

---

## APPLICATION OF ADMINISTRATIVE LEGAL LIABILITY FOR THE MISUSE OF PARENTAL AUTHORITY

**Kristina Mikalauskaitė Šostakienė\***

*\*Mykolas Romeris University Faculty of Public Security Department of Law  
Putvinskio str. 70, LT-44221 Kaunas  
Phone: (370 37) 303 665;  
E.mail: k\_m\_sostakiene@mruni.eu*

**Birutė Pranevičienė\*\***

*\*\*Mykolas Romeris University Faculty of Public Security Department of Law  
Putvinskio str. 70, LT-44221 Kaunas  
Phone: (370 37) 303 665;  
E.mail: praneviciene@mruni.eu*

---

**Annotation.** The article presents an analysis of legal regulation and jurisprudence related to the application of administrative legal liability for misuse of parental authority and consists of two parts. The first part of the article reveals the concept of parental authority, particularly focusing on the parent's rights and obligations, reviews the legal acts that embed parents rights and duties. The second part presents the analysis of the legal regulation which enshrine authority of parents and those legal acts which determine legal liability for misuse of parents' authority. The analysis of jurisprudence in order to determine the specific of realisation administrative liability of parents, who misused parental authority: i.e. unused parental authority or used parental authority against the interest of the child, is delivered in the second part.

**Keywords:** parental authority, administrative liability, misuse of parental authority.

### INTRODUCTION

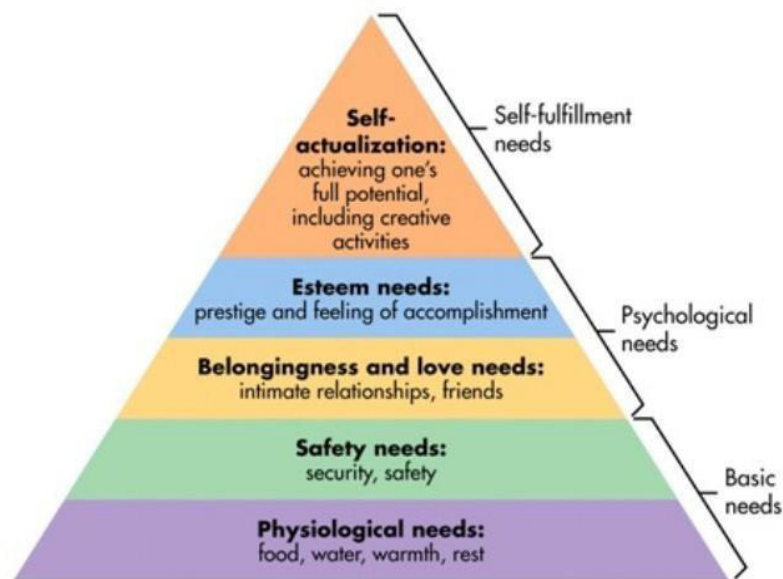
Every child has to be looked after and cared for. The nature itself has created that every child has the main needs which shall be met first of all by parents (or guardians). According to Maslow's theory of needs<sup>1</sup>, every human being has the basic needs, such as physiological (food, water, warmth and rest) and safety needs (security, safety) as well as the psychological needs, which can be divided into belongingness and love needs, and esteem needs. „According to Maslow, each need has to be satisfied substantially in order for an individual to progress to the next level.“<sup>2</sup> The highest level of needs are self-fulfilment needs. „These are the needs for realizing own's potentialities, for continued self- development, for being creative in the broadest sense of that term“<sup>3</sup>.

---

<sup>1</sup> James S. Nairne, Psychology, Cengage Learning; 6 edition, 2013, P.343.

<sup>2</sup> Sadri, Golnaz, and Clarke R. Bowen. "Meeting employee requirements: Maslow's hierarchy of needs is still a reliable guide to motivating staff." *Industrial Engineer*, Oct. 2011, p. 44+. *Academic OneFile*, Accessed 20 Nov. 2016.

<sup>3</sup> Harold J. Leavitt, Louis R. Pondy, and David M. Boje, "Readings in Managerial Psychology", University of Chicago Press, 1988, P. 319



**Figure 1.** Maslow's hierarchy of needs

Some authors write how Maslow's hierarchy of basic human needs can be used as a framework for cross-cultural counselling with children in crisis; that is, children of the world who are unable to fulfill adequately their basic human needs because of extreme circumstances such as natural disaster, violence, various forms of child abuse, extreme poverty, lack of school and community resources, and emotional abandonment.<sup>4</sup> Even if there are no extreme circumstances, still it may happen that child's needs will not be fulfilled, because of misuse of parent's authority.

