

E-ISSN: 2360 – 6754; ISSN-L: 2360 – 6754

European Journal of Law and Public Administration

2020, Volume 7, Issue 2, pp. 15-23

<https://doi.org/10.18662/eljpa/7.2/123>

MODERN INTERNATIONAL PROTECTION OF CHILDREN'S RIGHTS

Tetyana HNATIUK

Covered in:

**CEEOL, Ideas RePeC, EconPapers,
Socionet, HeinOnline**

Published by:
Lumen Publishing House
on behalf of:
**Stefan cel Mare University from Suceava,
Faculty of Law and Administrative Sciences,
Department of Law and Administrative Sciences**

MODERN INTERNATIONAL PROTECTION OF CHILDREN'S RIGHTS

Tetyana HNATIUK¹

Abstract

Human rights are an inalienable right of everyone from birth. Respect for human rights and freedoms is seen as an indicator of the development of society. The Convention on the Rights of the Child, adopted in 1989 by the UN General Assembly and entered into force a year later, profoundly changed the world treatment of children. Like the Universal Declaration of Human Rights, the Convention formulated something fundamental to human well-being and acted as a watershed and a guide for future generations. According to the provisions of the Convention, the child is an active member of the family, community and society. The announcement of the Global Movement for Children in 1999 marked the beginning of major changes. All over the world, the movement aims to unite all those who believe that children's rights should be a priority. One of the main goals of the movement is to provide a clear understanding that the world's citizens care for children and expect governments to keep their promises.

Keywords:

Child; children's rights; international protection of children's rights; human rights; system of protection of children's rights.

Introduction

A child is such a short word, but it is deep and important for parents. When you are born, you need protection and help. Food, hygiene, warmth and care are necessary needs of a child that it cannot provide and provide for itself. Protection is needed from the first day of life!! In the world, the protection of the rights of the child is mostly left to its parents, but this should be done not only by them, but also by concerned citizens and society as a whole.

¹ Hnatiuk Tetyana Mykolaivna - Assistant Professor, Department of European Law and Comparative Law, Yuri Fedkovych National University of Chernivtsi, Ukraine; t.gnatuyk@chnu.edu.ua

Previously, people had no idea about children's rights. The child was considered as a secondary material from which a full-fledged person should be formed. The child's thoughts were not listened to because they were considered immature and irrational. Adults had full power over children, and children had no choice but to take it all for granted, because the ignorance of the population about the rights and responsibilities of children, ignorance of children themselves has always been and remains a pressing problem of our society. Over time, the situation gradually changed. At the beginning of the century, the rights of the child were seen mainly as measures to protect against slavery, child labor, child trafficking, prostitution of minors, full parental authority, and economic exploitation.

One of the important indicators of the international human rights system is the recognition by the international community that a child, despite his or her physical and mental immaturity, needs special protection and care, including the necessary legal assistance, both before and after birth, and the recognition of children as independent subject of law.

The future of each nation as a whole potentially depends on the younger generation, so the protection of children's rights is clearly the main task of our time, in the solution of which all world communities should be interested.

People from different countries, traditions and religions work hard to ensure that each of the 2 billion children living on earth has the right to survival, livelihood, education and health care. So that her family can take care of the child, protect her from any violence. It is necessary to give the child to be heard and to do everything that the opinion of the child was taken into account at the decision of important questions. The peculiarity of the rights of the child is the need for special protection of these rights in order to provide opportunities and favorable conditions for the free and full development of children. The best possible protection of the interests and needs of the child is the main priority in the protection of the rights of the child.

On November 20, 1989, the session of the General Assembly adopted the Convention on the Rights of the Child. The Convention became the first international instrument in which the rights of the child acquired the force of contract law (Verkhovna Rada of Ukraine, 2014).

The main content of the Convention on the Rights of the Child is that a child is born with the rights and fundamental freedoms inherent in all human beings. The Convention contains four main postulates:

- children, regardless of color, sex, language, religion, political or other beliefs, national, ethnic or social origin, economic and physical status, any other status of the child, his or her parents or guardians, should not be discriminated against;

- children have the right to survive and develop in all aspects of their lives, such as physical, emotional, mental, cognitive, social and cultural;

- the best interests of the child must be taken into account when making decisions or actions that are directly relevant to the child or group of children. This must be observed by the government, administrative and legal authorities, and families when making a decision;

- children should be perceived as active participants in everything that concerns their lives and be completely free to express their opinions. They have the right to have their opinion and the right to have that opinion taken into account (Convention on the Rights of the Child 1989, 2001).

