
ФІЛОСОФІЯ ПРАВА
PHILOSOPHY OF LAW

UDC 364.4:159.9

DOI <https://doi.org/10.32782/hst-2025-24-101-27>**THEORETICAL AND PRACTICAL PROBLEMS OF PERSONAL DISABILITY****SVAJŪNAS, NAVICKAS¹**
INESA, BAGUŽIENĖ²
RUSLAN, LIUDSKIJ³**Abstract**

The complex and sensitive area of civil law regulating individual legal capacity directly affects the rights and autonomy of vulnerable persons. Significant changes have occurred in Lithuania's legal system, shifting from the determination of total incapacity to the implementation of more adaptable and just solutions in accordance with international human rights norms. The essay seeks to analyze theoretical and practical challenges associated with the restriction of legal ability, including legislative ambiguity, inconsistent case law, and the need to reconcile protection with individual liberty. There is a lot of focus on the questions of proportionality, the selection and oversight of guardians, and whether expert opinions are enough in court cases. The analysis emphasizes the demographic context that enhances the significance of the problem, including an aging population and the rising prevalence of mental diseases. The study's findings reveal substantial deficiencies in the existing legal framework and offer suggestions for enhancing individual protection while maintaining their capacity to engage in legal and civic activities, grounded in both national and international law.

Key words: capacity, limitation of capacity, incapacity, mental disorders.

Relevance of the topic. Restriction of personal capacity is an important legal measure aimed at protecting persons who, due to their mental or behavioral disorders, are unable to fully understand the nature of their actions and/or control them. Over the past ten years, the perception of disability has undergone a significant transformation in Lithuania. Instead of the previously applied recognition of complete incapacity for people with mental disorders, alternative, less restrictive measures have been introduced (Beliūnienė, 2022). These changes were mainly due to the changed attitude towards persons with disabilities and the protection of their rights in the international context. The institution of restricting personal capacity is necessary to protect vulnerable persons, but in practice it is necessary to carefully assess each case individually, ensuring that the rights of the person are restricted only to the extent necessary and that the requirements of both national and international legal acts are complied with. In

Lithuania, this procedure is regulated by the Civil Code and other related legal acts. Article 2.5 of the Civil Code of the Republic of Lithuania (CC). Article 11 of the Law on the Rights of Persons with Disabilities provides that a person who, due to a mental disorder, cannot understand the significance of his/her actions in a certain area or control them may be declared incapable in that area by a court. Meanwhile, a person who is partially unable to understand the significance of his/her actions in a certain area or control them may be declared to have limited capacity in that area. Usually, a person's capacity may be restricted by a court decision, taking into account the conclusions of medical experts and the actual condition of the person. Restricting a person's capacity is an important legal measure that ensures the protection of the rights of vulnerable persons and at the same time creates conditions for the proper representation of their interests. Lithuanian society is aging, so more and more people are facing senile dementia, Alzheimer's disease or other cognitive disorders (Pūraitė-Andrikienė, 2024). Consequently, there is a growing number of instances where individuals require assistance in managing legal and financial matters. Moreover, the incidence of documented mental health illnesses, including depression, bipolar disorder, and schizophrenia, which can impair decision-making capabilities, is

¹ Kazimieras Simonavičius University (Vilnius, Lithuania)

E-mail: svajunasnavickas6@gmail.comORCID ID: <https://orcid.org/0009-0002-9826-4620>² College of Applied Sciences (Klaipėda, Lithuania)E-mail: inesabaguziene@gmail.comORCID ID: <https://orcid.org/0009-0003-8029-292X>³ College of Applied Sciences Klaipėda, LithuaniaE-mail: ruslan.liudskij@icloud.comORCID ID: <https://orcid.org/0009-0008-8428-7753>

on the rise (Uscila et al., 2022). Finding a balance between protecting someone from possible hazards, including financial fraud, imprudent transactions, or bad judgments that might hurt them, and giving them freedom is crucial (Kraniuskiene, 2024).