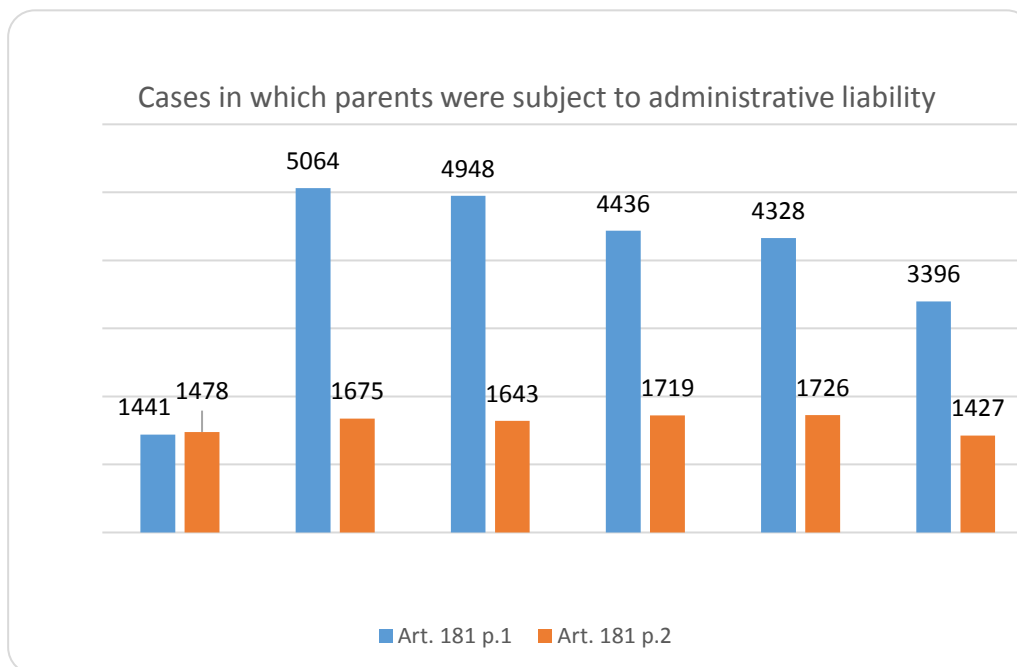
Lithuanian legal regulation establishes administrative liability for misuse of parental authority. The Code of Administrative Violations of Law<sup>5</sup> incurs a penalty for parents if they misuse their parental rights and duties: Article 181 of the Code of Administrative Violations of Law provides for administrative liability for failure to use parental authority or the use thereof against the child's best interests. Despite the fact that the old Code of Administrative Violations of Law will expire on January 1, 2017, liability for failure to use parental authority or the use thereof against the child's best interests remains valid, since a similar rule is established in Article 73 of the Code of Administrative Violations to become effective from January 1, 2017.<sup>6</sup>

<sup>4</sup> Harper, F.D., Harper, J.A. & Stills, A.B. "Counseling Children in Crisis Based on Maslow's Hierarchy of Basic Needs". *International Journal for the Advancement of Counselling* (2003) 25: 11. doi:10.1023/A:1024972027124.

<sup>5</sup> Code of Administrative Violations of Law of the Republic of Lithuania, Vyriausybės žinios, 1985-01-01, Nr. 1-1, Art. 181.

<sup>6</sup> Code of Administrative Violations of the Republic of Lithuania, TAR, 2015-07-10, Nr. 11216.

The analysis of recent statistics shows that this kind of violations is still frequent and repetitive, despite the preventive measures implemented in the state. Therefore, the topic of this article is relevant and problematic.



**Figure 2.** Statistical data on administrative violations from the Register of Administrative Violations

The paper **aims** to discover features of application of administrative legal liability for misuse of parental authority. In order to achieve this aim, following **tasks** were settled: To reveal the concept of parental authority, particularly focusing on the parent's rights and obligations; To analyse legal acts which enshrine authority of parents and those legal acts which determine legal liability for misuse of parents' authority; To analyse jurisprudence in order to determine the peculiarities of realisation of administrative liability of parents, who misused parental authority: i.e. unused parental authority or used parental authority against the interest of the child.

**Methods** of systemic, analytical-critical, and statistical analysis were applied for the research of the paper. In addition, methods of case analysis and generalization were used.

---

## THE CONCEPT OF PARENTAL AUTHORITY: THE SCOPE OF PARENTS' RIGHTS AND OBLIGATIONS

Parental authority refers to parents' rights and responsibilities toward their children from the minute they are born until they turn 18. Under their parental authority, parents make decisions that affect their children's well-being.<sup>7</sup> “Parent's duties - to maintain, protect, and educate – are fundamental”.<sup>8</sup>

Usually the children's parents are responsible for looking after and caring for the child (in some specific circumstances there are legal guardians, who are responsible for a child). Term “parental authority” is close to the term “parental responsibility”, the latter is used to describe the duties and rights to take care of a child. The concept “parental responsibility” covers the duties and rights to take care of the child's person and property. This includes a responsibility to ensure that the child has shelter, food and clothes as well as a responsibility for the child's upbringing<sup>9</sup>. It also includes the right to represent the child legally.

