISTRATIVE COURTS

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**Abstract**

**The issues of defending public interest in case law of Lithuanian administrative courts**

***Key Words:*** *private interest, administrative court, case law, Lithuanian law, defending public interest*

Lithuanian legislation enshrines an overly abstract concept of public interest, therefore, the content of the public interest often depends on the area of law in which such a concept is sought. Therefore, the aim of this article is to analyse the peculiarities of the concept of public interest and the problems of its defence in the case law of Lithuanian administrative courts. In order to achieve the goal of this research, the analysis of the article is based on three main directions of research: disclosure of the peculiarities of the concept of public interest in the case law of Lithuanian administrative courts, the problems of the relationship between the public interest and the private interest and the peculiarities of their defence in this field and the issue of the relationship between the public interest and the restriction of the protection of property rights. The performed analysis showed that in the case law of Lithuanian administrative courts the concept of public interest still remains defined by general categories, nor is it possible to completely separate the public interest from the private interest, since these opposites are inseparable and form a coherent whole, and the decision at their intersection is determined by the justification of the significance and necessity of the values to which the interest is directed. Meanwhile, the constitutional value - the protection of property rights may be limited, however, this is subject to a requirement proportionate to the aim pursued.

**Kopsavilkums**

**Sabiedrības interešu aizstāvības jautājumi Lietuvas administratīvo tiesu judikatūrā**

***Atslēgvārdi:*** *privātās intereses, administratīvā tiesa, judikatūra, Lietuvas likumi, sabiedrības interešu aizstāvība*

Lietuvas likumdošanā pārāk vispārīgi ir nostiprināts sabiedrības interešu jēdziens, tāpēc sabiedrības interešu saturs bieži vien ir atkarīgs no tiesību jomas, kurā šāds jēdziens tiek meklēts. Tāpēc šī raksta mērķis ir analizēt sabiedrības interešu jēdziena īpatnības un tā aizstāvēšanas problēmas Lietuvas administratīvo tiesu judikatūrā. Lai sasniegtu šī pētījuma mērķi, raksta analīze balstās uz trim galvenajiem pētījumu virzieniem: sabiedrības interešu jēdziena īpatnību atklāšana Lietuvas administratīvo tiesu judikatūrā, problēmas, kas ir saistās ar attiecībām starp sabiedrības interesēm un privātajām interesēm, un to aizstāvības īpatnības šajā jomā, kā arī jautājums par attiecībām starp sabiedrības interesēm un īpašumtiesību aizsardzības ierobežošanu. Veiktā analīze parādīja, ka Lietuvas administratīvo tiesu judikatūrā sabiedrības interešu jēdziens joprojām ir definēts saskaņā ar vispārējām kategorijām, kā arī nav iespējams pilnībā nodalīt sabiedrības intereses no privātajām interesēm, jo šie pretstati nav atdalāmi un veido saskaņotu veselumu, un, tiem saskaroties, lēmumu nosaka to vērtību, uz kurām ir vērsta interese, nozīmīguma un nepieciešamības pamatojums. Tikmēr konstitucionālā vērtība – īpašumtiesību aizsardzība var būt ierobežota, tomēr uz to attiecas prasība, kas ir proporcionāla izvirzītajam mērķim.

## Introduction

With the intensification of civil society, the question of the need to safeguard the public interest in various areas of life in relation to the well-being and needs of society is increasingly being raised, however, in practice, violations of the law are not always considered to be violations not only of a person's subjective rights but also of the public interest. Therefore, in order to ensure a harmonious balance between the individual and the group as a whole in society, modern legal doctrine pays more and more attention to the identification and protection of the public interest. In this context, it should be noted that the protection of the public interest is a broad category that depends on the attitude of the legislator and the case law to what is in the public interest. As the concept of public interest is too abstract in Lithuanian legal acts, the content of legal norms regulating the protection of public interest is unclear, therefore, the content of the public interest

often depends on the area of law in which such a concept is sought. On this basis, it is important to assess the peculiarities and limits of the concept of public interest, as well as the issue of protection of public interest in the case law formed by administrative courts, where the court re-determines the existence of a public interest in each case individually. Moreover, there is a lack of detailed research on the issue of protection of the public interest in the doctrine of administrative law. Therefore, only after a proper assessment of the specific nature of this issue in the context of administrative law application practice, institutions and active civil society will be able to accurately identify cases of violations of the public interest, thereby promptly protecting the public interest.

**Research object** – peculiarities of public interest and its defence in the case law of Lithuanian administrative courts.

**Aim of the research** – to analyse the peculiarities of the concept of public interest and the problems of its defence in the case law of Lithuanian administrative courts**.**

**Research tasks:**

1. to examine the peculiarities of the concept of public interest in the case law of Lithuanian administrative courts;
2. to reveal the problems of the relationship between public interest and private interest and the peculiarities of their defence in the case law of Lithuanian administrative courts;
3. to analyse the problems and peculiarities of the relationship between the restriction of public interest and the protection of property rights in the case law of Lithuanian administrative courts.

**Methodology of research:** depending on the topic, aim and objectives of the article, the following research methods are applied: document analysis method, systematic analysis method, generalization method, critical analysis method, logical-analytical method.

**Abbreviation**: SACL - Supreme Administrative Court of Lithuania, CCRL - Constitutional Court of the Republic of Lithuania, CRL - Constitution of the Republic of Lithuania.

**Discussion**

**1. The concept of public interest in the case law of Lithuanian administrative courts**

The concept of public interest is not static, the scientific literature is of the opinion that its content can only be disclosed by analysing the facts of a particular case (Klimas, Lankelis, 2014). Consequently, disclosure of the concept of public interest is possible only through case law.

The SACL, describing the public interest, points out that it is an evolving category of an evaluative nature, therefore, according to the court, it is not possible to establish a specific and precise concept of public interest (Summary of the practice of examining cases according to complaints (requests) of public interest entities approved by the SACL on December 31st, 2008). Among other things, the SACL in November 5th, 2007 ruling, in administrative case No. A17-742/2007 stated that the legislator has a broad understanding of the public interest and leaves it to

the statutory entities (in this case the prosecutor) to decide whether or not there is a public interest in initiating an administrative case in a particular case. Nevertheless, the presence or absence of a public interest is ultimately decided by the court hearing the administrative case brought at the request of the prosecutor. It follows that the existence of a public interest is a matter for the court alone to decide in the light of the circumstances of the case. J. Gumbis (2006) notes that in interpreting the concept of public interest, courts provide only value criteria, which, although indicating trends in the interpretation of the public interest, are clearly not sufficient to determine the public interest in each case in the context of new circumstances. Consequently, the case law must determine in each individual case (according to the circumstances of the particular case) whether there is a public interest.

In the Law on Administrative Proceedings of the Republic of Lithuania, the concept of public interest is not defined. It should be noted that in the absence of practice, the SACL, when interpreting certain aspects, relies on the theory of law, therefore, the SACL notes that different concepts are used in legal acts, for example, in the Civil Code of the Republic of Lithuania, the Code of Civil Procedure of the Republic of Lithuania uses the term "public interest", in Article 118 of the CRL - the concept of "rights, legitimate interests of a person, society and the state". In order to determine the content of the concept of public interest, it is important that it is a term specific to a specific legal language and not to a common language. Therefore, the SACL in January 23rd, 2004 ruling, in administrative case No. A3-11/2004 concluded that the public interest in administrative justice should be perceived as what is objectively significant, necessary and valuable to the society or a part of it. It can be seen that in the concept of public interest formulated by the SACL, the public interest is interpreted as what is objectively significant, necessary and valuable for the society.

However, the criterion of objectivity - is again, an evaluative concept. According to the online dictionary of international words (internet link in the bibliography), the word objective means: 1) belonging to an object, existing beyond consciousness and independent of it; 2) impartial, without prejudice; 3) conditioned by the object, corresponding to reality. Consequently, the general necessity and value of a given interest to society must be based on a non-subjective belief, but only with objective, direct and realistic arguments beyond the consciousness of the evaluator. Objective, truthful arguments are presumed to be reflected in a particular case and are assessed by the court.

It should be noted that the SACL, when deciding whether the interest is public, also follows the explanations of the CCRL and, for example, the SACL in July 5th, 2008 ruling, in the administrative case, No. A146-335/2008, taking into account the jurisprudence of the CCRL, pointed out that the public interest is not to be considered any legitimate interest of a person or a group of persons, but only one that reflects and expresses the fundamental values of society, which

are established, protected and defended by the CRL. Therefore, whenever the question arises as to whether a certain interest is to be considered public, it is necessary to establish the fact that failure to satisfy the interest of a certain person or group of persons would violate the values established, protected and defended by the CRL.

**2. The relationship between public and private interests and their protection in the case law of Lithuanian administrative courts**

The distinction between public and private interests is not so clear, and there is a constant debate about the relationship between public and private interests. There are opinions that oppose the pure public interest, that is, already in interwar Lithuania, P. Leonas stated the position that the relationship between public and private interests is very close and it is impossible to distinguish them (Žilinskas, 2000). However, the prevailing view at present is that there is no denial of either the public interest or the private interest, that is, A. Vaišvila points out that "private and general or public interest are not placed in different drawers. They exist as an inseparable unity of the two opposites, and only by acting together, complementing and reinforcing each other, creates a vibrant human life and coexistence. " (Material of the conference "Public Interest and its Defence"). It is considered impossible to completely separate the public interest from the private interest, as these opposites are inseparable and form a coherent whole, moreover, in the case law of administrative courts there are cases when private interest and public interest coexist. For example, SACL in the October 31st, 2008 ruling in administrative case No. A822-1758/2008 stated that the public interest and the interests of third parties overlap in the present case. In the present case, the panel of judges stated that the protection of the public interest did not involve a violation of the rights or interests of specific persons, but a non-individualized violation of the rights and interests of the society, its part or certain groups of persons, however, the public interest may be personified and expressed through an infringement of the rights of specific individuals, as in the present case.

Explaining the relationship between these interests, it should be noted that in some cases the private interest, as a person's rights, is a constitutional value, whereas the May 6th, 1997 ruling of CCRL on "The right of officials to property" states that both the rights of a person to property and the public interest are constitutional values. As a result, the two values cannot be reconciled and it is necessary to strike the right balance between them. Meanwhile, in its case law, in the event of a conflict between a person's rights as a constitutional value and the public interest, the SACL individually assesses which interest takes precedence in each case. As an example, the February 14th, 2011 ruling of SACL in administrative case No. A525-386/2011 should be mentioned, in which, after the applicants demanded the restoration of the right to the remaining real estate in the territory of greenery, the court stated that the Law on the Restoration of the Ownership Rights of the Citizens of the Republic of Lithuania to the Preserved Real Estate gives priority to public rather

than private interests. In another case related to the protection of the right of ownership, the SACL indicated that Article 47 of the CRL established that forests of state significance belong to the Republic of Lithuania by the exclusive right of ownership. The legal norms established in Points 1 and 3 of Section 1 of Article 13 and Point 1 of Section 9 of Article 16 of the Law on the Restoration of Ownership Rights of Citizens of the Republic of Lithuania to Preserved Real Estate provide a conclusion that the legislator, in the legal acts regulating the restoration of property rights to real estate, recognized the preservation of urban forests (public interest) as a priority value, and not the restoration of property rights in kind (interest of the person concerned). The compensated legal regulation ensured that these property objects were redeemed from the citizens by the state, giving them the opportunity to choose other equivalent ways of restoring the ownership rights to the remaining real estate. It can be seen that the SACL, having assessed the constitutional provisions on environmental protection, recognized as a priority value not the restoration of property rights in kind, but the preservation of forests, the protection of which is also in the public interest.

However, although the public interest, which usually takes precedence over the private interest, in the case law of administrative courts, in cases concerning the protection of property rights, it is equally important to assess whether the priority given to the public interest does not upset the balance between legitimate expectations and the stability of the legal relationship with the protection of the public interest or whether the principle of proportionality is respected. In the field of protection of property rights, there are cases where the protection of the private interest outweighs the public interest, that is, in the April 30th, 2012 ruling, in administrative case No. A556-1517/2012, in which the public prosecutor, defending the public interest, demanded the demolition of part of the buildings, the SACL indicated that in this case, in the administrative case, there were no data on the dishonesty of third parties involved in the process in implementing the contested legal acts. According to the court, a total of 99 third parties were involved in the proceedings, therefore the repeal of the contested legislation acts would affect the interests of all of them and it is more likely that the latter could initiate legal proceedings for damages from the state and/or municipality. The SACL noted that in such a case the applicant had not clearly disclosed how the protection of the public interest, if the contested acts were repealed, would become of greater value than leaving the existing relations in force at the present time. In this case, the SACL gave priority to the protection of private interests and legitimate expectations of individuals and refused to protect the public interest.

In the case law of the SACL, there are cases when the public interest competes with the private one. For example, in administrative case No. A261-2875/2012, in order to protect the public interest, the prosecutor requested to annul the decision of the county governor and to apply restitution in kind - to return the land plot to the state. According to the SACL, after assessing the

protected public interest, the fact that the transferred land plot is not a forest, but is forest land and that it is not assigned to a plot of significant value to society, it competes with the importance of private interest. After assessing these circumstances, the SACL concluded that defending the public interest in the manner requested by the prosecutor (return of the plot) will cause greater damage to other spheres of public interest, namely in the field of social justice, and for a natural person, who honestly acquired a plot of land, additional and unnecessary encumbrances and restrictions on his subjective rights and legitimate interests will be created. We see that in the face of competition between the public and private interests, it is essential to put in place targeted measures to protect the public interest.

In practice, there are also "several public interests, such as the interest in a healthy and harmonious environment, the interest in creating better and territorially equivalent living conditions, the interest in developing housing and infrastructure systems, the interest in conserving resources, natural and cultural heritage values, recreational resources, ecological balance, the interest in promoting investment" (Expertise of the Lithuanian Free Market Institute, 2007). In this case, no prior advantage can be conferred on any one public interest. In the event of a conflict between two public interests, as in the case of the conflict of public interest and personal rights as a constitutional value discussed above, the court assesses all public interests in a particular situation and establishes the final balance between them. In the event of a conflict between two public interests, their outcome may be determined by the fact that the public interest has the widest possible share of society as an entity - the public interest of the municipality was weighed down for the benefit of the wider public - the civil Nation. In the case of the intersection of private and public interests, may be determined by the values, to which the interest, justification of significance, necessity, and value is directed.

**3. Public interest and the relationship of restriction of protection of property rights in the case law of Lithuanian administrative courts**

For every person, the state grants and guarantees a wide range of rights and freedoms, which are the basis of a person's legal personality. One such personal right is the right to property under Article 23 of the CRL. The March 4th, 2003 ruling of CCRL on "Restoration of Property Rights" indicates that the constitutional principle of the inviolability of private property presupposes "the right of the owner to manage, use and dispose of the property and the obligation of other persons to refrain from any action which infringes the rights of the owner, at the same time, the duty of the state to ensure the most favourable regime for the exercise of the right of ownership, to protect and save property from unlawful encroachment on it ". Consequently, the CRL establishes a positive constitutional guarantee of a person's property rights and provides protection of the right to property regardless of the object of property. However, the principle of recognizing the inherent nature of

human rights and freedoms does not preclude the exercise of human rights and freedoms from being restricted (Ruškytė, 2013). CCRL back in ruling of December 13th, 1993, specified 3 cases when a person's property rights may be restricted, and one of them is the public interest. In the ruling of March 14th, 2006 on "The restriction of property rights in particularly valuable areas and forest land", CCRL emphasized that it was in the public interest to protect the natural environment, fauna and flora, individual natural objects as national values of universal importance, and to ensure the rational use and increase of natural resources. Given the special importance of these objects, the need to preserve them for future generations, a special legal regime may be established by law for such objects. These restrictions are intended to ensure the protection of high value areas - the public interest." We see that the protection of property rights, although guaranteed by the CRL, in the context of the protection of the public interest, may be limited. However, as E. Klimas (2012) points out, "according to the Constitution, the existence of a public interest may be a ground for restricting a person's right to property not at any time, but only if, when, due to the nature of the property and / or for other important reasons, it would not be possible to protect the values enshrined in the Constitution without restricting the right to property, the public interest would be harmed". Consequently, in each case, the protection of the public interest determines whether the restriction of the right to property is proportionate and only then will the restriction be justified. In the light of the above, it can be said that the protection of the public interest in the field of protection of property rights is an extremely difficult task. It is therefore particularly important to analyse the case law in this area.

When resolving cases related to the public interest in the field of protection of property rights, the SACL carefully assesses whether the restriction of property rights in a particular case is proportionate. In the February 5th, 2014 ruling in administrative case No. A146-86/2014, the SACL dealt with the issue of proportionality of the restriction of the right of ownership and stated that forest areas of state importance relevant to the dispute in the sense of public interest needs and restriction of property rights cannot be assessed in isolation from the whole environment. The data show that the disputed plots are interconnected, also they connect with other areas of the state forest into a single forest massif, which shows that the disputed plots contain a mature forest and are part of an object of public value, which presupposes that the forest area is to be recognized as being of particular value to society in terms of the need for the public interest. Therefore, in this case, the need in the public interest is proportionate to the restriction of property rights. In this case, the significance of the public interest (a forest plot forming an integral forest massif) for society was analysed in detail. It has been proved that a specific forest plot has a special significance for the whole society, therefore it was stated that the restriction of the right of ownership is proportionate.

In another administrative case No. A602-923/2013 LVAT indicated that the breach of the public interest is linked to certain values of importance to society as a whole - the part of the cultural heritage consisting of surviving or non-surviving material and cultural values built, installed, created or highlighted by historical events, directly related to the area occupied and required for their use. The protection of the public interest, namely the values associated with it, may restrict the constitutional rights of individuals - inviolability of property or freedom of economic activity. Annulment of the contested decisions, which planned the territory of the company and issued the building permits, in order to protect the public interest in restricting the freedom of economic activity and the right of ownership of that company. Annulment of the contested decisions on which the company's territory was planned and construction permits were issued, in order to protect the public interest in restricting the freedom of economic activity and the right of ownership of that undertaking, therefore, such a restriction must be based on law and must be proportionate to the aim pursued. The SACL noted that the Court of First Instance emphasized the importance of the protection of cultural heritage values and also decided on the application of the principle of proportionality, that is, decided whether to demolish only that part of the detailed plan which contains plots where construction has not yet begun. For the above reasons, the SACL stated that the court of first instance had reasonably granted the prosecutor's request for protection of the public interest, and the repeal of administrative acts which did not ensure the protection of values of public importance cannot be regarded as a disproportionate measure unduly restricting the company’s freedom of economic activity. The case in question showed that, in order to protect the public interest in the protection of property rights, the restriction of the right to property must be proportionate in each individual case to the aim pursued.

