

LEGAL REGULATION OF THE PROTECTION OF CHILDREN'S RIGHTS BY EUROPEAN STANDARDS: A COMPARATIVE PERSPECTIVE

¹Alla Sotska, ²Serhii Tryhub, ³Tetiana Voloshanivska, ⁴Vadym Kolomiets, ⁵Krystyna Rezvorovych

¹ National Academy of Statistics, Accounting and Audit, Ukraine

^{2,3} Odessa State University of Internal Affairs, Ukraine

^{4,5} Dnipro State University of Internal Affairs, Ukraine

Email: kutsa_allya_85@ukr.net¹, trigub11011978@gmail.com², t.voloshanivska@gmail.com³, vadym.kolomiets@dduvs.edu.ua⁴, krystyna.rezvorovych@dduvs.edu.ua⁵

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Abstrak: Artikel ini mengkaji mekanisme konvensi Dewan Eropa untuk perlindungan hak-hak anak. Dikonfirmasi bahwa Dewan Eropa mengarahkan sebagian besar kegiatannya untuk mendukung, mengembangkan, dan melindungi hak-hak anak. Enam konvensi Dewan Eropa yang ditujukan untuk anak-anak itu sendiri dianalisis. Konvensi Eropa tentang Status Hukum Anak yang Lahir di Luar Nikah dan Hukum Nasional mengakui bahwa tidak ada perbedaan dalam status hukum anak yang lahir di luar nikah dan anak yang lahir dalam ikatan perkawinan. Konvensi Eropa tentang Pengakuan dan Penegakan Keputusan tentang Hak Asuh Anak dan Pemulihan Hak Asuh Anak atas "Anak" mengakui seseorang dari kewarganegaraan apa pun yang belum mencapai usia 16 tahun dan tidak memiliki hak untuk memutuskan secara independen tempat tinggalnya. Konvensi tentang Kontak dengan Anak mengabadikan hak bersama antara anak dan orang tuanya untuk melakukan kontak, yang isinya lebih luas daripada hak orang tua dan anak untuk berkomunikasi satu sama lain. Konvensi Eropa tentang Adopsi Anak (revisi) memuat sejumlah ketentuan yang sepadan dengan norma perundang-undangan keluarga Eropa. Konvensi tersebut mengatur adopsi seseorang yang belum mencapai usia 18 tahun, di Eropa Timur dalam kasus luar biasa, adopsi orang dewasa diperbolehkan.

Kata Kunci: *Standar Eropa, Hak, Anak, Peraturan Hukum, Perlindungan..*

Abstract: The article studies the Council of Europe convention mechanism for the protection of children's rights. It is confirmed that the Council of Europe directs a significant part of its activities to support, develop and protect the rights of the child. Six Council of Europe conventions devoted to children themselves were analyzed. The European Convention on the Legal Status of Children Born Out of Wedlock and National Law recognize that there are no differences in the legal status of a child born out of wedlock and a child born in wedlock. The European Convention on the Recognition and Enforcement of Decisions on Child Custody and on the Restoration of Child Custody of a "Child" recognizes a person of any nationality who has not reached the age of 16 and does not have the right to decide independently on their place of residence. The Convention on Contact with Children enshrines the mutual right of the child and his parents to contact, which in its content is wider than the right of parents and children to communicate with each other. The European Convention on the Adoption of Children (revised) contains a number of provisions with which the norms of family legislation Europe. The Convention provides for the adoption of a person who has not yet reached the age of 18, in Eastern Europe in exceptional cases, the adoption of an adult is allowed.

Keywords: *European Standards, Rights, Children's, Legal Regulation, Protection.*



INTRODUCTION

The priority activity of each modern state is the development and implementation of state policy in the field of protection of children's rights (juvenile policy) in order to ensure its further development. Ukraine as a European state should harmonize its juvenile policy with European standards for the protection of the rights and legitimate interests of children, basing on these standards an effective state system for the protection of childhood. In this regard, the study of the Council of Europe convention mechanism for the protection of children's rights is relevant.

One of the priority directions of our state is the development of mechanisms for the protection of children's rights, in addition the infusion of personnel and the development of sweat target subjects of the protection of the rights of minors to ensure the interests and well-being of the child, observing the national and international status of darts. It should be noted that the state pays attention directly to the structural units of the National Police Ukraine, since, along with other subjects of children's rights protection, the police occupy one of the leading places in this system.¹

In any legal relationship where there are children, it is difficult lazily pay attention to the correct observance of their rights and interests, providing effective assistance if necessary, the ability to respond correctly to an appeal to which a child may be a participant, to skillfully and correctly communicate with different categories of children, to avoid conflict situations. Children need special attention, because they are the most less protected, depend on the decisions of adults disasters, there are cases when they cannot independently seek help due to violation of their rights, because they do not have the skills and understanding to protect their interests.²

Children play an important role in the development of our state. It is with this age group that society connects its present and future. Therefore, public authorities should at share considerable attention to the legal regulation of the protection of children's rights.

The national legislation of Ukraine on ensuring the rights of the child, which is provided by the UN Convention on the Rights of the Child, is developing rather slowly. Tran the formation of legislation in this direction is necessary to take into account the needs the child, to borrow international legal norms, since in our state it is important to outdated forms of work that are ineffective them and do not give results, an outdated regulatory framework, the lack of a unified attitude and approach to the issue of child protection, etc. For us, the experience of European countries is important, because the interests of children always require special attention.

The subject of this research is partially covered in the works of Ukrainian jurists. Thus, Leheza Yevhen, Larysa Yerofieienko analyzed the decisions of the European Court of Human Rights under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.³ S. Solotky detailed the place and role of judges of the European Court of Human Rights in the system of law of Ukraine, described the integration process of Ukraine in the European Community.⁴

¹ Ahmad Musonnif dkk., "Government Position in Religious Authority Contestation in Indonesia: Reviewing the Government Authority in Determining the Beginning of Islamic Months," *De Jure: Jurnal Hukum Dan Syaria* 16, no. 2 (17 Desember 2024): 336–62, <https://doi.org/10.18860/j-fsh.v16i2.27517>.