Article 3.155 of the Civil Code<sup>10</sup> provides that until they attain majority or emancipation, children shall be cared for by their parents. Parents shall have a right and a duty to properly educate and bring up their children, care for their health and, having regard to their physical and mental state, to create favourable conditions for their full and harmonious development so that the child should be ready for an independent life in society. The chapter XI of the book III of the Civil Code regulates parental rights and duties in respect of their children and chapter XII provides mutual property rights and duties of parents and children.

The Article 3.156 of the Civil Code provides that the father and the mother shall have equal rights and duties in respect of their children. Parents shall have equal rights and duties by their children irrespective of whether the child was born to a married or unmarried couple, after divorce or judicial nullity of the marriage or separation.

Paragraph 1 of Article 38 of the Constitution prescribes: “The family shall be the basis of society and the State”; Paragraph 2 thereof prescribes: “Family, motherhood, fatherhood and childhood shall be under the protection and care of the State.”<sup>11</sup> The meaning of family as a

---

<sup>7</sup> Parental Authority: Rights and Responsibilities of Parents

<sup>8</sup> The Nature of a Parent's Right in His Child Source: Harvard Law Review, Vol. 17, No. 2 (Dec., 1903), pp. 128-129 Published by: The Harvard Law Review Association Stable URL: <http://www.jstor.org/stable/1322610> Accessed: 27-11-2016 15:11 UTC.

<sup>9</sup> António José Fialho. The situation of children and parents in the divorce context in Portugal, <http://www.iustit.cz/files/05cochprg.pdf>

<sup>10</sup> Civil Code of the Republic of Lithuania, Valstybės žinios, 2000, Nr. 74-2262.

<sup>11</sup> The Constitution of the Republic of Lithuania, Valstybės žinios 1992 No.33-1014.

fostered and protected constitutional value is confirmed by the fact that various aspects of the concept of family are also enshrined in other provisions of articles of the Constitution: (1) according to the provision of Paragraph 1 of Article 39, the state takes care of families that raise and bring up children at home, and renders them support according to the procedure established by law, (2) according to the provision of Paragraph 4 of Article 22, the law and the court protect everyone from arbitrary or unlawful interference in his private and family life, (3) according to the provision of Paragraph 5 of Article 26, parents and guardians take, without restrictions, care of the religious and moral education of their children and wards according to their own convictions, etc. According to the constitutional jurisprudence of the Republic of Lithuania, such constitutional provisions form the basis for the state family policy<sup>12</sup>. „The law, however, has sanctioned some degree of state intervention into family life; over the centuries a general guide for intervention has developed in the extensive body of case law interpreting the state's *parens patriae* power. The state acts as the primary protector of children from abuse or neglect“<sup>13</sup> In those cases where it is proved that parents are not properly used the parental authority, a public authority must carry out statutory duties and apply a legal liability. As in this article we focus on administrative liability, we will discuss further the applicability of administrative liability for failure to use parental authority or the use thereof against the child's best interests.

## THE USED OR UNUSED PARENTAL AUTHORITY AGAINST THE BEST INTEREST OF THE CHILD

### Legal regulatory assumptions

International and national legislation provides for an obligation to arrange for a child care, a comprehensive child development, healthy living conditions, safeguarding the rights, in particular, for the child's parents. However, in practice cases are often revealed, where parents fail to ensure the child's due rights and legitimate interests or even harm the minor children by their behaviour, without worrying about the children, neglecting them, by acts of violence against children and by other improper actions.

---

<sup>12</sup> The Ruling of Constitutional Court of the Republic of Lithuania on the State Family Policy Concept, 28-09-2011, case No. 21/2008.

<sup>13</sup> Areen, Judith C., "Intervention Between Parent and Child: A Reappraisal of the State's Role in Child Neglect and Abuse Cases" (1975). *Georgetown Law Faculty Publications and Other Works*. Paper 1436. <http://scholarship.law.georgetown.edu/facpub/1436>, P. 893.

---

For the child to be protected from infringement of his rights and in order to facilitate the necessary conditions for his development, the international and national rules establish the state duty to provide the necessary protection for the child, where this is not ensured by the child's parents. The United Nations Convention on the Rights of the Child<sup>14</sup> obliges state members to take all appropriate legislative, administrative and other measures for implementation of the child's rights recognized in the Convention.