**Conclusions**

1. The analysis of the concept of public interest in the case law of Lithuanian administrative courts showed that the case law of those courts does not set out a specific concept of the public interest, linking it only to criteria of an evaluative nature and values which are not sufficient to establish it in each case. However, the case law also shows a clear tendency to consider the public interest only as a special legal category, which should be based on objective, realistic arguments independent of subjective thinking and should reflect the fundamental constitutional values of society.
2. The analysis of the relationship between public and private interests and their protection in the case law of Lithuanian administrative courts revealed that it is impossible to completely separate the public interest from the private interest, as these opposites are inseparable and form an integral whole. There have been various problematic cases of this relationship in the analysed case law of administrative courts, that is, in one case the public interest was personified, in

another the conflict of personal rights as constitutional values and the public interest was resolved, the decision of which required to ensure their fair balance, elsewhere, competition arose between these different interests, the resolution of which required the establishment of appropriate measures to protect the public interest, and ultimately a conflict between several different public interests. In the case of the intersection of private and public interests, the decision may be determined by the values, to which the interest, justification of significance, necessity, and value is directed.

3. After analysing the relationship between the public interest and the restriction of the growth of property rights in the case law of Lithuanian administrative courts, it was established that the protection of property rights and the freedom of economic activity, although guaranteed by the CRL, may be restricted in the context of the protection of the public interest, however, it must be decided in each case whether the restriction of the right to property is proportionate to the aim pursued, and in the present cases the importance of preserving the cultural heritage and the forest plot forming an integral part of the forest as part of the public interest was clearly justified.

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# ECONOMIC ANALYSIS OF LAW IN DETERMINING FAULT IN PRIVATE LAW

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**Abstract**

**Economic analysis of law in determining fault in private law**

***Key Words:*** *negligence, economic analysis, compensation of damages*

Economic analysis of law is growing in popularity also in continental Europe. It can reduce the legal uncertainty when it comes to determining negligence and facilitate general economic well being at the same time. As it is with most methods, so too economic analysis of law faces many challenges and does not offer a universal solution to all problems when it comes to determining fault. But none of the shortcomings demand that we reject economic analysis of law. We must instead be aware of the difficulties in applying economic analysis and make the best of it, as it can offer solutions where all other methods seem to be of no help at all.

**Kopsavilkums**

**Tiesību ekonomiskā analīze vainas vērtēšanā privāttiesībās**

***Atslēgvārdi:*** *neuzmanība, tiesību ekonomiskā analīze, zaudējumu atlīdzība*

Tiesību ekonomiskā analīze kļūst aizvien populārā arī kontinentālajā Eiropā. Tā var mazināt tiesisko nenoteiktību, vērtējot neuzmanību, un vienlaikus veicināt kopējo ekonomisko labklājību. Kā tas ir ar vairumu metožu, tā arī tiesību ekonomiskai analīzei ir virkne izaicinājumu, un tā nepiedāvā universālu risinājumu visām problēmām, kas saistītas ar vainas vērtēšanu. Bet neviens no tās trūkumiem neliek mums tiesību ekonomisko analīzi noliegt. Tā vietā mums ir jāpatur prātā ar tiesību ekonomiskās analīzes piemērošanu saistītās grūtības un jācenšas panākt to labāko, jo tā var sniegt risinājumu tur, kur visas citas metodes nesniedz nekādu palīdzību.

## Introduction

In the law of compensation, be it tort law (also known as "law of delicts") or contract law, nearly all revolves around negligence. That is so because apart from exceptional situations the law requires fault before it allows the injured party to claim damages. Fault comes in two forms: negligence or intent. Proving intent is more difficult than proving fault. But, since negligence is usually enough for the injured party to claim damages, there is really no necessity to prove intent. The same applies to light and gross negligence. Light negligence is also negligence and usually enough for the purposes of claiming damages.

The problem with negligence is deciding whether a specific action (or inaction for that matter) did in fact constitute negligence. This is not a precise science, some might even argue it is pure arbitrariness. To understand this, it is enough to look at the wording used in law when defining negligence. For instance, Latvian Civil Law states that "*light negligence is the lack of the care and diligence, which must be observed by a decent and diligent master*". This definition or rather description raises more questions than it gives answers. And it is not just a problem of Latvian law, the same is true everywhere. The proposition for a European civil code, Draft Common Frame of Reference (DCFR), is struggling with defining negligence just as much.[11]

The law is full with terms that do not really provide for any legal certainty, but instead effectively shift the burden of law-making from the legislator to the courts. These so called

[11] See Draft Common Frame of Reference, VI. – 3:102.

"general-clauses" cause not only legal uncertainty, but also law based on case law with all that comes with it. Such approach is not ideal, but it does seem inevitable and acceptable, because usually the necessity to interpret such general clauses does not appear too often. But that is not the case with negligence. Either through a tort or breach of contract damages are caused all the time. Deciding whether there was or was not negligence is an everyday task, not only for the courts, but also for the parties involved and others such as insurance company. The decision to claim damages, to pay them voluntarily, to pay out the insurance and so on also depends on the degree of certainty whether the particular action was or was not negligence. Would it not be great to have a formula in determining negligence with mathematical precision?

Economic analysis of law does attempt to offer a solution in determining negligence. And this offer comes with a bonus. Not only is legal uncertainty to be reduced, but also the overall welfare increased. The idea seems simple. If precautionary measures cost less than damages, then not taking these precautionary measures is negligence. At first the idea seems very appealing. It allows to actually calculate what negligence is and generally leads to more efficient use of resources in the society. But this approach, as appealing as it sounds, has its difficulties and even strict limits. However, these difficulties mean not that economic analysis of law should be abandoned altogether when it comes to determining fault. On the contrary, it seems that fault should always be determined in the light of economic analysis where possible. The aim of this article is to briefly demonstrate the potential and limits of economic analysis of law, with an encouragement to consider economic analysis wherever possible. But it must be pointed out that economic analysis of law can be and are applied in many fields of law, this article only deals with economic analysis of law in determining negligence.

**Basic rule – Learned Hand formula**

Learned Hand is the name of an American judge, who is seen as the father of the formula for determining negligence, the calculus of negligence. To put it simply, a chartered ship (barge) tied to a pier broke free, drifted and another ship was sunken as a result.[12] The question was whether an owner of a ship is liable for leaving the ship without anyone onboard for supervision purposes while the ship is tied to a pier. Judge Learned Hand first pointed out that there is no general rule covering such situations. And then he proceeded with his famous formula: "*Since there are occasions when every vessel will break from her moorings, and since, if she does, she becomes a menace to those about her; the owner's duty, as in other similar situations, to provide against resulting injuries is a function of three variables: (1) The probability that she will break away; (2) the gravity of the resulting injury, if she does; (3) the burden of adequate precautions. Possibly it serves to bring this*

[12] United States et al. v. Carroll Towing Co., Inc., et al. Available: https://law.justia.com/cases/federal/appellate-courts/F2/159/169/1565896/ (accessed on 21.05.2021).

*notion into relief to state it in algebraic terms: if the probability be called P; the injury, L; and the burden, B; liability depends upon whether B is less than L multiplied by P: i. e., whether B > PL.*"

One problem with this formula immediately jumps to mind. How to determine what number is P, i.e. probability? The same applies to L, i.e., damages. It seems that only number B, i.e., the costs associated with precautionary measures are somewhat measurable.

IT has been argued that because of these difficulties to actually calculate whether precautionary measures are cheaper than the damages, Learned Hand formula cannot be applied by courts; instead it is up to the legislator to set rules based on economic analysis.[13] A famous case was in Germany, where wild animals ran onto a road and caused traffic accidents.[14] The question was whether the owner of the road, local government, was obliged to secure the road from wild animals by setting up a fence along the forest. This is particularly relevant for Latvia not only because of its comparatively vast forests, but also because the Latvian Civil Law too demands owners of things to avoid risks emanating from these things.[15] However, the German Supreme court ruled that a warning sign was enough, the roads cannot reasonably be kept a 100% safe from wild animals, after all, they are wild. This judgement became famous in legal literature.[16] It does not surprise, because the case was a great opportunity to see Learned Hand formula in action, but the German Supreme court simply neglected it. Two German protagonists of economic analysis of law, Schäfer and Ott, demonstrated how easily the court could have actually compared damages to costs associated with their avoidance.[17] They took a time period of a year, asked local authorities about the number and gravity of accidents. They easily calculated that the economic loss from accidents (damage to property and loss of wildlife) were at least 120 000 – 140 000 DM (Deutschmark) a year, not taking into account personal injuries (bodily harm).[18] But the cost for setting up a fence, taking into account its life-expectancy, was calculated at around 46 250 DM a year.[19] So it seemed clear from an economic point of view that it should have been seen as negligent not setting up a fence.[20] It has been somewhat sarcastically pointed out that the local authorities did in the end set up a fence despite not having a legal obligation to do so (at least according to the German Supreme court).[21] The costs for setting up the fence were actually slightly lower than initially calculated by Schäfer and Ott.[22]

[13] *Eidenmüller*, Effizienz als Rechtsprinzip, 4. Aufl. 2015, S. 429 f.; *Taupitz*, AcP 196 (1996), 114, 155 ff. (cited from *Thomas M.J. Möllers*, Juristische Methodenlehre, 2. Auflage 2019, S. 197, Rn. 137)
[14] BGH Urt. v. 13.7.1989, III ZR 122/88. Available also: https://www.prinz.law/urteile/bgh/III_ZR_122-88 (accessed on 21.05.2021).
[15] Although Latvian law does not have such an express general principle codified, clauses such as Section 1084. of the Civil Law clearly demonstrate the recognition of this principle.
[16] *Thomas M.J. Möllers*, Juristische Methodenlehre, 2. Auflage 2019, S. 197, Rn. 136.
[17] *Schäfer /Ott*, Lehrbuch der ökonomischen Analyse des Zivilrechts, 5. Auflage 2012, S. 212 ff.
[18] Ibid.
[19] Ibid.
[20] Gerhard Wagner, Deliktsrecht. 14. Auflage 2021, S. 34, Rn. 26.
[21] *Thomas M.J. Möllers*, Juristische Methodenlehre, 2. Auflage 2019, S. 197, Rn. 137.
[22] *Schäfer /Ott*, Lehrbuch der ökonomischen Analyse des Zivilrechts, 5. Auflage 2012, S. 213.

**Limits**

It can be argued that the example with fence and wild animals on roads is indeed a lucky case, because it allows a calculation precise enough to actually compare costs of precautionary measures with damages. In many if not most cases such calculation would simply be impossible due to lack of information among other things. For example, in the case with wild animals on road comparison between costs and damages was only possible because statistics for a longer period of time were available. What if the road was new and not even a month had passed since the first accident? This may lead to a ruling whereby negligence is denied merely because of lack of statistics. But it can also be well argued that that is what is actually happening all the time. In fact, this seems to be exactly what happened in the German Supreme court case where the wild animals ran on roads and the local authorities later on set up a fence without being obliged to do so by the court. And if negligence is already being denied just because of lack of information (or not necessarily lack, but difficulties in obtaining necessary information), welcoming economic analysis in determining negligence will not make things worse. But what it will do is shed light on many cases which should and could have been decided based on economic deliberations, but were not due to lack of information. This will make the problem of lack of information more visible, but pointing out a problem is not the same as causing it; identifying a problem is rather a step forward to its solution.

Another major problem with economic analysis and determination of negligence is that not all can be expressed in economic values, or not easily in any case. Although general economic welfare is in our culture (often called the western world) a legitimate aim, other values can and do often trump general welfare. But this is not a problem. Many different laws, in particular constitutions provide for a number of different values, even contradictory values (e.g. contract freedom vs. consumer protection). The courts already balance between these values. General welfare can be seen as just another such value. As T. Möllers puts it, "*economic analysis of law [..] can help in revealing economically effective solutions. But doing so, economic deliberations must be in line with the values of the constitution and other laws*".[23] It seems impossible to argue the contrary. But it must be noted that conformity with other values seems much more relevant in other fields of economic analysis of; when it comes to determining negligence, other values do not seem to offer any noteworthy assistance. And for this reason economic analysis of law, when applied in the field of determining negligence, seems to have little risk in colliding with other values.

**Conclusions**

The basic notion of economic analysis of law when determining negligence is simple. If the costs of precautionary measures are less than the expected damages, not taking the precautionary

[23] *Thomas M.J. Möllers*, Juristische Methodenlehre, 2. Auflage 2019, S. 203, Rn. 159 (translated from German to English by the author).

measures is reasonable and thus not negligence at all. But not taking measures that cost less than expected damages is negligence. Although Latvian law as well as the law of many other countries does not expressly state that general economic welfare is an aim (or rather one of the aims) of the law (or the society), it can hardly be argued that general welfare is not an aim at all. Furthermore, Latvia is also a member of the European Union (EU), and it is expressly stated that one of EU's goals are economic well-being.[24] Economic analysis can therefore shoot at least two birds with one stone: reduce legal uncertainty in determining negligence and facilitate general economic well-being.

The main problems in determining negligence based on economic analysis of law are also somewhat obvious. First, in many cases lack of information will deny any possibility to compare costs between precautionary measures and potential losses. And even if this information was given, it might be difficult or even impossible for an already overworked judge to make necessary calculations in our complex modern life. Last but not least, general economic welfare, although no doubt a legitimate aim of law, is neither the only nor the superior legal value. Instead there are many legal values which can override economic welfare.

But none of these problems demand that economic analysis of law be rejected. Economic analysis does seem to offer solutions, even if only to a limited extent. And one should not confuse the revealing of problems by economic analysis with actually causing the problems. All the difficulties that come with applying economic analysis can reveal the imperfections of our legal systems. We might not like what we see, but we must do our best in finding solutions instead of turning a blind eye.

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[24] Treaty on European Union, Article 3, paragraph 3, sub-paragraph 1.

# WHICH WAY TO GO? URGENT PROCEDURE, SETTLEMENT OR TERMINATION OF CRIMINAL PROCEEDINGS IN THE CASE OF A MINOR CRIMANAL OFFENCE

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**Abstract**

**Which way to go? Urgent procedure, settlement or termination of criminal proceedings in the case of a minor crimanal offence**

***Key Words:*** *criminal proceedings, urgent procedure, settlement, conciliation, minor criminal offence, minor threat*

This study evaluates under what conditions in criminal proceedings it would be more effective to apply the urgent procedure, how to proceed in criminal proceedings towards a settlement or termination of criminal proceedings exempting a person from criminal liability in the case of a minor criminal offence.

The main conclusions are that the definition of a minor criminal offence does not provide a clear idea of what would be a minor threat to the interests protected by law. The conditions for terminating criminal proceedings in the case of a minor criminal offence are not proportionate to the conditions for terminating the criminal proceedings in the event of a settlement. Accordingly, in the case of a minor criminal offence, the precondition for terminating the criminal proceedings would be a criminal offence which has not been affected individuals, or whether they consider the harm inflicted to be substantial or have been compensated for the damages. In other cases, the criminal proceedings should be investigated as a matter of priority and brought under the urgent procedure. Also, the criminal proceedings should be prioritised in accordance with the urgent procedure with the possibility to apply the prosecutor's penal order or termination of the criminal proceedings conditionally already at the stage of prosecution, providing for the possibility for the settlement in parallel with the urgent procedure.

**Kopsavilkums**

***Atslēgvārdi:*** *krimināprocess, paātrinātais process, izlīgums, maznozīmīgs noziedzīgs nodarījums, neliels apdraudējums*

Pētījumā tiek vērtēts, pie kādiem nosacījumiem kriminālprocesā efektīvāk būtu piemērot paātrināto procesu, kriminālprocesa virzību izlīguma noslēgšanai vai kriminālprocesa izbeigšanai, atbrīvojot personu no kriminālatbildības maznozīmīga noziedzīga nodarījuma gadījumā.

Kā galvenie secinājumi jāmin, ka maznozīmīga noziedzīga nodarījuma definīcija nesniedz skaidru redzējumu attiecībā uz ar likumu aizsargāto interešu nelielo apdraudējumu. Kriminālprocesa izbeigšanas nosacījumi maznozīmīga noziedzīga nodarījuma gadījumā nav samēroti ar kriminālprocesa izbeigšanas nosacījumiem izlīguma gadījumā. Procesa virzītājam, pirms piemērot kriminālprocesa izbeigšanu maznozīmīga noziedzīga nodarījuma gadījumā, būtu jāvērtē cietušā attieksmi pret tai nodarīto kaitējumu, vai tas ir tai nozīmīgs. Attiecīgi kriminālprocesa izbeigšanas maznozīmīga noziedzīga nodarījuma gadījumā priekšnosacījums būtu tāds noziedzīgs nodarījums, kura rezultātā nav cietušas privāto tiesību personas, vai tās neuzskata nodarīto kaitējumu par tai nozīmīgu, vai tām ir atlīdzināti nodarītie zaudējumi. Citos gadījumos kriminālprocess prioritāri būtu izmeklējams un virzāms paātrinātā procesa kārtībā. Tāpat kriminālprocess prioritāri virzāms paātrinātā procesa kārtībā ar iespēju jau kriminālvajāšanas stadijā piemērot prokurora priekšrakstu par sodu vai kriminālprocesa izbeigšanu ar nosacījumiem, paredzot iespēju izlīgumu realizēt paralēli paātrinātajam procesam.

## Introduction

The objective of this study is to assess under what conditions in criminal proceedings it would be more effective to apply the urgent procedure, how to proceed in criminal proceedings towards a settlement or termination of criminal proceedings exempting a person from criminal liability in the case of a minor criminal offence, to identify the applicability of the definition of a minor criminal offence.

The guidelines Simplification of less serious crime investigation aimed to balance public danger, harm caused by crime and consumption of resources for investigation already address the need to refuse initiation of criminal proceedings or to terminate them if the committed crime is

considered to be of low significance or does not affect the interests of society and take other actions of simplification of criminal procedures (Vēbers, Stulpāns 2015). And it is very important to continue to think about the resources of investigative bodies, prosecutors and the judiciary in the investigation of less serious crimes. At the same time, the legislator should have a clear vision of the goal to be achieved, so that the changes in the laws implemented over time do not conflict with each other.

