

**EXPERIENCE OF FOREIGN COUNTRIES IN THE FIELD  
OF ADMINISTRATIVE AND LEGAL PROTECTION  
OF CHILDREN AGAINST VIOLENCE AND THE WAY  
OF ITS IMPLEMENTATION IN UKRAINE**

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**INTRODUCTION**

Protection of children's rights is one of the priorities in every country, because the level of their safety and protection, the state of their development is one of the indicators of a civilized and developed society. It is in childhood that the fundamental system of human moral values and personality qualities is formed. The protection of children's rights is not narrowed down to the formation of a normative and legal framework, is not limited to the legislative activity of the state, it is a completely diverse set of measures, among which the conditions of the child's existence, the environment occupy the main places. Moreover, these are also certain criteria for a child's understanding of his rights and awareness of these rights by others. Protection of children's rights is a priority of a developed legal state, which is provided by the Constitution of Ukraine, in Art. 51 of which it is noted that the family, childhood, motherhood and parenthood are understood as food<sup>1</sup>.

The above shows the urgent need to find new ways to protect childhood by means of administrative law, including by studying foreign experience in this regard and implementing its positive achievements in the law enforcement practice of Ukraine. This is precisely what Ukrainian legal scholars emphasize in their scientific works, in particular: Opatskyi R. M.<sup>2</sup>, Nalivayko L. R.<sup>3</sup>, Moroz V. P.<sup>4</sup>, Krestovska N. M.<sup>5</sup>, Maksimenko O. V.<sup>6</sup>, Kolomoets N. V.<sup>7</sup>, Navrotsky O. V.<sup>8</sup>, Khutoryanska T. V.<sup>9</sup> and other.

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<sup>1</sup> Конституція України : Закон України від 28.06.1996 р. / *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

<sup>2</sup> Опацький Р. М. Ювенальна політика в Україні: адміністративно-правові засади формування та реалізації : монограф. / Р. М. Опацький ; за наук. ред. д-ра юрид. наук, проф. Б. О. Логвиненка. Дніпро : Дніпроп. держ. ун-т внутр. справ; 2020. 520 с.; Опацький Р. М. Ювенальна політика в Україні: теорія, правова основа, інституалізація [Текст] : монографія / Р. М. Опацький ; за наук. ред. д-ра юрид. наук, засл. Юриста України С. М. Алфьорова ; Дніпропетр. держ. ун-т внутр. справ. Запоріжжя : Дике Поле, 2013. 463 с.

<sup>3</sup> Наливайко Л. Алгоритм дій працівників поліції під час опитування (допиту) неповнолітнього, що став жертвою насильницьких проявів / Л. Наливайко, В. Мороз. *Концептуальні положення механізму захисту прав дітей: український та зарубіжний контекст* : кол. монограф. / кол. авт. ; ред. Л. Р. Наливайко. Дніпро : ДДУВС, 2021. С. 64–74.

Ukraine is, in fact, a very young state, so it is too early to talk about the perfect development of normative and legal regulation in the field of protection of children's rights. In this aspect, the negative statistics regarding the increase in the number of cases of crimes against children, bringing people to administrative responsibility for the improper fulfillment of parental rights, as well as the high level of juvenile crime, indicate the need to study and research the positive international experience of the developed countries of the world regarding social, legal, criminal-legal, administrative and legal protection of the rights of the child and, taking into account domestic legislation, the institutional component and cultural and historical development of our country, its introduction into the sphere of law enforcement.

### **1. The current state of compliance with the rights of children in Ukraine and the prerequisites for the use of foreign practice for the formation of a mechanism for their administrative and legal protection**

Violence against children is currently a real threat to the development and formation of Ukrainian society, because cruel treatment of these persons in the future turns them into socially maladjusted people, unable to create a full-fledged family, to be good parents, and is also an impetus for the reproduction of cruelty in towards relatives and friends.

According to statistical data in Ukraine, psychological (48 %) and physical violence (31 %) are the most common forms of violence between parents and children. The lack of an effective system of guarantees for the protection of children's rights in Ukraine is one of the most acute problems, which leads to an increase in legal nihilism and a decrease in the level of indicators of the functioning of public administration entities. The need to provide administrative support for the protection of children's rights in

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<sup>4</sup> Мороз В. П. Деякі питання реагування на випадки булінгу / В. П. Мороз. *Актуальні проблеми ювенальної деликтології*: матеріали Всеукр. наук.-практ. семінару (м. Дніпро, 5 листоп. 2021 р.). Дніпро: ДДУВС, 2022. С. 151–155.