² Voloshanivska, Tetiana, Inna Pozihun, Serhii Losych, Olha Merdova and Yevhen Leheza. 'Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors'. *Journal of Drug and Alcohol Research*, 12(10) (2023). <https://doi.org/10.4303/JDAR/236269>

³ Leheza, Yevhen, Larysa Yerofieienko, and Volodymyr Komashko. 'Peculiarities of Legal Regulation of Intellectual Property Protection in Ukraine under Martial Law: Administrative and Civil Aspects'. *Revista Justiça Do Direito* 37, no. 3 (2023): 157–72. <https://doi.org/10.5335/rjd.v37i3.15233>.

⁴ Solotky S. The decision of the European Court of Human Rights: place and role in the legal system → Ukraine. *Ukrainian Journal of Constitutional Law*. 2018. № 1. 40-48.

Abu Bakar drew attention to the protection of the family rights of the child by the European Court of Human Rights, found out the position of the European Court of Human Rights regarding certain violations of the rights of the child.⁵

Saifuddin Herlambang carried out a detailed analysis of the norms of universal international law, the law of the Council of Europe and the national legislation of Ukraine on the legal protection of the rights of children and adolescents, considered international experience in protecting the rights of children and adolescents.⁶

Edi Gunawan investigated and summarized the decisions of the European Court of Human Rights, which cover various areas of protection of the rights of the child, analyzed and revealed the features of the rights of the child in the system of the Convention for the Protection of Human Rights and Fundamental Freedoms, determined their specifics and a special place in the international mechanism for the protection of the rights of the child.⁷

However, these studies either partially reveal the peculiarities of international standards for the protection of children's rights or do not take into account the provisions of the updated international and national legislation in this area. Today, there is a need to study and detail international legal acts aimed at ensuring and protecting the rights of children, the study of international mechanisms for protecting the rights of minors, by detailing organizational and legal institutions.

The purpose of the article is to analyze the Council of Europe Conventions on the protection of children's rights and the features of their implementation in the countries of the European Union and international organizations.

METHODS

The method of analysis and generalized helped to find out the conventions for the protection of human rights and their characteristics. International documents aimed at ensuring and protecting the rights of children include: Convention on the Restriction of Night Work of Children and Adolescents in Non-Industrial Works, 1946 - establishes time limits for night work of minors in non-industrial works; Convention on the Recovery of Alimony Abroad, 1956 - establishes a simplified procedure for collecting alimony in favor of the child, in the case when the plaintiff and the defendant live in different countries; European Convention on the Legal Status of Children Born Out of Wedlock, 1975 - a child born outside marriage should be provided by the father and mother in the same way as a child born in marriage; Convention for the Protection of Children and Cooperation on Interstate Adoption, 1993 - creation of guarantees for inter-state adoption to take place in the best interests of the child; Convention on Contact with Children, 2003 - ensuring the rights of the child to communicate with one of the parents or close relatives living separately; Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse, 2007 - Protection of the rights of children who are victims of sexual violence and sexual exploitation; Declaration of the Rights of the Child, 1959 - a child, regardless of skin color, language, gender, faith, should be provided with social protection, provided with conditions and opportunities that would allow him to develop physically, mentally, morally and spiritually; United Nations Convention on the Rights of the Child, 1989 - establishes the political, economic, social, cultural rights of children to

⁵ Abu Bakar dkk., "False Descendants of the Pontianak Sultan: The Practice and Legal Implications of Genealogical Fraud," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (28 Desember 2024): 251–78, <https://doi.org/10.18326/ijtihad.v24i2.251-278>.

⁶ Saifuddin Herlambang dkk., "Ḥusn Al-Jawāb 'an Ithbāt al-Ahillaḥ Bi al-Ḥisāb: Basyūnī 'Imrān's Method for Standardising the Determination of the Qamariyah Month in the Sultanate of Sambas (1913-1976)," *Journal of Islamic Law* 5, no. 2 (21 Agustus 2024): 222–41, <https://doi.org/10.24260/jil.v5i2.2775>.

⁷ Edi Gunawan dkk., "Interfaith Marriage of North Sulawesi Multicultural Community in Minority Fiqh Perspective," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (18 Oktober 2024): 384–412, <https://doi.org/10.19105/al-lhkam.v19i2.8072>.

their majority, ensures the right of the child to protect these rights and create the necessary conditions for this.

The method of classification and grouping made it possible to distinguish three levels of regulations governing the rights of the child in Europe. The European mechanism for the protection of the rights of the child is a set of legal norms and institutions that ensure the cooperation of European states in guaranteeing and protecting the rights of children. It operates at least at three levels: 1) at the level of the Council of Europe, which is rightly recognized as the only European regional organization that directs a significant part of its activities to support, develop and protect the rights of the child, and chairing the Council of Europe (2011); 2) within the European Union as part of a single EU human rights policy; 3) in each European state, which confirms "the variability of legal models for ensuring, protecting and protecting the rights of the child, as well as the specific effectiveness or inefficiency of their implementation in public practice."⁸

The *comparative method* was used when citing the case law of the European Court of Human Rights.

Havelka and Others v. The Czech Republic, application no. 23499/06

Furthermore, the Court cannot satisfactorily assess whether those reasons, even if they were significant, were sufficient for the purposes of Article 8 § 2, without at the same time determining, in the light of the particular circumstances of the case, whether the decision-making process afforded the applicants the necessary protection. In this regard, it regrets that the social welfare authority which had applied for assistance and which had been entrusted with the role of guardian of the applicants in question, even though they were thirteen, twelve and eleven years old, did not hear them directly before the courts. It should also be noted that the first applicant was heard by the appeal court only after his children had already been placed in a public institution for a year, whereas there was nothing to prevent the first-instance court from ordering his personal appearance after he had failed to appear at the hearing on 15 June 2004. However, in order to take such a decision, which is of decisive importance for the children's future, the views of their parents must also be among the first elements to be weighed.

