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PROBLEMS OF THE IMPLEMENTATION OF THE PRINCIPLES OF LEGITIMATE EXPECTATIONS, LEGAL CERTAINTY AND LEGAL SAFETY IN THE SPHERE OF HIGHER EDUCATION

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ABSTRACT

The article addresses conceptions of legitimate expectations, legal certainty and principles of legal safety, as well as the relationship between them and the reform of higher education in Lithuania. The article inquires into the approaches of Lithuanian students to higher education reform. One of the main reasons for the reform of higher education in Lithuania is that the state has limited possibilities to fund all those interested in university education. Under the Lithuanian Constitution, "Higher education shall be accessible to everyone according to his individual abilities. Citizens who are good at their studies shall be guaranteed education at State schools of higher education free of charge." The guarantee of the studies free of charge should be based on state and public interest – e.g. the need for specialists in different spheres.

This paper focuses on the aspects of reform connected with the constitutionally guaranteed right to a free of charge higher education for the students that show good achievement results and also to the aspect of the fixing of fees for students not funded by the government. The results of the survey show that the majority of respondents did not understand the aims of the reforms conducted by politicians, which makes it difficult to feel secure about the future of Lithuanian high schools. The conclusions offered here are that the reforms enacted in Lithuanian higher education, in particular in connection with tuition, are only partially linked to the principles of legitimate expectations, legal safety and legal certainty. The fact that the Law of Higher Education and Studies, as initiated during the reform, is applied only for new entrants to the colleges and universities is assessed according to the principle *lex retro non agit*, but the fact that there were no concrete objectives to the reform, which itself was followed by changes in legal regulation, made students feel a lack of legal safety and legal certainty.

KEYWORDS

Legitimate expectations, legal certainty, legal safety, regulation of higher education

INTRODUCTION

In the Republic of Lithuania the system of higher education has been under reform from the very beginning of Lithuanian independence. On March 21, 2000, the Seimas of the Republic of Lithuania passed a Law on Higher Education which came into force on the 1st of September, 2000. This Law was amended and (or) supplemented for several times. Many provisions were amended in less than a year since the passing of the law, i.e. on 25th January, 2001. Later, the Law was amended and supplemented six more times.

The question of the constitutionality of some provisions of the Law arose several times. The Constitutional Court has already analyzed the questions of the autonomy of higher education institutions, the constitutional right to higher education, etc. The last time the Constitutional Court paid attention to the law was on the 20th of March, 2008, when the issues of the fixed amount of students in the higher education institutions and funding for public higher education institutions were examined¹. This case was initiated by the President of the Republic and the group of members of Seimas. They requested an inquiry into whether the instructions of how to determine the needs of the budget funds and how to appoint those funds for the science and education institutions (as well as the provisions of the Law on the Higher Education) conform to the Constitution.

The ruling of the Constitutional Court was that the constitutional requirement to ensure accessibility to the higher education based on one's own capabilities does not mean that it must be conducted solely with the state funds. The state does not have unlimited possibilities to fund higher education; the funding has to be based on the state and public interest – i.e. the need to have specialists in different spheres. On the other hand, according to the Constitutional Court, these constitutional provisions cannot be interpreted as denying the right to acquire higher education based on one's own capabilities even though the state does not

¹ *Ruling of the Constitutional Court of the Republic of Lithuania on the Compliance of Paragraph 4 (Wording of 22 April 2003), Paragraph 5 (Wording of 30 June 2005) of Article 47 (Wording of 18 July 2006), Article 57 (Wording of 18 July 2006), Paragraph 3 (Wording of 22 April 2003), Paragraph 4 (Wording of 30 June 2005) of Article 58 (Wording of 30 June 2005), Paragraph 1 (Wording of 22 April 2003) of Article 60, and Paragraph 1 (Wording of 22 April 2003) of Article 61 of the Law of the Republic of Lithuania on Higher Education with the Constitution of the Republic of Lithuania, as well as on the Dismissing of the Part of the Case Subsequent to the Petition of the President of the Republic of Lithuania, the Petitioner, which was set forth in his Decree no.1k-1138 "On Applying to the Constitutional Court of the Republic of Lithuania" of 22 October 2007, Requesting to Investigate whether items 3 and 14 of the Methods of Establishing the Needs of Funds from the State Budget of the Republic of Lithuania and Assigning them to Institutions of Science and Studies Approved by Resolution of the Government of the Republic of Lithuania no.1272 "On Approving the Methods of Establishing the Needs of Funds from the State Budget of the Republic of Lithuania and Assigning them to Institutions of Science and Studies" of 11 October 2004 (Wording of 5 October 2006) are not in Conflict with Paragraph 3 of Article 40 and Paragraph 3 of Article 41 of the Constitution of the Republic of Lithuania, Official Gazette (2008, no. 34-1224).*

fund it because it is beyond the needs and capabilities of the society and the state. If a state-run higher education institution has the opportunity to provide education of a quality standard equal to that as set by the state, not only for the state-funded students but also for the non-state-funded students, there cannot be any legal regulation which would impede or foreclose the admission of such persons to study in the state-run higher education institutions.