<sup>5</sup> Крестовська Н. М. Ювенальне право України: історико-теоретичне дослідження: монографія / Н. М. Крестовська. Одеса: Фенікс, 2008. 328 с.

<sup>6</sup> Максименко О. В. Адміністративно-правові засади реалізації ювенальної політики в Україні: автореф. дис. ... канд. юрид. наук: 12.00.07. Київ, 2011. 19 с.

<sup>7</sup> Коломоєць Н. В. Адміністративно-правовий захист прав дитини в Україні: монографія / Н. В. Коломоєць. Харків: Панов, 2019. 352 с.

<sup>8</sup> Навроцький О. О. Забезпечення прав дитини в Україні: теоретичні і практичні засади адміністративно-правового регулювання: автореф. дис. ... докт. юрид. наук: 12.00.07. Харків, 2018. 36 с.

<sup>9</sup> Хуторянська Т. В. Адміністративна відповідальність за правопорушення, що посягають на нормальний розвиток дитини: дис. ... канд. юрид. наук: 12.00.07 / Дніпропетровський державний університет внутрішніх справ. Дніпропетровськ, 2015. 20 с.

accordance with generally recognized international standards necessitates the reform of Ukrainian legislation.

Ukraine is one of the rule-of-law states that pays enough legislative attention to the protection of childhood. Today, there are about fifty normative legal acts on the social and legal protection of childhood, in particular: the Constitution of Ukraine (Articles 24, 27, 51–53), the Family Code of Ukraine, the Law of Ukraine of May 23, 1991 № 1060-XII “On Education”, Law of Ukraine dated June 1, 2000 № 1768-III “On the Protection of Childhood”, Law of Ukraine dated February 28, 1991 № 796-XI “On the Status and Social Protection of Citizens Affected by the Chernobyl Disaster”, Law of Ukraine dated November 21, 1992 № 2811-XII “On state assistance to families with children”, Law of Ukraine dated November 16, 2000 № 2109-III “On state social assistance to disabled children and disabled children”, Law of Ukraine dated June 2, 2005 № 2623-IV “On the Basics of Social Protection of Homeless Citizens and Homeless Children”, Law of Ukraine dated January 13, 2005 № 2342-IV “On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived parental care” and others.

However, in the presence of a sufficiently large and developed regulatory framework on childhood protection, the actual implementation of established norms faces serious difficulties. On the one hand, the cause of this state of affairs is negative processes in the sphere of economy, education, health care, culture, etc. On the other hand, we can make sure that the legislation of Ukraine regarding the protection of children’s rights is more declarative than practical in nature. Therefore, there is a need for effective protection of the rights of the child, and a fairly widespread problem that needs to be solved is the questioning of the child regarding the detection of signs and caused consequences of violence, where the child was a witness or became a victim. Such situations are quite traumatic for the children’s psyche, but not in all cases the appropriate attention is paid to it by the relevant institutions.

The Law of Ukraine “On Prevention and Combating Domestic Violence” states that “a child who has suffered from domestic violence is a person who has not reached the age of 18 and has experienced domestic violence in any form or has witnessed such violence”<sup>10</sup>. Having studied the decisions of the European Court in which a similar topic is defined, it is necessary to refer to the case “Yeremia against Republic of Moldova”, which states that if a child observes systematic violence against one of his parents from the other side, he himself is a victim of violence from the state

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<sup>10</sup> Про запобігання та протидію домашньому насильству: Закон України від 7 грудня 2017 року URL: <https://zakon.rada.gov.ua/laws/show/2229-19#Text>

and has the right to protection<sup>11</sup>. The non-governmental organization “La Strada – Ukraine” provides statistical data on the increase in child abuse in recent years. It is noted that 20,000 victims contacted the hotline for children and youth for help in 2019, 100 000 in 2020, and 40 000 in the first quarter of 2021. Thus, the number of appeals regarding cases of violence against children during the quarantine period increased a lot. There are situations when cases of domestic violence occur in the family, where children are witnesses to it, so the victim must be identified as the victim, even if she did not contact the police, but her mother or other persons did. From the point of view of psychology, the actions that were taken with the child in the future can affect his psyche in later life, form a number of emotional and behavioral problems, including anxiety, depression, low self-esteem, disobedience, and a number of other unfavorable factors. A police officer who draws up a report on an offense against another family member must still notify the children’s service about such an incident within 24 hours. And the key issue in this situation should be to obtain information about the committed crime from the victim’s child or witness’s child, to minimize re-traumatization of the child as much as possible.

