

SECTION IV. DROIT ET DROIT INTERNATIONAL

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CHILDREN'S RIGHTS AND RESPONSIBILITY FOR THEIR VIOLATION BY THE PUBLIC ADMINISTRATION

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Highly developed countries and peoples, the world community consider the rights of children and their protection as a universal ideal, the basis of progressive development and prosperity, a factor of stability and stability. The completely modern world is moving along this main path, which is the moral foundation of any society. Following the course of reforms, Ukraine also declared these values as a priority and the most significant, recognized the need to adhere to generally accepted international standards in the field of protection of children's rights.

The most important distinctive features enshrined in the Ukrainian Constitution of fundamental rights and freedoms of children are that they are given to the child from birth, are natural and inalienable, act as the highest social value, are directly effective, are protected by the state and meet international standards.

Scholars' views on the classification of children's rights are diverse. Thus, N.M. Krestovskaya proposes to divide the classification of children's rights into:

- Rights provided by the legislation of the international level and the rights provided by the legislation of the national level;
- Universal human rights and freedoms adapted to the child, and special rights of the child [1].

V.V. Nagornaya classifies the rights of children depending on the peculiarities of the content of the legislation on personal and socio-economic [2]. O.M. Kudryavtseva proposes to classify the rights of children depending on the degree of freedom on the negative (the possibility of protection from any interference in the exercise of civil and political rights) and positive (provide the individual's right to significantly improve their situation) [3].

We share the views of M. Friedman, who proposes to divide children's rights into two groups: "welfare rights" and "protective rights" [4]. In our opinion, this is the most objective definition of children's rights, which in turn covers all areas of protected rights.

In her scientific work E.V. Kostina analyzed the activities of the public administration to protect the rights of children, as well as cited a number of law enforcement institutions in the field of protection of children's rights [5]. We consider that all these institutions are directly involved in the protection of children's rights. And we take them as the basis of public administration.

I.V. Voloshyna's scientific work is devoted to the constitutional and legal status of the child, in which the author substantiates the legal forms of protection of the rights and freedoms of the child in Ukraine in the context of modern legal policy of the state [6].

But the main thing, in our opinion, in the problem of children's rights, its protection at the moment is not their theoretical development (although such a task, of course, is not removed), but the creation of necessary conditions, guarantees and mechanisms for their implementation, ie practical scope. Otherwise, the entire legal system will remain flawed and defective. This is the weakest link in the problem and this is what the efforts of science and practice should be aimed at.

In 2020, the number of reports of violations of children's rights increased significantly. Thus, the Commissioner for Human Rights of the Verkhovna Rada of Ukraine received 1,677 reports, which raised issues of protection of children's rights. Comparing the data for 2019, they increased by 67% (from 1006 to 1677). The largest number of reports concerned violations of the child's right to parental care (319), the right to education (265), the right to family upbringing (230), and the right to maintenance by parents (145) [7].

In our opinion, this number of appeals is primarily due to the poor work of the public administration. To date, the legislation of Ukraine contains virtually no rules on the responsibility of mandatory bodies for violations of children's rights, to identify relevant violations and eliminate them, which creates an atmosphere of impunity and grounds for their offenses. Therefore, we conclude that it is necessary to adopt appropriate legal norms. They can be adopted in the form of a single law or included in the relevant laws governing the provision of certain types of benefits under the system such as social security, education, control (supervision) over the performance of their duties by parents, and so on.

Liability for violation of legislation on the protection of children's rights has all the features inherent in legal liability in general. However, the special mutual position of the parties to the legal relationship for violation of legislation on child protection, resulting from a special method of law, such as social security, and includes the application of sanctions in other areas of law (for example, labor, in the field of juvenile labor). In legal relations for the protection of children's rights, the subjects, firstly, are not endowed with equality, but also not subordinate to each other, and secondly, their rights and responsibilities are established only by law and not by contract, in this regard, measures civil liability and material liability to the parties to the relevant legal relationship may not be applied. In this regard, it is necessary to apply their sanctions, enshrined in the sources of liability of public administration.

As measures of responsibility of the obligatory body in the legislation should be fixed, firstly, compensation of the not received good by the child (for example social service), secondly, actions for elimination of the revealed offenses should be taken immediately.

In our opinion, the issue of liability for violation of legislation in the field of protection of children's rights by the public administration can be embodied in the new law "On the liability of the parties to legal relations arising in the field of protection of children's rights."

We believe that this law makes it mandatory to classify all subjects with the authority to protect the rights of children and, accordingly, the responsibility of each of them for a specific offense.

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