Paying attention to the state economic situation and according to the clarifications provided in the rulings of the Constitutional Court, legislators have changed the legal regulation connected with the tuition several times. When the last amendment of the Law on Higher Education was prepared, we sought to determine if the continuing changes in the legal regulation of this sphere corresponded to the students' expectations and ensured their needs for legal safety and certainty.

The objective of this article is to ascertain whether the regulation changes in higher education are compatible with the principles of legitimate expectations, legal safety and legal certainty.

In order to reach the aims these goals were set:

1. To disclose the essence of existing principles of the legitimate expectations, legal safety and legal certainty in the European Union and in national law;
2. To present the changes in legal regulation of higher education connected with guaranteed free of charge education;
3. To find out the students' attitude towards those aspects of the higher education reform that influence their legal safety.

While writing the article these research methods were used:

- Content analysis, which helped to define the conception of the principles of legitimate expectations, legal certainty and legal safety;
- Analysis of the statutory law and constitutional jurisprudence, which helped to find out the changes in the legal regulation of higher education;
- Questionnaire, which assisted in uncovering students' attitudes towards different aspects of the reform linked with the tuition fees for studies.

In order to know how well students are informed about the reform, how they value it, and how they react to the changes of the tuition fees for higher education, the questionnaire of 13 questions connected with the drafted law was created. It was aimed at getting the respondents' attitude on the phenomenon researched, i.e. to get its subjective evaluation.

1. REGULATION CHANGES IN THE FIELD OF HIGHER EDUCATION AND THEIR CORRESPONDENCE WITH LEGAL PRINCIPLES

Changes in the regulation of the field of higher education connected with state guaranteed free-of-charge education are based on limited financial means. In order to implement the provision of Article 41, Part 3, of the Constitution of the Republic of Lithuania: "Higher education shall be accessible to everyone according to his individual abilities. Citizens who are good at their studies shall be guaranteed education at State schools of higher education free of charge.", legislators must decide in what way the studies should be funded, who has the right to a free of charge higher education, who must pay for their own studies, or perhaps whether cases of partial payment should be instituted. In Lithuania the question of how to finance studies was changed for several times: for some time only the state funded students had the opportunity to study in state-run institutions; then the opportunity for students to pay for their studies was granted, if they failed to be admitted to the free of charge positions; finally, a third option was provided – a partial payment for studies in which students of state-run institutions whose test scores and previous grades are not up to a sufficient level, pay a set tuition to the high education institution every term that is equal to the amount of four minimal living standards (at the time of the preparation of this paper it was fixed at 500 Lt), i.e. students shall pay part of the tuition for studies no matter that they joined a state-financed position (their status is called "a state funded"). Such legal regulation was criticized and initiated some doubts in its correspondence with the Constitution. In one resolution, the Constitutional Court expressed the idea that either the state should guarantee free of charge education for students showing good achievement results, or the students whose studies do not conform to the "good achievement results" criteria should pay for their own education. That is why the legislators had to decide in what way to fund higher education in order for the legal regulation to conform to the Constitution.

In legislative processes the State possibilities and interests shall be balanced with the legitimate expectations of public members. The principle of legitimate expectations was introduced into Lithuanian administrative law not long ago. But it is as important as any other principle of administrative law (i.e. of proportionality, justice, publicity, etc.), as it could and should serve in the processes of consolidation and harmonization of the administrative law system, administrative jurisprudence and practice of public administration.

In cases when the legal regulation of higher education is not consonant with the principles of administrative law, the risk to fail in achieving the aims of legal regulation rises and human rights may be infringed upon.

2. CONCEPTIONS OF THE PRINCIPLES OF LEGITIMATE EXPECTATIONS, LEGAL CERTAINTY, AND LEGAL SAFETY

The principle of legitimate expectations was first mentioned in the public law of Germany. The Administrative courts of Germany used the principle of legitimate expectations (*vertrauensschutz*) while adjudicating administrative cases.² This principle was derived from the 20th Article of the basic law of the Federal Republic of Germany,³ and the main provisions ensuring the validity of this principle are consolidated in the law of administrative process (*Verwaltungsverfahrensgesetz*)⁴.

