

ENSURING THE RIGHTS AND LEGITIMATE INTERESTS OF CHILDREN AS PARTICIPANTS IN PUBLIC RELATIONS

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Abstract: The purpose of this article is to study the state of ensuring the rights and legitimate interests of children as participants in public relations based on international law. The results show inconsistencies in The Convention on the Rights of the Child (CRC) in ensuring children's rights and legitimate interests. The defined list of children's rights contains several contradictions and despite the declaration, in practice, the rights are not always fully guaranteed. CRC's allegations explicitly provide for the management of the child in the exercise of the right to self-expression by the methods that determine the participants in public relations by their own assessment of children's abilities.

Keywords: CRC norms, public-law relations, children's rights, socio-economic problems of the child.

1 Introduction

In recent years, more and more attention is paid to the awareness of the child as a full participant in public relations; there is an "explosion in awareness of the status of children as right-holders" (Nolan, 2019). Ensuring the rights and legitimate interests of children as participants in public relations involves addressing issues such as reducing child mortality, providing adequate nutrition, water resources and educational services (UNICEF, 2021), development and survival, socio-economic needs. As a result, children's participation in collective decision-making is becoming an increasingly important practical problem of public law relations. In the context of protecting the rights and interests of children, ways to solve the problem of participation are considered. The main ideas that are studied, there is vulnerability of children and social responsibility to children of participants of public-law relations. Social responsibility is enshrined in international and national regulations, but does little to address the issues of protection and participation (Tisdall, 2017). In the area of children's rights, children's participation attracts a lot of attention and is often seen as a key element in recognizing a child as an owner of rights and an agent of social change (Doek, 2018).

The purpose of the article is to study the rules for ensuring the rights and legitimate interests of children as participants in public relations based on international law.

2 Literature review

CRC norms are discussed in the scientific literature, but the contradictions between the legislation and the practice of protection of children's rights are little analyzed (Daiute, 2008). The Convention on the Rights of the Child (CRC), (United Nations Human Rights Office of the High Commissioner, 2021) defines children as full participants in public relations. According to Article 1 of the CRC, "a child is a person under the age of 18 if, under the law applicable to that child, he or she does not reach the age of majority earlier". According to the CRC

(United Nations Human Rights Office of the High Commissioner, 2021), a child is a person under the age of 18 inclusive. The socialization of the child must ensure its well-being and occur through compliance with the rule of law (Third and Collin, 2016; Livingstone & Third, 2017). UNICEF defines child protection as "prevention of violence and exploitation, response to such actions and abuse of children (commercial sexual exploitation, use of child labor, trafficking in human beings, etc.)". Child protection is seen as a state intervention in the lives of families through the provision of care and professional assistance. However, often professionals in the field of protection of the rights and interests of children solve the presence of problems, and not the children themselves identify their own problems, interests (Tisdall, 2017). Therefore, in practice, the policies to ensure the rights and interests of children are often ineffective. The CRC agrees on the concepts of the child and international relations, but in the process of protecting children's rights there are a number of problems (Daiute, 2008).

The signing of the CRC by 196 countries proves the importance of the child's participation in public relations and the progress of society in protecting the rights of children. For the first time the status of a child as a full-fledged person was defined in the Declaration of the Rights of the Child in 1924 (UNICEF). Criticism of the CRC in academia concerns "philosophical, constitutional, legal, political, intercultural, and methodological aspects" that may limit effectiveness. In particular, the priority in the document of the Western point of view is criticized (Wilcox & Naimark, 1991) and the hidden propaganda, which is put in utopian assumptions of CRC norms, which are stated in similar documents on human rights (Dahbour, 2003). However, activists (defenders of children's rights) clearly define the norms of the CRC to ensure the protection and interests of children, the use of pressure tools to develop programs for children's participation.

Among the main challenges are the child's right to participate in public relations and the right to protection (Livingstone & Third, 2017). CRC requires parents to make the decision that is best for the child in terms of the child's interests and opinions (Alper & Goggin, 2017). This creates unique opportunities for parents to ensure the protection of children's rights. However, the question arises: to what extent do parents have information about these opportunities and their own obligations under international law. The Munro study (2010) proposes a systematic approach to exploring ways to improve child protection as a complex adaptive system. This requires professionals who provide childcare services to adhere to the principle of honesty in their own experience of interacting with children in need of protection of rights and interests. The practice of child protection shows numerous difficulties in the work of professionals: excessive control, time-consuming design of protection procedures (Munro, 2010).

Doek (2015) examines the structure and features of the CRC, including the four basic principles, recognition of parental responsibility, increasing children's autonomy, and cultural characteristics. The principle is understood as a provision that is a priority in the implementation of CRC articles (Doek, 2015). Livingstone & Bulger (2014) argue about the need to balance risks and opportunities to ensure children's participation in their own rights and interests.

