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**CHALLENGES AND PROBLEMS OF LEGAL REGULATION
OF SOCIAL AND BIOLOGICAL PARENTHOOD**

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Abstract.

The relevance of this study. Today, the rights of the child are protected in many countries, and in the Lithuanian legal system, children's rights also play an important role in the implementation of the Institute of Human Rights. Custody of minor children is one of the means by which a child, as a subject of civil law, can ensure the exercise of his or her rights, be properly educated and supervised so that he or she grows up in a proper and safe environment and protect the best interests of the child. Adoption is also one of the measures that can ensure the implementation of the rights of the child. **The main problem.** This work examines an important and significant issue of social parenting in the child's life, the emerging social relationship between the child and social parents, which can be considered more important than the biological parenting relationship. To this day, it is recognized that the biological relationship between a child and parents is no longer the sole basis for paternity, and increasingly, courts must determine the importance of social parenting in a child's life, taking into account the child's legitimate interests. **The following tasks** were set for the defined goal: To define the concept of social and biological parenting; to reveal the importance of guardians in the implementation of the child's legal interests and to assess whether they can become social parents; to reveal the importance of adopters in the implementation of the child's legal interests and to assess whether they are social parents; to analyze the issues of intersection of social and biological parenthood in the practice of Lithuanian courts; to analyze the importance of social parenting in order to challenge parenthood. **The aim of this work** is to disclose problems and issues of legal regulation of biological and social parenting legal regulation. **The paper concluded** that biological parenting is based on scientific evidence and gives rise to a legal relationship with the child. Social paternity is when, in the absence of kinship between a child and the parents, close social ties are established and, once they are legalized by the court, legal relations are also established between the social parents and the children. Adoption is a type of social motherhood and parenthood, it is an opportunity for a child to grow up in a family that cannot grow up with biological parents or one of the parents, so the adoption institute best ensures the best interests of the child. **The novelty** increasingly, in the world, responsibilities arising from biological parenting are being transferred to others and artificial substitutes for the institute of parenting are being created. Biological parenting is no longer the only type of parenting, and social parents are increasingly appearing in families to act as parents in a child's daily life. **As the result** biological parents cannot ensure the best interests of the child in cases where the child is threatened in the biological family, therefore the intervention of state authorities is necessary in unavoidable cases. **The used methodology** is comparative analysis, document analysis, systematic analysis, linguistic.

Keywords: *social parenthood, biological parenthood, child, child's interests.*

Statement of the problem.

In the case of adoption, the adoptive parents are equated with biological parents and the child no longer has the right to know his or her origin, a decision

is made for him or her, which determines the child's lifetime. In the case of custody (care) and adoption, the recognition of social paternity certainly has a significant impact on the child's life, and this will not

necessarily guarantee the best interests of the child. This work examines the important and significant issue of social parenting in the child's life, the emerging social relations between the child and social parents, which can be considered more important than the biological parenting relationship. To this day, it is recognized that the biological relationship between a child and parents is no longer the sole basis for paternity, and it is increasingly the case that courts must determine the importance of social parenting in a child's legitimate interests.

Relevance of the topic. A child is any person under the age of eighteen unless, under the exceptions of the law, his or her adulthood has not been recognized earlier. Today, the rights of the child are protected in many countries, and in the Lithuanian legal system, children's rights also play an important role in the implementation of the Institute of Human Rights. The rights of the child are distinguished from the general rights of people because of their subjective specificity. The child is unable to exercise his or her rights due to his or her immaturity, so the child's rights and interests must be taken care of first and foremost by the parents. Each child has two parents, i. y. father and mother and every child has the right to grow up in their own biological family, but for various reasons it happens that the child remains raised with one parent or the power of both parents is limited temporarily or indefinitely.