Problem Statement. When analyzing the institute of legal regulation of the limitation of a person's capacity, several main problems are distinguished. It is important to note the ambiguity surrounding the regulation of the limiting of a legal person's ability and its varied interpretations in court practice. The restriction of an individual's capacity frequently relies on the court's subjective evaluation, and the legislative framework does not consistently offer explicit criteria for decision-making.

Another problem is ensuring the principles of proportionality and justification. When restricting a person's capacity, it is necessary to maintain a balance between the protection of individual rights and the public interest, but in practice there are often cases where restrictions are applied disproportionately or too broadly. The principle of proportionality is one of the basic principles of human rights protection, which requires that the restriction be necessary and justified – the court must assess whether the restriction of capacity is the only means to protect the person or society, whether milder alternatives can be applied, and such a decision must be individually tailored to the situation of a specific person, and not applied broadly and without clear justification. Restrictions on a person's capacity cannot be applied solely to facilitate administrative or social processes, for example, to make it easier for relatives or institutions to care for the person. In practice, there are cases where a person's capacity is restricted too strictly, even if he or she is partially able to understand and make decisions in certain areas.

The third problem that arises is related to the establishment of guardianship and care. If a person is recognized as incapable or limitedly capable in a certain area, the court must appoint a guardian or caretaker. In practice, problems arise with the selection of suitable guardians or caretakers and their readiness to perform these duties. The legislation provides that a person's close relative, relative, social institution or other organization appointed by the state may become a guardian, but there are no clear standardized criteria for assessing the suitability of a guardian, his or her abilities, moral qualities or readiness to perform guardianship functions. There are cases when a person is appointed as a guardian who does not have the appropriate knowledge or motivation to care for the ward. Often,

disagreements arise among family members as to who should be appointed as a guardian. In some cases, family members may seek guardianship not for the sake of real assistance to the person, but for the sake of financial gain (for example, for the right to manage the ward's property). Relatives are not always willing or able to take on the responsibility of care, but due to social pressure or moral reasons they agree, although they do not actually have the conditions for it. When it is not possible to appoint a relative of the person as a guardian, the care functions are often transferred to social institutions. Institutional care often means that the person loses a large part of their independence, because their life is regulated not by relatives, but by social service workers.

The purpose of the article. To analyze, based on the doctrine of civil law, identify the main theoretical and practical problems of limiting a person's capacity.

Research objectives. To reveal the concept of the institute of limitation of capacity and incapacity at the national and international level. To analyze the aspects of the legal regulation of limitation of capacity. To identify the main legal problems of limitation of capacity. To present proposals for improving the legal institute of limitation of capacity.

Methodology of investigation. In order to adequately disclose the topic of the final thesis and achieve the set goal and tasks, the following research methods were applied: comparative, document analysis, generalization and logical-analytical methods. The comparative method was applied in order to compare the experience of Lithuania and other foreign countries related to the limitation of personal capacity from a theoretical and practical perspective and to examine the legal regulation of this institute. The document analysis method allowed us to delve into various phenomena and understand the past as it was recorded in written sources. This research method served to collect data not only from national legal acts, but also from foreign countries, EU legal acts regulating the norms of the limitation of personal capacity. The generalization method aimed to systematize and summarize the collected information about the limitation of personal capacity, data or facts and present it in such a way that it would be easier to understand the main features of this institute and prepare the conclusions of the final thesis. The logical-analytical method was applied to analyze the topic under consideration, related to the limitation of a person's capacity to act, and to reveal theoretical and practical issues.

The concept of efficiency and inefficiency. According to the provisions of Article 2.5 of the Civil

Code of the Republic of Lithuania, legal capacity is the ability of a person to acquire civil rights, assume obligations and implement them through his or her own actions. It is closely related to legal subjectivity, since only a person with legal capacity can independently conclude transactions, manage his or her property, conclude contracts or be responsible for his or her actions. Legal capacity is usually acquired upon reaching the age of majority (18 years) or in the event of emancipation, when a minor is recognized as legally competent by a court decision (Civil Code of the Republic of Lithuania, 2000).

