

Iukhta O. The essential characteristics and applying the Convention on the civil aspects of international child abduction

This article describes the mechanism of applying of Hague Convention on the Civil Aspects of International Child Abduction according Resolution of the Cabinet of Ministers of Ukraine of 10.07.2006 № 952, which approved the procedure of execution on the territory of Ukraine Hague Convention on the Civil Aspects of International Child Abduction.

Key words: illegal movement of children, the Convention on the Civil Aspects of International Child Abduction, the return of the child to the place of residence.

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**INTERNATIONAL STANDARDS IN THE FIELD
OF PERSONAL RIGHTS AND FREEDOMS**

The main purpose of human rights is ensuring the individual capabilities of each person. The State recognizes the independence and autonomy of the individual, ensuring the inviolability of a certain sphere of relations, which can not be a subject of its claims. These rights are intended to protect the space where there are private interests. The state can no longer perform a passive role, but abstain only from interfering in the private sphere of the individual's interests. There is a need to contribute the realization of individual rights, drawn up in the idea of the state service to individual interests and the right, the duty to protect the freedom of the individual, provided that adequate protection is guaranteed for the public interest.

Human rights occupy a leading place in the modern world. It is impossible to overestimate their role in the construction of any civilized and civil society. The world practice shows that the democratization of the society is impossible without effective protection and real security, basic human rights and freedoms. Most countries have adopted a policy aimed at ensuring real human rights as a constitutional basis for renewal and progress. The people's spiritual potential belongs to their great natural and technical resources, the strong international links are increasing and give confidence in the gradual creation of conditions for democratic development and respect for human rights. In the modern world the system of international legal instruments of universal and regional human and citizen's right consists of more than 1 000 documents. The vast majority of them are international legal documents of the UN [1, p. 4]. In addition to the array of the universal nature of the documents, it is actively forming an array of regional security systems and protection of human rights. The most developed today are the European, American and African human rights protection system. In accordance with common practice, each State which has ratified international legal instrument requires to include its provisions in their national legislation. As you know, this process is called «implementation» in the legal science. It should be noted that this problem is discussed by scientists for a long time, moreover there are several different approaches to this problem in recent years.

While writing the article we used such authors as A. Zibaylo, I. Lukashyk, V. Kartashkina, G. Luparev, A. Movshan, G. Antipova and so on.

The purpose of this study is to build the most complete and comprehensive study of the legal nature of the personal rights and to determine their place in the system of human rights and freedoms in general. The main purpose of this study is to address theoretical issues related to the implementation of the universally recognized standards of basic individual rights and freedoms in the national laws of the countries from the standpoint of public international law, the identification of scientific and theoretical and practical aspects of the problem. Based on the goal, we have the following tasks: to clarify the classification of individual rights and freedoms, to analyze the emergence and development of the institute of international human rights law in the system of public international law, define the notion of international legal standards of personal rights and freedoms, their structure and content, to identify features of the functioning of the mechanism of implementation of international law norms of national legal systems [2, p. 87].

On the characterization of individual human rights and freedoms can be used two ways: natural law, which is based on the idea of natural origin for individual rights and freedoms the essence of which is to establish the state derived from the nature of the rights. Natural law is an abstract category, but has a profound legal meaning. In fact, it is a moral ideal for civil society, each of its members and the constitutional state. However, securing individual rights and freedoms in the positive law guarantees the protection and defense arising from the natural law, human rights and freedoms [3, p. 5].

Given the ambiguous interpretation of the term «civil rights» which includes in addition to individual rights and freedoms, individual political and economic rights that are directly related to the legal status of a person, namely citizenship, is proposed to separate the civil and personal rights and freedoms. The term «individual rights and freedoms», is a characteristic of the individual, regardless of his or her legal status. Moreover, we must also keep in mind that if personal rights and freedoms initially meant protection against misuse and excessive influence of the state, then over time they have become a guarantee of non-intervention on the part of all stakeholders – public and political organizations, and other individuals [4, p. 29].