Execution of the parental rights and obligations enshrined in Article 3.155 of the Civil Code, with the help of authorized authorities, is controlled by the State. When dysfunctional parenting, neglect and violence against children is identified, these authorities or officials concerned have a duty to take all possible measures to ensure protection of the child's interests.

Article 3.159, Par. 1 of the Civil Code provides for that a father's or mother's surrender of the rights and duties by his or her underage children shall be null and void. Par. 2 of the same Article provides for that parents shall be jointly and severally responsible for the care and education of their children. Par. 3 of the afore-mentioned Article provides for that parental authority may not be used contrary to the interests of the child, and Par. 4 indicates that failure to exercise parental authority shall be subject to legal responsibility under the law.

The child is dependent on the directly surrounding environment. In cases where the child's parents, for various reasons, cannot ensure the guaranteed rights of children or even infringe them seriously themselves, the children's opportunity to resist or defend their rights is severely aggravated. Under these circumstances, public authorities have an obligation to take measures in order to protect the child's rights and to bring the responsible persons to justice.

### **The unused parental authority**

According to Article 12, Par. 1 of the Code of Administrative Violations of Law the administrative liability is applicable to individuals, who have reached the age of sixteen years prior to an administrative violation of law. Under this provision individuals who have not reached the age of sixteen years, cannot be held administratively liable for an administrative violation of law, but their parents are often held administratively liable for such violations under Article 181 the Code of Administrative Violations of Law.

As already mentioned, Article 181 of the Code of Administrative Violations of Law, among other things, provides for administrative liability for the failure to use parental authority.

---

<sup>14</sup> The United Nations Convention on the Rights of the Child; [<http://www2.ohchr.org/english/law/crc.htm>].

---

In deciding whether the actions of a person, who is subject to administrative liability in accordance with that rule, include the entirety of features of this violation, it is necessary to assess the content of the concept of "parental authority", as administrative liability is related with adequate use of parental authority.

Systematic analysis of the above-mentioned provisions leads to the conclusion that finding features of a violation established in Article 181 of the Code of Administrative Violations of Law in the parents' actions can be assumed only if the parents do not perform or improperly perform their duties under Article 3.155 of the Civil Code.

In situations where minors commit actions that meet features of violations provided for in the Code of Administrative Violations of Law, it is generally considered that the parents of these minors do not use parental authority, i. e., improperly educate or supervise their children.

However, the fact that a minor has performed an action contrary to the law is not enough for prosecution of parents in accordance with Article 181 of the Code of Administrative Violations of Law. There may be cases where such minors' actions cannot be linked to improper execution of the parents' duty to educate and supervise the child, when a minor has performed an action contrary to the law in a place and at a time when parents are unable to realize their rights and obligations with regard to the parental authority. Such situations are possible when the child is not under the direct supervision of the parents, but in the institution authorised by the law to carry out such supervision: pre-school, school, etc. Article 57, Par. 2 of the Law on Fundamentals of Protection of the Rights of the Child<sup>15</sup> provides for that authorities of instructional, educative, treatment and other institutions, educators or individuals equivalent to them, and the administration of these institutions shall be held responsible for the education of the children under their supervision. Therefore, at the time when the child is in the educative institution according to the established procedure (a child, who is listed as a school pupil, present in lessons or extra-curricular activities), the institution in question is responsible for supervising the child.

Thus, in cases where minor children cause injuries to another minor, use obscene words, insult people, commit theft or make other ongoing violations in the educative institution, i. e., at the time when they had to be supervised by the educative institution and the parents do not

---

<sup>15</sup> The Law on Fundamentals of Protection of the Rights of the Child, Valstybės žinios, 1996-04-12, Nr. 33-807.



have direct access to fulfil their parental authority. Therefore, in this case, there is no reason to conclude that parental authority was not used or misused<sup>16</sup>.

In cases of minors committing violations of the law when under supervision of the educative institution, when they cannot be held legally responsible for a violation, there are certain conditions to be fulfilled in order to apply administrative liability to the parents pursuant to Article 181 of the Code of Administrative Violations of Law.

In view of the case-law of Lithuanian Supreme Administrative Court, the fact that a minor has performed an action contrary to the law is not enough for prosecution of parents in accordance with Article 181 of the Code of Administrative Violations of Law. In this case, it must be determined how (by what specific actions or inaction) the unused parental authority has become evident, which could have possibly determined (influenced) an action contrary to the law. In such cases data have to be collected to support or refute this fact, that is, prior to initiation of the administrative violation case proceedings it is necessary to examine whether the parents have properly implemented their right and duty to parental authority and have taken all possible measures to ensure that minors do not commit violations of the law, i. e., have adequately ensured their continued care and upbringing. Such data are collected in interviews with the child's teachers, by getting the child characterizing material and relevant information (opinions, conclusions) of the Child Protection Services, etc.<sup>17</sup>