The study examines legal acts and scientific literature. Methods of interpretation of legal norms as well as comparative analysis have been used.

**Discussions**

On July 6, 2020, amendments to the Criminal Procedure Law and the Law on the Procedures for the Coming into Force and Application of the Criminal Law entered into force introducing a new definition of a minor criminal offence. According to Section 19.$^{2}$ of the Law on the Procedures for the Coming into Force and Application of the Criminal Law, a minor criminal offence shall be an offence that has resulted in property loss which at the time of committing the criminal offence has been less than half of the minimum monthly salary specified in the Republic of Latvia at that time, or the endangering of the interests protected by law caused thereby is small (11.06.2020. Law Amendment to Law on the Procedures for the Coming into Force and Application of the Criminal Law, 2020). Meanwhile, in Section 373, Paragraph 2.$^{1}$, Section 379, Paragraph 1(1), and Section 392, Paragraph 2.$^{1}$ of the Criminal Procedure Law, the criterion of refusal to initiate criminal proceedings and termination of criminal proceedings – a criminal offence has been committed exhibiting the characteristics of a criminal offence but has not caused such harm as to impose a criminal penalty, has been replaced with a minor criminal offence (11.06.2020. Law Amendments to Criminal Procedure Law, 2020).

As stated in the annotation of the 11.06.2020. law Amendments to the Criminal Procedure Law, the possibility not to pursue criminal proceedings due to the minor significance of the offence is already provided for, but so far, no specific criteria for minor significance have been defined (Annotation of the 11.06.2018. Law Amendments to the Criminal Procedure Law, 2020). The wording that has been in place so far is general, the reference to the damage caused is vague failing to create certainty for the person conducting the proceedings about the circumstances under which initiation of criminal proceedings may be refused or criminal proceedings may be terminated. In order to solve the problem, the Law on the Procedures for the Coming into Force and Application of the Criminal Law sets out two specific criteria for minor significance depending on the consequences, namely, applying one criterion to the volume of property damage being less than half the minimum monthly salaries, but applying the second criterion to the threat to the interests

protected by law as being small (Law on the Procedures for the Coming into Force and Application of the Criminal Law, 1998).

It can be agreed that the first criterion of a minor criminal offence – property damage which at the time of the commission of the offence was below half of the minimum monthly wage set in the Republic of Latvia at that time, is clear and will definitely be applied in practice. At the same time, such a solution does not comply with the concept of the Criminal Penalty Policy that the Criminal Law should not provide for liability for offences that cannot cause substantial harm to the public interest. Such offences should be decriminalised applying solely administrative liability (Criminal Penalty Policy, 2009). Defining in law a specific amount (sum) at which initiation of criminal proceedings may be refused or such criminal proceedings may be terminated, at the same time failing to provide for administrative liability in such cases, creates a situation where a potentially large portion of criminal violations and less serious crimes shall not be investigated and no criminal liability applied.

In addition, the summary How to Reduce the Overall Workload of the Criminal Justice System prepared under the efficiency audit Effectiveness of Investigation and Prosecution of Criminal Offences in the Field of Economy and Finance published on 11 January 2021 by the State Audit Office should also be taken into account. The State Audit Office proposes to assess the need to decriminalise minor criminal offences, providing for their consideration in accordance with the procedure of administrative liability rather than criminal proceedings (State Audit Office, 2021).

On the other hand, the second criterion of a minor criminal offence – the threat to the interests protected by law is small, should by no means considered to be sufficiently clear. This is confirmed by the summary of case law in 2018 in cases where the characteristic element of a criminal offence has been substantial harm, stating that the establishment of substantial harm and its exact substantiation as a qualification problem has been identified already in the summary of case law made in 2004 (Hamkova 2018: 3-4). It should be emphasised here that one of the criteria for substantial harm is a significant threat to a legitimate interest, as opposed to a small threat to a legitimate interest. The significant threat to the interests protected by law has been reflected in a number of scientific publications and, unfortunately, points to challenges in the interpretation of these provisions. Thus, for example, in determining whether the threat to the interests and rights protected by law is significant, any harm should be taken into account regardless of its volume which cannot be assessed in monetary terms (Krastiņš 2009, 51-52). Unfortunately, in practice, in the application of the provisions of the Criminal Law, the person conducting the proceedings is facing the greatest challenges to fill in the non-material content of this significant threat to the interests and rights protected by law. Thus, if the answer cannot be found directly in the Criminal Law, it must be sought in the legal system which consists of normative acts, legal doctrine, case

law, as well as general principles of law (Ķinis 2012). Despite the welcome goal of the December 2015 amendment to the Law on the Procedures for the Coming into Force and Application of the Criminal Law to solve the practical application problems in terms of content of substantial harm, the problems with the establishment of endangerment to non-material interests were not solved (Lomonovskis 2018: 28).

At the same time, the aforementioned summary of case law indicates that if one or more interests have been violated to a minor extent, slightly, insignificantly, minimally, moderately, "not significantly" as a result of a personal offence, the offence shall not reach the degree of harm inherent to a criminal offence. (Hamkova 2018: 40). Consequently, terminology is used in an attempt to classify the threat to the interests protected by law as significant or not significant, also insignificant.

Considering this, how should a small threat to interests be understood? Should an analogy be used here in relation to pecuniary damage, for example, in relation to theft as defined in the Criminal Law – insignificant, small-scale, such as of regular volume, significant, large (Criminal Law 1998)? Consequently, a small threat to a legitimate interest, a threat of a normal magnitude or a significant threat could also be identified, or would anything that is not significant be regarded as minor? At present, this interpretation is left to those applying the legal norms and only on a case-by-case basis, when the person conducting the proceedings shall determine in accordance with his/her internal conviction as to what poses a minor threat to the legally protected interests, but that by no means shall form a unified practice that served as argument for introduction of changes.

Particular attention should be paid to the fact that, in order to terminate criminal proceedings or refuse to initiate criminal proceedings in the event of a minor criminal offence, compensating for the damage caused is not mandatory. Consequently, the interests of the injured party may remain unprotected. These changes are based on saving the resources of the investigating authorities without assessing and improving the system of criminal proceedings as a whole. As a result, a more favourable possibility to the victim of terminating the criminal proceedings, which may occur in the event of a settlement, involves stricter conditions for application. Pursuant to Section 58, Paragraph 2 of the Criminal Law, criminal proceedings may be terminated and a person may be exempted from criminal liability in the event of a settlement with the victim or his or her representative and the person in question has not been exempted from criminal liability for committing an intentional criminal offence by settlement within the past year and has fully eliminated the harm inflicted by the offence or compensated for the damage caused (Criminal Procedure Law, 2005). Changes in the Criminal Law that entered into force on April 1, 2013 limited the possibilities to exempt from criminal liability the perpetrators entering a settlement with the victims (Zavackis, Judins, Dzenovska, Kronberga, Sīle 2013: 18).

Before instituting criminal proceedings in the case of a minor criminal offence, the person conducting the proceedings should also assess how the victim feels about the harm caused to him/her and whether it is substantial. There should also be guidelines for investigative bodies establishing a common practice for terminating criminal proceedings in the case of a minor criminal offence, in order to avoid situations where, in order to save the resources of investigative bodies, criminal proceedings against repeated perpetrators would be terminated. The legislator should take measures to improve legal norms in order to give priority to the most favourable option for the victim – termination of criminal proceedings in the event of a settlement and when the perpetrator has completely eliminated the harm inflicted by the committed criminal offence or compensated for the damages.

On the other hand, in the case of minor criminal offences, a comparison between the termination of criminal proceedings in the event of a settlement and the urgent procedure before prosecution and then applying prosecutor's penal order or terminating the criminal proceedings conditionally, it must be pointed out that the evaluation of settlement possibility should be mandatory irrespective of whether the criminal proceedings are terminated or not. The fundamental right of a victim in criminal proceedings is to settle with the person who has inflicted harm upon him or her, as well as to receive information on the materialisation of the settlement and consequences thereof (including that criminal proceedings against the perpetrator will or may be terminated). It should also be taken into account that settlement would also be the most complete way to restore the situation as it was prior to crime, moreover, it is considered to be the most friendly instrument of restorative justice for the victim (Kronberga, Logina 2019: 46).

At the same time, the person conducting the proceedings must also ensure the completion of the criminal proceedings within a reasonable term; the person conducting the proceedings cannot wait extensively for the probability that a settlement will be reached. The victim also has an interest in reaching a fair settlement of the criminal legal relationship as soon as possible, including receiving appropriate compensation. Given that it is possible to reach a settlement at any stage of the criminal proceedings, the criminal proceedings should be referred to the next person conducting the proceedings (the prosecutor) to bring charges. Investigations in accordance with the principles of criminal procedure shall, as far as possible, be carried out under an urgent procedure. The implementation of an urgent procedure is also essential to prevent re-victimisation of the victim which may occur to a greater extent if the process takes an unreasonably long term.

When criminal proceedings already have reached the prosecutor's office, there are much more effective opportunities to ensure a fair regulation of criminal legal relations. It is possible both to reach a settlement and to terminate the criminal proceedings accordingly, it is possible to terminate the criminal proceedings conditionally thereby providing the victim a certain guarantee that the

damages will be compensated, also it is possible to apply the prosecutor's penal order with one of the conditions for application would be compensation for the damage caused to the victim.

It should be noted that the timely imposition of a penalty or even the imposition of conditions on a person who has committed a criminal offence also ensures the implementation of the principle of inevitability of a sentence. In addition, the body of evidence at the stage of prosecution leaves virtually no doubt as to a person's guilt, and other forms of fair regulation of criminal legal relations are possible without a settlement.

Consequently, the investigator must continue the investigation, record the evidence, despite the fact that there are indications of a possible settlement and, consequently, a possible termination of the criminal proceedings. Although entering into a settlement presupposes that the person pleads guilty, when the settlement is not ultimately finalised, the person's initial desire to enter into such a settlement (for example, to participate in mediation) cannot be considered as evidence (Judins 2005). Consequently, there must also be solid sufficient evidence to prove a person's guilt.

The investigator may choose not apply the urgent procedure in criminal proceedings when a settlement has been reached and the perpetrator needs some time to eliminate the harm inflicted by the criminal offence entirely or to compensate for the damage caused, and then to terminate the criminal proceedings.

**Conclusions**

Although the amendments to the Criminal Procedure Law and the Law on the Procedures for the Coming into Force and Application of the Criminal Law, which defined the definition of a minor criminal offence, were designed to establish clear criteria for terminating criminal proceedings, they fail to provide a clear vision of a small threat to interests protected by law. Moreover, the conditions for terminating criminal proceedings in the case of a minor criminal offence are not proportionate to the conditions for terminating the criminal proceedings in the event of a settlement. Accordingly, in the case of a minor criminal offence the precondition for terminating the criminal proceedings would be a criminal offence which has not been affected individuals under law, or whether they consider the harm inflicted to be substantial or have been compensated for the damages. In other cases, the criminal proceedings should be investigated as a matter of priority and brought under the urgent procedure.

On the other hand, if the application of the urgent procedure and the progress of the criminal proceedings towards a settlement and the subsequent termination of the criminal proceedings are to be compared. Then the criminal proceedings should be prioritised in accordance with the urgent procedure with the possibility to apply the prosecutor's penal order or termination of the criminal proceedings conditionally already at the stage of prosecution, providing for the possibility for the settlement in parallel with the urgent procedure. The urgent procedure should not apply in criminal

proceedings when the settlement is in its final stages and it would take time for the other criteria for termination of criminal proceedings to incur – the person in question has not been exempted from criminal liability for committing an intentional criminal offence by settlement within the past year and has fully eliminated the harm inflicted by the offence or compensated for the damage caused.

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# NECESSITY FOR THE INTERNATIONAL ADOPTION OF CHILDREN AND THE ESTABLISHMENT OF ALEGAL FRAMEWORK THEREFOR

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**Abstract**

**Necessity for the international adoption of children and the establishment of alegal framework therefor**

***Key Words*:** *civil law, international law, family law, adoption, legal framework*

The paper deals with the problems related to the international adoption of children and the relevant legal framework. It established that the international adoption of children was on the rise especially during the war and post-war periods, becoming a significant problem. However, the adoption of children is still widespread today. Significant cultural and prosperity differences across countries in various regions of the world have led to various institutions of adoption and different views on the principles, procedures and legal consequences of adoption.The long evolutionary development of the institution of adoption determined the necessity to foster progress in the field of adoption and establish a common recognition of principles and practices in the field of adoption in all regions of the world. In this regard, the next step was to emphasize the importance of the institution of adoption at the global level, as there were still children in any country of the world who lived in extremely difficult conditions and needed special care. Therefore, international cooperation played an important role in improving the living conditions of children throughestablishing common principles for the protection and harmonious development of children while leaving respect for the traditions and cultural values of each nation at the national level. The key requirements for the international adoption of children were adopted in the Hague Convention of 29 May 1993, which stipulates that intercountry adoption may take place mainly if it is not possible to provide appropriate care comparable to that in the family to the child in his/her country of origin.

**Kopsavilkums**

**Bērnu starptautiskās adopcijas nepieciešamība un tiesiskā regulējuma veidošanās**

***Atslēgvārdi:*** *civiltiesības, starptautiskās tiesības, ģimenes tiesības, adopcija, tiesiskais regulējums*

Rakstā apskatītas problēmas, kuras saistītas ar bērnu starptautisko adopciju un tās tiesisko regulējumu. Konstatēts, ka bērnu starptautiskā adopcija īpaši aktivizējusies kara un pēckara apstākļos, kad tā kļuva par masveida problēmu. Taču bērnu adopcija ir izplatīta arī mūsdienās. Būtiskās atšķirības kultūras un attīstības ziņā dažādos pasaules reģionos esošajās valstīs ir izveidojušas dažādus adopcijas institūtus un noteikušas atšķirīgus uzskatus par adopcijas principiem, procedūru un tiesiskajām sekām. Ilgais adopcijas institūta attīstības evolucionārais process iezīmēja nepieciešamību veicināt arī progresu adopcijas jomā un izveidot kopīgu principu un prakses atzīšanu bērnu adopcijas jautājumos it visos pasaules reģionos. Šajā ziņā nākamais solis bija adopcijas institūta nozīmīguma akcentēšana pasaules līmenī, jo visās pasaules valstīs joprojām bija bērni, kuri dzīvoja ārkārtīgi smagos apstākļos, un tiem nepieciešama īpaša gādība. Tāpēc starptautiskajai sadarbībai tika piešķirta svarīga loma bērnu dzīves apstākļu uzlabošanā, izstrādājot bērnu aizsardzības un harmoniskas attīstības kopējos principus, ikvienas tautas tradīciju un kultūras vērtību ievērošanu atstājot nacionālā līmenī. Galvenās prasības bērnu starptautiskai adopcijai tika pieņemtas 1993.gada 29.maija Hāgas konvencijā, nosakot, ka adopcija ir iespējama galvenokārt tad, ja bērna izcelsmes valstī nav iespējams sniegt atbilstošu aprūpi.

## Introduction

In any country of the world, including Latvia, there are children who live in very difficult conditions and need special care. The international adoption of children was promoted by wars, which led to both human migration and the emergence of orphans. Today, it is due to unequal living conditions across individual families, the high birth rate in poor families, and the need to create better living conditions for children with special needs.

Families living in developed countries, however, are able to provide better care and education to their children, as well as support them during adulthood, while in case a family is childless, it can provide itself with heirs through adoption.

Problems with child adoption are still not fully solved at the international level. Before World War II, the laws of any country did not contain any provisions governing international adoption, and the adoption was governed by the national laws, i.e. very differently. In the countries that had imposed restrictions on adoption by foreigners, the restrictions were circumvented through practicing de facto adoption. In cases in which the citizenship of a child belonging to the category of forcibly displaced persons could not be identified, he or she was adopted as the citizen of the country.

The proposals made by some countries concerning this issue were considered and incorporated into the Convention on the Rights of the Child passed on 20 November 1988 as well as the Hague Convention passed in 1993. However, even more relevant provisions concerning international adoption and custody of children for foster families were incorporated into 1996 directives that were adopted at the 27th World Congress in Hong Kong (Latvijas Vēstnesis 2002). Nevertheless, the procedure for international adoption is still not perfect and requires attention, as children are adopted by foreigners having with different traditions and beliefs.

Therefore, the research aims to identify and assess potential solutions to establishing an international order for children adoption in order to protect the rights and personal interests of adopted children living abroad.

The researchemployedthe historical, analytical and descriptive methodsto review various sources of law that govern the adoption process as well as emphasizedrespective problems, applying the sources of international law.

**Emergence of a legal framework for the institution of adoption**

The international adoption of children emerged particularly because of World War II when it turned from individual cases into a mass phenomenon. In addition, the evolution of it could be described by four distinct stages.

The first stage was characterized by people fleeing war-torn areas and involved forced migration. Therefore, the conditions for the internationalization of child adoption were created in Europe and other regions of the world involved in the war. After World War II, the number of illegitimate children tripled, as the perception of morals concerning family relationships changed. Adoption became an increasingly acceptable decision for couples who could not have children as well as for unmarried women. In that period, the laws of any country did not contain any provisions governing international adoption, and the adoption was governed by the national laws, i.e. very differently. In cases in which the citizenship of a child belonging to the category of forcibly displaced persons could not be identified, he or she was adopted as the citizen of the country (Дюжева О. 1995: 41).

With World War II beginning, the first stage in the evolution of international adoption ended, which was characterized by:

1. A small number of international adoptions;
2. A lack of a clear legal framework for international adoption, or gaps in national laws, which were closed by the application of existing norms in practice; consequently, in many countries adoption took place without a legal basis.

Adoption was not viewed through the prism of the child's interests but as an opportunity for adopters to have an heir (Зеличенко Ю.Л. 2007: 125).

In view of the shortcomings identified in practice, the international legal framework for adoption began to emerge.