Thus, the scientific literature considers the following aspects of ensuring the rights and interests of children as participants in public relations: 1) the structure and features of international legal acts; 2) responsibilities, duties and rights of participants in public relations in the field of ensuring rights and interests; 3) challenges and problems of legislation; 4) basic provisions and principles of CRC. However, the issue of regulating the child's participation in public relations in the CRC is barely studied. Therefore, there is a question about the full value of ensuring the

rights and interests of the child as a participant in accordance with the CRC.

The main hypothesis of the study – the contradiction of the norms and provisions of the CRC does not ensure the rights and legitimate interests of the child as a participant in public relations.

3 Methodology

This study used a qualitative methodology based on the content analysis method of the Convention on the Rights of the Child (CRC), (United Nations Human Rights Office of the High Commissioner, n.d.). This article uses the methodology of CRC articles analysis (Doek, 2015), which ensures children's rights and interests as participants in legal relations, particularly an analysis of the contradictions in the CRC articles that regulate the rights and interests of the child. This study is a continuation of the children's rights and interests' research based on the analysis of CRC norms conducted by Doek (2015), Kilkelly (2015), Liefgaard & Doek (2015), Liefgaard & Sloth-Nielsen (2017), Livingstone & Bulger (2014), and Livingstone & Third (2017).

4 Results

The CRC supports society's interest in children's participation in matters and situations that concern them. A number of CRC articles can be grouped into: 1) the right to participate, including Article 12 (the child's views are given due consideration in matters concerning the child), 2) Article 13 (freedom of expression), 4) Article 14 (freedom of thought, conscience and religion), 5) Article 15 (freedom of association and peaceful assembly) and 6) Article 17 (access to information). The UN Committee on the Rights of the Child recognizes Article 12 as a general principle applicable to all measures taken by States Parties to implement the CRC. Although the very word "participation" is not mentioned in the CRC, the Committee refers to participation directly in its general comment on Article 12.

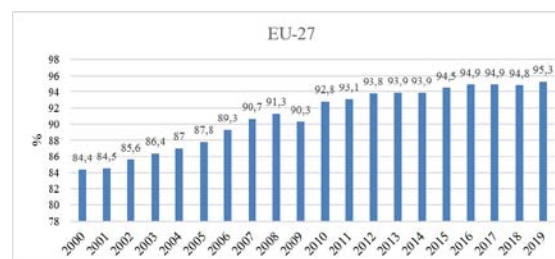
The most important decision of the CRC is to classify the provisions into four key principles: Article 2 on the elimination of discrimination; Article 3, paragraph 1 on the best protection of the interests of the child in any actions of all participants in public relations (courts, legislative and administrative bodies, social security bodies); Article 6 on the right to life and to ensure survival and healthy development; and Article 12 on ensuring the right of the child to express the child's own opinion. These provisions of the CRC were criticized for identifying with the principles, which in fact meant a contradiction of the concept of rights and distorted the legal obligations of the state. In the Committee's view, the application of other articles presupposes that these principles are taken into account (Doek, 2015).

Content analysis of CRC articles allows identifying the following basic rights of children: 1. The right to maintain personal contact with parents, except for conflicts of interest. 2. The right to receive information about the whereabouts of parents without harm. 3. The right to participate in the proceedings to convey one's opinion. 4. The right to formulate one's own views (including search, receipt and transfer of information) and to express them freely on issues that directly concern the child according to maturity. 5. The right to freedom of religion, thought or conscience. 6. The right to privacy and family life, secrecy of correspondence, inviolability of the home, protection of the law from interference with these rights. 7. The right to access information and materials from various sources. 8. The right to use services for children to care for them in case of employment of parents. 9. The right to special protection in the absence of a family. 10. The right of a defective child to special care. 11. The right to use the best quality medical services. 12. The right to enjoy social security benefits. 13. The right to a decent standard of living for all-round development. 14. The right to education, recreation, participation in games and entertainment, cultural life and employment in the arts. 15.

Protection against economic operation and performance of dangerous works.

Despite the declaration, in practice the rights are not always fully guaranteed, even in developed countries. For example, the right to education within the EU is not 100% guaranteed, as evidenced by the level of participation of preschool children in education at the appropriate level (Fig. 1). The right to education is classified into the following rights: "access to education, the quality and aims of education, human rights education, children's rights in education, and parents' rights over education" (Lundy & O'Lynn, 2019). Parents and guardians are responsible for ensuring the rights of the child in practice, especially in the area of participation in public relations. At the same time, the state is responsible for educational services.