Therefore, there is a need to acquire special knowledge, skills and communication skills with a child. The basis of effective interaction with a child is compliance with a range of rules related to the presence of a person, who has expertise in psychological, physiological and age-specific features of child development, particularities of age-appropriate communication, and the mastery of skills necessary for effective communication with the child and a safe environment for the child.

In order to implement an effective child protection system, it is necessary to implement certain methods to improve the situation in the sphere of prevention and combating domestic violence. For example, it can be implemented by educational institutions and their employees, who should be more actively involved in detecting facts of domestic violence and necessarily and urgently report the facts to the children’s service and the police station.

Hundreds of thousands of people in the country suffer from domestic violence. According to official data, the police registers more than a hundred thousand complaints of domestic violence per year. But no more than 20 % of victims of violence turn to human rights defenders. Thus, a question arises in the study of international experience.

Each state forms a national system for the protection of children’s rights in accordance with its own socio-cultural, historical, economic, legal, and

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<sup>11</sup> Чумак Ю. В. Дитина – свідок домашнього насильства – має бути почутою та захищеною. Харківська правозахисна група. Інформаційний портал «Права людини в Україні». URL: <https://khp.org/1608809322>

organizational standards. Regarding the general typology of systems for the protection of children's rights implemented in different countries, the following models can be distinguished:

1) "child protection" – normative and organizational activity aimed at protecting the rights and interests of the child from circumstances that negatively affect his development, health and life;

2) "support of families in which children are raised" – provision of support and protection of families with children, implementation of various services and mechanisms of interaction with families in order to ensure the conditions of upbringing and development of children in them;

3) "child development" – the system combines both work with families and protection of the rights and interests of the child, at the same time it is "child-oriented" – the child is the center of the system of protection and support. In most European countries, policies on care and protection of children combine elements of family support, protection of rights and child development, but each country has differences regarding the priority directions of policies in this area.

The main provisions of international standards in the field of combating domestic violence are based on a deep awareness of the inadmissibility of such violence, which is a gross violation of human rights. Among the most important international legal documents, we consider it expedient to include the UN Model Law on Domestic Violence, adopted on February 2, 1996 by the UN Commission on Human Rights.

According to the United Nations Special Rapporteur on violence against women, Radhika Kumaraswamy, the purpose of this model legislation is to serve as a drafting guide for legislators and organizations seeking to lobby for their legislative mandate for comprehensive legislation on violence against women.

It is worth noting that the UN Model Law on Domestic Violence aims to ensure that the actions of a law enforcement officer in the event of a report of domestic violence are set out from a technical point of view and require due consideration of each request for assistance and protection. There are clear cases of response upon arrival at the scene, which include the existence of a protective order in the event of its violation, a real danger of violence or its escalation, and the existence of facts of violence in this family in the past. At the same time, the speed of response to the statement must be adequate in those cases when it comes not from the victim of violence, but from another person, who can be anyone (a witness, a friend or relative, medical assistance, a representative or a center for assistance to victims of violence and etc.).

At the same time, the model law recognizes that domestic violence cannot be resolved by legal means alone. This orients the state and society to the adoption of complex social, moral-ethical, psychological, and

pedagogical measures in addition to regulatory and law enforcement measures. It is also important to focus the state authorities on providing victims of domestic violence with both operational and long-term assistance, as well as training specialists on legal issues and services for victims of domestic violence.

The use of the provisions of this law orients states to strengthen the fight against domestic violence and offers various forms, the use of which appears to us to be very effective and promising. We consider it no less promising to study and implement the significant experience of regulatory and organizational measures aimed at preventing domestic violence, developed by countries in Europe and the world.

Therefore, all actions regarding a child who is in difficult life circumstances are aimed at protecting his rights and interests, eliminating the causes of such circumstances and ensuring safe conditions for his maintenance and upbringing, providing him and his parents with a set of necessary services and social assistance. However, in the context of our research, it is worth analyzing the provisions of international legislation, with the help of which it will be possible to modernize and bring domestic legislation closer to European and world standards.

Thus, the provisions of Austrian legislation aimed at preventing and combating domestic violence are contained in the Civil Code, the Law Enforcement Code and the Security Service Act, but a special legal act regulating the prevention and combating of domestic violence in Austria is the Law on Protection from violence in the family (last edition – 2004), which has the force of law. We believe it is extremely important to include the legal protection of the victim of violence by the offender through the procedures of eviction of the offender and the imposition of a restraining order. The right to make appropriate decisions should belong to the powers of the police<sup>12</sup>.