Incapacity is the complete loss of a person's ability to make legal decisions independently. A court may recognize a person as legally incapable who, due to mental or intellectual disorders, is unable to understand his or her actions and/or control them. A guardian is appointed for such a person, who represents his or her interests and makes legal decisions on his or her behalf. There is also an intermediate state between full legal capacity and incapacity – limitation of legal capacity. This means that the person is left with the right to independently decide certain issues, but other actions require the caregiver's approval or assistance (Valadkevičienė et al., 2025).

In Lithuania, these concepts are regulated in the Civil Code of the Republic of Lithuania, taking into account international human rights protection principles, including the United Nations Convention on the Rights of Persons with Disabilities. In recent years, there have been discussions on the need to move from a model of complete incapacity to assisted decision-making, which would ensure greater independence and dignity of individuals (Grigaitė et al., 2025).

According to A. Vaišvila (2004), capacity is “a person's mental, physical or social ability to perform certain duties and on their basis to acquire or guarantee certain subjective rights. Capacity presupposes a duty as a necessary structural element for the emergence and exercise of a subjective right. The limits of such capacity are established by law”. A. Vaišvila emphasizes the mental, physical and social aspects of a person, which must be present in order for a person to be able to act freely.

The concept of capacity includes a person's ability to act consciously, make decisions and be responsible for their actions. The acquisition of capacity and its consequences are limited by law. Mental health and age are important for the acquisition of capacity, but in cases provided for by law, it may be acquired earlier or limited in accordance with the procedure established by law (Stavert, 2025).

The concept of incapacity is increasingly used today. This shows that persons falling into this category are increasingly paying attention to their problems in order to ensure their rights and legitimate interests as much as possible (Winkelmann et al., 2022).

As a member of the European Union, Lithuania must comply with the practice established by the European Court of Human Rights (ECHR) (ECHR case), therefore it is not surprising that the institution of incapacity has changed radically over the past ten years. Moreover, there is no shortage of opinions that this institution should not be reformed, but abolished altogether, because its application causes greater harm to individuals by depriving them of their rights than by providing assistance (Šlevaitė et al., 2024). However, the United Nations Convention on the Rights of Persons with Disabilities has formed a different approach to persons with disabilities, both in terms of legal, economic and social capacity. And the Seimas of the Republic of Lithuania, on 27 May 2010, by adopting Law No. XI-854 on the Convention on the Rights of Persons with Disabilities and its Optional Protocol, having ratified this Convention, assumed the obligations arising therefrom.

Civil capacity of natural persons and the impermissibility of restricting the civil legal capacity or capacity of natural persons on grounds not provided for by law. The civil capacity of natural persons is defined in Article 2.5 of the Civil Code of the Republic of Lithuania, according to which “the ability of a natural person to acquire civil rights and create civil obligations for himself (civil capacity) through his own actions arises in full upon reaching the age of majority, i.e. upon reaching the age of eighteen years”. This means that a person who has reached the age of majority can independently conclude transactions, assume responsibility and dispose of his rights and obligations. If the law allows the conclusion of marriage before the age of eighteen, a natural person who does not have this age acquires full civil capacity from the moment of concluding the marriage. However, the law provides for an exception when full civil capacity may be acquired earlier than eighteen years of age. This exception applies to minors who enter into marriage. In such a case, a person who does not have the age of eighteen acquires full civil capacity from the moment of concluding the marriage. Later, even after the marriage is dissolved or annulled for reasons unrelated to the age of marriage, the minor retains the acquired civil capacity. This means that he or she is irreversibly granted the opportunity to act independently in civil legal relations (Civil Code of the Republic of Lithuania, 2000).

When comparing the legal regulation of determining the civil capacity of individuals with the legal systems of other countries, it can be stated that the moment and conditions for acquiring civil capacity may differ. For example, in some countries, civil capacity is acquired gradually – at certain age stages, a person is granted specific rights, for example, the right to dispose of income, make financial decisions or conclude certain transactions (Rozinskis et al., 2024). In certain European Union nations, like Germany or France, the regulations about marriage are comparable. However, in some countries, the restrictions for minors getting married are stricter or not allowed at all (Ebetürk, 2021). Another crucial thing is giving minors their freedom. In some foreign countries, there is an institute that allows minors to acquire full civil capacity by court decision, upon proving their economic and social independence. It should be noted that such a practice is not widely applied in Lithuanian law, and civil capacity can be acquired before the age of majority only after marriage.