Human and children's rights have had a significant impact on making this world a safer and more humane place to live, and on modernizing the world's political, economic and cultural systems. However, they should never be taken for granted, and each generation should contribute to their development, renegotiate them, and fight for them in order to fulfill their human and children's rights in the future.

I would also like to mention one important event that has played a significant role in the international protection of the rights of the child. The voice of every child suffering from poverty, epidemics, war and discrimination is a call to action for the World Movement for Children. The movement launched an action "Tell the children" Yes! " ". Through which people of different ages, different social groups and political status could take part in solving urgent problems to create a better world for children. Through this international campaign, which began in March 2001, people around the world have spoken out in several areas that are most needed to improve their lives. Every citizen could say "Yes" to the 10 actions needed to improve the living standards of children and adolescents, wherever they may be. The campaign was conducted through the distribution of questionnaires in educational institutions of various levels, publications in the press and information on television, as well as on the Internet. The results of this action were presented at the Special Session of the UN General Assembly for Children in New York in May 2002.

310,000 people took part in the survey. The main attention of the population who took part in the action was paid to the issues of children's education and the fight against HIV / AIDS. The views of the respondents, based on gender, are almost the same, but there are some differences by age groups. Thus, children under the age of 11 spoke first for the protection of children from war, and then for the fight against HIV / AIDS. And young people aged 18 to 24 singled out the fight against poverty, respectively, investing in children's development (UNICEF, 2001).

International law provides for the need to protect the rights of the child from the following encroachments:

a) arbitrary or unlawful interference with the exercise of his right to privacy or encroachment on his honor and dignity;

b) all forms of physical or mental violence, insults or abuse, lack of care or neglect, ill-treatment or exploitation;

c) the economic operation and performance of any work which may endanger her health or interfere with her education or harm her health and her physical, mental, spiritual, moral and social development;

d) illegal use of narcotic drugs and psychotropic substances;

e) all forms of sexual exploitation and sexual seduction;

f) inhuman or degrading treatment or punishment;

g) all other forms of exploitation that harm any aspect of the child's welfare (Articles 16, 19, 32-34, 37 of the Convention on the Rights of the Child).

Thus, the child must be protected from all negative both physical and ethical actions. In this case, property and non-property civil rights, family rights of the child, his rights in the field of labor, criminal, administrative law and procedure, as well as in other areas of law must be protected from violation, non-recognition or challenge.

International instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, are also aimed at protecting the rights of children; UN rules on the protection of juveniles deprived of their liberty; World Declaration on the Survival, Protection and Development of Children; Declaration and action plan - "A world suitable for children's lives"; Declaration of the participants of the solemn high-level plenary session devoted to the consideration of further measures to implement the decisions of the special session on the situation of children.

The analysis of international legal acts on the rights of the child gives grounds to assert that the international community recognizes a significant array of the child's rights and interests, as well as the development of an effective mechanism for their protection. At the same time, it is the society and its state power that determine the ability to implement these norms and implement them in the national space of these states.

Literature review

In the world, the problem of protection of children's rights is covered in a sufficient number of works. In particular, in this vein we can mention the works of S. Aivazov, S. Isaacs, J. Brownlee, V. Kartashkin, M. Rodriguez, A. Chebotaryova and others. Issues of international protection of human rights and interests have been widely studied by domestic scientists, including: VG Butkevych, MV Buromensky, VN Denisov, OV Zadorozhny, IP Lavrinchuk, II Lukashuk, AS Matsko, YM Ryzhuk, KK Sandrovsky and others. Issues of international legal status of the child and international legal protection of children's rights are covered in the works of OI Vinglovskaya, IK Gorodetskaya,

Yu. V. Derkachenko, OM Starovoitova, NV Plakhotnyuk, RF Rakhimova, TO Titova.

Exploring public administration activities in the field of social and legal child protection, L. Kryvachuk emphasizes that its effectiveness depends on legislative consolidation of mechanisms for observance of children's rights and their social and legal protection, as well as the level of professional competence of civil servants, working in this area (Kryvachuk, 2011, p. 142). And it is difficult to disagree with this, because the quality staffing in any industry is one of the determinants of success.

Scientists rightly argue that an effective mechanism for providing and guaranteeing the rights, freedoms and legitimate interests of the child cannot be limited to its legal or legislative dimension. Yes, N. Onishchenko and S. Sunegin share N. Opolska's opinion that the mechanism of ensuring the rights and freedoms of the child provides for the interaction of not only regulatory means that create appropriate prerequisites for the implementation, protection and defense of rights, freedoms and legitimate interests of the child, but also general social principles (Onishchenko, 2013). Given this, guarantees the rights and freedoms of the child should be seen in the context of the harmonization of socio-economic, legal, cultural and spiritual, political conditions, means and methods aimed at permanent improving the rights and freedoms of the child, the actual implementation, protection and defense in case of their restrictions or violations.