The end of World War II is considered to be the second stage of international adoption. The Republic of Korea, closing no orphanages, launched a campaign aimed at adopting children by families. The children were adopted by foreign war veterans, especially US citizens, who came to Korea in person, while most of them used intermediaries for whom this activity became a profession. The first specialized adoption agencies for foreign children were established in the world. One of the best known is Holt International Children's Services (HICs) – an adoption agency that still operates. The adoption of children was started by the Holt family who brought eight children in 1955 after watching a documentary about Korea. The Holt family's actions gained public support and turned into a broad international movement. In 2000, the Holt family was awarded the Kellogg's Child Development Award for their selfless service (https://www.holtinternational.org/).

In 1967, the member states of the Council of Europe drafted and adopted the European Convention on the Adoption of Children, which established the main principles to be included in the laws of all the member states (Latvijas Vēstnesis 2000).

Each time a new country was involved in international adoption, there was usually no special law governing the process. There were all kinds of violations. Since there was no international regulation of adoption due to national peculiarities, moral norms, human rights, immigration laws etc. were violated. The 1980scould be considered the end of the second stage of international adoption, which was characterized by efforts to unify legal provisions in the field of international adoption. Their purpose was to simplify the adoption process, thereby avoiding obstacles to its implementation to the extent possible.

The third stage of international adoption was characterized by passing internationally important documents that introduced standards in the field of children's rights, incl. protection of children without parental care. The first document was the UN Convention on the Rights of the Child of 20 November 1989 (Latvijas Vēstnesis 2002).

The convention sets out the specific right of the child to childhood that must be respected by the countries that have ratified the convention. The 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption also sets out a number of standards that are significant for the countries that have ratified the convention in the case of intercountry adoption. In addition, a trend towards the establishment of tripartite legal relations – biological parents, the adoptee and adopters– is being observed with regard to international adoption (Зеличенко Ю.Л., 2007: 127).

This trend in international adoption indicates a completely different approach to the rights of the child because atthe other stages of international adoption, the rule of separating the adopted child from his/her biological parents prevailed.

The fourth separate stage in the development of international adoption began in the 1990s when international adoption became a common process in most parts of the world.Besides, Eastern European countries, incl. Latvia,began to participate in international adoption. During that period, the term international adoption became widely used, combining the previously used "adoption of foreign children" and "adoption of children abroad" (Дюжева О., 1995: 41).

It should be noted that the role of international adoption continues increasing today too, as it is associatedwith povertyin some countries as well as local wars and conflicts.

Currently, the final international law on cooperation in the field of child protection, including adoption, is the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. To date, 78 countries have ratified the convention (https://uncitral.un.org/).

**Development of common international adoption guidelines**

Trying to design common guidelines for international adoption to be applied in practice, several basic principles applicable for this purpose were put forward:

1. The principle that adoption abroad is in the best interests of the child only if it is not possible to provide appropriate care comparable to that in the family to the child in his/her country of origin.The initial purpose of the principle was to monitor the child's post-adoption process by means of the competent authorities of the child's country of origin, therebytrying to eliminate violations of the rights of and criminal activities against the adopted child.
2. The principle that adoption is considered to be lawful only if the competent authorities are involved.
3. The principle that in case of adoption abroad the child has all the same rights and guarantees as those in the country of origin.
4. The principle thatpersons connected with adoption make no financial gain or any other benefit from adoption (Mieriņa A., 2015: 29).

The lawsgoverninginternational adoptions also stipulate the cases wheretheadoptions had been carried out not in the best interests of the child or had been manifestly contrary to the national laws of the receiving country of the child, thereby providing for non-recognition or annulment of such adoptions by court.

The introduction to the Civil Law of the Republic of Latvia does not stipulate what law is applicable to adoption. Some time ago, the scientific literature indicated that Latvian law is applicable if the adopter's place of residence is in Latvia on the basis of analogy with Section 15, Paragraph 1 of the Civil Law (Bojārs J. 1996: 217), i.e. personal and property relations between parents and children shall be subject to Latvian law if the person who has parental authority has a place of residence in Latvia. Since 2005,however, the mentioned legal provision has been amendedand isas follows: legal relations between parents and a child shall be subject to Latvian law if the specified place of residence of the child is Latvia (Civillikums1993).

On 18November 2009, amendments to the Law on the Protection of the Children'sRights entered into force in Latvia, which stipulate that a child may be adopted from Latvia only to a foreign country bound by the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, as well as if Latvia has concluded a bilateral agreement with the country involved, which determines legal cooperation in the field of adoption (Latvijas Vēstnesis 1998).

It should be taken into account that adoption both nationally and internationally is a long and complicated process; therefore, it is important to adapt national laws and regulations to international legal acts, which facilitates and uniforms the adoption process at the international level.

**Conclusions**

1. The international adoption of children takes placebecause of various circumstances, yet is particularly caused by war-torn areas and forced migration.However, international adoption also takes placein cases where it is not possible to provide appropriate care to the childin his/her country of origin, couples cannot have children, as well as for unmarried women.
2. Efforts to establish and uniform legal provisions in the field of international adoption of children began in the 1980s. Until then, international adoption took place without considering the interests of the child.
3. The key requirements for the international adoption of children were adopted in the Hague Convention of 29 May 1993, which stipulates that intercountry adoption may take place mainly if it is not possible to provide appropriate care comparable to that in the family to the child in his/her country of origin.
4. In accordance with the Law on the Protection of the Children's Rights,since 18 November 2009 Latvia has stipulated that a child may be adopted only to a foreign country which is bound by the

1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and has concluded a bilateral agreement with the country involved, which provides for legal cooperation in the field of adoption.

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# EKONOMIKA UN SOCIOLOĢIJA / ECONOMICS AND SOCIOLOGY

# INFRASTRUCTURE FOR SMART ECONOMIC DEVELOPMENT IN LATVIA

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**Abstract**

**Infrastructure for smart economic development in Latvia**

***Key Words:*** *smart economy, ICT infrastructure, education, development*

The article showed the ICT sector development in Latvia, as well as ICT infrastructure development for smart economic development in Latvia. To create a smart economy, smart education, smart universities, smart transport systems, smart management systems, smart industries, etc. are needed. This is necessary for growth of highly qualified specialists and forming instruments for business development in the country. The purpose of the article is to determine the main directions of ICT infrastructure for the smart economy in Latvia. To achieve this purpose, the following tasks are identified: 1. to consider promising directions for the development of the ICT sector, 2. to consider e-learning and smart education as drivers of the development of a smart economy, 3. to draw conclusions.

**Kopsavilkums**

***Atslēgvārdi:*** *viedā ekonomika, IKT infrastruktūra, izglītība, attīstība*

Raksts rada IKT nozares attīstības perspektīvas Latvijā, kā arī IKT infrastruktūras attīstību viedās ekonomikas attīstībai Latvijā. Lai izveidotu viedu ekonomiku, ir vajadzīga viedā izglītība, viedās universitātes, viedas transporta sistēmas, viedas vadības sistēmas, viedā rūpniecība, utt. Tas ir nepieciešams augsti kvalificētu speciālistu izaugsmei un uzņēmējdarbības attīstības instrumentu veidošanai valstī. Raksta mērķis ir noteikt IKT infrastruktūras galvenos virzienus viedai ekonomikai Latvijā. Lai sasniegtu šo mērķi, tiek noteikti šādi uzdevumi: 1. apskatīt daudzsološus virzienus IKT nozares attīstībai, 2. apskatīt e-mācību un viedu izglītību kā viedās ekonomikas attīstības virzītājspēku un 3. izdarīt secinājumus.

## Introduction

Recently, more and more attention is paid to creating infrastructure for a new economy – the smart economy. First of all, the infrastructure for a smart economy implies the introduction of intelligent or smart technologies that develop the creative and intellectual activity of a person. Examples of the emergence of a new economy are companies such as Appel, Microsoft, Google, Facebook, etc.

The main concepts of the smart economy (Тихомиров, Днепровская, 2011): 1.mobile access – the ability to receive all types of digital services anywhere in the world, while these services should be focused on each user individually; 2.creation of new knowledge; 3.creation of a smart environment – technological developments have reached a level where the ICT environment is almost identical to natural intelligence.

Leader positions in the knowledge-intensive business are occupied by ICT. Social networks, programming systems, online shopping, e-learning – all this has knowledge. The development of the ICT industry can be attributed to the fact that the ICT industry does not require large

investments. The main investment is a people and his skills. Therefore, the development of the ICT industry requires a good education system and people.

The purpose of the study is to determine the main directions of ICT infrastructure for the smart economy in Latvia. To achieve this goal, the following research tasks are identified: 1. to consider promising directions for the development of the ICT sector, 2. to consider e-learning and smart education as drivers of the development of a smart economy, 3. to draw conclusions.

**Perspectives of the ICT development in Latvia**

Now ICT can be found in almost all sectors of the economy, because ICT is the basis for the automation of production, trade and public services. At the same time, the development of ICT increases the requirements for highly qualified workers.

Although with a delay, automation will also affect the Latvian labor market (Spuriņš, Sjundjukovs, 2017). The greatest impact of automation is on the expected physical activities and the operation of various equipment and machines - it is estimated that it is currently technically possible to automate 81% of the time spent on such activities (e.g. accommodation and catering, manufacturing, transport and storage). Automation data collection (64%) and processing (69%) also have a large impact, but human management and development (e.g. education, business management, healthcare) have the lowest impact. It is projected that, under various conditions, the full deployment of existing ICT solutions could take place by 2055, but could take at least another 20 years. However, most of the employees whose activities will be automated need retraining opportunities. For example, an OECD study (Falck, Heimisch, Wiederhold, 2016) found that the acquisition of digital skills pays off and is valued in the labor market. It was also found that different ICT skills of employees help to explain different levels of salary, while improved ICT skills help to find better paid jobs.

Enrico Moretti proved that ICT leads not so much to increased employment as to an increase in the share of highly skilled labor. He researched 8 million jobs in 320 metropolitan areas. Based on the analysis, it was proved that for each highly skilled job in the city, there are 5 more jobs in the service sector. These 5 additional jobs require different workers: 2 workers with higher education for professional activities and 3 workers with low education for unskilled work (Славин, Ямалов, 2013).

Today, ICT not only complements and allows for better expression of certain skills and competences of employees, but also increasingly replaces employees in certain tasks. In turn, some experts point out that in the near future the possibility of full-fledged synthesis of artificial intelligence, which will be able to create competition for human intelligence, is practically ruled out (Городнова, Скипин, Роженцов, 2019).

The ICT industry includes a wide area: the production of computing equipment, the creation of software products, the development of applications, the provision of outsourcing services, the creation of a context for e-learning, etc. ICT sector development perspectives in Latvia: 1.artificial intelligence; 2.virtual and augmented reality; 3.Big data analysis; 4.software as a service (SaaS); 5.block chain; 6.digital technology platforms. Taking into account the capabilities of each region, need to focus on one direction.

The difference between smart technologies and ICT is due to the fact that smart technologies have a set of properties that allow to adapt a particular device to the needs of users during its use (smart phones, smart TVs, smart watches, etc.). Smart technologies are moving into the category of priority technologies that are able to determine the next stage of the informational development of the economy.

**E-learning as a driving force for smart economic development**

An important area of the ICT industry is e-learning. The main distinguishing feature of e-learning is professional staff and the use of e-learning tools. The pandemic of COVID-19 has given a big boost to the development of e-learning around the world. But e-learning will never replace traditional face-to-face learning.

Now e-learning is driving the transition from an information economy to a smart economy. Basic education cannot always provide the necessary competencies for a people's professional activity. Additional education (courses, advanced training, seminars) brings basic education closer to secondary and higher education. Additional education makes the learning process continuous. For learning it is necessary to use not only traditional learning methods, but also distance and interactive learning tools.

Distance and interactive learning is directly related to the use of ICT. Distance and interactive learning need software development, development of communication channels, production systems and data storage. Sometimes e-learning reduces the need for teachers. But e-learning will never replace a live teacher. Modern digital technologies can become the main form of education in additional education.

V.P.Tihomirov (Тихомиров, Днепровская, 2011, Тихомиров, 2011) believes that there is a transition from traditional learning to e-learning, and from e-learning to smart learning. It is important to note that smart education complements traditional learning with new smart technologies and new forms of learning organization.

**Smart education development**

Education is a process that is implemented in the interests of the individual and the state. Under the influence of ICT, the identity of the person and the state is being transformed. Therefore, smart properties are necessary for the development of smart education, taking into account changes in technology and economy.

Table 1. **Changes of generations**

| Generation | Distinctive features | Key factors |
|---|---|---|
| Generation X (1963-1981) | fundamental education, technical grammar, individualization, striving for a career growth, informal views | access to education, creation of highly skilled jobs, development of globalization, urbanization |
| Generation Y (1982-1991) | education is not fundamental enough, but in several areas, rapid mastery of technology, orientation towards self-realization rather than career growth, liberal views, comication abilities, infirmation abilities | development of technologies (especially Internet), globalization, political crisis |
| Generation Z (1992-2001) | natural attitude to technology, idealism, non-criticality, virtualization | ICT as a natural part of the environment |

**Source:** authors made by (Днепровская, Янковская Шевцова, 2015)

The change of generations creates new needs and opportunities for education. For example, online education is now actively developing. This led to the fact that students got access to online learning, universities – access to online audiences, but business – unique information about students and their success.

Now it is difficult to imagine the development of production without the use of ICT. This can be explained by the following factors for the development of smart education: 1. technological factors, 2. social factors, and 3. economic factors. Technological factors provide new tools for learning in modern world. Social factors cause people to need new educational services. Economic factors indicate that education has always made a great impact on the development of the economy.

The main task of smart education is to ensure sustainable development of society and the economy in accordance with a changing environment. E-learning should be used in smart education as a learning tool. Advances in e-learning (e.g. technology) are essential for smart education.

Smart education is an educational system operating on the basis of new smart technologies (smart board, smart screen, smart acess, etc.), the Internet, the interaction of the environment with the learning process, upbringing for the consumption of the necessary knowledge, skills, abilities and competencies.

Implementing the development of smart education on old approaches to creating educational materials will not lead to the desired result. Smart education need educational resources of a new type that use new smart technologies and the Internet tools. At the same time, now it is not enough just to know, people also need to be able to analyse ones knowledge, because the speed of knowledge is growing very quickly.

The basic principles of smart education (Тихомиров, Днепровская, 2011):

1. use of actual (in real time) information of educational tasks in the educational program;
2. realization of educational processes in a distributed learning environment (traditional face-to-face education plus distance learning);
3. organization of independent research activities of students;

4. interaction of students with the professional community;
5. flexible educational trajectories and individualization of learning;
6. the variety of educational activities requires the provision of ample opportunities for students to study educational programs, the use of tools in the educational process in accordance with their health, material and social conditions.

In order to determine the effectiveness of smart education, the following approaches to measuring smart education are proposed: 1. technological measurements; 2. organizational measurements; 3. pedagogical measurements.

**Conclusions**

In general, there is a transformation from traditional learning (face-to-face) to e-learning, and from e-learning to smart education. Changes take place in the learning environment when the student acquires knowledge independently and individually.

Smart economic development is impossible without smart education, and e-learning is needed to develop smart education.

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# EMPLOYMENT AS AN ASPECT OF SILVER ECONOMY: STUDY OF SITUATION IN LATVIA

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**Abstract**

**Employment as an aspect of silver economy: study of situation in Latvia**

***Key Words:*** *silver employment, population changes, factors affecting employment, Latvia*

The long-term development of a country is affected by several global processes – the development of technologies, climate change, as well as the ever-growing trends of inequality (United Nations, 2019), which in turn is affected by the population ageing. Studies that show the changes in the number of older people employment, as well as the causes behind these changes, can affect the choice of policy in a country (Qureshi 2002). In this study author analysed the trends of employment and population aged 45-54 and 55-64 in Latvia from 2012 until 2019, as well as uneconomical factors that affect the employment of Latvian population aged 55-64. Regression analysis demonstrates that the changes in the researched population subgroups in 2012-2019 differ – population aged 45-54 is decreasing (linear regression; $R^2$=0.9928), however, population aged 55-64 (linear regression; $R^2$=0.9876) is growing. This study showed that the population aged 45-64 decreased by 3.64% but employment level in this age group increased by 10.34 percentage points in 2019 when compared with data from 2012. Taking into account that the employment rates (in accordance with the methodology of Central Statistical Bureau of Latvia for obtaining the data) include also data about employed pensioners, it was concluded that the changes in the employment levels of working age population (those who are not pensioners) in this age group are actually lower. When comparing the employment level of population aged 35-44 with employment level of population aged 45-64 in 2012-2019, the latter is lower, indicating factors, which affect the employment of this age group in the labour market. Empirical research found that the most essential uneconomical factors that affect the employment of the Latvian population aged 55-64 are: 1) regular lifelong learning; 2) state of health (physical, emotional, mental health); 3) the skill of adapting to changes in work environment.

**Kopsavilkums**

**Nodarbinātība kā sudraba ekonomikas aspekts: Latvijas situācijas izpēte**

***Atslēgvārdi:*** *sudraba nodarbinātība, iedzīvotāju skaita izmaiņas, nodarbinātību ietekmējošie faktori, Latvija*

Valsts ilgspējīgu attīstību ietekmē vairāki globāli procesi - tehnoloģiju attīstība, klimata pārmaiņas, kā arī pieaugošās nevienlīdzības tendences (United Nations, 2019), ko savukārt ietekmē arī populācijas novecošanās. Pētījumi, kas parāda pārmaiņas gados vecāku cilvēku nodarbinātības rādītājos, kā arī cēloņus to izmaiņām, var ietekmēt politikas izvēli valstī (Qureshi 2002). Pētījumā analizētas 45-54 gadu un 55-64 gadu grupas iedzīvotāju skaita un nodarbinātības tendences Latvijā 2012.-2019. gadā, kā arī neekonomiskie faktori, kas ietekmē 55-64 gadus veco Latvijas iedzīvotāju nodarbinātību. Regresijas analīze liecina, ka pārmaiņas pētāmajās iedzīvotāju apakšgrupās 2012.-2019. gadā ir dažādas – iedzīvotāju skaits iedzīvotāju grupā 45-54 gadi samazinās (lineāra regresija; $R^2$=0.9928), bet vecuma grupā 55-64 gadi (lineāra regresija; $R^2$=0.9876) palielinās. Veiktais pētījums parādīja, ka 2019. gadā, salīdzinot ar 2012. gadu, iedzīvotāju skaits vecuma grupā 45-64 gadi samazinājās par 3.64%, bet nodarbinātības līmenis šajā grupā palielinājās par 10.34 procentpunktiem. Ņemot vērā, ka nodarbinātības rādītāji, saskaņā ar CSP datu iegūšanas metodiku, iekļauj arī datus par nodarbinātiem pensionāriem, tika secināts, ka faktiski grupā ietilpstošo darbaspējas vecuma iedzīvotāju - nepensionāru nodarbinātības izmaiņas ir mazākas. Salīdzinot ar 35-44 gadus vecu iedzīvotāju nodarbinātības līmeni, 2012.-2019. gadā 45-64 gadus vecu iedzīvotāju grupā iedzīvotāju nodarbinātības līmenis ir zemāks, kas liecina par faktoriem, kas darba tirgū ietekmē šīs grupas nodarbinātību. Empīriskajā pētījumā secināts, ka būtiskākie neekonomiski faktori, kas ietekmē 55-64 gadus veco Latvijas iedzīvotāju nodarbinātību ir: 1) regulāra mūžizglītība; 2) veselības stāvoklis (fiziskā, emocionālā, garīgā veselība); 3) prasme pielāgoties pārmaiņām darba vidē.