Professor A. Mishin said that individual rights and freedoms provided by the person as an individual, regardless of whether he is a citizen of this country or not. Western theory often considers this category of rights and freedoms as a natural, not man-given state and nature or God. In practice, these rights and freedoms are positive, as they are legally binding only when their application is established by law [5, p. 132]. As you can see in the determination of the concept of individual rights and freedoms, the emphasis is on the individual aspects of this category of rights, namely: the state's duty to ensure the freedom and autonomy of the individual, the positive nature of individual rights, and the relevance to the private life of a person. Despite the seeming variety of approaches, the essence does not change, and we believe the category of personal rights and freedoms is characterized by the fact that the state recognizes the freedom of the individual in a certain sphere of relations, which is given at the discretion of the individual and can not be subject to the state claims. It provides a so-called negative freedom. These rights, being an attribute of each individual, are the basis of human rights and freedoms of the system, designed to protect a person from outside interference, based on the recognition of the subjective freedom of the individual, are designed to legally protect the space activities of private interests, to ensure the possibility of individual self-determination and self-realization.

No less challenging theoretical problem is a question of the structure of individual rights and freedoms. In national legal systems rather numerous individual rights and freedoms can be divided into two main groups: the rights and freedoms that protect the individual from arbitrariness on the part of other persons, and the rights and freedoms that protect the individual from arbitrariness by the state [6, p. 105].

We support the opinion of the most experts about individual rights and freedoms: the right to life, the right to dignity, the right to liberty and security, respect for private and family life and the preservation of its secrets, privacy of the home, the right to protection of honor and good name, privacy of correspondence, telephone conversations, postal, telegraph and other communications, the right to freedom of movement, freedom of thought, conscience and religion.

In our opinion, depending on the scope of individual rights and freedoms can be divided into two groups. The first includes general and larger: the right to life, the right to liberty, the right to physical integrity, the right to honor and dignity. The second group includes the rights, specifying the category of the first group: the right to inviolability of the home, the right to freedom of thought and religion, the right to privacy of correspondence and communications, the right to freedom of movement and settlement, as well as penal and procedural guarantees of personal rights and freedoms [7, p. 199].

It should be noted that the lists of personal rights and freedoms, their formulation and methods of consolidation can considerably vary in foreign countries. For example, in the UK, where there is no single, written constitution, the content of individual rights and freedoms are often not determined by law, and customs, as well as regulatory and injunctions to commit infringement of concrete rights and freedoms. The most slender form of the constitutional rights set out in the doctrinal writings of famous British lawyers.

In the United States, as well as countries not belonging to the Anglo-Saxon world, the rights and freedoms of the individual are usually assigned a positive, ie, where the constitution contains a detailed list of these rights and freedoms. Moreover, it should be noted that many of the latest constitution reflected the impact of a unified international legal instruments, in particular the Universal Declaration of Human Rights of 1948. Therefore, the list of fundamental rights and freedoms in many modern constitutions are equally open to individual rights.

To summarize, we note that the concept of security and protection of human rights and freedoms has a long history on its formation and development was greatly influenced by both political and legal doctrines of famous thinkers, and specific rules of national and international law, with the most complete securing the rights and freedoms human and above all personal rights and freedoms have received only with the adoption of basic international legal convention documents in the field of security and protection of human rights (The International Covenant on Civil and Political Rights (ICCPR), The Convention on the Elimination of All Forms of Racial Discrimination (CERD), The Convention on the Rights of the Child (CRC), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)).

For a more detailed study of the problem by far the best in our opinion, it is the systematic study of international legal acts fixing the individual rights and freedoms.

Conventionally, the system of international instruments governing individual rights and freedoms, as well as international legal instruments on human rights in the whole image of the document is divided into two main groups: the universal and regional international legal instruments.

In turn, the universal international legal instruments enshrining individual rights and freedoms of man and can be divided into: international legal instruments of the United Nations human rights and freedoms and have recommendations under UN documents on human rights and freedoms.

A group of international legal UN instruments on human rights and freedoms has recommendatory forms of declarations, resolutions, appeals, minimum standards and instruments adopted under the auspices of the UN specialized agencies (WHO, ILO, UNICEF, UNESCO, etc.) Which embody the fundamental the principles of the international community in the field of security and protection of personal rights and freedoms. These documents served as the basis for the development and adoption of system-conventional human rights instruments. Talking about personal rights, we note that for the first time in the documents of the international community there was fixed the definition of human rights in general and personal rights and freedoms in particular. For example, in the United Nations declarations provided the following basic individual rights and freedoms:

The right to life and recognition before the law, protection of the law, a fair trial, protection of private and family life, integrity, non-discrimination, equality, dignity;

Freedom from slavery, of conscience, of torture, of movement and choice of residence.