In cases where due to the improper behaviour of the children their parents are addressed, but no change is apparent in the children's behaviour, the reasons causing the violations committed by children are failed to be addressed, a conclusion is implied that the parents do not deal with inappropriate child behaviour or actions contrary to the law. Therefore, such circumstances give grounds to state that parents are failing to honestly educate their children without taking all possible measures to ensure that children would not commit violations of the law. Then, when it is determined that the violations contrary to the law committed by children are the outcome of regular improper performance of the parents' responsibilities, the conclusion

---

<sup>16</sup> Rulings of Lithuanian Supreme Administrative Court No. N<sup>575</sup>-499/2009 No. N<sup>1</sup>-1379/2007, No. N-1-1379/2007, N<sup>556</sup>- 651/2008, No. N62-662/2010, No. N<sup>502</sup>-1163/2010, No. N<sup>662</sup>-1751/2010, Orders of Kaunas District Court No. ATP-19-397/2011, No. ATP-105-81/2011, No. ATP-177-348/2011, No. ATP-284-317/2013.

<sup>17</sup> Rulings of Lithuanian Supreme Administrative Court Administrative Case No. N-438-1085/2010, Orders of Kaunas District Court No. ATP-314-175/2013, Orders of Šiauliai District Court Administrative Case No. ATP-63-309/2011, Orders of Kaunas District Court Administrative Violation Case No. ATP-426-397/2013, Orders of Kaunas District Court Administrative Violation Case No. ATP-70-360/2011, Rulings of Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-3203/2010, Rulings of Lithuanian Supreme Administrative Court Administrative Case No. N<sup>575</sup>-842/2012, Kaunas District Court Administrative Case No. ATP-42-317/2012.



---

is implied that there is the entirety of features in the individuals' actions necessary to state an administrative violation established in Article 181, namely unused parental authority.

### **The use of parental authority against the interest of the child**

Parental authority is dedicated to implementation of natural rights of the child. In each case, the parents who do not comply with their obligations to children, their actions or failure to act are to be regarded as contrary to the law. Article 19, Par. 1 of the United Nations Convention on the Rights of the Child provides for the State's duty to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s).

Article 3 of the Law on Fundamentals of Protection of the Rights of the Child provides for that legal representatives of the child shall be parents, foster parents, guardians, custodians and other persons, who in accordance with the law or other legal act, must care for the child, educate him, support him, represent him and defend his rights and rightful interests. Parents or other legal representatives of a child must create conditions suitable for a child to live and grow up within a family and to take care of him<sup>18</sup>. The right of the child to good health shall be guaranteed by measures allowing creation of a healthy and safe environment for the child.<sup>19</sup> Parents or other legal representatives of the child shall be obliged to create conditions for the child to grow, develop and improve and to bring up their children as humanely moral individuals. Both parents must be equally involved in the child's upbringing, provide suitable care, material support and ensure availability of a home for him<sup>20</sup>. Article 43, Par. 2 of the Law on Fundamentals of Protection of the Rights of the Child provides for that administrative or criminal liability shall be applied for demonstration of physical and mental violence to children and their inclusion into criminal or other illegal types of activity.

Article 181, Par. 1 of the Code of Administrative Violations of Law provides for that use of parental authority <...> against the child's interests incur a warning for parents. Both national and international legal acts establish the principle of extraordinary child protection – the legitimate interests of the child must be first taken into account everywhere and always. Proper use of authority towards a child is associated with the fact that a child is entitled to the full and

---

<sup>18</sup> The Law on Fundamentals of Protection of the Rights of the Child, Article 6, Par. 1.

<sup>19</sup> The Law on Fundamentals of Protection of the Rights of the Child, Article 8, Par. 1, Item 1.

<sup>20</sup> The Law on Fundamentals of Protection of the Rights of the Child, Article 21, Par. 1 and 2.

harmonious development physically and mentally, aiming at protection of children from the social environmental impact harmful to his development. Any use of authority against the child's best interests, including physical or mental violence demonstration in the presence of a child, is prohibited. The latter actions that may also occur due to abuse of the parents' authority, their immoral behaviour (fights, obscene words, which impose fear to the child), are as well assumed as being against the child's best interests. In this way, the conflicts of parents in the presence of children, as well as mutual conflicts and conflicts with others, which are harmful to the child's psyche, are included into the offense composition described in Article 181 of the Code of Administrative Violations of Law<sup>21</sup>.

Based on the analysis of case law, it must be concluded that parental conflict on appropriate personal relationships, choosing an unacceptable way of interpretation thereof, which has imposed fear, stress to minor children, are regarded as manifestly traumatic to the child's psyche and affecting their interests. Such behaviour is intolerable at the presence of children, and thus incurs administrative liability to individuals under Article 181, Par. 1 of the Code of Administrative Violations of Law.