## Introduction

**Research aim** is to analyse number and employment trends of pre-retirement age population in Latvia as one of the sub-groups of silver economy and to define the uneconomic factors, which impact the employment of this population group.

Pre-retirement age population group in Latvia is defined by the chronological age for receiving old-age pension (Saeima 1995). The study analyses the changes in the number and employment of this group in 2012-2019. Data on the number of pre-retirement age population and

the number of pensioners has been analysed for the population aged 45–54 and 55–64, because: 1) such data is available from the Central Statistical Bureau of Latvia at the moment of the research; 2) in both age groups in 2012-2016 there were people receiving old-age pension. Whereas in research of the impact of factors, including uneconomic factors, on the employment of pre-retirement population, the problematics of the research were narrowed down to the research of age group 55-64, which corresponds with the current situation based on the period, when the research took place – the age for receiving old-age pension is being gradually increased from 62 to 65 years in the period from 2014 to 2025 and at the beginning of 2020 the age for receiving old-age pension was 63 years and 3 months. In certain cases, a person has the right to early retirement. The population in the pre-retirement age groups of 45-54 years and 55-64 years is partially or fully included in the target age group of the *silver economy* (50+ years) and thus the study uses the term *older people* to refer to this group.

**Research methods.** The research employed qualitative methods for theoretical literature review, while numerical data were processed using statistical data dynamics analysis, but data from the empirical study were used to determine the mean values of the factor estimates and the Nonparametric Mann-Whitney Test was carried out. **Research sources and materials.** Information from the Central Statistical Bureau, documents, statistics and research from Latvia and international organizations were used.

**Discussion**

*Silver economy* is a term that is used to identify emerging trends in economy due to population ageing and covers all products and services that are primarily designed to meet the needs of older people (GlobalAgingtimes 2020). *Silver economy*, as a global phenomenon, affects large sector of business and labour market in the regions (Limousin Chamber of Commerce and Industry 2012). This new direction in the economy is also known as the *silver market* and the *silver phenomenon* (Bannier, Glott, Meijs **2013).** Although there is no common approach to which age group the *silver economy* corresponds to, often it looks at population aged 50+ (Bannier, Glott and others 2013; Ng Gr., Ansari H. and others 2014**)**.

Changes in the population, with a trend of increasing population of older people, are confirmed by the United Nations research, which determine the actual population of the world's continents, regions and countries in twenty-one age groups (0–4, 5–9, 10–14, ..., 95–99, 100+), (United Nations 2020 (2)), including age groups 45–49, 50–54, 55–59, 60–65. The analysis of the data shows that in 2000 there were 6,143,494 thousand people aged 45–65 in the world (16.3% of the total population), but in 2020 the population of this group increased to 7,794,799 thousand (21.0% of the total population). In 2020 the world's population over the age of 65 has increased by 2.46 percentage points in comparison to 2000, and in 2020 it accounted for 9.3% of the total

population. These calculations show a gradual aging of the population, with an increasing proportion of older people in the population.

The quality of life of older people is characterized by the Active Aging Index (AAI), which is used to describe the active aging potential of the 50+ population (World Bank 2014) or the 55+ population (LR MK 2016). The index will also help governments to identify areas where intervention is needed to implement active and healthy aging policies. In the calculation of the index 22 indicators were used, divided into four groups (LR MK 2016):

- Factors that reflect the current situation of older people – employment, participation in society, independent and secure living.
- Factors that can facilitate active aging – capacity and active aging enabling environment, such as health or participation in lifelong learning (The Cabinet of Ministers of the Republic of Latvia 2016).

The indicators cover a wide range of socio-economic phenomena, including, for example, the working environment, financial security, healthy lifestyle and human health aspects. Latvia in the evaluation of AAI in 2014 has a varied assessment in comparison to 28 European countries:

- In the field "Employment" Latvia ranks 9$^{th}$ and is between Portugal and Cyprus, lower than Estonia, but higher than Lithuania.
- In the field "Participation in society" Latvia ranks 21$^{st}$ – more than Portugal, but less than Greece, lower than Lithuania, but higher than Estonia.
- In the field "Independent and secure living" Latvia ranks last – 28$^{th}$ place.
- In the field "Capacity and enabling environment for active aging" – 23$^{rd}$ place, with a higher rating than Lithuania and Estonia.

Overall, Latvia in 2014 received the same number of points as Lithuania – 31.5 –, which is lower than Estonia (34.6) and ranks 19$^{th}$ with the highest AAI value in Sweden (44.9) and the lowest – in Greece (27.6).

The World Bank concludes that people in Latvia who are outside the labour market at the age of 50 find it very difficult to enter it later and have little chance of being employed (World Bank 2014). Poverty caused by unemployment, low pay and low pensions are causally linked to factors such as healthy lifestyle, physical activity, and the ability to integrate into the work environment as a consequence of regular and targeted lifelong learning. Therefore, the analysis of the factors influencing employment must consider the factors included in the AAI and their assessment. The Declaration on Active and Assisted Living (AAL Market Observatory, 2018) calls for overcoming poverty and isolation by promoting the involvement of *silver economy* groups in employment.

Demographic change and its potential impact on national growth are studied in the context of labour supply, the cost of human capital, the efficiency of social systems and intergenerational

solidarity. There are calls for national policies to be boldly pursued through adaptive action to support active, healthy and productive aging, while public and private sector companies take care of a modern working environment for older people (World Bank 2015), and as outlined in the European Commission's Framework on Health and Safety at Work 2014-2020, it particularly applies for micro and small enterprises (European Commission 2014 (2)). It is generally acknowledged that factors such as work harmful to health, physical hard work, monotonous work, low job security often do not promote job supply, create stress for older workers, exacerbate diseases and cause conflicts in the workplace (Inspecta Latvia 2007).

The United Nations Department of Economic and Social Affairs (United Nations 2002) predicts that the population in the world will continue to grow until the end of the 21st century, and around 2100 there will be significant population growth only in Africa. In Europe and other continents, on the other hand, as the population continues to age, annual growth could be only 0.1%, much lower than currently – in 2020 global population increased by in comparison to 2019. Nevertheless, with the global average birth rate falling and the number of elderly people over the age of 80 rising sharply – as forecasted, by 503 percent (!) – the role of national economic stability and growth factors will become more important in the future.

Factors of economic growth in economic reality interact with global processes, the most important of which today are climate change, population health, migration, and growing inequality trends (United Nations, 2020 (1)). External migration processes can have a significant impact on the quantity and quality of the workforce in countries. With a declining working-age population in the country but high demand, negative external migration will help to compensate for labour shortages, while increasing competition in the labour market and, to some extent, jeopardizing the availability of jobs for the local workforce. Consequently, demographic change is expected to lead not only to competition for labour force from companies, but also to increased intergroup competition of labour force. And in this regard, it is important to understand how people in the *silver group* can increase their performance in the labour market.

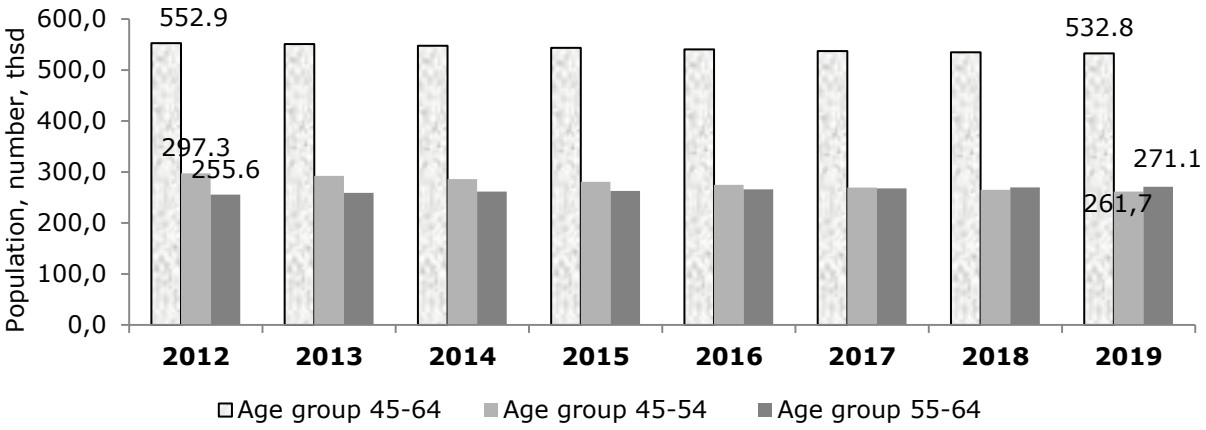
This dual problem, as well as changes in the employment rates of older people and the reasons for them, may influence policy choices in a country (Qureshi 2002). The age structure of the population and the growing number of older people in Europe have intensified the debate on national socio-economic policies to help meet labour market demand in both quantitative and qualitative terms. Discussing approaches to the *silver economy* to foster public support and enable older people to age with dignity in parallel with the social, economic and political changes in countries created by demographic aging (European Commission 2014 (1)) is one of the greatest challenges of our time.

The silver economy, adapted to the needs and opportunities of an aging society, contributes to people's living standards and quality of life (Pārresoru koordinācijas centrs 2019; United Nations, 2002) and can have an impact on economic sectors by changing the range of services they provide and the range of goods they produce. It can be concluded that changes in production supply will be a response to changes in demand, which will be affected by the median shift in population in favour of older age. The median age of the total population (years), which divides the population of a region (country) into two equal parts, shows that the median age of the world population in 2000 was 26.3 years, but in 2020 – 30.9 years. The median age of the European population in 2000 was 37.7 years, but in 2020 – 42.5 years. The median age of the population in Latvia in 2000 was 37.9 years, but in 2020 – 43.9 years (United Nations 2020 (3)).

The priorities set by the European countries (United Nations, 2002), to which Latvia also joined, in Article 1 of the Political Declaration, identify the three most important and necessary areas of influence: older persons and development; advancing health and well-being into old age; and ensuring enabling and supportive environments so that societies, and in particular older people, can live and reach their full potential. The main obstacles for people of pre-retirement and retirement age to succeed in their economic and social roles are the lack of access to technology, rapid urbanization and the lack of traditional support resulting from families getting smaller.

In Latvia as well, active aging is a topic of discussion both in politics and in everyday life. In the final edition project of Latvia's National Development Plan 2021–2027 (Pārresoru koordinācijas centrs 2019), which is the main medium-term development planning document for the state, in the section “Priority “Strong Families, Healthy and Active People” it is stated that society must break down stereotypes about older people as physically disabled, socially inactive and people who are unable to take care of themselves. Consequently, society is called upon to re-evaluate the limits of chronological, physiological and psychological age.

The increase in the number of older people may lead to social tensions over the sustainability of pension funds and rising costs for healthcare and social support systems in countries (European Commission 2014 (1)), thus raising the issue of keeping older people socially and economically active as long as possible. However, according to the European Commission, a stereotypical society does not see the pre-retirement and retirement age group as a full potential for employment and business growth (European Commission 2018). This is backed up by OECD data, which show that the average employment rate for people aged 55-64 in 2018 is lower than in younger age groups (OECD 2019).




**Source:** author's calculations based on Central Statistical Bureau of Latvia, CSP 2020 (5)

Fig. 1. **Population in Latvia in age group 45-64 in 2012-2019, in thousands**

After analysing the changes in Latvian population in pre-retirement age group 45-64 it must be concluded that in 2019 in comparison with 2012 the population in age group 45-64 decreased by 35.6 thousand (-11.97%) but the population in age group 55-64 increased by 15.5 thousand (6.06%), therefore altogether the population in age group 45-64 decreased by 20.1 thousand (-3.64%) (Fig. 1).

Changes in population are described by linear regression equations:

1) the population decrease in age group 45-54 (R2=0.9928) is described by equation (1):
   $y = -5{,}2539x + 302{,}06^2$ (1),
   where: y – population in age group, x – period, R – determination coefficient.
2) the population change in age group 55-64 (R2=0.9876) is described by equation (2):
   $y = 2{,}2053x + 254{,}33$ (2),
   where: y – population in age group, x – period, R – determination coefficient.

Since negative population change in age group 45-54 is more intense than the population increase in age group 55-64, altogether population in age group 45-64 is decreasing and this decrease is described by equation (3):

$y = -3{,}0486 + 556{,}39$ (3)

where: y – population in age group, x – period, R – determination coefficient.

This means that the number of potential labour resources, which can be involved in economy, in Latvia will be even lower in the coming periods; therefore, the issue is raised to increase participation of not only pre-retirement, but also people of retirement age in labour market.

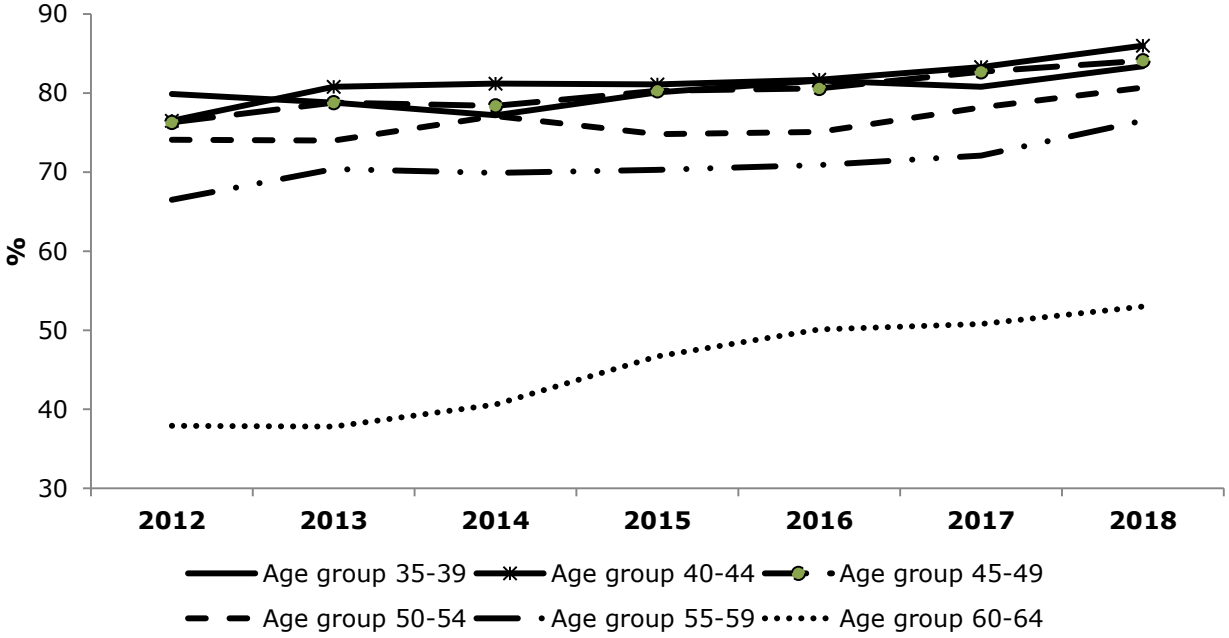
The European Commission is calling for improved labour productivity and competitiveness, which in turn requires comprehensive national reform strategies (United Nations, 2002), innovative programs to enable older people to increase their investment in development and to reap the

economic benefits of their efforts, including stability of the pension system. However, the most important obstacle for people of pre-retirement and retirement age is knowledge and health status. A study conducted in Latvia (Slimību profilakses un kontroles centrs 2012; Central Statistical Bureau of Latvia 2020 (6)) shows that people's well-being deteriorates significantly with age. The reason for this is diseases and unhealthy lifestyle. Therefore, it is important not only to change the age paradigm and targeted impact of society by providing tools (programs, areas of support) and public spending to significantly promote active aging with the expected impact, but also to ensure that each individual has a responsible attitude towards their health as a potential for active life. An individual must be able to make rational use of opportunities and potential throughout their lives to ensure involvement in the economy and other spheres of life, balancing care for the household, their education and health, nutrition, physical activity and hobbies, etc.

Latvia's policy is to create conditions (formal and informal) that prevent age discrimination in the labour market. This means that belonging to a certain age group, including belonging to the pre-retirement age group (55–64), cannot be a limiting factor for employment, and it would promote the country's growth and social security of the population (Saeima 2010). In reality, however, there are a number of factors influencing employment: economic factors include, for example, salary, living standards, quality of housing, and non-economic factors include health and social care, social contacts, etc. (Grinfelde 2020).

People over the age of 50 in Latvia face significant barriers to entering the labour market (LR MK 2016). Significant obstacles include the low professional, geographical, occupational and job change mobility of older people, the poor ability to return to the labour market after a long break, employers' entrenched perceptions of older people's productivity, aspects of older people's education, lifelong learning and health, and the need for caring of other people in the family.

After analysing data from Central Statistical Bureau of Latvia, it must be concluded that the employment level (%) in population age groups differs (Fig. 2). The highest employment level (%) in Latvia in 2012-2018 was in age group 40-44, followed by age group 45-49. The employment level was lower in age group 35-39 but age group’s 45-64 subgroups (45-49; 50-54; 55-59; 60-64) clearly showed a trend in 2012-2018 – the older the age group, the lower the employment level (Fig.2).