The limitation of a person's civil legal capacity or capacity may be carried out only in the cases and in accordance with the procedure established by law (Civil Code of the Republic of Lithuania., 2000). According to the Civil Code of the Republic of Lithuania (2000), transactions «acts of state or local government institutions and officials, which aim to limit civil legal capacity or capacity, are invalid, except for cases where such transactions or acts are permitted by law». It should be noted that in Lithuanian law, the limitation of civil legal capacity and capacity is possible only through a court, which makes a relevant decision. Meanwhile, the German Civil Code (BGB) also provides that a person may be limited by judicial procedure, but there is also an institution that allows for the appointment of guardianship if the person is unable to take care of his or her own affairs (Aftab, 2024). The French Civil Code also follows a similar logic – recognition of incapacity is possible only through a court order, but lighter forms of guardianship may also be applied, where the person partially retains freedom of action (O'Halloran, 2024).

Recognition of a natural person as incapacitated and restriction of civil capacity of natural persons.

A person may be declared legally incapable in a specific area if, due to mental or intellectual impairment, they are unable to understand the meaning of their actions or control them. Since 2016, complete loss of civil capacity has been abolished, so now capacity can only be restricted in specific areas (e.g. financial management, inheritance, marriage).

Procedure for declaring legally incapable:

1. The court makes a decision to declare a person incompetent in a certain area based on an expert opinion;
2. A declaration of incapacity may be submitted by family members, guardianship institutions or other interested persons (Provision of information..., 2022);
3. After the court makes a decision, a guardian is appointed to the person who represents their interests within the limits of the recognized incapacity (Grigaitė et al., 2025).

A person's incapacity is not temporary – it is reviewed periodically (at least every 5 years) or when necessary (after the condition improves). If the court determines that the person's condition has improved, their capacity may be restored in full or in part. A person's capacity may be restricted only in specific areas if they are unable to properly dispose of their rights and obligations due to mental disorders or addictions (e.g. alcoholism, drug addiction) (Grigaitė et al., 2025). The restriction is applied when it is necessary to ensure the well-being of the person or their relatives. The restriction of civil capacity is determined by the court based on medical examinations (Pranevičienė et al., 2023).

The areas of restriction of capacity may be various: property management, taking out loans, entering into marriage, etc. A person whose capacity is restricted may be appointed a guardian who helps manage certain life matters. However, the person does not lose all his rights – he can independently perform everyday activities that are not limited by the court decision. As in the case of incapacity, the limitation of capacity is reviewed periodically or when the person's condition changes. The court may lift or change the limitation if the person's condition improves or worsens (De Cruz, 2024).

Practical problems of regulating the limitation of personal capacity in court practice. Restriction of a person's capacity is one of the most sensitive areas of civil law, directly related to human rights and freedoms. The process of appointing guardians or caretakers does not always meet the needs and interests of the wards themselves. Therefore, the main practical problems that have emerged in court decisions related to the restriction of capacity are examined, and how they affect the rights of individuals and their participation in decision-making is analyzed.

When deciding on the recognition of a person as having limited capacity in certain areas, the court must order an outpatient examination (except for the exceptions provided for by law). An inpatient forensic psychiatric examination may be ordered only when a case of recognition of a person as having limited

capacity is being considered. If the court does not establish that a person does not understand the meaning of his or her actions or does not control them due to a mental disorder, the application to recognize him or her as having limited capacity should be rejected. It is important to emphasize that mental illness or mental disability does not in itself mean a lack of capacity. Even if a person's mental condition limits his or her ability to understand his or her actions in a certain area, the need for care is not always considered necessary (LAT case law 2021).