International convention document provides a detailed interpretation of human rights, consolidate the guarantees of their implementation by the state allocate a particular category of fundamental human rights not subject to restrictions by the State under any circumstances (the right to life, prohibition of torture, freedom of thought and belief, the right to judicial protection). Given the legally binding conventional norms, for the states which ratify international agreements, codification activities in the field of human rights, not only contribute to increasing the number of international standards, but also intensify the national rule-making by their fixation in state legislation [8, p. 277]. The system of international instruments governing individual rights and freedoms can be divided into two main groups: the universal and regional international legal instruments. Universal international instruments enshrining individual rights and freedoms form the international legal instruments of the United Nations human rights and freedoms and have a recommendatory nature. The system of regional international instruments on human rights constitute the seven major groups of acts: European, American, African, Asia-Pacific, acts regulating human rights in the Islamic society, acts adopted in the framework of the OSCE, and the acts of the CIS (Commonwealth of Independent States) on the Rights and Fundamental Freedoms human. Regional human rights instruments developed and adopted on the basis of the fundamental principles and norms contained in the universal human rights instruments, largely expanded and strengthened both international and national mechanisms to ensure and protect the rights and freedoms of human [9, p. 263].

Conclusions. In the context of globalization of the modern world the concept of human rights takes a great significance. Human rights are not only a benchmark in addressing the global challenges in overcoming the contradictions between the various types of civilizations and cultures, between individualism and solidarity, freedom and equality. They contribute to solving one of the most important tasks: the sustainable development of modern world. A distinctive role in ensuring sustainable development, both the international community and individual states was played by international human rights standards. And then, how much the state to implement the international standards is the main criterion for the democratic state. Individual rights and freedoms are the attributes of each individual to ensure that the priority of the individual targets are based on the recognition of the subjective freedom of the individual, intended to legally protect the space activities of private interests and guaranteeing the possibility of individual self-determination and self-realization of the person, respect for privacy from the state, political and public organizations, and other individuals are the basis of human rights. Maintenance and protection of personal rights and freedoms, implemented a system of universal and regional international legal instruments is in constant development together with regional instruments that largely expanded and strengthened both international and national mechanisms to ensure and protect the rights and freedoms of human.

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Царителлі О. М. Міжнародні стандарти у сфері особистих прав та свобод людини

У статті розглядаються актуальні питання системи прав та свобод особистості. Надзвичайно важливе не лише визначення пріоритетності інтересів особистості над державними, що людина, її права, свободи та інтереси є найвищими цінностями, а й закріплення цього принципу в законах та правових нормах, а також постійна реалізація на практиці. Переважна більшість міжнародно-правових документів становлять правові документи Організації Об'єднаних Націй. Активно формується регіональна система забезпечення та захисту прав людини. У сфері забезпечення та захисту прав людини, а особливо особистих прав і свобод, поряд із досягнутими успіхами, є проблеми. Наявність проблем значною мірою обумовлено слабкою теоретичною дослідженістю міжнародних стандартів прав людини, до них, зокрема, належать стан і динаміка цього процесу.

Ключові слова: права людини, міжнародно-правове регулювання.

Царителли Е. Н. Международные стандарты в сфере личных прав и свобод человека

В статье рассматриваются актуальные вопросы системы прав и свобод личности. Чрезвычайно важно не только определение приоритетности интересов личности над государственными, что человек, его права и свободы, интересы являются наивысшими ценностями, но и закрепление данного принципа в законах и правовых нормах, а также постоянная реализация на практике. Подавляющее большинство международно-правовых документов составляют правовые документы Организации Объединенных Наций. Активно формируется региональная система обеспечения и защиты прав человека. В сфере обеспечения и защиты прав человека, в особенности личных прав и свобод, наряду с достигнутыми успехами, имеются проблемы. Наличие проблем в значительной степени обусловлено слабой теоретической исследовательностью международных стандартов прав человека, к ним, в частности, относятся состояние и динамика данного процесса.

Ключевые слова: права человека, международно-правовое регулирование.

Tsaritelli O. International standards in the field of personal rights and freedoms

The article deals with topical issues of the system of personal rights and freedoms, covers international arrangements in the sphere of human rights, their names. It is extremely important not only to determine the priority of the individual interests over the state that person, his rights and freedoms are the highest values interests, but also to consolidate its laws and regulations as well as fixed in practice. The vast majority of international legal instruments constitute the legal instruments of the UN. The regional system of security and human rights is actively emerging. Along with the successes, there are problems in the area of security and protection of human rights and, particularly of personal rights and freedoms. Availability problems largely due to weak theoretical researches in the field of international standards of human rights. Among these issues are the status and dynamics of the process.

Key words: human rights, international legal regulation.