Figure 1 Participation in early childhood education total sex (children between four years old and the age of compulsory primary education), % of the age group between 4-years-old and the starting age of compulsory education, 2000-2019



Source: Eurostat (2021)

The CRC provisions set out the responsibilities, rights and obligations of parents to ensure the rights and interests of the child. This demonstrates the recognition of the child as a member of the family and the obligation of the declaring States to provide parental assistance to guarantee and promote the rights of the child.

In particular, in Art. 27 defined: "Parent(s) or other caregivers have the primary responsibility for providing, within their abilities and financial capabilities, the living conditions necessary for the child's development".

The key role in ensuring the rights and interests of the child rests with the parents, as confirmed in Article 5: "States Parties shall respect the responsibilities, rights and responsibilities of the parents and, as appropriate, members of the extended family or community, as provided for in local custom, guardians or other persons legally responsible for the child, to properly manage and direct the child Convention of rights and to do so in accordance with the developing abilities of the child".

In addition, parents are responsible for the child's living conditions within their capabilities and financial resources necessary for the child's development. States parties are also obliged to assist parents in fulfilling their responsibilities and, if necessary, to provide material support, especially with regard to food, clothing and housing (United Nation, 2017). Thus, the participants in ensuring the rights and interests of the child are interconnected; they have a certain amount of responsibility in accordance with the capabilities, financial resources and powers. Realization of rights and interests, obligations are limited by the conditions in which they are realized. Implementation should not lead to various forms of child abuse, mistreatment or exploitation. Otherwise, the state has a duty to protect the rights of children and interests. Among the features of the CRC is the lack of specific provisions for child protection procedures to maximize the guarantee of parental and child rights.

The state interferes in family life and confidentiality in the event of a threat to the rights and interests of children, and the child and parents should have the right to legal or other assistance, the right to review the decision, for example, by a higher authority

or court. CRC rules govern the child's right to participate and express his or her views (Article 9, paragraph 9, and Article 12, paragraph 2).

Another important feature Convention there is a recognition of the potential and growth of the child's autonomy. This is reflected in the concept of ability development (Art. 5) and in the provisions of Art. 12, which provides for due consideration of the child's opinion according to the level of maturity. This regulated statement raises questions about the level of significance of the child's opinion in the family, in court proceedings, educational institutions, medical care institutions, preschool educational institutions. Children have the right to express themselves, but adults are responsible for the level of significance. Paternalism and the level of psychological and mental development of parents in this case will determine the level of participation of the child in public relations. In general, the opinion of older children is given more importance and weight, which corresponds to the concept of maturity and ability. Therefore, other participants in public relations must understand the assessment of the child's maturity by the parents. Vital decisions depend on this assessment (for example, on treatment methods, in the course of litigation). In general, despite the regulation of the concept of child participation, in general, the provision of rights and legitimate interests depends on the level of expertise of other participants in public relations. Absolute consideration of children's views can lead to a decision that is contrary to the best interests of the child. Children need protection from irrational decisions that are dangerous for full development.

Thus, the CRC recognizes the potential and autonomy of children, which are key factors in the right to participate in public relations (Article 12): "Article 12. 1. States Parties shall ensure that a child who is able to articulate his or her own views has the right to express those views freely on all matters affecting the child, with due regard to the child's age and maturity".

It should be noted that this article stipulates the obligation of the state to give the child the right to self-expression only if he can formulate an opinion. In case of inability to formulate what directly concerns children with disabilities, other participants in public-law relations make decisions. This again poses a danger and a threat to the decent standard of living and development of children. In Articles 13-16 the right to self-expression is supplemented and expanded. For example, paragraph 2 of Article 14 contains the following provision: "2. States Parties shall respect the rights and responsibilities of the parents and, where appropriate, of legal guardians, to guide the child in the exercise of his or her rights in a manner consistent with the evolving capacities of the child". This statement directly implies the management of the child in the exercise of the right to self-expression by the methods that determine the participants in public relations in accordance with their own assessment of children's abilities. Therefore, the child's active participation in decision-making is limited by the assessment of other participants.