Case law contains a rule that the negative impact on a child can include the very observance of the inadequate behaviour, therefore parents may be held administratively liable under Article 181 of the Code of Administrative Violations of Law just for this type of behaviour (Rulings of LSAC in cases No. N<sup>2</sup>-818/2005, No. N<sup>62</sup>-482/2011, No. N<sup>575</sup>-305/2012, No. N<sup>575</sup>-739/2012 et. al.) In this way, quite often parents are held administratively liable for the use of parental authority against the child's best interests, when alcohol is abused, parents are drunk in the presence of the children, even if the children have had no adverse effects due to this.

Article 10, Par. 2 of the Law on Fundamentals of Protection of the Rights of the Child provides for that a child shall not be tortured and injured, his honour and dignity be degraded and be subjected to cruel treatment.

---

<sup>21</sup> Consultation No. 25-K of Lithuanian Supreme Administrative Court of January 22, 2003 "Administrative Case Law" No. 4, P. 420, as well as the Ruling of Lithuanian Supreme Administrative Court of May 12, 2005 in administrative case No. N<sup>2</sup>-818/2005, the Ruling of February 11, 2011 in administrative case No. N<sup>62</sup>-482/2011, the Ruling of May 18, 2012 in administrative case No. N<sup>575</sup>-305/2012 Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-482/2011, Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-1937/2011, Lithuanian Supreme Administrative Court Administrative Case No. N<sup>575</sup>-305/2012, Vilnius District Court Administrative Case No. ATP-64-200/2013, the Ruling of Lithuanian Supreme Administrative Court of May 12, 2005 in administrative case No. N<sup>2</sup>-818/2005, the Ruling of February 11, 2011 in administrative case No. N<sup>62</sup>-482/2011, the Ruling of May 18, 2012 in administrative case No. N<sup>575</sup>-305/2012). Vilnius District Court Administrative Case No. ATP-106-4872013, Vilnius District Court Administrative Case No. ATP-395-562/2015, Panevėžys District Court Administrative Case No. ATP-264-134/2016.

---

Article 38 of the Constitution of the Republic of Lithuania establishes the duty of parents to educate their children to be honest individuals and loyal citizens.

The implementation of Article 39 of the Constitution and provisions of other laws, the State shall undertake legal measures to protect underage persons, including protection from criminal acts or omissions by the people closest to them. In cases where the parents of the child physically or mentally traumatize the child, leave him unattended for a long period of time or doing something similar with the child, the parents are also subject to liability under Article 181 of the Code of Administrative Violations of Law for use of parental authority against the child's best interests. It should be noted that, if these actions are carried out for a long time, systematically, the parents can be held criminally liable (Article 163 of the Criminal Code of the Republic of Lithuania<sup>22</sup>).

## CONCLUSIONS

The Code of Administrative Violations of the Republic of Lithuania will become effective from January 1, 2017 provides for the same regulation regarding administrative liability for failure to use parental authority or the use thereof against the child's best interests as the current Code of Administrative Violations of Law.

Parents has specific rights and duties, such as a right and a duty to properly educate and bring up their children, care for their health and, having regard to their physical and mental state, to create favourable conditions for their full and harmonious development so that the child should be ready for an independent life in society. In a case of failure to realise these rights and duties, state has a right to interfere into family life, specifically in a case of the unused parental authority or the use of parental authority against the interest of the child administrative liability for parents has to be applied.

In deciding whether the actions of a person, who is subject to administrative liability in accordance with the rule which provides administrative liability for the failure to use parental authority, include the entirety of features of this violation, it is necessary to assess the content of the concept of “parental authority”, as administrative liability is related with adequate use of parental authority.

Case analysis shows that in situations where minors commit actions that meet features of violations provided for in the Code of Administrative Violations of Law, it is generally

---

<sup>22</sup> Criminal code of the Republic of Lithuania, Valstybės žinios, 2000-10-25, Nr. 89-2741.

considered that the parents of these minors do not use parental authority, i. e., improperly educate or supervise their children. However, the fact that a minor has performed an action contrary to the law is not enough for prosecution of parents in accordance with Article 181 of the Code of Administrative Violations of Law. There may be cases where such minors' actions cannot be linked to improper execution of the parents' duty to educate and supervise the child, when a minor has performed an action contrary to the law in a place and at a time when parents are unable to realize their rights and obligations with regard to the parental authority.

When the child is not under the direct supervision of the parents, but in the institution authorised by the law to carry out such supervision (pre-school, school, etc.), the authorities of instructional, educative, treatment and other institutions, educators or individuals equivalent to them, and the administration of these institutions shall be held responsible for the education of the children under their supervision. In cases where minor children cause injuries to another minor, use obscene words, insult people, commits theft or make other ongoing violations in the educative institution, i. e., at the time when they had to be supervised by the educative institution and the parents do not have direct access to fulfil their parental authority. Therefore, in this case, there is no reason to conclude that parental authority was not used or misused.