When a child loses one or both parents, there is a need to transfer the responsibilities of biological parents to other persons or institutions. With the emergence of a family that wants to exercise full parental rights and responsibilities and with which there is no biological connection, the Institute of Social Parents emerges, and they often successfully replace biological parents. Custody of minor children is one of the measures that allows a child, as a subject of civil law, to ensure the implementation of his or her rights, to be properly brought up and cared for in order to grow up in a proper and safe environment, and to safeguard the child's best interests. There are two types of care, temporary and permanent. The purpose of temporary custody (care) is to return the child to the biological family, when all obstacles that have made the need for temporary custody have been removed from the biological family. In permanent care, the child is not returned to the biological family. The child's natural right is to grow and develop in the family, so when the need for care arises, public authorities must find the best form of care for the child in order to properly ensure

his or her rights and best meet his or her legitimate interests.

The aim of the research is to disclose problems and issues of legal regulation of biological and social parenting legal regulation.

Results.

The rights and interests of the child are issues that are widely discussed and defended in today's society, as well as inseparable concepts to best ensure the well-being of children. What cannot be said about the legal situation in Lithuania and the attitude of the society several decades ago. One of the fundamental changes took place in 1992, when Lithuania acceded to the United Nations Convention on the Rights of the Child [1], which protects the various rights of children and has helped society to change its attitudes towards children and their legal personality [2]. Children have their own special legal system, which derives from human rights and the obligation of parents or guardians to meet the special needs of children, to provide them with protection and to follow the basic principles of ensuring the well-being of children, which are enshrined in the Convention [3].

Under the Convention, children have economic, social, cultural, civil and political rights granted to all children without exception. The intended rights were defined for persons under 18 years of age. The Supreme Court of Lithuania (hereinafter referred to as the SCL) clarified that it is in the best interests of the child to create such conditions that would lead to comprehensive and sustainable development, prepare the child for independent living, as well as ensure his or her health, sustainable physical and psychological development and socially acceptable education [4]. In any sphere, when the question arises as to what is a child and childhood, one immediately thinks of the first stage of life, when children are developing people. In most cases, children are controlled by other persons, i. parents, teachers, social services, etc. [5].

The concept of the biological and social parenting.

The concept of biological parenting is still often referred to in the scientific literature as the traditional concept of parenthood, due to established attitudes and customs throughout the world. Civil Code of the Republic of Lithuania (hereinafter CC) Art. 3.137 3 d. the provision is established that the origin of a child from his or her parents is confirmed from the day of the child's birth and from that date creates the related rights and obligations established by law.

Thus, the legal relationship that arises between a parent and a child arises from the origin of the parents, which is based on blood ties. The basis of biological parenthood is the genetic relationship between the child and the parents. In addition, in disputes concerning the establishment or challenge of paternity, the conclusion of the DNA examination must be regarded as important and fundamental evidence in the courts.

The SCL has stated that "scientific evidence must be given priority in confirming or denying paternity"[6]. Biological parenting is based on scientific evidence and results in a legal relationship between the child and the parents. Biological parents are considered to be the most important and given the principle of biological family priority in all decisions concerning children and this is related to the child's right to grow up in a biological family, and to maintain kinship ties [7]. Biological parenting is considered to be the most important for a child, but this does not always mean that the biological father will be more important to the child and he will better serve his interests than the social father. The concept of parenthood can be defined in different ways through different insights, e.g. a biologist, a lawyer, a psychologist, or even the child himself may answer the question of who the father is completely different and there will be no definition of one prevailing concept. Social paternity occurs when a legal relationship develops between a child and a parent or both parents, regardless of genetic ties, such as. may be when the child is born with the aid of assisted reproduction, or when the child is adopted by another family or simply by growing up with his biological mother and the spouse adopts the spouse's biological child [8].

When a person, often a man, raising a child who is not his biological child performs all the rights and responsibilities of a biological father, that person is considered a social father. Social parenting is when close social ties, close communication between a child and a non-biological parent or parents occur. Defenders of children's rights are also involved in court proceedings concerning the importance of social parenthood, and they draw conclusions about the existence or absence of a relationship between non-biological parents and the child [9].