Haase v. Germany, application no. 11057/02.

On 21 June 2002 the Federal Constitutional Court quashed those decisions, finding that the applicants' parental rights had been violated. According to the Federal Constitutional Court, the question of whether the evidence showed that there was a risk of harm to the children had not been properly examined. He noted, in particular, that there had been no assessment of the applicants' applications or consideration of the possibility of ordering alternative measures that would not require the full withdrawal of parental rights. Neither the Court of Appeal nor the District Court had heard the children or given the persons involved in the proceedings the opportunity to be heard. There had been no reason to justify the urgency of the matter. The Family Court had no information about the possible consequences of its decision, as the Youth Bureau and the expert had not commented on the matter. In examining the advantages and disadvantages of family-based measures, it was, however, appropriate to take into account that separating children from their parents could endanger the development of children, particularly in the first years of their lives.

In the Court's view, the Federal Constitutional Court's findings show that the prior withdrawal of the applicants' parental rights and the removal of the children were not supported by relevant and sufficient reasons and that the applicants did not participate in the decision to conduct the proceedings in such a way (here is a quote from the judgment,

⁸ Edi Gunawan dkk., "Interfaith Marriage of North Sulawesi Multicultural Community in Minority Fiqh Perspective," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (18 Oktober 2024): 384-412, <https://doi.org/10.19105/al-lhkam.v19i2.8072>.

this was probably the court's description) as to ensure that they were afforded the necessary protection of their interests.

The Court also observes that before the State authorities take emergency measures in relation to such sensitive matters as care orders, there must be a factual establishment of danger. It is true that in cases of obvious danger the involvement of the parents is not required. However, if it is nevertheless possible to hear the children's parents and discuss with them the need for such a measure, there should be no room for emergency action, particularly where, as in the present case, the danger has already existed for a long period. There was therefore no urgency which could justify the District Court's interim order.

Saviny v. Ukraine, application no. 39948/06.

Furthermore, when assessing a custody determination process which resulted in a family separation decision, the Court must, in particular, ascertain whether the domestic authorities' conclusions were based on a sufficient evidentiary basis (which may, where appropriate, include witness statements, opinions of competent authorities, psychological and other expert opinions and medical certificates) and whether the parties concerned, in particular the parents, had sufficient opportunities to participate in the determination of such a matter. The Court must also take into account whether the children themselves were given the opportunity to express their views when the circumstances so required.

The Court also notes that at no stage of the proceedings did the judges hear the children (including O.S., who was thirteen years old in December 2004 when the case was heard in the first-instance court) and that, as a result of the execution of the decision to take the children away from their parents, they were not only separated from their family but also placed in different institutions. Two of them are being raised in another town, far from Romain, where their parents and siblings live, which makes it difficult to maintain regular contact.

General comment on the subparagraph: The practice of national authorities shows that very often, when deciding on issues concerning the exercise of the rights of the child, the relevant authority does not pay attention to the right of the child itself to express its opinion on a matter affecting its interests.

The consequence of such actions is a violation of the rights of the child, as the ECtHR has drawn attention to in many of its decisions.

RESULT AND DISCUSSION

International mechanisms for the protection of children's rights are specialized institutions and organizations that directly protect their rights. To date, there are quite extensive tools and mechanisms for protecting the rights of children in the world that apply to those states of the world that are parties to the relevant international treaty on the protection of the rights of the child. The child is the subject of legal relations, since he has a certain amount of rights and obligations. It is worth noting that the list of fundamental rights of children is systematized in the main international legal document - in the UN Convention on the Rights of the Child. The UN Convention on the Rights of the Child is the main document defining legal standards for the protection of the rights of the child.

Over the period of the functioning of the Council of Europe (founded on May 5, 1949), clear standards have been formed in the field of protecting the rights of children, which are rules and requirements that provide guarantees for the implementation and protection of the rights, freedoms and legitimate interests of the child.⁹ These standards

⁹ Leheza, Yevhen. Shcherbyna, Bogdan. Leheza, Yulia. Pushkina, Olena. Marchenko, Olesia. (2024). Características de la suspensión o denegación total/parcial del cumplimiento de una obligación en

are contained in certain sources, which we propose to combine into several groups. The first group is formed by the general treaties of the Council of Europe in the field of human rights, where the issue of protecting the rights of the child is regulated in the broad context of protecting human rights and freedoms. The second group is special acts of the Council of Europe, directly aimed at protecting the rights of children. The third group includes precedents of the European Court of Human Rights in child protection cases.¹⁰

The fundamental documents in the field of social policy of European states, in particular regarding the protection of childhood and the protection of children's rights, are undoubtedly considered the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter (revised).

As O.V. Temchenko points out, these conventions contain mainly norms that relate to the general bearer of rights - a person, and not a special subject of law - a child. However, the child, as well as any other subject of rights, may be subject to all regulations of the European Convention for the Protection of Human Rights and the European Social Charter.¹¹

At the same time, the European Social Charter, which concerns the definition of state policy in the field of protection of children's rights, was ratified by Ukraine without reservations.¹²

We want to draw attention to the basic rights of the child in accordance with international documents: the right to life, survival and free development; the right to name and to acquire citizenship; the right to know their parents and to enjoy parental care; the right not to part with parents in defiance of their desires; the right to reunite with a family in another State; the right to leave the country and return to their country; the right to protection in case of illegal crossing and return from abroad; the right to freely express their opinions on all issues; the right to freedom of thought, conscience, religion; the right to complete information that contributes to the blab-trouble of the child; the right to benefit from social security; the right to use the health care system; the right to education; the right to protection against economic exploitation; the right to protection from illicit abuse of narcotic drugs and psychotropic speech-based wines, from all forms of sexual exploitation.