**Source:** created by author based on Central Statistical Bureau of Latvia 2020 (2)

Fig. 2. **Employment level in age group 45-64 shown in subgroups for years 2012-2018 in Latvia, in %**

It can be concluded that in Latvia in 2019 compared to 2012 (data from the first quarter of the year) the employment rate in age group 45-54 increased by 7.99 percentage points, in age group 55-64 increased by 14.70 percentage points but in age group 45-64 it increased by 10.34 percentage points overall (Tab. 1).

Data on all employed persons, including employed pensioners, were used in the calculations of employment level. The calculations performed in the research showed that from all the pensioners (45 years and older) more than half was employed (in 2016 – the share of employed pensioners in the total number of pensioners was 62.16%; in 2017 – 62.22%, but in 2018 – 63.07%) (Central Statistical Bureau of Latvia, 2020 (3), 2020 (1), 2020 (4)).

Therefore, in order to determine the employment rate only for the pre-retirement age population (age group 45-54; age group 55-64) employed pensioners should be excluded from the number of employed. However, this is not done in the research, as in Latvia the official statistics provide data only on the total number of employed pensioners and inactive pensioners (Central Statistical Bureau of Latvia, 2020 (3)) in the whole population but do not provide data about the number of employed pensioners in age groups.

Table 1. **Employment rate in population age group 45-64 and the share of pensioners in population age group 45-64 in 2012-2019 in Latvia**

| Indicator | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | D |
|---|---|---|---|---|---|---|---|---|---|
| A | 62.72 | 64.21 | 66.31 | 66.67 | 67.45 | 68.63 | 70.85 | 73.06 | 10.34 p.p. |
| B | 73.22 | 74.26 | 76.26 | 74.76 | 75.22 | 77.76 | 79.33 | 81.21 | 7.99 |
| C | 50.51 | 52.87 | 55.42 | 58.03 | 59.43 | 59.44 | 62.52 | 65.20 | 14.70 |
| E | 76.8 | 79.1 | 78.1 | 79.8 | 80.5 | 81.9 | 84.2 | 85.0 | 8.2 |
| Share of pensioners, % | 29.26 | 27.98 | 26.65 | 25.69 | 24.58 | 29.17 | 23.07 | 22.13 | -7.14 pp. |
| Old-age pension receivers, 45-64 years old, % of all pensioners | 61.87 | 59.14 | 55.75 | 52.54 | 48.53 | 45.61 | 43.11 | 40.03 | -21.83 pp. |

**Designations:** A – Employment rate in population age group 45-64 gadi, %; B – Employment rate in population age group 45-54 gadi, %; C- Employment rate in population age group 55-64 gadi, %; D – changes, 2019/2012, in percentage points; E – Employment rate in population age group 35-44 gadi, %
**Source:** author's calculations based on Central Statistical Bureau of Latvia 2020 (5), 2020 (1), 2020 (4)

However, it is safe to say that the employment rate of pre-retirement age population (age groups 45-54 and 55-64) is lower than it is for the respective population age group (Tab. 1). Based on the calculations of the share of employed pensioners in the group of pensioners aged 45 and over, it can be assumed that, for example, in 2019 pre-retirement age population employment rate is lower by approximately 10% than employment rate of population age group 45-64, because in this group the share of pensioners was 22.13%. Future studies should provide more accurate employment rates for the pre-retirement population. Nevertheless, it can also be concluded in this study that in 2019 the pre-retirement population employment rate is lower in comparison with the employment rate in age group 35-44, which gradually increased from 76.8% in 2012 to 85.0% in 2019 (Central Statistical Bureau of Latvia, 2020 (1), 2020 (2)). Therefore, it can be concluded that there are factors contributing to the decrease in employment of this group that should be investigated.

In order to determine the non-economic factors, which facilitate the pre-retirement age population employment in Latvia, expert survey was conducted (n=12), (Vasermanis et al., 2004). The following experts were selected for the survey: 1) university lecturers (working; at the time of survey not working), who correspond with the silver economy age target group – 2 respondents; 2) university lecturers, who are in age group before silver economy target group (up to 5 years) – 2 respondents; 3) pensioners (former and current specialists in various fields (outside the education system) – 2 respondents; 4) local government's leading employee in the field of entrepreneurship

and innovative solutions – 1 respondent; 5) a representative of pensioners' organizations – 1 respondent; 6) a representative of a public organization – 1 respondent; 7) entrepreneurs – 2 respondents (leading specialist of a medium-sized enterprise – 1 respondent; member of the board of a small enterprise – 1 respondent); 8) region's leading specialist of planning in human resources – 1 respondent. The survey took place in January-February 2020. In the survey, each expert had to evaluate the given factors, derived from a theoretical study using a Likert scale (from 1 – no importance to 5 – very important). The average values of the factor evaluation are given in Fig. 3.

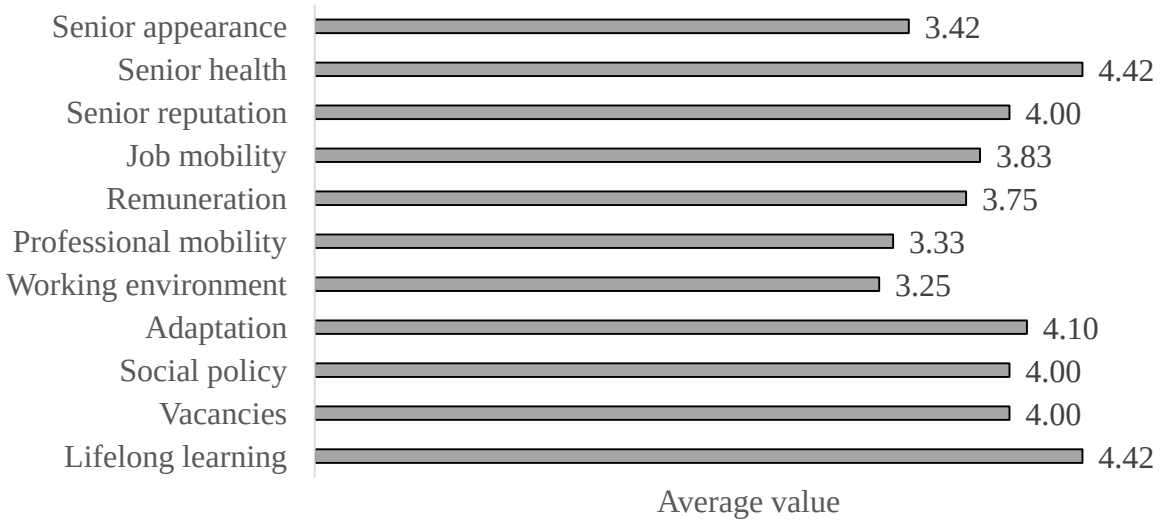



Fig. 3. **The average values of factor evaluation by answering to question "How important is the role of the factor, in order for the company to employ a 55-64 year old person?"**

The average values (Fig. 3) of factor evaluation showed that the most significant non-economic factors, which influence the employment of Latvian population aged 55-64, are: 1) regular lifelong learning – the average evaluation of the factor is 4.42 points; 2) state of health (physical, emotional, mental health) – the average evaluation of the factor is 4.42 points; 3) the ability to adapt to changes in working environment – the average evaluation of the factor is 4.10 points. The average rating of these factors was higher than the average rating of the economic factor "remuneration" (3.75 points). The lowest evaluation was received by factor "working environment" (3.25 points), which is a rather surprising result and in contradiction with the findings in theoretical part of the research regarding the importance of working environment nowadays.

In order to evaluate, if there are differences between the evaluation of economic and non-economic factors, non-parametric Mann-Whitney U test was conducted. The test results are given in Tab. 2 and Fig. 4. The Mann-Whithey U test average value for economic factors (Mean Rank=62.96) is higher than for non-economic factors (Mean Rank=59.89). However, taking into

account the test value *p* (Asymptotic Sig. (2-sided test; *p*=0.685), it must be concluded that H0 hypothesis should be accepted – there is no statistically significant difference between the impact of economic and non-economic factors on the employment evaluation of pre-retirement age group. This gives evidence that by experts' evaluation the employment of population aged 55-64 is impacted by the interaction of several factors.

Table 2
**Mann-Whitney U Test, Summary**

| | |
|---|---|
| Total N | 120 |
| Mann-Whitney U | 1093.000 |
| Wilcoxon W | 5749.000 |
| Test Statistic | 1093,000 |
| Standard Error | 145.434 |
| Standardized Test Statistic | -.406 |
| Asymptotic Sig.(2-sided test) | .685 |

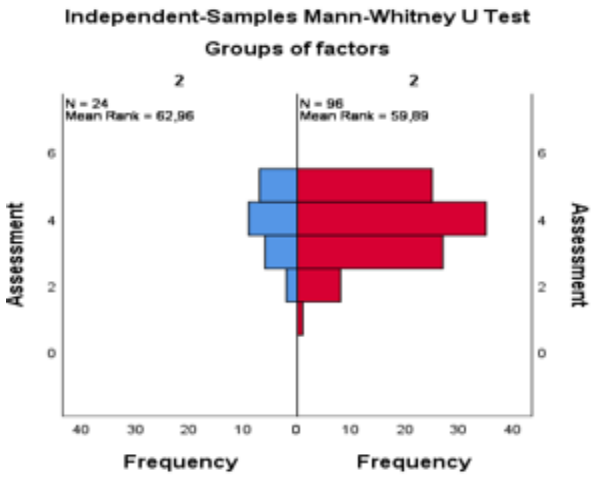



Fig. 4. **Mann-Whitney U Test Groups of factors**

## Conclusions

The research shows the population aging is a pressing issue not only in Latvia, but also in other European countries. Demographic *silver* transformations are considered to be one of the biggest challenges for Europe in the future. In order to promote the social and economic security and decrease the social isolation of pre-retirement age group, as one of the target groups of silver economy, it is necessary to enable the involvement of this group in employment. It was discovered in the research that the dominant political calls for involvement of *silver economy's* target group in employment were based on several arguments: 1) population aging; 2) threat to social systems; 3) poverty and low standard of living. Arguments, which deal with person's internal motivation to be employed outside of economic considerations, were analysed little.

Due to aging society European policy is being re-oriented from social care system for older people to a system, which is expected to additionally provide support for active aging. That promotes social, political and academic discussions on the approaches to *silver economy* in Europe and Latvia, to bring about economic change aimed at producing new services and goods for the growing 50+ age group and to establish public support instruments to promote the respectable inclusion in socioeconomic processes and respectable aging of older people.

In Latvia, the population in age group 45-54 decreased by 35.6 thousand (-11.97%) in 2019 in comparison to 2012, but in pre-retirement age group 55-64 increased by 15.5 thousand (6.06%).

This shows that in the future pre-retirement age group 55-64 will be supplemented with a lower number of people creating a situation, where this group's potential for labour resources flow will decrease. Therefore, national policy must create preconditions, for a rational use of these human resources, in the same time promoting an active, healthy and productive aging of this population group.

Employment rates showed that in Latvia employment rate increased both in the population age group 45-54 and 55-64 in 2019 in comparison to 2012, therefore altogether the employment rate in population age group 45-64 increased by 10.34 percentage points. Part of the employed was pensioners. Taking into account that approximately 62% old-age pensioners are employed, it can be concluded that pre-retirement age population employment rate is lower; however, the precise level is not determined, as Latvian statistics do not provide detailed data on employed pensioners in age groups.

From the results of the expert survey, it can be concluded that non-economic factors, which impact the employment of Latvian population in age group 55-64, are: 1) regular lifelong learning – the average evaluation of factor is 4.42 points; 2) state of health (physical, emotional, mental health) – the average evaluation of factor is 4.42 points; 3) the ability to adapt to changes in working environment – the average evaluation of factor is 4.10 points. However, according to experts, in Latvia there is no statistically significant difference between the role of economic and non-economic factors in employment of pre-retirement age population (Mann-Whitney U Test, p=0.685), which shows that the employment is promoted by a combination of all factors. Research data can be used in future to research in more detail the employment aspects of the pre-retirement age population.

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# STUDENT ENROLLMENT TRENDS IN REGIONAL UNIVERSITIES OF LATVIA

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**Abstract**

**Student Enrollment Trends in Regional Universities of Latvia**

***Key words:*** *higher education, student enrolment, student distribution disparity.*

The aim of the regional development is to promote and ensure balanced and sustainable development of the state. In Latvia, there is a disproportionate flow of students from the regions enrolling in the higher education institutions (HEIs) which are based in the capital city and those based in the regions. This situation causes possible risks of "brain drain" from the regions and thus can cause negative consequences for the regional development in the long-term. Research on regional disparities in the field of higher education is important part of the research on preconditions for balanced national economy development. The aim of the research is to analyse the statistical data of regional higher education institution enrolment data in order to determine the existing regional disparities between the statistical regions of Latvia and the higher education institutions within. The research showed that there are clear differences between the statistical regions and regional HEIs according to their ability to attract candidate students from the specific region as well as from others, thus also attracting the economic activity brought with the newly enrolled students to the specific region.

**Kopsavilkums**

**Studentu uzņemšanas tendences Latvijas reģionālajās universitātēs**

***Atslēgvārdi*****:** *augstākā izglītība, studentu uzņemšana, studentu sadalījuma atšķirības.*

Reģionālās attīstības mērķis ir veicināt sabalansētu visas valsts attīstību. Latvijā pastāv neproporcionālā tendence topošajiem studentiem no reģioniem uzsākt studijas galvaspilsētā bāzētajās augstākās izglītības iestādēs (ARI). Tas rada ievērojamu t.s., "smadzeņu aizplūdes" risku un rada ievērojamus ilgtermiņa reģionālās attīstības riskus. Augstākās izglītības jomas reģionālo atšķirību izpētei ir nozīmīga loma vispārīgā sabalansētas nacionālās ekonomikas attīstības izpētes procesā. Šī pētījuma mērķis ir analizēt reģionālo augstākās izglītības iestāžu studentu uzņemšanas statistikas datus, lai noskaidrotu pastāvošās reģionālās atšķirības starp Latvijas statistiskajiem reģioniem un tajos esošajām augstākās izglītības iestādēm. Pētījums apliecināja, ka pastāv krasas atšķirības starp statistiskajiem reģioniem un starp reģionālajām iestādēm pēc to spējas piesaistīt topošos studējošos no iestāžu reģiona un kaimiņreģioniem, tādējādi arī radot atšķirības spējā piesaistīt reģionam ar studējošo apmešanos uz dzīvi studiju laikā saistīto ekonomisko aktivitāti.

## Introduction

Higher education is a fundamentally important prerequisite for creation of a knowledge society, while the purpose of the whole education system is to increase the competitiveness of each individual in the general labour market. Another highly beneficial outcome caused by increased rates of highly educated persons is that it helps ensure the social cohesion. Despite this fact, the socioeconomic disparities in the regions of Latvia continuously are significant. The cooperation efforts of the higher education institutions are tailored towards increasing the role of higher education role in integration of regional economic integration and convergence of all planning regions (Knight 2012; Sinkiene, Grumadaite 2014; Grizane, Sannikova, Jasaitis 2017).

Currently, in Latvia a significant concentration of population in Riga planning region (especially the capital city) takes place, while in other regions the population in decreasing significantly (LR CSP 2017). Similar situation can be observed also in the higher education system, i.e. the number of enrolled students in regions is decreasing while the proportion of students enrolling in higher education institutions of Riga region in comparison is increasing (Mazure,

Viksne 2007, 2008; Breķis, E., Vilerts, K., Krasnopjorovs 2015), while abroad this topic has been more deeply investigated.

The approach on the research on the higher education institutions has changed significantly over time. Authors underline some topicalities: (1) the mission of the regional HEIs as a driving force of entrepreneurship which tends to increase the overall prosperity in regions (Radinger-Peer, Pflitsch 2017); (2) the role of regional HEIs in the commercialization of knowledge (Goldstein, Rehbogen, 2013); (3) the regional HEI participation in the local and regional governance (Lawton-Smith, Bagchi-Sen 2012; Goldstein, Glaser 2012); (4) the involvement of regional HEIs in the regional policy creation process (Trippl, Sinozic, Lawton-Smith 2015) and (5) the role of regional HEIs in ensuring of regional sustainability (Goldstein 2010), which include most of the previously mentioned themes.

All of the mentioned themes, incl., the sustainability are within the driving goal of the 'Sustainable Development Strategy of Latvia until 2030' (Latvija 2030), which is hierarchically the highest national level long-term planning document, which includes notions about need for change of paradigm in the field of higher education (PKC 2012a). One cannot deny that the aim of the regional development, is to promote and ensure balanced and sustainable development of the state (PKC 2012b). However, in order to carry out the necessary research for the national economy needs, especially in the situation, when a disproportional number of young people move from regions to study in the capital, there is a necessity for analysis of the statistical data on the enrolled students in the regional HEIs of Latvia.

**Aim of the research:** to analyse the statistical data of regional higher education institution enrolment data in order to determine the existing regional disparities between the statistical regions of Latvia and the higher education institutions within.

**Tasks:**

1) investigate the research definitions and framework;
2) carry out analysis of disproportion of the enrolled students in the regional HEIs of Latvia;
3) investigate the tendencies of bachelor student enrolment in HEIs in statistical regions of Latvia.

**Research methods:** scientific research, comparison, descriptive statistics.

**Research sources and materials:** research is based on statistical data from the and research notes from the Ministry of Education and Science, Ministry of Regional Development Republic of Latvia, documents of local and international organizations, statistical materials and research.

**Research object:** research investigates the enrolment of bachelor level (ISCED 5) students in the state established HEIs in regions of Latvia based on the place of origin of the enrolled students.

**Research limitations:** research focused on the demographical crisis period between 2010 and 2016, due to reasons related to data availability and precision. The analysis did not include enrolled

freshmen in state and legal persons' established colleges due to the different competitive role in the higher education system. Also 'Pieriga' is not analysed as a region in with HEIs, since there is not a significant number of HEIs within.

**Material and methods**

The meaning region, is defined as a marked territory based on geographical, economic and political traits (Balduncіks, Pokrotniece 2007).

The term regional university is not defined in any of the regulations of the Republic of Latvia, thus authors, taking into account the existing linguistic tendencies, state its meaning within this article as higher education institutions, which are placed outside of the capital. According to the common statistical territory unit classification (NUTS) system by the regulation of European Commission (EC) No. 1059/2003 in Latvia there is Riga territorial unit (LV006) and six territorial units outside of capital, i.e. Pieriga (LV007), Kurzeme (LV003), Latgale (LV005), Vidzeme (LV008), Zemgale (LV009) and Latgale (LV009) (LR CSP 2015). In the overview on "Higher education of Latvia 2015", six RHEIs can be identified: University of Agriculture (LLU); Daugavpils University (DU); Liepaja University (LiepU); Ventspils University College (VeA); Rezekne Academy of Tehnologies (RTA) and Vidzeme University of Applied Sciences (ViA) (LR IZM, 2016).