Issues of international legal status of the child and international legal protection of children's rights are covered in the works of OI Vinglovskaya, IK Gorodetskaya, Yu. V. Derkachenko, OM Starovoitova, NV Plakhotnyuk, RF Rakhimova, TO Titova, however, the research of these authors did not specifically consider the problem of the effectiveness of the use of international mechanisms for the protection of children's rights as an important component of national security.

The purpose of the article is to analyze the current international state of protection of children's rights. Analysis of ways to protect violated children's rights and identify ways to improve and address them.

Methods. The purpose of the article and its structure shows a clear application of comparative law, structural analysis and synthesis.

PROTECTION OF THE RIGHTS OF THE CHILD BY HER PARENTS

Among the persons who protect the rights of the child, first of all her parents are named. The protection of the rights and interests of the child is carried out by the child's parents due to the child's lack of civil procedural capacity. This right of parents is also related to the obligation of parents to take care of the physical, spiritual and moral development of the child, as the violation of the rights of the child may affect its development. Parents are the legal representatives of their children and without special powers (powers of attorney), advocate for the protection of their rights with any individuals and legal entities, including in the courts. The rights and interests of the child can be represented by both the father and the mother, and one of them by agreement between them. And parents must protect the rights and interests of children, not their rights and interests.

The right of parents to self-defense of the child is the possibility in case of violation of the rights or interests of the child, the real threat of such a violation to use appropriate and adequate counteraction, which is not prohibited by law and does not contradict the moral principles of society. appeal to the court or other competent authorities to assist in the protection of the rights of the child (Snizhko, 2009).

The main right to ensure the proper protection of a child's rights by his or her parents remains that it is based on the parents' love for their children. Parents should take care of the health, physical, spiritual and moral development of the child. They have a duty to keep her. This means that parents must provide the child with the necessary food, clothing, housing, and medical care. They should assist in obtaining general secondary education. Parents must respect the child, his rights and opportunities. They cannot renounce or leave the child.

The right to information about one's own origin is there an inalienable right of every person who, regardless of age, should have the opportunity use information about their parents, about their origin for protection their rights and interests. Information about the child's origin is not only social function as a tool for the child's adaptation in society through his family, his parents, and the function of protecting the interests of the child, for example, when such information is needed to identify the child's predisposition to diseases that can be inherited from parents, genetic features of the child's body development, etc. Therefore, the issue of regulating the circulation of information about the origin of the child is important and needs the attention of lawmakers. In this regard, it is appropriate to cite the opinion of OV Yerokhina that before the law, regulating the relationship of circulation of information about the origin of the child, there are the following.

Objectives: first, to provide mechanisms and tools that allow to some extent to hide the circumstances of the child's appearance in the family, and, secondly, to give the child and other stakeholders some autonomy in obtaining information about biological the roots of the child (Erokhina, 2016, p. 98).

Thus, the European Court sees the possibility of restricting the child's right to access information about his or her origin if such a restriction has a legitimate purpose. Example, if the aim is to protect and preserve the health of the child and the surrogate mother during pregnancy and childbirth. Or in the case of using a donor of biological material, in order to ensure its anonymity (Fulei, 2015, p. 176).

The European Court of Human Rights has determined that the choice of a specific legal mechanism to ensure that a child has access to information about his or her own origin remains states. However, the choice of such a mechanism is limited by the need to achieve the possible consensus - maintaining the balance of interests of the child (ensuring its right to information), biological parents (exercising the right to anonymity), as well as third parties whose rights and interests may be violated (social parents, relatives of the child, relatives of biological parents). For example, in the ruling in the case of *Kautzor v. Germany*, the European the human rights court has found that states are required to consider whether establishing a relationship with the biological parent is in the best interests of the child, for example, by granting the right of contact with the child (European Court of Human Rights, 2012). Thus, the European the court seeks to take into account not only the interests of the biological in the establishment of paternity father, but also, above all, the interests of the child. Thus, the European the court seeks to take into account not only the interests of the biological in the establishment of paternity father, but also, above all, the interests of the child.