Belgian law treats domestic violence as a criminal offence. Domestic violence refers to the scope of Art. 442 of the Criminal Code and is considered an accusation. Domestic violence is now considered an aggravating circumstance, leading to a harsher sentence<sup>13</sup>.

Liability for domestic violence in Germany is established by criminal law and is defined mainly as violence against women.

From the analysis of the legislation of many countries, we see that the phenomenon of domestic violence is a painful issue for the legislator of

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<sup>12</sup> Міжнародний досвід попередження та протидії домашньому насильству : монографія, А. О. Галай, В. О. Галай, Л. О. Головка та ін. ; за заг. ред. А. О. Галай. Київ : КНТ, 2014. С. 160.

<sup>13</sup> Легенька, М. М. Зарубіжний досвід протидії насильству в сім'ї та можливості його використання в Україні / М. М. Легенька. *Право і безпека*. 2017. № 4 (67). С. 111–116.

each state. We believe that the issue of domestic violence is quite relevant in our time, because right now we can see the trend of “latency” of crimes, when the victim simply keeps silent about the violence committed against him in the family. The legislation of each country should move in the direction that the victim can safely complain about domestic violence, and it is equally important to establish a stricter punishment system so that before committing domestic violence, a person thinks about the negative consequences that may occur to him.

For example, a special family court has been established in Polish legislation for persons under the age of 13 who have committed a criminal act. He takes into account all the circumstances of the act and chooses the appropriate measure. There is also an institution that helps the court – the District Center for Family Assistance. They help in crisis situations, conduct interviews, cooperating with family curators. There are also such instances as family curators, who may be at the family court and supervise families with difficult family circumstances. They also specialize in children who have not reached the age of criminal responsibility<sup>14</sup>.

As for Ukraine, in our opinion, there are not enough centers that provide psychological help, despite the fact that family diagnostic and counseling centers are practiced in Poland. These are centers that conduct psychological research in the field of guardianship on behalf of the court.

It should also be mentioned that in the Netherlands, the care of children who have committed a criminal offense between the ages of 12 and 18 is entrusted to voluntary child care organizations, and the Government performs subsidiary functions. Even in this country there is a voluntary offer – Stop Response, which is used for children under 12 years old. It manifests itself in the fact that the child is told that she had another way out and is given the opportunity to apologize<sup>15</sup>.

We fully agree with O. O. Protsenko’s opinion that minors belong to a special legal category, because due to age development and social immaturity, they are not able to fully assess the nature and consequences of their actions, especially serious and especially serious crimes<sup>16</sup>.

The significance of juvenile issues is also reflected in the desire for international legal regulation of the most important parameters, the formation of universal principles for working with juvenile offenders for all

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<sup>14</sup> Аналіз міжнародного досвіду щодо роботи з дітьми, які на момент вчинення суспільно небезпечного діяння не досягли віку, з якого настає кримінальна відповідальність. *Міжвідомча Координаційна Рада з питань правосуддя щодо неповнолітніх*. URL: <https://www.unicef.org/ukraine/media/11406/file/Аналіз%20міжнародного%20досвіду.pdf%20>

<sup>15</sup> Ibid.

<sup>16</sup> Проценко О. О. Верифікація показань під час допиту неповнолітнього підозрюваного. *Юридична психологія*. 2019. № 2 (25). С. 86.

modern states. It is for this purpose that the general generic concepts of the categories “child”, “minor” and “minor offender” are provided in the UN Convention on the Rights of the Child<sup>17</sup>. Despite the fact that these acts do not contain an independent regulation of the administrative responsibility of a minor, we can single out several principled provisions that are basic for the type of legal responsibility under consideration.

It must be said that the functioning of the commissions for the affairs of minors and the protection of their rights as a special separate legal institution is not a purely Ukrainian novel, since there are more or less identical analogues in world practice. For example, a “non-judicial” version of the organization of the system of juvenile rights protection bodies has developed in Scotland, where attempts to create a specialized juvenile court were unsuccessful. This system there is administrative in nature: special commissions conduct “Children’s Hearings” as part of the Collegium, formed of members of the public who have undergone special training. A decision on measures of influence, which can be appealed to the court, is made only after a detailed consideration of the case, discussion of relevant issues with parents, social workers, teachers and the child himself. That is, foreign practice shows that juvenile commissions can function quite effectively in this area, and the preservation of this form in Ukraine, subject to significant modification, can have real advantages over the judicial method of solving tort cases involving minors.