Figure 1. Human rights under the European Conventions¹³

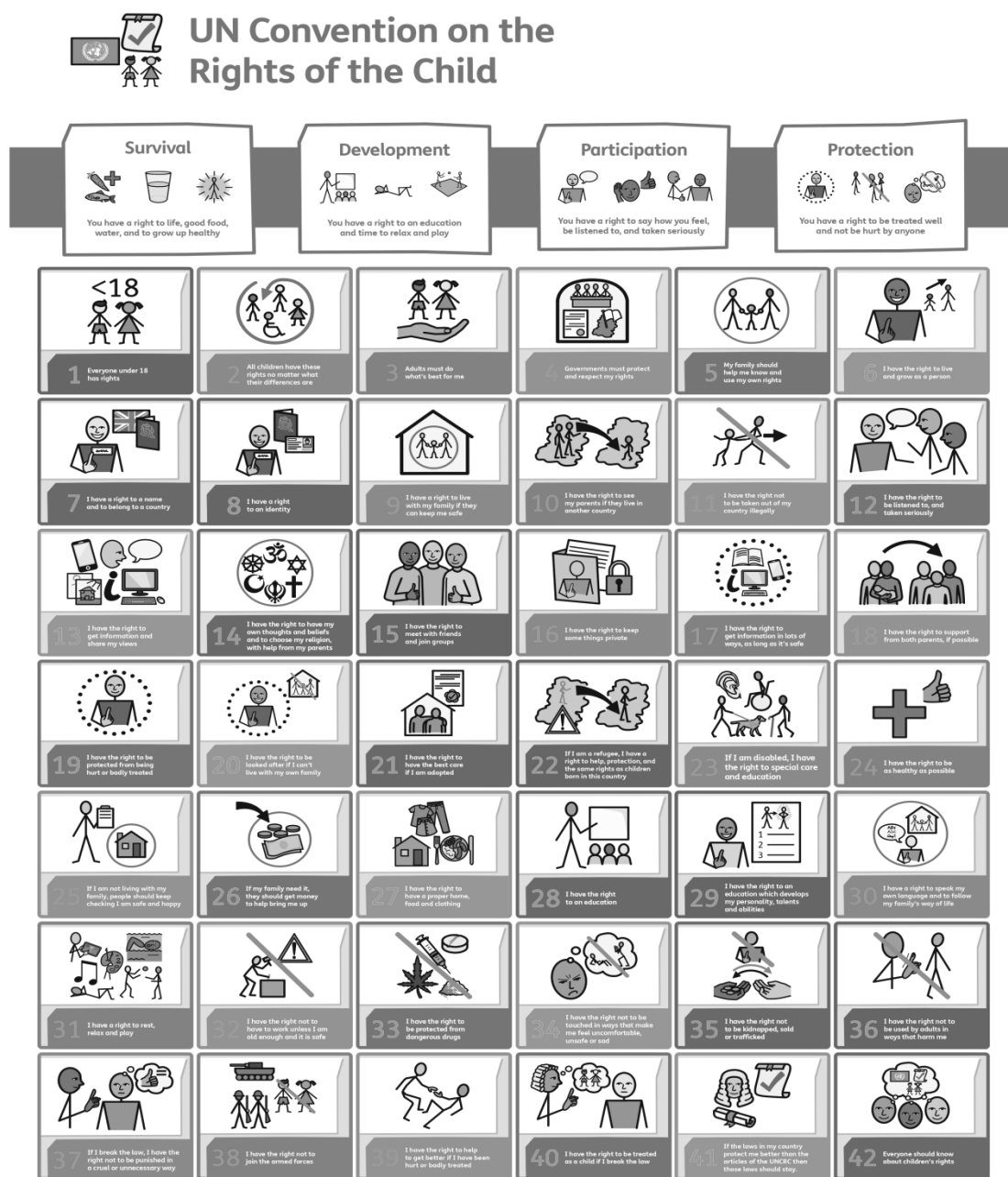
caso de incumplimiento de la contraparte según la legislación civil de Ucrania. *Novum Jus*, 18(2), 131–150. <https://doi.org/10.14718/NovumJus.2024.18.2.5>

¹⁰ Dymko, Iegor, Arsen Muradian, Yevgeny Leheza, Andrii Manzhula, and Oleksandr Rudkovskiy. 'Integrated Approach to the Development of the Effectiveness Function of Quality Control of Metal Products'. *Eastern-European Journal of Enterprise Technologies* 6, no. 3 (90) (2017): 26–34. <https://doi.org/10.15587/1729-4061.2017.119500>.

¹¹ Temchenko O.V. Conventions of the Council of Europe in the field of child protection. International readings, dedications memorials to the professor of the Imperial Novorossiysk University P.E. Kazan: mother. Mezhnar. conf. (Odessa, October 22-23, 2010). Odessa: Phoenix, 2010. P. 100-105.

¹² Leheza, Yevhen. Pisotska, Karina. Dubenko, Oleksandr. Dakhno, Oleksandr. Sotskiy, Artur. 2022. the essence of the principles of ukrainian law in modern jurisprudence. *Revista jurídica portugalense*, december, 342-363. doi: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15)

¹³ Volobuieva, Olena, Yevhen Leheza, Vita Pervii, Yevhenii Plokhuta, and Roman Pichko. 'Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine'. *Yustisia Jurnal Hukum* 12, no. 3 (2023): 262–77. <https://doi.org/10.20961/yustisia.v12i3.79443>



Six Council of Europe conventions are dedicated to children themselves. The European Convention on the Legal Status of Children Born Out of Wedlock (YeT8 No. 85)¹⁴, ratified by Ukraine on 14.01.2009, notes in the preamble. that the situation of children born out of wedlock needs to be improved and that the development of certain common norms concerning their legal status will help to achieve this objective and at the same time contribute to the harmonisation of the laws of the Member States in this area.¹⁵

¹⁴ European Convention on the Legal Status of Children Born Out of Wedlock (ETS No. 85) of 15.10.1975 r. https://zakon.rada.gov.ua/laws/show/994_568#Text

¹⁵ Leheza, Yevhen, Yankovyi, Mykola. Medvedenko, Nadiia. Vaida, Taras. Koval, Marat. (2024). Application of Artificial Intelligence in Motivating Court Decisions: Legal Basis and Foreign Experience. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 24(1), 58–69. <https://doi.org/10.30631/alrisalah.v24i1.1531>

The main emphasis of the Convention provides that States that have adopted and ratified the content of the Convention should respect all the rights of the child enshrined in this international legal act, which is within its legal plane, without any manifestations of discrimination.