The issue of violence against children dominates the current international and national agenda, in particular through the activities of the Special Representative of the Secretary-General for Violence against Children and many international and national NGOs and the systematic attention paid to this issue. It can be assumed that efforts to prevent and eradicate violence against children will continue and intensify to contribute to the ambitious goal 16.2 Sustainable Development Goals (SDG) – end all forms of violence against children by 2030. In the light of the broad definition of violence against children, efforts to achieve this goal should not be limited to physical, psychological and sexual violence, but should include all forms of neglect. Another topical and important issue is the prevention and elimination of all forms of exploitation, including economic and sexual exploitation and related trafficking in children (Articles 32, 34 and 35). Child labor, as the most well-known form of economic exploitation, is more specifically addressed in the

Convention ILO 138 on the Minimum Age for Employment and Convention 182 on the Elimination of the Worst Forms of Child Labor. Ongoing efforts to realize the child's right to protection from economic exploitation (Article 32 CRC), such as at the international level by the ILO's International Program on the Elimination of Child Labor (ILO-IPEC) and at the national level achieving another ambitious goal SDG 8.7: Take immediate and effective measures to eradicate forced labor and end modern-day slavery and trafficking, and to ensure that the worst forms of child labor, including the recruitment and use of child soldiers, are banned and eliminated and that all forms of child labor cease by 2025. All these problems can be summarized as the global victimization of children and require all kinds of legislative, educational and social measures to prevent this victimization and protect child victims.

5 Discussion

Participants in public relations in the field of ensuring the rights and interests of the child in accordance with various regulations are parents, law enforcement agencies, courts, preschools, social protection services for children, and schools. Despite the wide range of participants, in practice there are often threatening situations for children, which are obvious at the most critical and dangerous moment (sexual violence, abuse, etc.). On the other hand, the prevention and protection of children from such situations may limit the right to self-expression, the child's intentions to express their own opinions, to participate in public relations, to threaten the privacy of private life. Thus, there is a conflict of rights and interests, the solution of which must ensure a balance between avoiding threats to life, health, development and opportunities of the child in various spheres of public life.

In Europe, the European Court of Human Rights plays an important role in the realization of children's rights. Children may lodge a complaint with the Court alleging a violation of their rights under the European Convention on Human Rights and Fundamental Freedoms. The judgments of this Court show that they regularly refer, in particular, to the General Principles of the CRC, in particular Article 3 (1) on the best interests of the child and Article 12 on the right to be heard in court (Kilkelly, 2015). In addition, the Court of Justice, in dealing with EU law, has also promoted the recognition and realization of children's rights (Stalford, 2015).

The main challenge for the participating countries is the full implementation of the norms defined in the Convention in practice, as well as the full informing of children about their rights and ensuring an objective assessment by participants of the child's abilities and development. The realization of children's social, cultural and economic rights is also a challenge, as the problems of poverty, access to education; housing, food and clean drinking water remain worldwide. Measures to fully implement the norms should include legislative reform, development of a national strategy with coordination and control, accountability of the government for proper monitoring (for example, children's ombudsman) (CRC/GC/2002/2 2002), allocation of financial and human resources (CRC/C/GC/19 2016), systematic data collection and analysis, continuous training of specialists working with children or for children, and cooperation with civil society (CRC/GC/2003/5 2003). In addition to this general obligation, many articles of the CRC oblige States parties to take specific measures to implement them. The way in which States parties fulfill these obligations will vary from country to country, but an important feature of their actions should be the maximum participation of civil society organizations in ensuring the rights and interests of children.

Overall, progress has been made during the Convention in the area of legal reform, the realization of the right of the child to express his or her views, in particular by promoting the participation of children, in particular in combating violence against economic and sexual exploitation of children and juvenile justice (Liefwaard & Sloth). Nielsen 2017). In addition, important progress has been made at the regional level, in

particular in setting new standards and providing further guidance on the realization of children's rights. CRC norms have increased children's access to justice and made it possible to seek redress (for example, compensation for harm). Violations of children's rights have been brought to the attention of regional human rights courts and national courts (Liefwaard & Doek, 2015).

6 Conclusion

The UN Convention on the Rights of the Child is a key international legal instrument recognizing the human rights of children. Children's rights are not just a separate category of rights, but human rights. This recognition is fully supported by the 196 countries that have ratified the CRC. However, the analysis of the CRC, which should ensure the rights and interests of the child as a participant in public relations, shows that at present children cannot be fully involved. CRCs involve assessing a child's abilities and considering his or her views by other participants, which is always a subjective factor. Due to this, the child's participation in public relations is limited. Adults have the right to manage their rights and responsibilities according to their own assessments of the child's abilities. The importance of children's opinions is determined by the level of expertise of adults. The provisions of the CRC Convention provide for the management of the child in the exercise of the right to self-expression. Management is based on adult-defined methods. Therefore, today the protection of the rights and interests of children as participants in public relations are limited subjective assessments of adults. These conclusions confirm the hypothesis: the contradiction of the norms and provisions of the CRC does not ensure the rights and legitimate interests of the child as a participant in public relations.

The practical significance of the study is to analyze the level of children's participation in public relations in order to ensure the rights and legitimate interests of children. Further research should focus on certain areas of rights and legitimate interests: various forms of violence, including disregard for the underestimation of children's opinions, ensuring the rights of migrant children, reducing the level of illegal employment of children.

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