Every child has the right to live with their parents, to communicate with them and to get to know them in general. However, it often happens that the child does not know his or her biological parents or one of them, and in such cases often a completely different person takes the place of the biological parents or father.

As the child grows up and a close relationship with the social father emerges, in the presence of maintenance, this can already be recognized as the emergence of social parenting. Thus, the child's father will not necessarily be considered the biological father, he can be successfully replaced by another i.e. a social father who actually and performs significant social functions of the father in relation to the child. When disputing paternity, courts not only take into account the results of DNA testing, but also assess the importance of the social father and its social functions, as laws in Lithuania exclusively establish biological parenthood, taking into account the relationship between the child and the father [10].

Aspects of legal regulation of children 's rights and obligations.

The protection of the rights of the child is particularly important today and is defended because of the harsh actions that have prevailed in the past, which have violated the welfare of children or even treated children not as legal entities. The rights of the child are human rights, rights that apply to everyone, regardless of age, gender, nationality or other characteristics. Therefore, the child usually has the same rights as adults. Today, children are much better protected than in previous decades, but there are still countries where children's rights are not protected and children suffer significant harm not only physically but also emotionally [11]. It is important that the effective protection of the rights of the child prevails only when the public understands that the protection of children is lawful, and that the implementation of rights will not only establish norms but will also ensure the protection of the rights of the child. Internationally, the Convention is the most important document in the protection of the rights of the child, and the main goal is to ensure the right of children to life, growth and development, taking into account their physical, emotional and social well-being [11].

In addition to rights, children also have responsibilities, as do all adult members of society. The rights of the child end where the rights of the other child or adult begin, which means that the rights have limits, and the child must take into account the rights of other children and adults when exercising his or her rights. Rights and responsibilities always go hand in hand. The child has the right to education, but at the same time it is his duty to attend school. The child has the right to health care, but he has a duty to take care of his health. The child has the right to freedom of expression, but in exercising this right, the child must respect the rights of other children and adults,

in particular the right to honor and dignity. Children have a right to childhood, but at the same time a duty to abide by the rules of conduct, a right to their own opinion, but also a duty to respect the opinions of others. The Convention gives the child the right to exercise his or her rights and obligations, and as the child grows, his or her right to self-determination and responsibilities increases [12].

Until the child is able to exercise his or her rights independently, his or her parents or representatives must do so. Thus, the Convention is one of the main sources of children's rights and responsibilities, the most comprehensive instrument on the rights of the child ever drawn up and the most widely ratified international human rights treaty. The document sets out how adults and governments must behave so that all children can enjoy these rights equally and without discrimination. Also, the Law on the Fundamentals of Protection of the Rights of the Child of the Republic of Lithuania provides the basic principles to be followed if other laws or legal acts do not regulate the relations of protection of the rights of the child.

A child's right to know his or her parents is linked to the right to have an identity, the expression of which is knowledge of one's biological parents (again, depending on the circumstances, these may not necessarily be biological parents). In determining paternity, it is necessary to reconcile the child's interest in knowing his or her identity with the interests of his or her implied or alleged father [13]. The ECtHR emphasized that Article 8 of the ECHR primarily imposes an obligation on the State not to interfere in family life, but that States have a duty to take the necessary measures to assist parents and families and to protect children from possible violence. Children should be separated from their parents only in exceptional cases and in an effort to preserve personal relationships and, if possible, to rebuild the family [14].

Children are unable to exercise their right to family ties properly through the improper performance of their duties and the separation of children from their parents. International law recognizes that childcare in families should take precedence over care facilities. In order to ensure the wider rights of the child, it is very important for the child to have a guardian or representative. The ECtHR has clarified that in many cases custody of a child should be a temporary measure and that the child must ultimately return to his or her family, guaranteeing the right to respect for private and family life, in accordance

with Article 8 of the ECHR [15]. In order to protect the child's right to family ties as effectively as possible by entrusting the child to custody, this should be done only in exceptional cases and in accordance with the law, for a legitimate aim and if it is necessary to protect the child's legitimate interests. The competent authority must give reasonable grounds for not infringing Article 8 of the ECHR. Even when children are taken into custody, they still have the right to communicate with their parents [15].