The provisions of this convention can be applied, in particular, to resolve issues of inheritance. Thus, a child born out of wedlock has the same right to inherit the property of his father and mother, as well as a family member and relative on the part of the father or mother, as a child born in wedlock. The realization of the child's right to maintenance and upbringing by his parents depends on the will of the latter and their actions or inaction, therefore, the presence of a social component is mandatory for establishing paternity in this case, as a result of which the right to inheritance is due to the child's origin from the parents, and for the recognition of the child as an heir, blood relationship in itself may be sufficient.

The European Convention on the Recognition and Implementation of Decisions Concerning Child Custody and on the Renewal of Child Custody (YeT8 No. 105) is based on the fact that the introduction of measures that ensure wider recognition and implementation of decisions regarding child custody will contribute to strengthening the protection of the well-being of children. However, for at least four years of its force (until 2012), citizens of Ukraine have never used the opportunities of the international convention on child custody. At the same time, the Ministry of Justice receives a petition for recognition and enforcement of decisions on child custody from contracting states. In particular, in 2009, a petition was received for recognition and permission to execute the court decision on the return of the child to Germany, the return of the child took place before the consideration of the petition by the court. In 2010, 3 applications were received for recognition in Ukraine of decisions of foreign courts (Germany, Cyprus, Italy) on the appointment of custody of children, of which the court refused to recognize one decision. In 2012, a petition was received to recognize the decision of a foreign court (Denmark) to appoint custody of a child.¹⁶

Another document of the Council of Europe, which Ukraine ratified in 2011, is the European Convention on the Adoption of Children (revised). The Convention contains a number of updated provisions regarding the conditions and procedure for the implementation of adoption, the legal consequences of adoption, the abolition of adoption and its invalidation. Many provisions are commensurate with the norms of the Family Code of Ukraine concerning adoption, but there are certain differences. Thus, the provisions of the Convention under Art. 1 apply to the adoption of a child who at the time of the adoption of the adoptive parent has not yet reached the age of 18, is not married, is not and was not in a registered partnership and has not reached the age of majority.¹⁷ Instead, the Family Code of Ukraine in exceptional cases allows the adoption of an adult who does not have a mother, father or has been deprived of their care (part 2 of article 208). Obviously, the provisions of the Convention will not apply to the adoption of an adult.¹⁸

¹⁶ Leheza, Yevhen. Yurovska, Viktoriia. Zamryha, Artur. Ulozhenko, Vadym, Bohdan. Bohdana 2024. Administrative and legal regulation of the status of internally displaced persons in Ukraine during the war. *University of western Australia law review*. 51 (2). 297-313. <https://www.uwa.edu.au/schools/-/media/documents/uwa-law-review/volume-51-issue-2/leheza-et-al-formatted.pdf>

¹⁷ Mohammad Ghozali dkk., "The Law Concept of Sharia Banking Compliance on Murabaha Financing in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (24 Agustus 2024): 1391–1408, <https://doi.org/10.22373/sjhk.v8i3.11313>.

¹⁸ Muh Afif Mahfud dan Naufal Hasanuddin Djohan, "The Expansion of Investor Access to Cultivation Rights: A Socio-Legal Analysis on Agrarian Injustice in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Masyarakat* 24, no. 2 (30 Desember 2024): 55–67, <https://doi.org/10.30631/alrisalah.v24i2.1500>.

Differences are characterized by the conditions of adoption. According to the Convention (Article 7), it is allowed to adopt a child: two persons of different sex: married to each other or in a registered partnership, if such an institution exists; one person.

States may extend this Convention to same-sex couples who are married or in a registered partnership; on opposite-sex and same-sex couples living together in a permanent relationship.¹⁹ Ukraine ratified the Convention with a reservation that it reserves the right not to allow the adoption of a child by two persons of different sexes who are in registered partnership, since there is no institution of registered partnership in national law. In addition, regarding adoption in Ukraine by same-sex couples, the legislator clearly decided not to recognize the possibility of such adoption.²⁰

In 2012 the ratification of the Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Violence (YeT8 No. 201) was an important step towards the adoption of European standards in the field of children's rights. The objectives of this Convention are: to prevent and combat sexual exploitation and sexual violence against children; protection of the rights of children who are victims of sexual exploitation and sexual violence; promoting national and international cooperation in combating sexual exploitation and sexual violence against children.²¹ In addition, the protection of the child from sexual violence is provided by national law, which recognizes sexual violence as a form of domestic violence involving any act of a sexual nature, committed against an adult without his consent or against a child, regardless of his consent, or in the presence of a child, forcing an act of a sexual nature with a third person, as well as other offences against sexual freedom or sexual integrity of a person, including those committed against the child or in his presence. As follows from the above definition, a child is recognized as a victim of sexual violence even when an offense against sexual freedom or sexual integrity was committed against another person, but in the presence of a child.²²

We consider it necessary to characterize the international legal mechanisms for protecting the rights of minors by detailing the organizational and legal institutions. It is worth remembering that for the legal protection of their rights to international institutions, citizens of our state can apply only after using all national remedies.