On the basis of the expert report, it establishes a mental health disorder, the court decides to what extent that disorder determines the need to restrict the person's capacity in the relevant areas of legal relations in order to protect the rights and legitimate interests of both him and other persons (LAT case law 2021). A court decision to declare a person suffering from a mental illness or mental disability incompetent must be based on detailed, reasonable and weighty assessments made during a fair trial that meets all procedural requirements established by law, adopted in accordance with the objectives of protecting the interests of this person and only after being convinced that in that particular case the grounds for restricting the rights and freedoms of the person are important and sufficient, and this restriction on his private life (European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950) will not be disproportionate to the legitimate aim of protecting his own health and interests and those of other persons.

Case analysis shows that in Lithuania, legal limitation of capacity and appointment of guardians/caregivers are constantly being improved in order to ensure human rights. Case law emphasizes: the need to take into account the wishes of the person when appointing a guardian; the right of the person to participate in the management of his or her affairs, even if his or her capacity is limited; the responsibility of guardians to ensure transparent and reasoned decision-making and the need to regularly review limitations of capacity so that they do not restrict human rights more than necessary. This practice reflects international human rights standards and demonstrates the positive development of the Lithuanian legal system in this area.

People with mental problems frequently find themselves in ECHR issues involving restriction of capacity because their decisions in certain areas, such as personal relationships, health care, or financial management, are affected. It is the goal of the judicial system to strike a balance between a person's right to autonomy and the necessity to safeguard that right

while considering such instances. The European Court of Human Rights (ECHR), for instance, has considered instances involving the restriction of ability. Any limitation on autonomy must be reasonable and appropriate, considering the person's specific situation, according to the European Court of Human Rights. In addition, these limitations should be checked on a regular basis to make sure they don't violate anyone's rights or interests. The processes and standards for capacity limitation may also differ from one nation to another. However, the general principle is that restriction of capacity should be applied only when necessary and only in areas where the individual is unable to act properly due to their condition.

The European Court of Human Rights (ECHR) has clarified that a person's real inability to fully or partially understand the nature of his actions and/or to control them must be proven by competent authorities, such as a court, on the basis of an objective medical examination. Furthermore, this inability must be of such a magnitude as to justify a restriction on the person's right to make decisions independently concerning his rights and freedoms, which may only last as long as the aforementioned inability persists (ECHR case of 24 October 1979 *Winterwerp v Netherlands*, No. 6301/73).

The ECHR pays particular attention to the rights of persons whose capacity is limited. The Court emphasises that restrictions on capacity and the associated restrictions on freedom must be proportionate to the aim pursued. Anyone having their competency tested should be able to take part in the process and have a chance to challenge any rulings made against them. Without a clear legal foundation or way to appeal, it may be a violation of persons' rights to place and treat people in specialized institutions without their permission. It is imperative that nations uphold the rights of persons with limited capacity, adhere to the concept of proportionality, and offer appropriate legal options to contest judgments pertaining to limited capacity, according to ECHR case law. In conclusion, international case law demonstrates that capacity restriction is a delicate and nuanced topic, calling for a thorough evaluation of each case's unique facts and a careful balancing act between the individual's rights and interests. The ECHR assesses the limitations of a person's capacity with particular care, seeking to ensure that the rights and freedoms of the individual are respected, and such limitations are applied only when necessary and in accordance with the principle of proportionality.

Conclusions. Capacity is the ability of a person to acquire civil rights, assume obligations and implement

them through their actions. It is closely related to legal subjectivity, since only a capable person can independently conclude transactions and manage their property. Incapacity is the complete loss of a person's ability to independently make legal decisions. A court may recognize a person as incapable who, due to mental or intellectual disorders, is unable to understand his or her actions and/or manage them. The purpose of restricting a person's capacity is to protect persons with mental and behavioral disorders from making inappropriate decisions that could harm their well-being. Restricting a person's civil legal capacity or capacity may be carried out only in cases and in accordance with the procedure established by law. Lithuanian legal regulation provides clear rules for the acquisition of civil legal capacity, but at the same time leaves certain exceptions that may be applied, taking into account the real social and legal needs of persons. The aforementioned provisions of the law allow ensuring the protection of the rights of minors and their gradual integration into civil legal relations. Limitation of capacity must always be based on a court decision, and restrictions apply only in specific areas where a person cannot properly act in his or her own interests. A person with limited capacity may be assigned guardianship. The guardian may be the person's close relatives or another designated