During 1970-1980, this principle started to spread out into the law(s) of European Community. Gradually the principle of legitimate expectations was acknowledged as a common (fundamental) principle of administrative law.⁵

John Usher explains that when the European Court of Justice decided to apply the *vertrauensschutz* principle, the conception first was translated into French – the contemporary language of the Court – as “protection *de la confiance legitime*”. Later it was translated from French to English as “legitimate confidence”, but afterwards it was changed to “legitimate expectations”, because of the specific meaning of the word “confidence” in the English law.⁶

In a *Rechtsstaat* the principle of legitimate expectations is used in order to guarantee that the aims in public administration would be gained by saving personal expectations. In such cases law helps to strike a balance between public interests and personal expectations. R. Thomas, while speaking about aims in European Court of Justice, points out that “The Court contributes towards Community policy by ensuring that the administration is able to achieve its

² Kyrill-A Schwarz, *Vertrauensschutz als Verfassungsprinzip (Legitimate expectations as Principle of Administration) (Eine Analyse des nationalen Rechts, des Gemeinschaftsrechts und der Beziehungen zwischen beiden Rechtskreisen)*, Studien und Materialien zur Verfassungsgerichtsbarkeit Vol. 87 (Baden-Baden: Nomos, 2002), p. 65.

³ *Grundgesetz für die Bundesrepublik Deutschland (Constitution of the Federal Republic of Germany)* // <http://www.bundestag.de/Parlament/funktion/gesetze/grundgesetz/gg.html> (accessed November 10, 2009).

⁴ *Verwaltungsverfahrensgesetz für die Bundesrepublik Deutschland (Law of Administrative Procedure of the Federal Republic of Germany)*, art. 48, art. 49 // <http://bundesrecht.juris.de/vwvfg/index.html#BJNR012530976BJNE006803301> (accessed November 10, 2009).

⁵ Robert Thomas, *Legitimate Expectations and Proportionality in Administrative Law* (Oxford: Hart Publishing, 2000), p. 41.

⁶ John A. Usher, *Bendrieji Europos Bendrijos teisės principai (the General Principles of the European Union)* (Vilnius: Naujoji Rosma, 2001), p. 64.

objectives but also guard against over-zealous policy implementation that can create injustice for individuals".⁷

The principle of legitimate expectations is close to the principle of legal certainty, which has to guarantee citizens' ability to be certain about actions of the state that may affect them and be able to act according to the situation.

Legal certainty and legitimate expectations are connected values that have to generally guarantee the needs of safety and predictability. The European Court of Justice, while applying the principle of legitimate expectations, emphasized that "there cannot be any doubt about the law, applied at that moment in a particular area and about fairness or illegality of any law or actions".⁸ In other words, this principle prevents the retroactive application of law, especially if it concerns the laws that establish any kind of penalties. Legal certainty is an objective value and to ensure it the processes of legislation in the European Union, as also in its members, are regulated very clearly.

In Lithuanian law the principle of legitimate expectations and legal certainty appeared comparatively not long ago. The principle of legitimate expectations was mentioned in Lithuanian Constitutional jurisprudence for the first time in 1999,⁹ when a petitioning group of members of the Seimas of the Republic of Lithuania applied to the Constitutional Court with a request to investigate the compliance of the provisions of the Law of the Republic of Lithuania "On the Assessment of the USSR Committee of State Security (NKVD, NKGB, MGB, KGB) and Present Activities of the Regular Employees of this Organization" with the Constitution. According to the representative of the petitioners, one provision, which prohibits the former regular employees of the Committee of State Security to work in the positions of the certain areas, "violates the principle of legitimate expectations of such a person therefore this contradicts to the Part 3 of the Article 23 of the Constitution". In this case, even though the Court agreed that some provisions of the aforementioned law contradict the Constitution, it based its conclusions on arguments that were not founded on the principle of legitimate expectations.

In the regulation of the 12th of July, 2001, the Constitutional Court did not merely mention, but also more broadly explicated the conception of the principle of the legitimate expectation, deriving it from the principle of the law-governed state and relating it to the principles of legal certainty, legal safety, etc:

⁷ Robert Thomas, *supra* note 5, p. 42.

⁸ *R. v. Minister for Agriculture, Fisheries and Food, ex parte Fedesa*, Case C-331/88, 1990 ECR I-4023.