**Research approach**

The research included analysis of information on the enrolled undergraduate (latv. – 'pamatstudijas') level and higher level studies (latv. – 'augstākā līmeņa studijas') students in six regional HEIs according to the place of origin of the enrolled students. The basis for the research was the information acquired from the Ministry of Education and Science of Latvia (IZM) annual statistics yearbook "Overview of the higher education" 2010 to 2018 acquired both online and from information requests the Ministry (LR IZM 2017).

The summarized statistics include summary indicators on the part-time and full-time basic studies students and are compared with everyone enrolled in the International Standard Classification of Education (ISCED) 5th level in whole country. The acquired numbers on the enrolled students from the particular region allow determining the disparities among regions in terms of student proportion (%) distribution on a regional level as well as the target regions of given higher education institution. The number of enrolled students was chosen as a comparative indicator. The acquired information was analysed on at a national level over the given period on a regional and HEI' scope, allowing to determine the average enrolment value (%) in a specific time period. Thus, it is possible to analyse the specific region and the outreach of the HEIs based in the region to ensure the higher education possibilities for citizens in the specific region, while indirectly also indicating the availability of high quality professional labour force.

## Research results and discussion

In 2021 in Latvia there were 16 state and 13 legal person established higher education institutions (hereafter – HEIs). Meanwhile out of these six were regional higher education institutions (hereafter – RHEIs). The proportion of RHEIs versus the total number of HEIs in the country (see Table 1) was 20.7%.

Table1. **Proportion of student (ISCED 5 to 8) enrolment in a given region according to the overall corresponding number of students enrolled nationwide from the specific region in 2018 (%)**

| **Region of enrollment in HEI** | **Place of origin of enrolled students** | | | | | |
|---|---|---|---|---|---|---|
| | Proportion of student, % | | | | | |
| | Riga | Pieriga | Vidzeme | Kurzeme | Zemgale | Latgale |
| Riga | **95.7** | 89.1 | 82.5 | 74.1 | 75.6 | 56.3 |
| Pieriga | - | - | - | - | - | - |
| Vidzeme | 0.6 | 1.9 | **7.2** | 0.2 | 0.8 | 0.3 |
| Kurzeme | 0.8 | 1.5 | 0.9 | **18.2** | 1.1 | 0.3 |
| Zemgale | 2.2 | 6.2 | 6.7 | 6.9 | **19.2** | 4.1 |
| Latgale | 0.6 | 1.3 | 2.7 | 0.5 | 3.3 | **39.0** |

**Source**: authors' calculations based on LR IZM, 2019.

When analysing the regional differences in terms of regional student outreach, it can be observed that Riga region is by far the most self-sustaining region while 95.7% of all enrolled students from Riga NUTS region country-wide enrol in universities in Riga region. Riga is also attracting 89.1% of enrolled students from Pieriga region, followed by 82.5% from Vidzeme region, Zemgale region (75.6%) and Kurzeme region (74.1%). In case of Latgale region 56.3% choose to enrol in HEIs of Riga. Which is significantly less than in case of other regions. The largest part of students independently of their place of origin choose to study in the capital, rather than any of the regional HEIs, while a small batch of people from Riga and Pieriga choose to study outside of Riga region. Thus the higher education area of Latvia is dominantly monocentric in its development tendencies. Thus the young and educated tend to concentrate in the capital. Meanwhile a reverse situation takes place in the regions where the average proportion of the number of students studying outside of Riga is far smaller.

When comparing regions at a detailed level, it can be seen that the smallest proportion of those enrolled from Vidzeme region chose to study in regional HEIs (17.5%), while those enrolled from Latgale region did twice as often (43.7%), which can be related to the existence of two HEIs (DU and RTA), as well as to the more rich choice of different study programmes therein. It can be observed that Vidzeme region is the most affected standalone region with HEIs caused by the negative migration tendencies of the youth and students to the capital. Due to the lack of statistics, it is not possible to analyse the relations between the study place, study progress, the following employment tendencies and the place of residence of students after graduating. Students while

living and purchasing services in the region where they are enrolled, can bring certain socio-economic benefits to the given regions through spending their income in local businesses, working part-time and volunteering (Biggar 2017), whereby in an opposite situation if they choose to enroll at a HEI in a different region there is a possibility that this specific socio-economic benefit to his/her home region is lost.

When analysing the overall proportion of the enrolled students by specific HEIs it can be seen that from 2010 to 2018 the HEIs show different abilities to attract students from institutions base region. Clearly (see Table 2), the HEIs in Latgale have been the most successful at retaining students and have shown a progress, i.e., Daugavpils University (DU) increased its Latgale region outreach from 21.9% in 2010 to 25.4% in 2018, while Rēzekne Academy of Technologies (RTA) increased the outreach from 12.2% in 2010 to 13.6% in 2018.

Table 2. **Proportion of student (ISCED 5 to 8) enrolment in a given HEI according to the overall corresponding number of students enrolled nationwide from the specific region in 2010 – 2018, (%)**

| **Enrolled students region of origin** | | **Enrolling Higher Education Institution** | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | LLU | DU | LiepU | RTA | VeA | ViA | HEIs without RHEIs |
| | **Year** | Proportion of students, % | | | | | | |
| Rīga | 2010 | 2.0 | 0.2 | 0.2 | 0.0 | 0.2 | 0.3 | 97.0 |
| | 2018 | 2.2 | 0.5 | 0.5 | 0.2 | 0.3 | 0.6 | 95.7 |
| Pierīga | 2010 | 7.1 | 0.5 | 0.6 | 0.2 | 0.9 | 1.8 | 89.1 |
| | 2018 | 6.2 | 1.0 | 0.9 | 0.3 | 0.6 | 1.9 | 89.1 |
| Vidzeme | 2010 | 9.3 | 0.7 | 0.4 | 2.3 | 0.5 | 11.7 | 75.1 |
| | 2018 | 6.7 | 0.8 | 0.6 | 1.9 | 0.2 | 7.2 | 82.5 |
| Kurzeme | 2010 | 8.8 | 0.0 | 15.2 | 0.1 | 6.8 | 0.8 | 68.3 |
| | 2018 | 6.9 | 0.5 | 12.1 | 0.1 | 6.0 | 0.2 | 74.1 |
| Zemgale | 2010 | 22.5 | 2.6 | 0.6 | 1.0 | 0.7 | 1.1 | 71.5 |
| | 2018 | 19.2 | 2.0 | 0.6 | 1.3 | 0.4 | 0.8 | 75.6 |
| Latgale | 2010 | 5.4 | 21.9 | 0.0 | 12.2 | 0.2 | 0.4 | 59.9 |
| | 2018 | 4.1 | 25.4 | 0.1 | 13.6 | 0.2 | 0.3 | 56.3 |

**Source:** author's calculations based on LR IZM 2011, LR IZM 2019.

Meanwhile HEIs in other regions (see Table 2) have seen the outreach proportion drop – in ViA the outreach of students from Vidzeme fell from 11.7% to 7.2%, in LiepU the outreach of students from Kurzeme fell from 15.2% to 12.1%, while in VeA from 6.8% to 6.0%, while in LLU the outreach of students from Zemgale was from 22.5% to 19.2% respectively. In 2018 only 4.3% of the students originating from Riga region, chose to enrol in any of the regional HEIs, while in Pieriga region such choice had been made by 10.9% enrolees respectively.

In 2018, in addition to the enrolled students from their base region, the regional HEIs on average manage to draw students from the following next-priority NUTS regions: ViA from Pieriga (1.9%) and Zemgales (0.8%); RTA from Vidzeme (1.9%) and Zemgale (1.3%); DU from Zemgale

(2.0%) and Vidzeme (0.8%); LLU from Kurzeme (6.9%) and Vidzeme (6.7%); LiepU from Pieriga (0.9%), while VeA from Pieriga (0.6%) and Zemgale (0.4%). Thus, each regional HEI has individual results in terms of student outreach, of which LLU dominates with by far the largest outreach in absolute numbers of students from external regions which can be attributed to its specific study programme offer. The research reveals a disproportion between the number of students enrolled in the state and legal person established HEIs which are located in the capital and the number of the enrolled in state HEIs in regions. At an institutional level (see Table 3) there are a significant regional diversity patterns of enrolled students in RHEIs.

Table 3. **Proportion of students enrolled in a HEI by their region of origin in 2010-2018, (%)**

| HEI | | Year | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| | Region | | Proportion of students, % | | | | | | | |
| LLU | Riga | 9.4 | 10.5 | 10.5 | 8.5 | 11.3 | 14.4 | 13.2 | 13.2 | 12.6 |
| | Pieriga | 17.3 | 16.5 | 16.6 | 14.7 | 16.2 | 17.5 | 16.1 | 19.7 | 15.1 |
| | Vidzeme | 12.8 | 11.9 | 12.1 | 13.5 | 13.8 | 11.3 | 13.0 | 10.2 | 12.2 |
| | Kurzeme | 14.7 | 17.0 | 15.4 | 16.8 | 14.1 | 13.9 | 15.3 | 12.6 | 13.5 |
| | Zemgale | 35.6 | 34.1 | 36.4 | 35.6 | 35.1 | 35.1 | 35.4 | 37.7 | 38.1 |
| | Latgale | 10.2 | 10.0 | 9.0 | 11.0 | 9.6 | 7.8 | 7.0 | 6.6 | 8.5 |
| DU | Riga | 1.8 | 2.9 | 2.4 | 2.1 | 2.8 | 3.4 | 4.7 | 4.4 | 4. |
| | Pieriga | 2.3 | 1.3 | 1.4 | 3.6 | 2.9 | 2.5 | 3.4 | 1.9 | 3.8 |
| | Vidzeme | 1.8 | 2.6 | 3.7 | 3.0 | 2.4 | 2.2 | 1.9 | 4.1 | 2.4 |
| | Kurzeme | 0.2 | 0.3 | 1.2 | 0.4 | 0.5 | 0.6 | 0.7 | 1.4 | 1.4 |
| | Zemgale | 8.3 | 5.6 | 8.3 | 6.2 | 6.2 | 4.8 | 6.3 | 6.6 | 6.3 |
| | Latgale | 85.5 | 87.4 | 83.1 | 84.7 | 85.2 | 86.6 | 83.0 | 81.6 | 81.9 |
| LiepU | Riga | 3.8 | 5.1 | 2.4 | 4.0 | 5.9 | 2.7 | 6.5 | 8.1 | 9.2 |
| | Pieriga | 5.1 | 6.1 | 6.8 | 8.5 | 5.9 | 5.9 | 5.8 | 8.8 | 7.0 |
| | Vidzeme | 1.8 | 1.8 | 3.7 | 2.4 | 3.0 | 2.0 | 2.4 | 3.9 | 3.6 |
| | Kurzeme | 86.1 | 80.6 | 83.2 | 79.9 | 81.5 | 83.7 | 79.8 | 74.8 | 75.6 |
| | Zemgale | 3.3 | 6.1 | 3.3 | 4.8 | 3.4 | 5.2 | 4.8 | 4.2 | 4.1 |
| | Latgale | 0.0 | 0.3 | 0.7 | 0.5 | 0.2 | 0.5 | 0.7 | 0.2 | 0.5 |
| RTA | Riga | 0.8 | 0.5 | 1.4 | 1.7 | 1.9 | 5.0 | 4.9 | 5.8 | 2.5 |
| | Pieriga | 1.3 | 1.2 | 1.4 | 1.1 | 1.5 | 3.4 | 2.2 | 2.5 | 1.9 |
| | Vidzeme | 11.2 | 13.3 | 11.7 | 9.5 | 14.3 | 13.0 | 9.1 | 6.9 | 9.5 |
| | Kurzeme | 0.8 | 0.7 | 0.0 | 0.3 | 0.2 | 0.5 | 0.7 | 0.4 | 0.4 |
| | Zemgale | 5.7 | 5.7 | 5.1 | 3.1 | 4.1 | 5.2 | 4.9 | 3.7 | 7.4 |
| | Latgale | 80.3 | 78.6 | 80.5 | 84.3 | 78.0 | 72.9 | 78.2 | 80.7 | 78.3 |
| VeA | Riga | 6.3 | 9.4 | 7.7 | 13.0 | 9.4 | 8.1 | 6.0 | 6.3 | 11.2 |
| | Pieriga | 12.6 | 12.5 | 15.3 | 13.4 | 10.5 | 13.7 | 8.8 | 8.6 | 8.9 |
| | Vidzeme | 4.5 | 7.1 | 4.3 | 5.0 | 8.3 | 1.1 | 4.6 | 2.7 | 2.7 |
| | Kurzeme | 68.2 | 59.4 | 60.9 | 59.4 | 60.5 | 70.0 | 68.5 | 74.1 | 69.6 |
| | Zemgale | 6.7 | 9.4 | 10.6 | 7.1 | 8.7 | 7.0 | 9.3 | 6.7 | 4.9 |
| | Latgale | 1.8 | 2.2 | 1.3 | 2.1 | 2.5 | 0.0 | 2.8 | 1.6 | 2.7 |
| ViA | Riga | 5.8 | 4.2 | 6.3 | 5.2 | 9.6 | 11.6 | 10.8 | 6.8 | 14.1 |
| | Pieriga | 17.0 | 13.7 | 21.3 | 16.7 | 22.5 | 19.4 | 16.1 | 17.5 | 19.2 |
| | Vidzeme | 62.9 | 68.3 | 64.0 | 60.9 | 54.2 | 52.2 | 59.5 | 62.5 | 55.8 |
| | Kurzeme | 5.0 | 2.7 | 2.4 | 3.9 | 2.8 | 4.5 | 2.5 | 2.4 | 1.9 |
| | Zemgale | 6.7 | 8.4 | 4.2 | 7.3 | 6.5 | 6.7 | 7.9 | 5.6 | 6.4 |
| | Latgale | 2.6 | 2.7 | 1.7 | 6.0 | 4.5 | 5.6 | 3.2 | 5.2 | 2.6 |

**Source:** authors' calculations based on LR IZM 2011; LR IZM 2012; LR IZM 2013; LR IZM 2014; LR IZM 2015; LR IZM 2016; LR ZM 2017; LR IZM 2018; LR IZM 2019.

When defining the single most important enrollment target region (see Table 3) in terms of absolute number of students in 2018 ViA gained 55.8% students from Vidzeme region, DU – 81.9% from Latgale, RTA – 78.3% from Latgale, LLU – 38.1% from Zemgale, LiepU – 75.6% from Kurzeme and VeA – 69.6% from Kurzeme. When comparing to 2010 the importance of students from base region has increased in LLU (from 35.6% to 38.1%) and in VeA (from 68.2% to 69.6%). Meanwhile it has decreased in DU (from 85.5% to 81.9%), LiepU (from 86.1% to 75.6%), RTA (from 80.3% to 78.3%) and ViA (from 62.9% to 55.8%). Thus among RHEIs significant differences in student outreach exist that require more in-depth analysis to be fully understood. Nonetheless compared to other RHEIs the ViA is placed in a position where there is a close to parity between the number of enrolled students from base region and external region. This phenomenon despite indicating the unused opportunities on behalf of the university to gain more students, also holds the risks related to increased vulnerability to emigration and requires further research. In the field of higher education of Latvia there are centripetal trends among the student candidates from every region of the country – majority of cases choosing to study in HEIs located in Riga, rather than any of the regional HEIs.

**Conclusions**

1. When pursuing analysis of data on the disproportion of the number of enrolled students between the regional HEIs in statistical regions of Latvia in the field of higher education clear centripetal trends can be observed – more candidate students from both closer and further regions tend to enroll in HEIs located in Riga, instead of choosing to study in any of the regional HEIs located outside of Riga.
2. Analysis of HEIs indicated of a disproportion between the regions according to their ability to attract candidate students with registered place of residence in the region of the given HEI. For instance in 2018, both HEIs in Latgale region managed to attract 39.0% of those enrolled in a given year on a national level with origin from Latgale region; in Zemgale LLU on average attracted 19.2%; in Kurzeme region HEIs managed to attract 18.2%; while in Vidzeme region ViA managed to attract 7.2%. As a result, when comparing statistical regions of Latvia, a high disproportion between the regions can be observed according to the proportion of students which choose to enrol in a HEI in the given region.
3. Vidzeme region holds a vulnerability to emigration (to other regions) of graduates, while the regional HEI (ViA) manages to attract only a small fraction of candidate students (7.2%) from its base region and a marginal amount of students from other regions, with an exception of attracted students from Pieriga region (reaching 1.9% margin).
4. Establishing of further conclusions is limited due to the lack of statistical data, which makes it impossible to analyse the relation between the study place, study progress, the following

employment tendencies and place of residence of the enrolled after the end of their studies. In the meantime, students while living and purchasing services in the region where they are enrolled, can bring certain, yet unaccounted, socio-economic benefits to the given region, thus in an opposite situation if they choose to enroll in a different region there is a possibility that the positive socio-economic impact on his/her home region is lost.

5. In Latgale region, there is a high potential to educate and to attract a great number of new to-be-professionals both dwelling in Latgale (up to 39.0% of those enrolled from Latgale) and other regions, due to the higher efficiency of HEIs located in the region to attract local and other region' students in comparison to HEIs of other regions outside of Riga. Meanwhile in Zemgale region, Latvia University of Life Sciences and Technologies (LLU) manages to enrol a significant number of local students (19.2%). In Kurzeme region, Liepaja University (12.1%) and Ventspils University College (6.0%) together manage to attract alike a significant number of enrolled from their own region reaching 18.1%, possibly ensuring positive socio-economic activity to the given region in the form of attracted students for the study period (an impact which has to be further evaluated).
6. Further research should focus on the possible relations between the choice of the student candidates to enrol in a given higher education institution in a certain region and the further choice of residence and work place by the newly graduated professional. In the possibility to prove such relations, the potential of the region to attract highly education professionals and the socio-economic activity created by them as well as the reasons behind the ability of the higher education institutions to attract the local candidate students as well as those from other regions should be investigated.