Even when children are taken into custody, they still have the right to communicate with their parents. This right is recognized under the ECHR, as the ECtHR has ruled that reciprocal parent-child contact is an essential part of family life under Article 8 [16]. Under international law, the best interests of the child must be a primary consideration in adoption cases. The right to respect for family life enshrined in Article 8 of the ECHR also applies to adoptions. The European Convention on Adoption states that "the competent authority shall not authorize the adoption until it is satisfied that the best interests of the child have been attained [17].

Conclusions.

1. Biological parenting is based on scientific evidence and gives rise to a legal relationship with the child. Social paternity is when, in the absence of kinship between a child and the parents, close social ties are established and, once they have been enacted by a court, a legal relationship also develops between the social parents and the children.

2. The care institution is only temporary for children and the purpose of this institute is to return the child to his or her biological family, it is not an alternative form of parenting. Guardians cannot be considered parents by law, so they cannot have the status of social parents, they only help the children to exercise their rights and represent the parents, ensuring the protection of the children's legal interests and contact the biological parents, if this does not contradict the child's legal rights. interests.

3. Biological parents cannot best serve the legitimate interests of the child in cases where the child is threatened in the biological family, therefore the intervention of state authorities is necessary in unavoidable cases. When biological parents cannot ensure adequate social security for the child, then the state protects the rights and interests of the child and provides him or her with social security as far as possible in the best interests of the child.

4. The legitimate interests of the child can best be safeguarded by growing up in a family. Therefore,

in the event of difficulties in the biological family, public authorities must intervene in the family relationship and help the biological family to solve

the problems that have arisen. Failing this, the child's legitimate interests can best be safeguarded by growing up in a social family.

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ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ СОЦИАЛЬНО-БИОЛОГИЧЕСКОГО РОДИТЕЛЬСТВА

Аннотация.

Актуальность исследования. Сегодня права ребенка защищены во многих странах, и в правовой системе Литвы права детей также играют важную роль в реализации Института прав человека. Опекунство над несовершеннолетними детьми является одним из способов, с помощью которых ребенок как субъект гражданского права может обеспечить осуществление своих прав, получить надлежащее образование и присмотр за ним, чтобы он или она росли в надлежащих и безопасных условиях и защищать интересы ребенка. Усыновление также является одной из мер, способных обеспечить реализацию прав ребенка. **Главная проблема.** В этой работе исследуется важный и значительный вопрос социального воспитания в жизни ребенка, возникающие социальные отношения между ребенком и социальными родителями, которые можно считать более важными, чем отношения биологического воспитания. По сей день признано, что биологические отношения между ребенком и родителями больше не являются единственным основанием для установления отцовства, и все чаще суды должны определять важность социального воспитания в жизни ребенка с учетом законных интересов ребенка. Для поставленной цели были поставлены следующие задачи: Определить понятие социального и биологического воспитания; выявить важность опекунов в реализации законных интересов ребенка и оценить, могут ли они стать социальными родителями; выявить важность усыновителей в реализации законных интересов ребенка и оценить, являются ли они социальными родителями; проанализировать вопросы пересечения социального и биологического отцовства в практике судов Литвы; проанализировать важность социального воспитания для того, чтобы бросить вызов отцовству. **Целью данной работы** является раскрытие проблем и вопросов правового регулирования правового регулирования биологического и социального родительства. В документе сделан вывод о том, что биологическое воспитание основано на научных данных и порождает юридические отношения с ребенком. Социальное отцовство - это когда при отсутствии родства между ребенком и родителями устанавливаются тесные социальные связи, а после их легализации в суде между социальными родителями и детьми также устанавливаются правовые отношения. Усыновление - это тип социального материнства и отцовства, это возможность для ребенка вырасти в семье, которая не может расти с биологическими родителями или одним из родителей, поэтому институт усыновления наилучшим образом обеспечивает наилучшие интересы ребенка. Новизна: в мире все больше и больше обязанности, вытекающие из биологического воспитания, передаются другим, и создаются искусственные заменители института воспитания. Биологическое воспитание больше не является единственным типом воспитания, и в семьях все чаще появляются социальные родители, которые выступают в роли родителей в повседневной жизни ребенка. **В результате** биологические родители не могут обеспечить наилучшие интересы ребенка в случаях, когда ребенку угрожает биологическая семья, поэтому вмешательство государственных органов необходимо в неизбежных случаях. **Используемая методология:** сравнительный анализ, анализ документов, систематический анализ, лингвистический.