⁹ *Ruling of the Constitutional Court of the Republic of Lithuania on the Compliance of Articles 1 and 2, Part 2 of Article 3 of the Law of the Republic of Lithuania "On the Assessment of the USSR Committee of State Security (NKVD, NKGB, MGB, KGB) and Present Activities of the Regular Employees of This Organization" as well as Parts 1 and 2 of Article 1 of the Law of the Republic of Lithuania on the Enforcement of the Law "On the Assessment of the USSR Committee of State Security (NKVD, NKGB, MGB, KGB) and Present Activities of the Regular Employees of This Organization" with the Constitution of the Republic of Lithuania*, Official Gazette (1999, no. 23-666).

One of the essential elements of the principle of a law-governed state established in the Constitution is the principle of the legal safety. It means that the duty of the state to ensure the certainty and stability of legal regulation, to protect the rights of the subjects of legal relations, including the acquired rights, and to respect legitimate interests and legitimate expectations. The purpose of this principle is to guarantee the faith of the person in their state and law.¹⁰

In the resolution of the Constitutional Court, two aspects of this principle are analyzed in greater details:

First, the imperative of legal security presupposes certain obligatory requirements for the legal regulation itself. It must be clear and harmonious, legal norms must be formulated precisely. Legal acts of lower level may not conflict with legal acts of higher level, and no legal act may conflict with the Constitution. Legal normative acts must be promulgated under established procedure and all subjects of legal relations must have an opportunity to get acquainted with them. Second, this principle also includes several requirements linked with the validity of legal regulation. Under this principle, legal regulation may be amended only in pursuance with a pre-established procedure and without violating the principles and norms of the Constitution. It is also necessary, *inter alia*, to follow the principle *lex retro non agit*, it is impermissible to deny legitimate interests and legitimate expectations of persons, the continuance of jurisprudence shall be guaranteed.

Hence, the Constitutional Court links the principle of the legal safety to the principle of legal certainty, and underlines that the main purpose of the principle of legal safety is to guarantee the persons' faith in their state and law.

3. STUDENTS' ATTITUDES TOWARDS THE HIGHER EDUCATION REFORMS

To find out the students' attitude towards the current reform of higher education, we used a questionnaire of thirteen questions, with the aim to get

¹⁰ Ruling of the Constitutional Court of the Republic of Lithuania on the Compliance of Paragraphs 1 and 2 of Article 4, Paragraphs 1 and 3 of Article 5, Item 1 of Paragraph 3, Paragraphs 4, 5 and 6 of Article 7 of the Law of the Republic of Lithuania on Remuneration for Work of State Politicians, Judges and State Officials, as well as Chapter II of the Appendix to the same law, Appendix 6 to the Law of the Republic of Lithuania on the Approval of the Financial Indices of the 2000 State Budget and the Budgets of Local Governments, Article 9 of the Law of the Republic of Lithuania on Amending the Law on the Approval of the Financial Indices of the 2000 State Budget and the Budgets of Local Governments, Government of the Republic of Lithuania Resolution No. 499 "On the Temporary Experimental Procedure for Remuneration for Work to Heads and Other Officials of State Power, State Administration and Law Enforcement Bodies" of 29 November 1991, Government of the Republic of Lithuania Resolution No. 666 "On Remuneration for Work of Judges of Courts, Officials and Other Employees of the Prosecutor's Office and the State Security Department of the Republic of Lithuania" of 24 June 1997, Government of the Republic of Lithuania Resolution No. 1494 "On the Partial Amendment of Government of the Republic of Lithuania Resolution No. 689 'On Remuneration for Work of Chief Officials and Officers of Law and Order Institutions and of Law Enforcement and Control Institutions' of 30 June 1997" of 28 December 1999 with the Constitution of the Republic of Lithuania, Official Gazette (2001, no. 62-2276).

information about how well the students are informed about the reform, how they evaluate it and what their reaction to the tuition changes is. The goal was to ascertain the respondents' approach to the object of investigation, i.e. to get its subjective evaluation. Respondents had to choose one of four possible answers. The research was conducted in November, 2008. 380 students from the following four Lithuanian state-run universities took part in the research: Mykolas Romeris University, Vytautas Magnus University, Lithuanian University of Agriculture, and Lithuanian Academy of Physical Education. The majority of the respondents were second year students – 64%; distribution of other respondents: 1st year students – 22%, 3rd year – 12%, 4th year – 0.53%. Several respondents had not marked their year of study.

63 % of respondents do not have to pay for their studies, because they are at state-funded positions; 34 % do pay; others did not indicate if they pay for their studies or whether they are state-funded.