Only when it is determined that the violations contrary to the law committed by children are the outcome of regular improper performance of the parents' responsibilities, the conclusion is implied that there is the entirety of features in the individuals' actions necessary to state an administrative violation established in Article 181, namely unused parental authority.

Parents or other legal representatives of the child shall be obliged to create conditions for the child to grow, develop and improve and to bring up their children as humanely moral individuals, therefore administrative or criminal liability shall be applied for demonstration of physical and mental violence to children and their inclusion into criminal or other illegal types of activity. Immoral behaviour of parents (fights, obscene words, which impose fear to the child), abusing of alcohol, leaving a child unattended for a long period of time, are as well assumed as being against the child's best interests. In this way, the conflicts of parents in the presence of children, as well as mutual conflicts and conflicts with others, which are harmful to the child's psyche, are included into the offense composition described in Article 181 of the Code of Administrative Violations of Law.

Based on the analysis of case law, it must be concluded that parental conflict on appropriate personal relationships, choosing an unacceptable way of interpretation thereof, which has imposed fear, stress to minor children, are regarded as manifestly traumatic to the

child's psyche and affecting their interests. Such behaviour is intolerable at the presence of children, and thus incurs administrative liability to individuals under Article 181, Par. 1 of the Code of Administrative Violations of Law.

## REFERENCES

1. António José Fialho. The situation of children and parents in the divorce context in Portugal, [<http://www.iustin.cz/files/05cochprg.pdf>].
2. Areen, Judith C., "Intervention Between Parent and Child: A Reappraisal of the State's Role in Child Neglect and Abuse Cases" (1975). *Georgetown Law Faculty Publications and Other Works*. Paper 1436. [<http://scholarship.law.georgetown.edu/facpub/1436>], P. 893.
3. Harold J. Leavitt, Louis R. Pondy, and David M. Boje, "Readings in Managerial Psychology", University of Chicago Press, 1988, P. 319.
4. Harper, F.D., Harper, J.A. & Stills, A.B. "Counseling Children in Crisis Based on Maslow's Hierarchy of Basic Needs". *International Journal for the Advancement of Counselling* (2003) 25: 11. doi:10.1023/A:1024972027124.
5. James S. Nairne, *Psychology*, Cengage Learning; 6 edition, 2013, P.343.
6. Parental Authority: Rights and Responsibilities of Parents [<http://family-law.lawyers.com/children/the-legal-rights-and-responsibilities-of-a-parent.html>].
7. Sadri, Golnaz, and Clarke R. Bowen. "Meeting employee requirements: Maslow's hierarchy of needs is still a reliable guide to motivating staff." *Industrial Engineer*, Oct. 2011, p. 44.
8. The Nature of a Parent's Right in His Child Source: *Harvard Law Review*, Vol. 17, No. 2 (Dec., 1903), pp. 128-129 Published by: The Harvard Law Review Association [<http://www.jstor.org/stable/132261>]

## LAWS AND JURISPRUDENCE

1. The Constitution of the Republic of Lithuania, *Valstybės žinios* 1992 No.33-1014
2. The United Nations Convention on the Rights of the Child; [<http://www2.ohchr.org/english/law/crc.htm>];
3. The Law on Fundamentals of Protection of the Rights of the Child, *Valstybės žinios*, 1996-04-12, Nr. 33-807
4. Civil Code of the Republic of Lithuania, *Valstybės Žinios*, 2000, Nr. 74-2262
5. Code of Administrative Violations of Law of the Republic of Lithuania, *Vyriausybės žinios*, 1985-01-01, Nr. 1-1
6. Code of Administrative Violations of the Republic of Lithuania, TAR, 2015-07-10, Nr. 11216
7. Criminal code of the Republic of Lithuania, *Valstybės žinios*, 2000-10-25, Nr. 89-2741
8. Consultation No. 25-K of Lithuanian Supreme Administrative Court of January 22, 2003 "Administrative Case Law" No. 4,
9. Kaunas District Court Administrative Case No. ATP-42-317/2012;
10. Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-482/2011,
11. Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-1937/2011,
12. Lithuanian Supreme Administrative Court Administrative Case No. N<sup>575</sup>-305/2012,
13. Order of Kaunas District Court Administrative Violation Case No. ATP-426-397/2013,
14. Order of Kaunas District Court Administrative Violation Case No. ATP-70-360/2011,
15. Order of Kaunas District Court No. ATP-105-81/2011,
16. Order of Kaunas District Court No. ATP-177-348/2011,