Table 1. International institutions for the protection of children's rights ²³

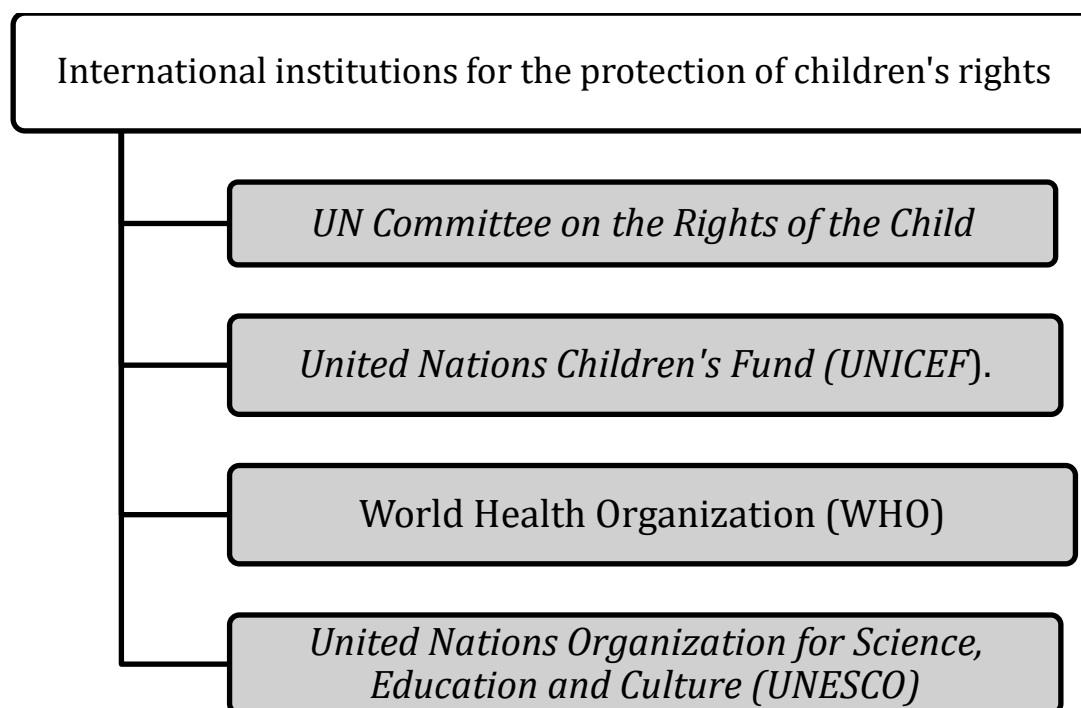
¹⁹ Musda Asmara dkk., "Tabot Ritual in Islamic Law: Philosophical Reflections on Sunni and Shiite Harmonization," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (1 Desember 2024): 251–62.

²⁰ Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Violence dated 25.10.2007 https://zakon.rada.gov.ua/laws/show/994_927#Text

²¹ Vakulyk, Olga. Petrenko, Pavlo. Kuzmenko, Iulia. Pochtovyi, Maksym. Orlovskiy, Ruslan. Cybersecurity as a Component of the National Security of the State, *Journal of Security and Sustainability*. 9 (3) (2020), 775-784. [https://doi.org/10.9770/jssi.2020.9.3\(4\)](https://doi.org/10.9770/jssi.2020.9.3(4))

²² Smiesova, Viktoriia. Pylypenko, Anna. Ivanova, Marina. Karpenko, Roman. Economic and Institutional Conditions for Implementation of Economic Interests in the Countries of the World. *Montenegrin Journal of Economics, Economic Laboratory for Transition Research (ELIT)*, 15(4), (2019). 75-86. <https://doi.org/10.14254/1800-5845/2019.15-4.6>

²³ Committee on the Rights of the Child. <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>



Source: UN Committee on the Rights of the Child.

The Committee on the Rights of the Child acts in accordance with Art. 43 of the Convention on the Rights of the Child (table 1.). The main purpose of the Committee is to consider issues and monitor the activities of States Parties to protect the rights of children who have undertaken to work in this direction in accordance with the Convention on the Rights of the Child. The Committee shall consider and hear the reports of the States Parties on the progress made by the latter in implementing and implementing the protection of the rights and interests of children enshrined in the 1989 Convention. In case of receipt of information, regardless of whether it was individual or collective, regarding the violation of rights and interests provided for in this Convention, the above-mentioned committee should consider these reports. Requirement for Consideration - These persons shall be under the jurisdiction of the State Party and the notices may be received either from the person whose rights have been violated or on its behalf by its representatives. Today, Ukraine cooperates with the UN Committee on the Rights of the Child.²⁴

United Nations Children's Fund (UNICEF). One of the leading places in the system of effective protection of the rights and interests of minors is occupied by the UN Children's Fund (UNICEF). It is a leader in this direction, operates in more than 190 countries. The main goal is to support the child by protecting his rights from the moment of birth to the beginning of his adult life.

The above-mentioned organization has world prestige and is attracted by the support of state authorities, scientific and public organizations, health care and education institutions, volunteers, persons engaged in entrepreneurial activity, i.e. all those who are not indifferent to the future of children and who can and want to help in solving their problems. Assistance can be provided by providing financial support, making proposals to the legislation on the improvement of normative legal acts that contain norms for the

²⁴ Artyukhov, A., Volk, I., Surowiec, A., Skrzypek-Ahmed, S., Bliumska-Danko, K., Dluhopolskyi, O., & Shablysty, V. (2022). Quality of Education and Science in the Context of Sustainable Development Goals—From Millennium Goals to Agenda 2030: *Factors of Innovation Activity and Socio-Economic Impact. Sustainability*, 14(18), 11468. <https://doi.org/10.3390/su141811468>

protection of the rights of minors for more effective regulation of legal relations where minors act, inform the fund about the existing problems in the children's environment. The UN Children's Fund opened its representative office in Kyiv in 1997.²⁵

*World Health Organization (WHO).*²⁶

The activities of the aforementioned organization are aimed at solving health problems on a global scale. The special importance at \neg share also assistance and development of mechanisms of protection of health of mother and child, application of measures directed to harmonious life of mankind as a whole. Ukraine has been a member of the WHO Charter since April 3, 1948.