The first six questions were meant to find out how well are students informed about the important issues of the reform. The analysis of the answers shows that students do not have enough knowledge about the laws, which were valid at the time of the research, and about particularities of the legal regulation of the higher education. Just 27% of respondents believe that, according to the Constitution of Republic of Lithuania and the laws, students showing good achievement results have a right to a free of charge studies in the state-run universities. The rest suppose that only those students who do not have academic debts (36%), or whose average grade during the term is not below "eight" (20%), or all the Lithuanian citizens have a right to a free of charge studies in state-run universities.

Students overestimate the autonomy of a university's Senate to determine the number of the tuition-free positions (Figure 1): 40% of respondents are sure that free positions are set by university Senate; 39% assume the Ministry of Education and Science set this; and just 11% are right, namely, that the tuition-free positions in universities are set by the Government.

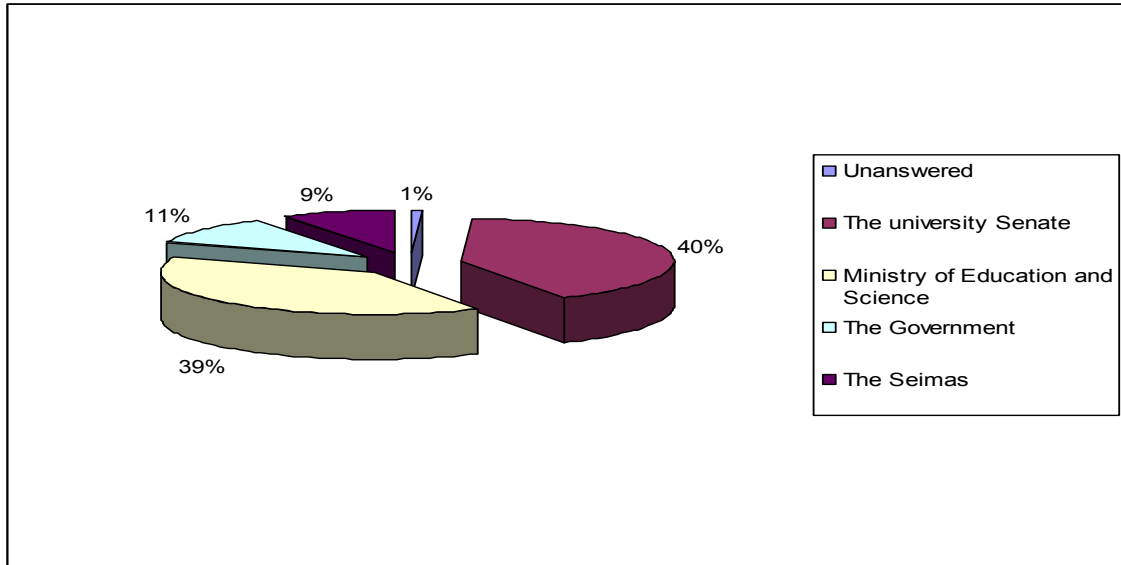


Fig. 1. The percentage distribution of answers to the question "Do you know who sets the tuition-free or partially free positions in State universities?"

Practically-speaking, students do not know who sets the amount of the tuition to students who are in partially funded study positions. Just 9% correctly answered that the Seimas does. The majority assume that the Ministry of Education and Science is responsible for this – 48%, the university Senates – 23%, the Government – 19%.

The study shows that students seem to be better informed about who sets the tuition for the students paying full price– 53% are correct that it is the university Senate. But still 32% suppose it is the Ministry of Education and Science, 7% indicate the Government, and another 6% think that it is the Seimas (Figure 2).