17. Order of Kaunas District Court No. ATP-19-397/2011,
18. Order of Kaunas District Court No. ATP-284-317/2013,
19. Order of Kaunas District Court No. ATP-314-175/2013,
20. Order of Šiauliai District Court Administrative Case No. ATP-63-309/2011,
21. Panevėžys District Court Administrative Case No. ATP-264-134/2016
22. Ruling of Lithuanian Supreme Administrative Court Administrative Case No. N-438-1085/2010,
23. Ruling of Lithuanian Supreme Administrative Court Administrative Case No. N<sup>62</sup>-3203/2010,
24. Ruling of Lithuanian Supreme Administrative Court Administrative Case No. N<sup>575</sup>-842/2012,
25. Ruling of Lithuanian Supreme Administrative Court N<sup>556</sup>- 651/2008,
26. Ruling of Lithuanian Supreme Administrative Court No. N-1-1379/2007,
27. Ruling of Lithuanian Supreme Administrative Court No. N<sup>1</sup>-1379/2007,
28. Ruling of Lithuanian Supreme Administrative Court No. N<sup>502</sup>-1163/2010,
29. Ruling of Lithuanian Supreme Administrative Court No. N<sup>575</sup>-499/2009
30. Ruling of Lithuanian Supreme Administrative Court No. N62-662/2010,
31. Ruling of Lithuanian Supreme Administrative Court No. N<sup>662</sup>-1751/2010,
32. Ruling of Lithuanian Supreme Administrative Court of February 11, 2011 in administrative case No. N<sup>62</sup>-482/2011,
33. Ruling of Lithuanian Supreme Administrative Court of February 11, 2011 in administrative case No. N<sup>62</sup>-482/2011,
34. Ruling of Lithuanian Supreme Administrative Court of May 12, 2005 in administrative case No. N<sup>2</sup>-818/2005
35. Ruling of Lithuanian Supreme Administrative Court of May 12, 2005 in administrative case No. N<sup>2</sup>-818/2005
36. Ruling of Lithuanian Supreme Administrative Court of May 18, 2012 in administrative case No. N<sup>575</sup>-305/2012
37. Ruling of Lithuanian Supreme Administrative Court of May 18, 2012 in administrative case No. N<sup>575</sup>-305/2012
38. The Ruling of Constitutional Court of the Republic of Lithuania on the State Family Policy Concept, 28-09-2011, case No. 21/2008
39. Vilnius District Court Administrative Case No. ATP-106-4872013,
40. Vilnius District Court Administrative Case No. ATP-395-562/2015,
41. Vilnius District Court Administrative Case No. ATP-64-200/2013,

## **ADMINISTRACINĖS ATSAKOMYBĖS TAIKYMAS UŽ NETINKAMĄ TĖVŲ VALDŽIOS PANAUDOJIMĄ**

**Kristina Mikalauskaitė Šostakienė\*, Birutė Pranevičienė\*\***  
Mykolas Romeris university

### **S a n t r a u k a**

Straipsnyje pristatoma teisinio reglamentavimo ir teismų praktikos, susijusios su administracinės teisės atsakomybės už netinkamą tėvų valdžios taikymo analizė ir susideda iš dviejų dalių. Pirmoji straipsnio dalis atskleidžia tėvų valdžios koncepciją, ypač sutelkiant dėmesį į tėvų teises ir pareigas, taip pat pristatomi teisės aktai, nustatantys tėvų teises ir pareigas. Antroje straipsnio dalyje pristato teisinio reguliavimo, numatančio teisinę atsakomybę už netinkamą tėvų valdžios panaudojimą, analizę. Teismų praktikos analizė, leidusi nustatyti tipines tėvų valdžios nepanaudojimo arba panaudojimo priešingai vaiko interesams pažeidimų sudėtis, yra pateikta antroje dalyje.

---

**Pagrindinės sąvokos:** tėvų valdžia, administracinė atsakomybė, tėvų valdžios nepanaudojimas arba panaudojimas priešingai vaiko interesams.

---

**Kristina Mikalauskaitė Šostakienė\***, Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedros lektorė. Mokslinių tyrimų kryptys: administracinė teisė, aplinkos teisė.

**Kristina Mikalauskaitė Šostakienė\***, Mykolas Romeris University, Faculty of Public security, Department of Law, lecturer. Research interests: administrative law, environmental law.

**Birutė Pranevičienė\*\***, Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedros profesorė. Mokslinių tyrimų kryptys: administracinė teisė, konstitucinė teisė, žmogaus teisės, aplinkos teisė.

**Birutė Pranevičienė\*\***, Mykolas Romeris University, Faculty of Public security, Department of Law, professor. Research interests: administrative law, constitutional law, human rights, environmental law