*United Nations Organization for Science, Education and Culture (UNESCO).*²⁷

UNESCO encourages the development of public education and the spread of culture, offering methods of education that are most acceptable for raising children around the world a sense of responsibility of a free person. Ukraine has been a member of UNESCO since May 12, 1954.

We want to pay special attention to the international judicial protection of the rights of the child, the practice of which is of great priority for the national system, since there is an additional opportunity to solve the problems of legal understanding faced by human rights defenders and citizens of our state on these issues. Among the international system of protection of children's rights, the European Court of Human Rights (ECHR) occupies a leading place, which is an effective mechanism of protection, thanks to which the right to fair justice is realized and is an extremely important direction in protecting the basic interests of the child.

We believe that the European Court of Human Rights meets the proper level of efficiency. Our country is a subject of international law, borrows and adopts international legal norms at the legislative level, as a result, the citizens of our state, in addition to using the domestic judicial system, can turn to international methods of protection, since the activities and decisions of which really affect the protection of human rights around the world. Moreover, Ukrainian courts apply the case law of the European Court of Human Rights and the practice of the European Commission on Human Rights when considering cases.²⁸

The child is a specific participant in legal relations in the trial due to his level of maturity and age. The Convention does not contain a direct prohibition on applying to the ECHR for the protection of their rights to the child personally, that is, it has no restrictions on the age of the applicant. The child may be the initiator, but in practice there are difficulties, so most often this right is realized by any other person (adult representative or public organization).

The main thing, in our opinion, is that such a person has practical experience in international litigation, since the child needs effective legal protection and the issue of his violated rights should be thoroughly studied. Since all the events that occur with a minor can injure him, given the fact that before applying to the ECHR, the child went through all the procedures for judicial protection of the national judicial system. Therefore, rather the end of the legal battle and the decision in favor of the best interests of the child will

²⁵ Dudyk, I., Rezvorovych, K., Melnyk, V., Gayevaya, O., & Tumulavičius, V. (2024). Strategies for Ukraine's Legal Integration into the EU: Learning from the Experience of Central and Eastern Europe. *Evropský politický a právní diskurz*, 11, 6, 13-21. <https://doi.org/10.46340/eppd.2024.11.6.2>

²⁶ Constitution of the World Health Organization. Adopted by the International Health Conference held in New York from 19 June to 22 July 1946

²⁷ UNESCO in brief UNESCO. URL: <https://en.unesco.org/about-us/introducing-unesco>

²⁸ Korniienko, Maksym. Desyatnik, Anatoli. Didkivska, Galina. Leheza, Yevhen. Titarenko, Oleksiy. 2023. Peculiarities of investigating criminal offenses related to illegal turnover of narcotic drugs, psychotropic substances, their analogues or precursors: criminal law aspect. *Khazanah Hukum*. Vol. 5. No. 3, 205-215 DOI: <https://doi.org/10.15575/kh.v5i3.31742>.

positively affect the moral and psychological state of the child.²⁹

Taking into account appropriate international standards for the protection of children's rights, we still want to emphasize that state authorities that work with a family where a minor lives and have first contact with a child play a great importance for the effectiveness of protecting the rights of minors. The validity of interference with the rights of the child by the state will largely depend on their priority measures, conclusions, actions, collection of evidence. All subsequent institutions are not so closely faced with priority problems and circumstances that require research and intervention in the rights of the child. Therefore, it is advisable that it is the national authorities that show due diligence in protecting the rights and interests of the child.

In the EU countries, more than 19% of children are subjected to physical violence in the family. The number of court cases related to sexual violence against children has increased, including by representatives of the Catholic Church and high-ranking officials. In particular, such cases were recorded in Austria, the Netherlands, Portugal and Belgium. Only 10 out of 28 EU countries have ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Data provided by the European Association for the Prevention of Injury and Promotion of Safety).

Considering individual states, a number of problems can be identified that are specific to them. Thus, in Poland, the issue of protecting the rights of refugee children is quite acute. The centers for the temporary stay of these children are mostly overcrowded, and there is a lack of food and medical care. In addition, teachers and educators working with refugee children in Poland need advanced training.

Finland also has problems in the area of discrimination against the rights of refugees and immigrants. A separate place in this country is occupied by the problem of non-acceptance at the state level by representatives of the authorities of the cultural features of the private life of different nationalities.

Finnish society is characterized by: a high level of violence in the family; widespread bullying and violence in schools; a large number of suicides, high rates of mental disorders among children and youth and insufficient study of the main causes of this situation. The UN Committee on the Rights of the Child has repeatedly drawn attention to the large number of children removed from their families (about 16 thousand children currently live outside their families).

In Canada, the issue of violation of the rights of the "indigenous" population and women is particularly acute. In particular, the federal and provincial authorities have long failed to recognize the rights to land and gross inequality in the access of the "indigenous" population to health care services, education, housing and clean water. According to scientists from McGill University, the Inuit's right to access adequate nutrition is being systematically violated. As a result, 6 out of 10 Inuit do not eat enough, which contributes to the mass incidence of diabetes and cardiovascular diseases. In addition, the number of recorded cases of violence and discrimination against women and underage girls has increased. In 2023-2024, the federal government reduced funding for organizations that protect women's rights.³⁰

The United States of America, as one of the most active countries in protecting human rights, also has a number of problems in this area.