person. The guardian helps to make decisions, but the person retains some independence. In Lithuania, the guardianship and care system ensures that persons with limited capacity receive appropriate assistance while maintaining as much independence as possible. Guardianship is established in order to protect the rights and legitimate interests of a natural person with limited capacity in a certain area. An analysis of the practice of regulating the restriction of capacity shows that one of the biggest problems is ensuring the principle of proportionality, as courts do not always clearly assess whether the restriction of a person's rights is necessary and individually tailored. Challenges also arise in the processes of appointing guardians and caretakers, as the person's own wishes and well-being are not always taken into account. Also, some people's incapacity to care for themselves persists even when their health improves since capacity evaluation procedures are so inefficient. People with mental problems frequently find themselves in ECHR instances involving limitations of capacity, which can impact their decision-making abilities in certain domains including healthcare, finances, and interpersonal relationships. In such circumstances, the courts try to strike a balance between the person's right to autonomy and the necessity to safeguard their safety, but this is easier said than done.

References

- Aftab, S. (2024). Privacy Protection in ECHR Member States: Germany and the United Kingdom. *Comparative Perspectives on the Right to Privacy: Pakistani and European Experiences*. Cham: Springer Nature Switzerland, p. 171-255
- Beliūnienė, L. (2022). Protecting Persons with Disabilities in the Baltic States: Empowering by Law. *Legal Protection of Vulnerable Groups in Lithuania, Latvia, Estonia and Poland: Trends and Perspectives*. Cham: Springer International Publishing, p. 179-199.
- Civil Code of the Republic of Lithuania (2000 m. liepos 17 d. Nr. VIII-1864). TAR, 2021-12-31, Nr.82-0.
- De Cruz, P. (2024). *Comparative law in a changing world*. Taylor & Francis, p. 45.
- Ebetürk, I. (2021). Global diffusion of laws: The case of minimum age of marriage legislation, 1965–2015. *European Journal of Cultural and Political Sociology*, T. 8(3), p. 294-328.
- ECHR case 1979 m. October 24 d. Winterwerp v Netherlands, Nr. 6301/73. Retrieved 08.29.2025, from: https://www.mentalhealthlaw.co.uk/Winterwerp_v_Netherlands_6301/7
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950-11-04, Nr. 40-987), Valstybės žinios.
- Grigaitė, U. ir kt. (2025). Promoting human rights-based deinstitutionalization in Lithuania by applying the World Health Organization's QualityRights Assessments. *International Journal for Quality in Health Care*, T. 37(1), p. 118.
- Kraniauskienė, S. (2024). Transition to adulthood in Lithuania: Individual experiences and concepts. *Lithuanian Society in Transition*. Routledge, p. 76-95.
- LAT case law 2021 year. Retrieved 08.29.2025, from: https://www.lat.lt/data/public/uploads/2022/02/teismu_praktika_nr_55.pdf
- Law of the Republic of Lithuania on the ratification of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (2010 m. gegužės 27 d. Nr. XI-854). Valstybės žinios, 2010-06-10, Nr. 67-3350.
- O'Halloran, K. (2024). Children, the Law and the Welfare Principle: Civil Law Perspectives from France and Germany. Taylor & Francis, p. 72
- Pranevičienė, K., Limantė, A. (2023). Division of Property Between Spouses in Lithuania: From Substantive to Private International Law. *Balkan Yearbook of European and International Law 2022*. Cham: Springer International Publishing, p. 47-70.