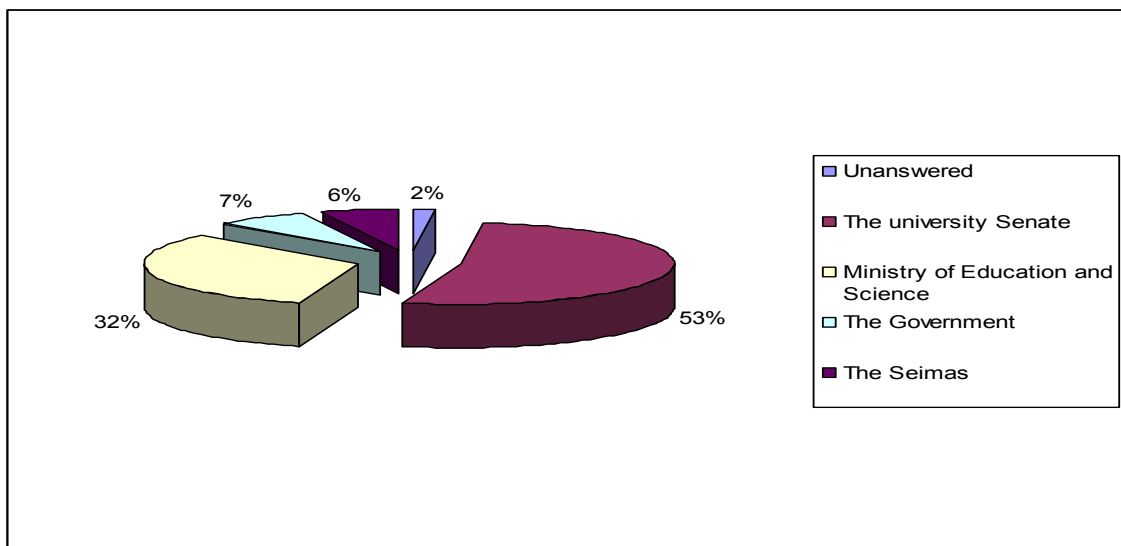


Fig. 2. The percentage distribution of answers to the question: "Who sets the tuition for students who pay a full price for studies?"

In general, it is difficult to understand the complicated system regulating these aspects of higher education, especially for those whom it directly concerns, i.e. the students.

45% of the respondents indicate that they are not acquainted with the main provisions of the reform of higher education, or have no understanding of the main idea of the reform. And only 2% of the respondents had never heard about the reform at all.

According to the students, the most important issue of the reform of higher education is to ensure the accessibility of free of charge studies to all citizens of the Republic of Lithuania (48% of respondents agree on this) and to improve the quality of studies (38%). Answering this question, students could have indicated the main issue (to which reform should be related) for them, but no one did so. 3% marked that the reform of higher education should improve the infrastructure of the universities. From this it appears obvious that the question of tuition is more important to students than the question of the quality of the studies.

The majority of respondents (83%) are anxious because it might be that they will have to pay for their studies, 43 % of respondents indicate that they will not be able to afford studies, 40% say that they could pay up to 1000 Lt a year. Just 7% are sure about their future, because they do not have financial problems, and 9% are not tending to worry at all.

Greater contradictions are revealed in the analysis of students' opinion on how much they should pay for their studies. About half of the respondents (52%) would choose for the payment to remain as it is now, i.e. that the Government would set the number of free of charge positions and a possibility for a partial payment would remain, as well the possibility to pay full charge, according to the results of studies and accession. 23 % of the respondents would agree that students who do not have academic debts and whose average grade of the semester is not below "8" ("eight") in a 10 point system, should be released from the payment. 17% would choose that a partial payment of 500 Lt in a semester would be fixed for all students. Only 6% would be satisfied that only a free of charge and full charge paying students would study in universities (Figure 3).

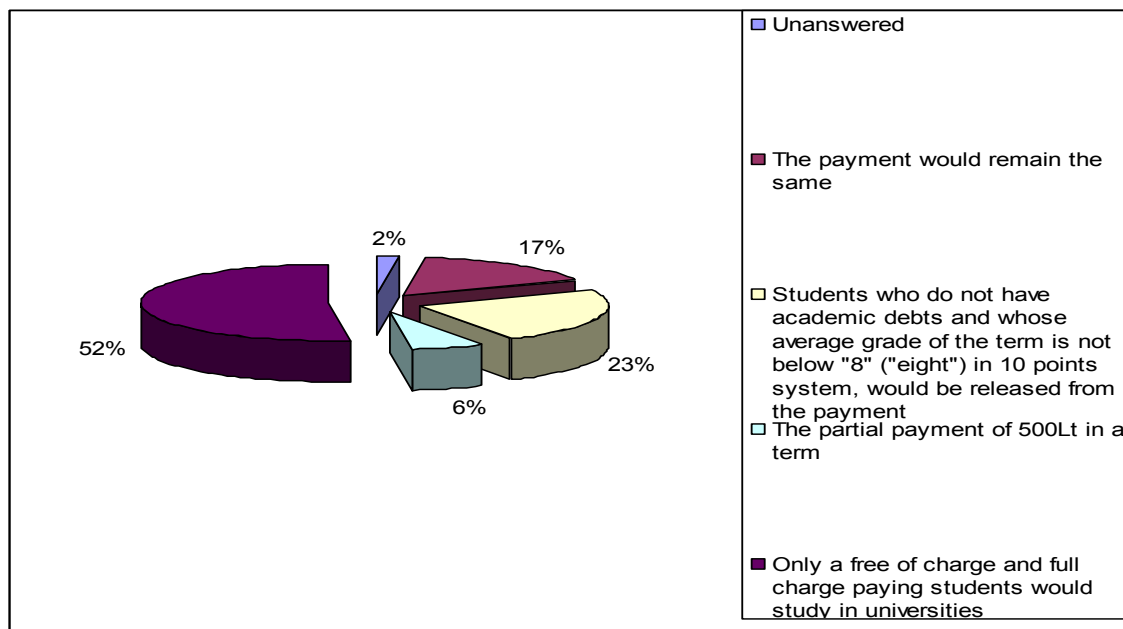


Fig. 3. The percentage distribution of answers to the question: "What provision of legal regulation, connected with payment for studies, is the most acceptable for you?"