In addition, the described Scottish commission system is recognized by the specialists of the International Center for Child Development of UNICEF as progressive, as it allows to avoid “unnecessary” contacts of a child or teenager with the judicial system. According to experts, such consideration of cases of juvenile delinquency corresponds to the letter and spirit of the Convention on the Rights of the Child. Countries of the world with different judicial systems have specialized courts operating within the framework of juvenile justice, it seems to us that the Commissions operating in Ukraine, provided they are reformed accordingly, can be considered as a fairly successful alternative option. At the same time, one cannot ignore the positive aspects that are inherent in the judicial resolution of tortious relations involving minors by the judicial method of resolving tortious cases involving minors. In addition, the described Scottish commission system is recognized by the specialists of the International Center for Child Development of UNICEF as progressive, as it allows to avoid “unnecessary” contacts of a child or teenager with the judicial system. According to experts, such consideration of cases of juvenile delinquency

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<sup>17</sup> Особливості та умови деліктної відповідальності неповнолітніх осіб / Ю. Є. Борисова. *Правова держава*. 2018. № 29. С. 90–94. URL: [http://nbuv.gov.ua/UJRN/Prav\\_2018\\_29\\_16](http://nbuv.gov.ua/UJRN/Prav_2018_29_16)



corresponds to the letter and spirit of the Convention on the Rights of the Child. Countries of the world with different judicial systems have specialized courts operating within the framework of juvenile justice, it seems to us that the Commissions operating in Ukraine, provided they are reformed accordingly, can be considered as a fairly successful alternative option. At the same time, one cannot ignore the positive aspects inherent in the judicial resolution of tortious relations involving minors<sup>18</sup>.

As for existing family courts in other countries, we can name the US system, where there are juvenile courts and family courts, and the family courts in France, which exist as an experiment (originated in 1970–1972)<sup>19</sup>. Which also use many auxiliary services in their activities.

This practice is very positive, and it seems that Ukraine could “borrow” some of the mentioned institutes, which would operate under the commissions for the affairs of minors and the protection of their rights or guardianship and guardianship bodies. In the light of the above, it should be noted that Ukraine needs further development and is not yet sufficiently coordinated with the activities of juvenile commissions and the functional purpose of such subjects of police law. Separately, it should be said about the possibility of practical implementation of the elements of administrative delictology provided in the legal regulations – certain powers are aimed at the implementation of the general preventive function associated with informing the relevant officials about criminogenic factors that stimulate the illegal behavior of minors. Regarding the problem of minors in tortious relations, it should be noted that often the minor himself has ceased to be a direct offender – he participates in the illegal act only indirectly, with the connivance or illegal action of other (adult) subjects. That is, another feature of the administrative responsibility of minors is that in a significant number of cases, not the minor offenders themselves are involved in administrative responsibility (for example, if they have not reached the age of 16, or if they do not have their own source of income), but their parents (guardians), guardians). That is why the issue of administrative responsibility of minors and parents should be considered interrelated<sup>20</sup>.

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<sup>18</sup> Миронюк Р. В., Добош В. В. Деліктність неповнолітніх: адміністративно-правове регулювання та напрями вдосконалення законодавства на прикладі зарубіжних країн. *Актуальні проблеми ювенальної деліктології*: матеріали Всеукр. наук.-практ. семінару (м. Дніпро, 5 листоп. 2021 р.). Дніпро: Дніпроп. держ. ун-т внутр. справ, 2022. С. 57–59.

<sup>19</sup> Особливості адміністративно-деліктного провадження щодо неповнолітніх / Р. В. Кимлик. *Вісник Академії адвокатури України*. 2014. Т. 11, № 3. С. 19–27. URL: [http://nbuv.gov.ua/UJRN/vaau\\_2014\\_11\\_3\\_4](http://nbuv.gov.ua/UJRN/vaau_2014_11_3_4)

<sup>20</sup> Миронюк Р. В., Добош В. В. Деліктність неповнолітніх: адміністративно-правове регулювання та напрями вдосконалення законодавства на прикладі зарубіжних країн. *Актуальні проблеми ювенальної деліктології*: матеріали Всеукр.