- Pūraitė-Andrikienė, D. (2024). The Lithuanian Constitutional Court: The gradual emergence of a strong guardian. *Constitutional Review in Central and Eastern Europe*. Routledge, p. 168-189.
- Rozinskis, R., Rourke, C. (2024). Challenging involuntary treatment and confinement in Canada through the United Nations Convention on the Rights of Persons with Disabilities (CRPD). *Studies in Social Justice*, T. 18(3), p. 418-439.
- Stavert, J. (2025). Capacity and incapacity: An appropriate border for non-consensual interventions? *International Journal of Law and Psychiatry*, T. 98, p. 102.
- Šlevaitė, U. et al. (2024). Negali nei dirbti, nei kurti šeimos – ar vis dar derėtų taikyti neveiksnumą žmonėms? LRT. Lt. Retrieved 08.29.2025, from: <https://www.lrt.lt/naujienos/lietuvoje/2/2447580/negali-nei-dirbti-nei-kurti-seimos-ar-vis-dar-deretu-taikyti-neveiksnuma-zmonems>
- United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (2006-12-13, Nr. 71-3561), Valstybės žinios.
- Uscila, R., Juodkaitė, D. (2022). Provision of Services in Long-Term Mental Health and Social Care Institutions During the COVID-19 Pandemic in Lithuania: Meeting and Overcoming the Challenges. *Legal Protection of Vulnerable Groups in Lithuania, Latvia, Estonia and Poland: Trends and Perspectives*. Cham: Springer International Publishing, p. 201-222.
- Vaišvila, A. (2004). Teisės teorija. Vadovėlis. Antrasis, pataisytas ir papildytas leidimas. Vilnius: Justitia, p. 414.
- Valadkevičienė, D. ir kt. (2025). Working capacity level defines the specific impairment profile of the comprehensive ICF core set for multiple sclerosis. *Scientific Reports*, T. 15(1), p. 35.
- Provision of information on the recognition of a person as incapable or limitedly capable in a certain area and the establishment of guardianship in a certain area (2022). Retrieved 08.29.2025, from: <https://vilnius.lt/lt/sveikata-ir-socialiniai-reikalai/informacija-del-asmens-pripazinimo-neveiksniu-ar-ribotai-veiksniu-tam-tikroje-srityje-ir-globos-nustatymo-tam-tikroje-srityje-teikimas/>
- Winkelmann, J. et al. (2022). European countries' responses in ensuring sufficient physical infrastructure and workforce capacity during the first COVID-19 wave. *Health Policy*, T. 126(5), p. 362-372.

СВАЮНАС, НАВИЦКАС – Дослідник Магістр
Університету Казімераса Симонавічюса (Вільнюс, Литва)
E-mail: svajunasnavickas6@gmail.com
ORCID ID: <https://orcid.org/0009-0002-9826-4620>

ІНЕСА, БАГУЖЕНЕ – Дослідник Магістр права,
Коледж прикладних наук SMK (Клайпеда, Литва)
E-mail: inesabaguziene@gmail.com; Ідентифікатор
ORCID ID: <https://orcid.org/0009-0003-8029-292X>

РУСЛАН, ЛЮДСЬКИЙ – Дослідник Магістр права SMK (Клайпеда, Литва)
E-mail: ruslan.liudskij@icloud.com
ORCID ID: <https://orcid.org/0009-0008-8428-7753>

ТЕОРЕТИЧНІ ТА ПРАКТИЧНІ ПРОБЛЕМИ ІНВАЛІДНОСТІ

Анотація

Актуальність теми. Обмеження дієздатності є важливим правовим заходом, спрямованим на захист осіб, які через свої психічні або поведінкові розлади не здатні повністю розуміти характер своїх дій та/або контролювати їх. За останнє десятиліття концепція обмеження дієздатності в Литві кардинально змінилася. Від встановлення повної недієздатності для осіб з психічними розладами відбувся перехід до альтернативних та менш обмежувальних заходів (Belūnienė, 2022). Ці зміни значною мірою зумовлені зміною підходу до інвалідів та форм їх захисту на міжнародному рівні. Інститут обмеження дієздатності необхідний для захисту вразливих осіб, але на практиці необхідно ретельно оцінювати кожен випадок індивідуально, забезпечуючи обмеження прав особи лише в необхідній мірі та дотримання вимог як національних, так і міжнародних правових актів. У Литві ця процедура регулюється Цивільним кодексом та іншими пов'язаними з ним правовими актами. Стаття 2.5 Цивільного кодексу Литовської Республіки (ЦК). Стаття 11 Закону про права осіб з інвалідністю передбачає, що особа, яка через психічний розлад не може розуміти значення своїх дій у певній сфері або контролювати їх, може бути визнана судом недієздатною в цій сфері. Тим часом особа, яка частково не здатна розуміти значення своїх дій у певній сфері або контролювати їх, може бути визнана обмежено дієздатною в цій сфері. Зазвичай, дієздатність особи може