The results are clear: the majority of students would like the current system to remain unchanged with respect to the payment issue for their studies, while part of them do agree with suggestions for some changes. But the answers to the opposite question – "what changes of the legal regulation of the higher education field would dissatisfy you?" – show that this is no firm position on this issue (Figure 4). The following answers were possible: a) a set payment of 500 Lt/term for all students; b) a set exemption from the payment for students who do not have academic debts, and their average grades are not below "eight" in a ten point system; c) only free of charge and full charge paying students would study at universities; d) the payment should remain the same.

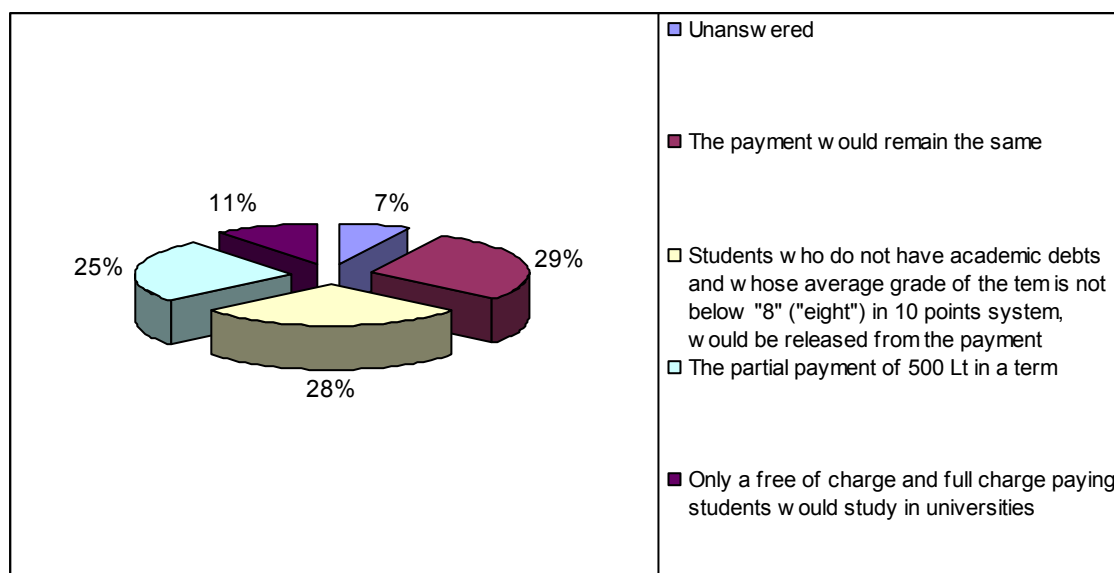


Fig. 4. The percentage distribution of answers to the question "What provision of legal regulation, connected with the payment for studies, is the least acceptable for you?"

To summarize, there is no alternative that would be rejected by the majority of students. This shows that information about the issue and its evaluation is far from being clear and unambiguous to students.

4. FINAL CHANGES IN THE LEGAL REGULATION OF THE SPHERE OF LITHUANIAN HIGHER EDUCATION

On the 14th of June, 2007, Lithuanian Parliamentary parties signed an agreement on the main changes in the field of higher education.¹¹ One of the main objectives was the establishment of the "student bag" – i.e. the principle that the state funds "move" together with the student. Together it was noted that funding of the studies should consist of a state funded part, students' personal payment (study fee), and other sources (employers, private funds, etc.).

On the 30th of April, 2009, a Law on Education and Studies was adopted by the Seimas of the Republic of Lithuania, which came into effect on the 12th of May, 2009.¹² This Law, among others things, provided for the reimbursement of the state funded study positions: "The priority to get a free of charge positions in bachelor's and consecutive master's studies is determined by the students' achievements, that are estimated based on the secondary school exams, learning and other results and special skills. The rank of the best graduated pupils from the secondary schools is

¹¹ The Announcement of the Ministry of Education and Science of Lithuanian Republic // <http://www.smm.lt/naujienos/pranesimai.htm?id=1605> (accessed November 10, 2009).