²⁹ Shkuta, O., Leheza, Y., Telemetry, I., Anosienkov, A., & Yaroshak, O. (2024). National Security in the Conditions of the Russia-Ukraine War: Legal Regulation and Islamic Law Perspectives. *Al-Ahkam*, 34(1), 99-120. doi: <https://doi.org/10.21580/ahkam.2024.34.1.20413> URL: <https://journal.walisongo.ac.id/index.php/ahkam/article/view/20413/5516>

³⁰ Leheza, Y., Korniienko, M. , Berezniak, V., Mariienko A., & Radchuk, A. (2024). Legal Regulation of Liability for Illegal Deportation of Children: Administrative, Criminal Aspects, Experience of Ukraine and International Standards. *Revista Jurídica Portucalense*, 257–274. [https://doi.org/10.34625/issn.2183-2705\(36\)2024.ic-11](https://doi.org/10.34625/issn.2183-2705(36)2024.ic-11)

The United States did not expand its international legal obligations in the humanitarian sphere and, as before, participates in only three of the nine main human rights treaties. The Americans have still not ratified the Convention on the Elimination of All Forms of Discrimination against Women and the UN Convention on the Rights of the Child (besides the United States, only Somalia has not joined it). Washington refuses to cooperate with the conventional mechanisms for considering individual and collective complaints about human rights violations by states, insisting that the American judicial system copes with this task without external assistance.³¹

The United States continues to be the country with the largest "prison population" (according to the US Department of Justice, in 2024 it was 2.3 million people) and the highest level of prisoners per capita in the world (743 per 100 thousand population). One in 132 US residents is behind bars. At the same time, more than 140 thousand are serving life sentences.

Experts call the main reason for the situation with prison overcrowding the fact that over the past 40 years, criminal legislation has been tightened. Since the 60s, the emphasis has gradually shifted from "re-education" towards maximum isolation of offenders.

The US government continues to execute minors (22 cases since 1976) and the mentally retarded (at least three in the last five years). The total number of prisoners awaiting execution in the US is more than 3,200 people (including foreigners).

According to a published report by the US Department of Health and Human Services, in 2024, social protection agencies received about 3.3 million reports of alleged abuse of more than 6 million children.

According to the results of the inspections, significant evidence of abuse was collected from 763,000 victims. Of these, 1,770 people (2.4 per 100,000) died, and in 75% of cases - at the hands or due to the negligence of their own parents. The largest number of victims (over 80%) is among children under 4 years old. The vast majority of incidents are related to children being left unattended (78%). In second place is physical violence (17.7%), in third place is sexual violence (almost 10%), in fourth place is psychological pressure (7.6%).³²

As a result of the identified violations of the law, about 211 thousand children were isolated from their parents or guardians, placed in orphanages and foster families. More than 700,000 needed other government assistance, including medical care, legal protection of rights in court, and preventive registration of their mothers and fathers with social security agencies. The situation in the United States regarding adopted children from abroad is quite complicated.

The next argument in favor of the need to look at children's rights from a new perspective is the geopolitical features of the modern world. In particular, most countries in the world have ratified the Convention on the Rights of the Child. However, the economic, cultural, and social features of certain states lead to significant differences in determining children's rights and, accordingly, mechanisms for their protection. The Western world is characterized by the free expression of needs and desires, and often the adult population, while defending their rights, thereby violates the rights of their own children. Same-sex marriages, the unpopularity of the institution of the family as a social phenomenon, the legalization of prostitution and drugs allow adult citizens to protect their

³¹ Tishchenkova, S., Harkusha, A., & Cherniak, N. (2018). Counter-terrorism strategies at the interstate level: economic, legal and sociocultural dimensions. *Economic Annals-XXI*, 173(9-10), 4-9. <https://doi.org/10.21003/ea.V173-01>

³² Rezvorovych, K., Gorinov, P., Sokol, M., Kutsyk, K., & Opatskyi, R. (2023). Peculiarities of the Legislative Regulation of the Protection of Rights of Workers on the Background of Russian Military Aggression (the Ukrainian Experience). *Review of Economics and Finance*. 21 (1), (2023). 584-591.

rights to private life, and children in such situations often become hostages - the absence of a father and mother in the family, parents who may be under the influence of psychotropic drugs, etc.

The presence of international mechanisms for the protection of children's rights does not mean their effective use. In particular, statistical data indicate gross violations of children's rights in such developed countries as the USA, Canada, Finland, Austria, Belgium, Poland, and the Netherlands.

Therefore, the essence of the concept of "child rights" requires a global review, which, in our opinion, must be replaced by a conceptually new concept of "child safety."

Taking into account the above, further research will be conducted to study the essence of the concept of "child safety," its characteristic features, and its place in the national security system of the state. State mechanisms for ensuring child safety also require detailed analysis.

CONCLUSIONS

This research examines the Council of Europe convention's mechanisms for the protection of children's rights, focusing on the legal status of children born out of wedlock, custody and recognition of custody-related decisions, children's right to communicate with parents, and adoption in the context of European law. The European Convention on the Legal Status of Children Born Out of Wedlock ensures that such children have the same rights as children born in wedlock, including in terms of inheritance and legal protection. Meanwhile, the European Convention on the Recognition and Enforcement of Decisions relating to the Custody of Children confirms that children under 16 cannot determine their own place of residence, with custody enforced based on the best interests of the child. The Convention on Contact with Children also extends a child's right of communication with parents beyond the physical aspect, to include interaction through various modern means of communication. In addition, the European Convention on the Adoption of Children (revised) harmonizes adoption rules with the national laws of several Eastern European countries, limiting the age of adoption to 18 years, except in exceptional cases where adult adoption is allowed.

The results of this study show that while the conventions have set strong standards of child rights protection, their implementation still varies across countries. Factors such as the harmonization of national laws with international standards, the effectiveness of child protection institutions, and differences in legal culture influence implementation. Therefore, greater commitment is needed from member states to strengthen the implementation of these conventions in their national legal systems, in order to ensure optimal protection of children's rights across the European region.

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