Ключевые слова: социальное отцовство, биологическое отцовство, ребенок, интересы ребенка.

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ПРОБЛЕМИ ПРАВОВОГО РЕГУЛЮВАННЯ СОЦІАЛЬНО-БІОЛОГІЧНОГО БАТЬКІВСТВА

Актуальність дослідження. Сьогодні права дитини захищені в багатьох країнах, і в правовій системі Литви права дітей також грають важливу роль у реалізації Інституту прав людини. Опіка над неповнолітніми дітьми є одним із способів, за допомогою яких дитина як суб'єкт цивільного права може забезпечити здійснення своїх прав, отримати належну освіту і нагляд за ним, щоб він або вона росли у належних і безпечних умовах і захищали інтереси дитини. Усиновлення також є одним із заходів, здатних забезпечити реалізацію прав дитини. Головна проблема. У цій роботі досліджується важливе і значне питання соціального виховання у житті дитини, у результаті якого виникають соціальні відносини між дитиною і соціальними батьками, які можна вважати більш важливими, ніж відносини біологічного виховання. До цього дня визнано, що біологічні відносини між дитиною і батьками перестають бути єдиною підставою для встановлення батьківства, і все частіше суди повинні визначати важливість соціального виховання у житті дитини з урахуванням законних інтересів дитини. Для поставленої мети були поставлені такі завдання: визначити поняття соціального і біологічного виховання; виявити важливість опікунів у реалізації законних інтересів дитини і оцінити, чи можуть вони стати соціальними батьками; виявити важливість усиновителів у реалізації законних інтересів дитини і оцінити, чи є вони соціальними батьками; проаналізувати питання перетину соціального і біологічного батьківства у практиці судів Литви; проаналізувати важливість соціального виховання для того, щоб кинути виклик батьківства. Метою даної роботи є розкриття проблем і питань правового регулювання біологічного і соціального батьківства. У документі зроблено висновки про те, що біологічне виховання засноване на наукових даних і породжує юридичні відносини з дитиною. Соціальне батьківство - це коли при відсутності спорідненості між дитиною і батьками встановлюються тісні соціальні зв'язки, а після їх легалізації у суді між соціальними батьками та дітьми також встановлюються правові відносини. Усиновлення - це тип соціального материнства і батьківства, можливість для дитини вирости у сім'ї, яка не може рости з біологічними батьками або одним з батьків, тому інститут усиновлення найкращим чином забезпечує найкращі інтереси дитини. Новизна: у світі все більше і більше обов'язків, що впливають з біологічного виховання, передаються іншим, і створюються штучні замітники інституту виховання. Біологічне виховання більше не є єдиним типом виховання і в сім'ях все частіше з'являються соціальні батьки, які виступають у ролі батьків у повсякденному житті дитини. Біологічні батьки не можуть забезпечити найкращі інтереси дитини у випадках, коли дитині загрожує біологічна родина, тому втручання державних органів необхідно у неминучих випадках. Використана методологія: порівняльний аналіз, аналіз документів, системний аналіз, лінгвістичний.

Ключові слова: соціальне батьківство, біологічне батьківство, дитина, інтереси дитини.

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