¹² Law on Science and Higher Education of the Republic of Lithuanian, Official Gazette (2009, no. 54-2140).

made according to the rules set by the Ministry of Education and Science.”¹³ The Government was also given the right to distribute the state funded study positions to the different study spheres, according to the state social, cultural, agricultural and financial possibilities and needs.

The final number and distribution of the state funded first circle (bachelor) and the continuous first and second circle studies positions between the higher education institutions is adopted by the Ministry of Education and Science, but only after the results of the admission to the universities are known and the study contracts are signed.

A person who has a free of charge position in the first two years of studies may lose this position if his or her study results in a particular time become more than 20% lower than the average result of the students in the same study program, during the same term and in the same institution. The person who loses the government funding must later on pay the tuition set by the institution, and his government-funded position passes to the other most qualified not previously government-funded student. This law applies only for the newly-entering students.

Analyzing the above-mentioned provisions of the law we can notice that the bases to give a person a tuition-free studies position are closely connected with his or her secondary school grades and test score results. Only after two years time do the results of studies in an institution of higher education become important criteria. Thus, the question concerning the constitutional provision “Citizens who are good at their studies shall be guaranteed education at State schools of higher education free of charge” is still open, because there is a chance that a poorly performing student can keep a free of charge position for several terms.

CONCLUSIONS

1. The principle of legitimate expectations, which originated in German public law, became the fundamental principle of administrative law, recognized and applied not only in particular states, but in the European Union as well. The principle of legitimate expectations protects the interests of the individual to whom the system of law guarantees positive outcomes if he or she acts in accordance to the law. The principle of legitimate expectations is close to the principle of legal certainty, and related to the principle of the legal safety. In a law-governed state the principle of legitimate expectations is used in order to guarantee that while achieving the aims of public administration, the individual’s expectation would be guaranteed as much as possible. The law helps to strike a balance between public

¹³ *Ibid.*, art. 70.

interests and individual expectations. The above-mentioned principles are incompatible with the retroactivity of law. The principle of legitimate expectations has to guarantee to citizens the possibilities to foresee the actions of the state that may affect them and the ability to act accordingly in the situation. It means the responsibility of the state is to ensure the stability and certainty of legal regulation, to protect rights of the subjects of legal relationships, as well as acquired rights, and to respect the legal interests and legitimate expectations. The purpose of the principle of legal safety is to guarantee citizens' trust in their own state and law.

2. After the analysis of the rulings of the Constitutional Court of the Republic of Lithuania, the conclusion is drawn that the principles of legitimate expectations, legal safety and legal certainty are recognized in the Lithuanian constitutional jurisprudence. The above-mentioned principles, even though they are not directly mentioned in the Constitution, in the constitutional jurisprudence are called derived principles. In order to solve the question of the constitutionality of any legal act, appeals are typically made to the principles of legitimate expectations, legal safety and legal certainty, as derived from the principle of law-governed state, set in the preamble of the Constitution.

3. The purpose of the principles of legitimate expectations, legal certainty, and legal safety is to consolidate the legal regulation and the practice of the implementation of law, while aiming to ensure the realization of the objectives of legal regulation and the protection of human rights.

4. Changes in the sphere of higher education in Lithuania, as related to the state guaranteed free-of-charge higher education, at most are determined by objective reasons: limited state financial resources could not ensure the free of charge higher education to all the citizens. The provisions of the law ensuring the right to free of charge studies were changed for several times.

5. Permanently conducted changes in the legal regulation of higher education, sometimes called "reforms", create confusion for the people connected with these reforms. After conducting the research, it became obvious that the majority of respondents did not understand the aims of the political reforms, which makes it difficult to feel secure and certain about the possibilities and the future of the institutions of higher education. More than half of respondents expressed the wish that the legal regulation connected with tuition should not change, i.e. three alternatives should remain – a full state funded positions, partially funded positions, and a right to pay for the studies themselves. But, according to Lithuanian law, these alternatives are no longer possible, as the Constitutional Court, after the analysis of the constitutional provisions on the guarantees for the students who show positive achievement results sufficient to get a free-of-charge higher

education, explicated that a partial funding of the studies does not conform to the Constitution of the Republic of Lithuania.

6. To summarize, the conclusion is that the reform of higher education conducted in Lithuania, in so far as it is related with tuition, is only partially linked with the principles of legitimate expectations, legal safety and legal certainty. The fact that the Law of Education and Studies adopted during the reform applies only for the new entrants to the higher schools should be assessed as conforming to the principle *lex retro non agit*, but the fact that during the reform the objectives and the main achievements of the legal regulation were not presented with sufficient clarity diminished the legal safety and legal certainty of the students.

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