BILL ON RIGHTS LITTLE MAN

In today's world, in the harsh reality, discrimination exists in all societies and can affect all parties child's life. Discrimination manifests itself every time a child's rights are violated, and she, on for one reason or another, is eliminated from participation in community life. Unequal treatment takes many forms. A child can be discriminated against because she is disabled, orphaned, living on the street, HIV-infected or having other problems health, was not registered at born, lives in the countryside, etc. Although discrimination has many forms, its consequences for children are equally destructive: lack of care, illness, abuse, exploitation and fewer opportunities in life. It is often possible to say about children who are discriminated against: "It will disappear from sight - it will disappear from thought." And they suffer in the shackles of orphanages or

justice systems, living in remote areas, on the streets and outside the sphere of social protection. About these children usually little is known since statistics hide them from official view. Committee on Rights the child is tasked by governments take active measures to eliminate discrimination, ie prescribe non-discriminatory laws, promote educational campaigns against unequal treatment and collect information about alienated groups (Van Buren, 2006).

Achieve age listened to until the age of 18 is not easy. Children need mentoring and protection. It should be encouraged children use lungs for their means of expression - drawing, letter, children's language and produce in them skills, abilities and confidence in yourself needed in order to their opinions were listened to. Worth it avoid symbolic involvement children to make decisions in an artificial environment where they feel trapped, in a minority and in unnatural environment. Yes, the presence of several children at the meeting government level does not allow children truly express views and speak freely of their thoughts.

The right to play emphasizes the child's need to play for his or her full development. Long before the heyday of Rome and the emergence of the expression "Mens sana in corpore sano" (in a healthy body - a healthy spirit) it was known that the game is of great importance for the physical and mental health of the child. And since it's so important, then the authorities must provide elementary conditions that contribute healthy development of children.

One of the most remarkable areas where are constantly violated children's rights, there is juvenile justice: children are deported to play without charge and without the right to a lawyer support. The children find themselves in long-term imprisonment together with adult prisoners do not receive health care, education, and are rarely offered rehabilitation. Particular attention is paid to the problem of justice for children in the following articles of the Convention: Article 40 sets out the rules for the administration of justice, Article 37 deals with the protection of children deprived of their rights freedom, and Article 39 on rehabilitation and reintegration measures (Hodgkin & Newell, 2007).

The provisions of the Convention are not exhaustive and are complementary detailed rules set out in other rules and regulations UN Justice for minors. The whole complex provisions and principles of the Convention on full compliance should ensure that children do not will conflict with the law. If it can be ensured, that all children have a safe and friendly atmosphere at home, that they were healthy and went to school, to protect them from exploitation and abuse, the number of children who violate the law, will be sharply reduced.

In Article 32 of the Convention on Rights the child is about the right of children to protection against economic exploitation and against the implementation of any work that may endanger health or interfere with education. Article requires governments to set a minimum age for employment, to regulate the duration working day and working conditions for persons under

the age of 18 - and provide for appropriate measures to ensure the implementation of legislation.

Conclusions

Thus, based on the above, we note that the issue of protection of children's rights has become one of the most important issues today. Thus, theoretical issues of the essence of protection of children's rights are closely related to practical measures to prevent and combat violations of children's rights, material, financial, information support of the executive authorities and public organizations designed to protect children's rights.

REFERENCES

- Verkhovna Rada of Ukraine. (2014). *Convention on the Rights of the Child. Edited on November 20, 1989*. Database "Legislation of Ukraine".
https://zakon.rada.gov.ua/laws/show/995_021
- Convention on the Rights of the Child 1989. (2001). *Legal Encyclopedia: (6 Vols.)*. Ed. count Y. S. Shemshuchenko (Ed.). Ukrainian encyclopedia named after MP Bazhana. 792 p.
- UNICEF. (2001). *Current archive of the United Nations Children's Fund (UNICEF) in the Republic of Belarus*. UNICEF.
- Kryvachuk, L. (2011). Improving public administration in the field of social and legal child protection. *Ukraine*, 28, 138–144.
- Onishchenko, N. (2013). *Children's rights: family care, public concern, state assistance, attention of scientists*. Chamber. 17.
- Snizhko, M. (2009). Protection of children's rights in Ukraine taking into account international agreements on family law. *Legal journal*, 3, 83–90.
- Erokhina, E. V. (2016). *European family law: textbook*. Orenburg state un.-t. IPK LLC University. 240 p.
- Fulei, T. I. (2015). *Application of the case law of the European Court of Human Rights in the administration of justice. Scientific and methodical manual for judges* (2nd type. Corrected, Supplemented). Kyiv. 208 p.
- European Court of Human Rights. (2012). *Judgment of the European Court of Human Rights of 22.03.2012 in the case "Kautzor v. Germany"* (application No. 23338). <http://www.echr.ru/documents/decisions.htm>
- Van Buren, G. (2006). *International law in the field of children's rights* (G. E. Krasnokutsky, Trans.). Odessa: AO BAHVA. 524 p.
- Hodgkin, R., & Newell, P. (2007). *UNICEF Implementation Handbook for the Convention on the Rights of the Child*. Geneva. 787 p.