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# MENEDŽMENTS / MANAGEMENT

# ADDRESSING THE CHALLENGES OF POPULATION AGING WITHIN THE FRAMEWORK OF WORLD HEALTH ORGANISATION POLICY

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**Abstract**

**Addressing the Challenges of Population Ageing within the Framework of World Health Organisation Policy**

***Key words:*** *population ageing, seniors, healthy ageing, social policy, ageism*

In Latvia, the population is rapidly aging, the proportion of elderly people is increasing. At the same time, demographic changes are taking place around the world and are having various negative consequences. In response to the challenges of population aging, the World Health Organization (WHO) is developing recommendations to reduce the impact of demographic change.

The aim of the article is to compare several approaches to social policy-making in order to develop recommendations for Latvia's national strategy for addressing the challenges of an aging society, based on the research of strategic documents developed by WHO and various European countries.

The article summarizes the opinions of various experts and determines the preconditions for the development of social policy in the field of aging society, the priorities and characteristics of its content. The authors provide an analysis of the content of WHO policy framework document "Global Strategy and Action Plan on Aging and Health." In comparison, the national strategies of two countries (Austria and Belarus) were selected - social policy programs aimed at reducing the impact of an aging population. The conclusions emphasize the perspectives in the development of Latvia's strategy and action plan: the current and perspective activities were evaluated; basic principles have been determined for the development of a national strategy for reducing the impact of the aging of Latvian society.

**Kopsavilkums**

**Sabiedrības novecošanās izaicinājumu risinājumi Pasaules Veselības organizācijas politikas ietvaros**

***Atslēgvārdi:*** *sabiedrības novecošanās, seniori, veselīga novecošanās, sociālā politika, eidžisms*

Latvijā notiek strauja sabiedrības novecošanās, palielinās vecāka gadagājuma cilvēku īpatsvars. Vienlaikus visā pasaulē notiek ilgstošas pārmaiņas demogrāfiskajos procesos un tiem ir dažādas negatīvas sekas. Reaģējot uz sabiedrības novecošanās izaicinājumiem, Pasaules Veselības Organizācija (PVO) izstrādā rekomendācijas demogrāfisko procesu ietekmes mazināšanai.

Raksta mērķis - balstoties uz PVO un dažādu Eiropas valstu izstrādāto stratēģisko dokumentu izpēti, salīdzināt vairākas sociālās politikas veidošanas pieejas, lai izstrādātu rekomendācijas Latvijas nacionālās stratēģijas sabiedrības novecošanās izaicinājumu risinājumu izveidei.

Rakstā tiek apkopoti dažādu ekspertu viedokļi, noteikti sociālās politikas sabiedrības novecošanās jomā veidošanas priekšnosacījumi, tās satura prioritātes un raksturīgās īpašības. Autori sniedz PVO politikas pamatdokumenta "Novecošanās un veselības globālās stratēģijas un darbības plāna" satura analīzi. Salīdzinājumam tika atlasītas divu valstu (Austrijas un Baltkrievijas) nacionālās stratēģijas - sociālās politikas programmas, kuras vērstas uz sabiedrības novecošanās ietekmes samazināšanu. Secinājumos apskatītas perspektīvas Latvijas stratēģijas un rīcības plāna veidošanā: tika izvērtētas līdz šim brīdim esošās un perspektīvās aktivitātes; noteikti pamatprincipi nacionālās stratēģijas izveides iespējas Latvijas sabiedrības novecošanās ietekmes mazināšanai.

## Introduction

Increasing human life expectancy is undoubtedly one of the greatest achievements of industrial and consumer society in Western Europe and other parts of the world. Since the beginning of the 20th century, demographic change has taken place globally and will continue in the 21st century. According to the World Health Organization (WHO), life expectancy in the world has increased by more than 6 years between 2000 and 2020 (WHO 2021). By 2050, the population

aged 65+ in the European Union will account for around 30% of the total population of the EU-27, which is about 50% more than in 2020 (20.3%) (Eurostat 2021).

The steady decline in birth rates and increasing life expectancy have affected the dynamics of the age structure of population. The effects of labor migration are also being felt in less developed countries. In addition, the centuries old family model, an extended family type that includes several generations, is becoming weaker. Aging of population poses challenges in all areas of life: social, cultural, political, economic – in relation to pensions, health care and social care are likely to require increasing spending. This will place a greater burden on working population, but will require significant investment in social services and health care systems.

According to demographic statistics and forecasts, Latvian society is also aging and will never be as young as it used to be. Long-term fertility rates are below the replacement level and, at the same time, increasing life expectancy have contributed to change in the age structure of the population. In our country, the population aged 65 and over exceeds the EU average (19.2%), moreover, it should be noted that during the last fifteen years (from 2005 to 2020) the share of the population aged 65 and over in Latvia has increased from 16.6 % to 20.5% (CSB 2021). As the number of working people reduce, tax revenues decrease, economic growth slows down, and the structure of the labor market changes. The increase in the proportion of the elderly in the country results in large expenditures related to the provision of long-term medical and social care.

The aim of the article is to analyze and summarize several approaches to the creation of social policy based on the study of strategic documents developed by WHO and two European countries, with the purpose of designing recommendations for a national strategy of Latvia to solve the problems of an aging society. Research objectives: to discover and analyse the content of the policy framework of the WHO document "Global Strategy and Action Plan on Aging and Health"; comparison of strategic documents developed by two European countries - Austria and Belarus, with the purpose of reducing the impact of population aging; to make recommendations based on the findings for Latvia's national strategy to address the challenges of an aging society. The research method is a document interpretative analysis (strategies, policies, action plans).

**Discussion**

Addressing the social challenges posed by population aging requires strategic planning at the national level to gradually transform societal perceptions, changing the stereotype of seniors as a burden on younger generations in previous years, and promoting a positive attitude towards inevitable change.

Older people usually have outdated knowledge because knowledge was acquired many years ago. Most people over the age of 65 are single women, this is because the average life expectancy for women is well higher than for men. Many of them have poor health and they are unable to adapt

quickly to the new economic situation (Tomsone 2020). However, such qualities of elderly cannot be the basis for unequal treatment and discrimination, known as agism. In 1968, gerontologist Robert N. Butler described the phenomenon of agism as an unfavorable, different, restrictive, and unequal treatment. From the point of view of agism, older people are perceived as old-fashioned, weak in mind, and less valuable (Butler 1969). Agism has many forms, including negative attitudes and discriminatory policies and practices. In order to reduce the value of agism, explanatory and preventive measures are needed in the education system and in media.

The aging of population is a global phenomenon. The United Nations (UN) policy on aging of the population has been intensified since its adoption in Madrid in 2002 in the International Madrid Action Plan on Aging (Madrid, 2002). The strategic objectives to address the key social, economic and political challenges of demographic aging has been approved (Wittich 2012).

In Europe, Year 2012 has been declared as the "European Year for Active Aging and Intergenerational Solidarity". In 2020, the European Commission (EC) adopted the first "*Report on the Impact of Demographic Change in Europe*" (EC 2020). With this document, the EC launched the process of improving the quality of life of older people, also taking into account the experience gained in the COVID-19 pandemic. In the light of the EC's public "Green Paper" launched a wide-ranging policy debate on challenges and opportunities of aging European society (EC 2021). Based on the results of the discussion, a plan of measures to reduce the impact of population aging will be developed.

Social policy in the field of aging society includes a variety of changes in the lives of older people. According to experts, there are two different approaches how the social policies of the European Union perceive the problems of population ageing. On the one hand, the increase the proportion of older people is seen as a threat, as it is likely to lead to economic instability. But on the other hand, older people are seen as a potential for innovation, and as a new and promising niche market (Foster 2012). Significant emphasis is placed on prolonging people's working life and raising the retirement age (Walker 2009). At the same time, there is a balanced approach to promoting active and healthy aging, supported by WHO and the UN. According to the opinion of many experts, this policy must be comprehensive and flexible: the individual characteristics of ageing, the diversity of customs and perceptions must be taken into account; different size of resources for different people to provide a dignified life in an elderly age, etc. (Boudiny, 2013). Social policy on health issues needs to be designed leading not for the acute assistance but for health prevention (Foster 2012). Policies must also be inclusive of cultural and religious differences, while respecting human rights. A well-thought and comprehensive concept of healthy aging can bring together the interests of different groups of population - entrepreneurs, non-

governmental organizations, policy makers, etc. c., in a single strategy and action plan, moving from ideology to action (Foster, Walker 2015).

In 2016, the World Health Organization (WHO) endorsed the Global Strategy and Action Plan on Aging and Health for the period 2016-2020, focusing on the impact of population aging (2016). This document served as a preparatory step for the WHO's Decade of Healthy Aging from 2020 to 2030 to promote healthy aging (WHO 2020). The Decade aims to bring together governments, civil society, international agencies, professionals, academia, the media and the private sector to work together to improve the lives of older people, their families and communities (Thomsone 2020). The successive enacting of the strategic papers sets out the basic principles by which individual countries can shape their national strategies in the light of effects of aging population.

In order to meet the objectives of the Global Strategy and Action Plan on Aging and Health (referred to as the Strategy), new terminology was developed, such as "healthy aging." The WHO has defined 'healthy aging' as the process by which an individual's functional capacity to maintain quality of life in old age is maintained and developed. Functional abilities include person's ability to meet their basic needs, be independent and make decisions, be mobile, to build and maintain relationships, and to contribute to the well being of a society (Thomsone 2020). The process of healthy aging is influenced by both human factors (gender, occupation, education, health status) and environmental factors (home, family members, health care and social service systems).

The strategy pays particular attention to five key strategic objectives to be met by all countries. The first - to ensure that each country commits itself to an appropriate action to reduce the impact of aging population. This goal states that cooperation should be established between the government and the non-governmental sector, including various social service providers, scientists, technical specialists in order to ensure cross-sectoral cooperation. As a result of this cooperation, each country should develop a "healthy aging" strategy, and to form an evidence-based policy and action plan (WHO 2016). The second goal is to create a "friendly" urban environment for older people and favorable significant conditions where they could realize their potential while maintaining independent and healthy life (Rudnicka 2020). Achieving the goal requires a coordination between several sectors and departments, as well as cooperation with representatives of other organizations, including senior organizations. Creating a 'friendly' environment for seniors means removing physical barriers, promoting physical and mental health, resocializating older people and integrating them more closely into society. The third of the global goals is the efficient operation of health care systems to meet the needs of older people (Rudnicka 2020). As we are aging, people's health problems are becoming more complex and more chronic. There is a need to reform the health care system, including in terms of funding, so that older people have access to

both basic and technologically complex treatment or diagnostic services. The fourth goal of the strategy is to establish and maintain reliable system for the provision of social services both at home and in institutions by taking into account the increase in the number of people who needs long-term care and social support services (WHO 2016). In each country, such care systems should provide more effective care and a dignified life in old age. As a fifth objective, the Strategy states the provision of "healthy aging" measures (a special products for physical activity and healthy eating recommendations, fall prevention, hearing and vision reduction compensation with the help of technical aids), as well as the development of scientific research and monitoring the effectiveness of measures (Rudnicka 2020). In order to assess and improve current situation, indicators are needed that are based on a set of measures, including scientific research (especially longitudinal research and monitoring of senior health, functional capacity and lifestyle), and analysis, recommendations for healthy aging.

In addition to the five key objectives, the Strategy identifies key priorities to which special attention should be paid. One of them is a development of a "healthy aging" strategy and action plan in each country (Phillipson 2020). Member States are expected to have an assistance in reviewing, evaluating and updating current policies related to aging process and health in general, as the success of policies and the number of resources may differ from country to country (Rudnicka 2020). Another priority area is the development of research and improving the efficiency of data collection. The strategy calls for the shortcomings of the current system to be identified and for solutions to be offered in order to establish a reliable process for collecting empirical and statistical data on aging population. The analyses of statistical information in the international databases will help to monitor progress in the field of "healthy aging." Combating the phenomenon of agism is also one of the priorities defined within the Strategy (Rudnicka 2020). Various actions are being planned, including clarification of legislation to prevent age discrimination, like introduction of explanatory and preventive measures in the education system, as well as information campaigns in social networks and media. The strategy includes some other priority areas that emphasize the attention of policy makers in each country and provide a better understanding of what measures are needed. Adoption of the strategy - an important step forward, in line with this framework document, regional and global social policies were formulated and implemented, involving governments, non-governmental organizations, scientific and technical experts, and the general public (WHO 2016). Within this framework Member States must base their social policies on achieving the goals of 'healthy aging'.

In some countries, attention was paid to the negative impact of population ageing before the WHO Strategy was adopted. For example, the UK's "Future of an ageing population" program was published at the same time as the Strategy in 2016, which means that the content of the document

was drawn up earlier (Future … 2016). The National Positive Ageing Strategy was adopted in Ireland in 2013 and the Austrian relevant document in 2012 (The National … 2013). The Austrian Ageing and Future. Federal Plan for Senior Citizens (referred to as the Plan) was developed in 2012 (Aging… 2012). It was the first document of its kind in Europe to develop, guarantee and improve the quality of life of older people. The preface to the Federal Plan states that demographic changes do not only bring new political and social challenges, but also opens up new perspectives and unprecedented opportunities for the development of Austrian society. The goals defined in the Federal Plan are based on the results of scientific research and expert opinions.

The Plan sets out changes in the following areas: social and political participation; economic and social inequalities; health promotion; education and lifelong learning; age groups and gender equality issues; interethnic cooperation; social services and social care system, social security and social protection system, consumer protection, etc. (Aging… 2012). Much attention was paid to social policies such as adherence to the principles of 'active aging'; working in old age; reducing the risks of discrimination, violence and social exclusion; strengthening intergenerational relations and the family as a sustainable system; urban infrastructure, housing adaptation, technologies for senior mobility, etc. One of the most important requirements of the Plan is the creation of a modern image of seniors and media coverage of the problems of an aging society.

It should be noted that in 2011, before the adoption of the Plan, Austria's Lifelong Learning Strategy was developed in Austria, which provides education and training opportunities for seniors (Lassnigg 2020). It must be concluded that Austria has a comprehensive and well-thought-out legal framework for making changes in social life with a population aging. The only direction that was not reflected in the Plan compared to the Strategy is action to develop research and improve data collection procedures in the areas of population aging and 'healthy aging'.

Along with the most European Union countries, in Belarus in December 2020 the National Strategy "Active Longevity - 2030" (referred to as the Belarus Strategy) was adopted (Nacionaļnaja…2020). The aim of the Belarus Strategy is to "create conditions for the complete and more effective realization of the potential of senior citizens, for the long-term and permanent improvement of their quality of life by adapting the system of state and public institutions to the problem of an ageing society". The program includes the following sections: respecting and ensuring the rights of seniors to a dignified life, creating conditions for their social inclusion and full participation in the society; stimulation of longer working life, promotion of income level of seniors; providing lifelong learning, including non-formal learning opportunities for seniors, expanding access to further training; creating conditions for a safe and healthy life, as well as active longevity; development of social services and social care system to ensure a dignified quality of life for seniors; adapting the environment, infrastructure and housing to the needs of seniors.

The expected results of the implementation of the strategy include: improvement of state policy and legislation; an interdisciplinary approach to tackling the problems of population aging; strengthening social cohesion and intergenerational relations; restoring the role of seniors in the society; promoting the idea of successful aging in media; increasing the welfare and social protection of seniors; reducing the morbidity rates among seniors rate among seniors, increasing the efficiency of medical care, including geriatric care, etc. (Nacionaļnaja…2020). The document is accompanied by a list of national measures and criteria, developed quantitative and qualitative indicators, defined deadlines and responsible institutions.

In overall, the Belarus Strategy is almost fully in line with the WHO recommendations. Like the Austrian strategy paper, the Belarus Strategy did not aim to improve the efficiency of research and data collection processes. Another peculiarity of the Strategy is that it did not use the word "seniors", but instead use the phrase - senior citizens, which corresponds to the English word combination. It is possible that with the activation of the principles of healthy and active longevity, relevant terminology will also be developed in Belarus.

In order to keep up with contemporary time, this is necessary to develop a purposeful social policy in Latvia to reduce the negative impact of population aging, which is outlined in the Latvian National Development Plan 2021-2027(NDP 2020). The document states: "*In implementing the concept of active aging, the state must review all policies that directly or indirectly affects seniors, define goals, objectives, instruments and public expenditure in each of them in accordance with the nature and expected impact of active aging*." This approach focuses on a wide range of activities that highlight the participation of seniors in building an inclusive society and promoting economic sustainability. The documents of the Ministry of Welfare of the Republic of Latvia highlight three conditions that should be included in the strategy of active and healthy aging: longer working life, lifelong learning and training opportunities, adherence to the principles of "healthy aging." (Thomsone 2020).

Latvia's national strategy must be multilateral and interdisciplinary in order to unite the interests of different population groups and categories, as well as to divide responsibilities between the three ministries (Welfare, Health, Education and Science) and civil society (Azamatova 2021). The strategy program should cover the following areas of action: provision of lifelong learning services for older people; stimulating the extension of people working lives, economic activity and independence; adaptation of the environment, housing and urban infrastructure; social involvement - promotion of senior participation in civil society activities; development of intergenerational integration, combating age discrimination; expanding the range of health care and social services, improving their accessibility and quality, etc. In this way a society must be formed

that takes into account the long-term interests of all age groups, and, as a result, a new and modern image of the senior will emerge.

**Conclusions**

The World Health Organization and other international bodies see population ageing as a global problem and are developing according international instruments to promote social policy in relevant areas. Regular national action reduces the impact population ageing through the development of "healthy aging". According to experts, social policy must be inclusive, comprehensive and flexible in order to address the challenges of ageing by taking into account both the individual characteristics of aging and the specificities of different countries: different amounts of resources and cultural specificities, etc. The WHO policy document "Global Strategy and Action Plan on Aging and Health" provides a structured and sound framework for the basic principles of "healthy aging" and recommendations for social policy-making. A comparison of the national strategies of two countries (Austria and Belarus) to reduce the impact of population ageing shows that they are in line with WHO guidelines and recommendations.

In Latvia, the development of social policy is just beginning in order to address the challenges of population ageing. The need is highlighted in the most important strategic development documents. A situation must be achieved so that fragmented opinions and measures, as well as the results of free discussion in the media are incorporated into the comprehensive national strategy in a structured way by taking into account the interests of government and the wider public.

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