бути обмежена рішенням суду з урахуванням висновків медичних експертів та фактичного стану особи. Обмеження дієздатності особи є важливим правовим заходом, який забезпечує захист прав вразливих осіб та водночас створює умови для належного представництва їхніх інтересів. Литовське суспільство старіє, тому все більше людей стикаються зі старечою деменцією, хворобою Альцгеймера або іншими когнітивними розладами (Pūraitė-Andrikienė, 2024). Як наслідок, зростає кількість випадків, коли людям потрібна допомога у вирішенні юридичних та фінансових питань. Крім того, зростає кількість діагнованих психічних розладів, таких як депресія, біполярний розлад або шизофренія, які також можуть впливати на здатність людини приймати рішення (Uscila et al., 2022). Важливо знайти баланс між забезпеченням автономії людини та необхідністю захистити її від потенційних ризиків, таких як фінансове шахрайство, необдумані операції або неналежні рішення, які можуть завдати їй шкоди (Krauskienė, 2024). **Постановка задачі.** При аналізі інституту правового регулювання обмеження дієздатності особи виділяється кілька основних проблем. Перш за все, варто згадати про невизначеність регулювання обмеження дієздатності юридичної особи та його різне тлумачення в судовій практиці. Ще однією проблемою є забезпечення принципів пропорційності та обґрунтованості. При обмеженні дієздатності особи необхідно дотримуватися балансу між захистом особистих прав та суспільними інтересами, але на практиці часто трапляються випадки, коли обмеження застосовуються непропорційно або занадто широко. Третя проблема, що виникає, пов'язана зі встановленням опіки та піклування. Якщо особа визнана недієздатною або обмежено дієздатною в певній сфері, суд повинен призначити опікуна або піклувальника. На практиці виникають проблеми щодо підбору відповідних опікунів або піклувальників та їх підготовки до виконання цих обов'язків. **Методологія.** Для адекватного розкриття теми дипломної роботи та досягнення поставленої мети й завдань було застосовано такі методи дослідження: порівняльний, аналіз документів, узагальнення та логіко-аналітичний. Порівняльний метод було застосовано з метою порівняння досвіду Литви та інших зарубіжних країн, пов'язаного з обмеженням дієздатності, з теоретичної та практичної точки зору, а також для вивчення правового регулювання цього інституту. Метод аналізу документів дозволив заглибитися в різні явища та зрозуміти минуле, зафіксоване в письмових джерелах. Цей метод дослідження слугував для збору даних не лише з національних правових актів, а й із зарубіжних країн, правових актів ЄС, що регулюють норми обмеження дієздатності. Метод узагальнення мав на меті систематизувати та узагальнити зібрану інформацію про обмеження дієздатності, дані чи факти та представити їх таким чином, щоб було легше зрозуміти основні риси цього інституту та підготувати висновки дипломної роботи. Логіко-аналітичний метод було застосовано для аналізу розглянутої теми, пов'язаної з обмеженням дієздатності особи, та виявлення теоретичних та практичних питань.

Ключові слова: дієздатність, обмеження дієздатності, недієздатність, психічні розлади.

© The Authors(s) 2025

This is an open access article under

The Creative Commons CC BY license

Received date 09.07.2025

Accepted date 20.08.2025

Published date 09.09.2025

How to cite: Svajūnas, Navickas, Inesa, Bagužienė, Ruslan, Liudskij. Theoretical and practical problems of personal disability. HUMANITIES STUDIES: Collection of Scientific Papers / Ed. V. Voronkova. Zaporizhzhia: Publishing house «Helvetica», 2025. 24(101). P. 254–261

doi: <https://doi.org/10.32782/hst-2025-24-101-27>