## 2. The experience of the countries of the world in ensuring the safety of children in the information space

Today, the child's right to a safe information environment is ensured by the system of international and national legal regulation. At the international level, first of all, credit should be given to the Convention on the Rights of the Child, which contains several articles on the protection of the right of children and adolescents to information. In particular, in Article 13(1), the child's right to freedom of expression includes the freedom to seek, receive and impart information and ideas of any kind, regardless of frontiers, orally, in writing or in print, in the form of works of art or through any other means of choice child<sup>21</sup>. The exercise of this right may be subject to some restrictions, but they can only be those restrictions that are provided by law and are necessary: a) to respect the rights and reputation of other persons; or b) to protect state security, public order, or public health or morals<sup>22</sup>.

The Cybercrime Convention of November 23, 2001 (ETS № 185) also plays an important role in protecting the right of children and adolescents to information<sup>23</sup>, Additional Protocol to the Convention on Cybercrime relating to the criminalization of acts of a racist and xenophobic nature committed through computer systems of 28 January 2003 (ETS № 189)<sup>24</sup>, Report of the Committee on Children's Rights "Digital media and children's rights" ("Digital media and children's rights")<sup>25</sup>, Recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2014)6 of April 16, 2014 "Guide to human rights for Internet users" ("Guide to human rights for Internet users")<sup>26</sup>, as well as the Strategy of the Council of Europe on the rights of the child for the period

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наук.-практ. семінару (м. Дніпро, 5 листоп. 2021 р.). Дніпро : Дніпроп. держ. ун-т внутр. справ, 2022. С. 57–59.

<sup>21</sup> Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entered into force on 2 September 1990, in accordance with article 49. URL: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>22</sup> Ibid.

<sup>23</sup> Convention on Cybercrime (ETS № 185). Budapest, 23/11/2001, entry into force 01/07/2004. URL: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185>

<sup>24</sup> Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS № 189). Strasbourg, 28/01/2003, entry into force 01/03/2006. URL: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/189>

<sup>25</sup> Report of the 2014 day of General discussion "Digital media and children's rights". Committee on the rights of the child. URL: [https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD\\_report.pdf](https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD_report.pdf)

<sup>26</sup> CM/Rec(2014)6 on a Guide to human rights for Internet users. Adopted by the Committee of Ministers on 16 April 2014 at the 1197th meeting of the Ministers' Deputies. URL: <https://rm.coe.int/16804d5b31>

2016–2021<sup>27</sup>. In particular, paragraph 56 of the Strategy states that, in accordance with the recommendations issued by the UN Committee on the Rights of the Child, all children should have the opportunity to have safe access to information and communication technologies and digital media, as well as have the opportunity to fully participate, express their opinion, seek information and enjoy all rights enshrined in the UN Convention on the Rights of the Child and optional protocols to it without any discrimination<sup>28</sup>.

In developed democracies, norms and prohibitions have been adopted regarding the dissemination of information that can negatively affect the process of forming the moral development of minors. In the Federal Republic of Germany, for example, the limits of the right to freedom of the press and freedom of information disseminated by radio, press, and television have been established. These rights are limited by general laws, in particular, the provisions of the law on youth and the right to protect honor and dignity.

In 1953, the German Bundestag passed the Law “On the Distribution of Materials Harmful to Young People”, which was designed to protect the interests of the younger generation. The law provides for the creation of a corresponding state structure – the Federal Department for the Inspection of Materials Harmful to Youth. The members of this department are considering the issue of adding to a special list materials harmful to the younger generation, namely: books preaching international enmity; video films promoting cruelty and violence; computer games glorifying war or racism.

The Criminal Code of Germany provides punishment for the sale of pornographic materials to persons under 18 years of age, and also prohibits the publication of offers, advertising of pornography and the sale of such materials in places to which minors have access.

In Great Britain, there are also legal acts on the protection of minors and minors from the harmful influence of mass media. To this end, the British Board of Film Classification classifies film and video films according to the age of the audience. The UK Video Recordings Act (1984), which was passed by public demand, requires the British Board of Film Classification to pay particular attention to the likelihood of a product being viewed in the home and to an appropriate age audience and to consider the likelihood of dangerous behavior by viewers after viewing. In most cases, there is concern about harm after viewing products by young children or teenagers.

The policy of the Committee is aimed at limiting the possibility of causing harm by the distribution of motion pictures by means of age classification. In some episodes, materials may be cut, and in some cases

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<sup>27</sup> Council of Europe Strategy for the Rights of the Child (2016–2021). Adopted in Sofia in April 2016. URL: <https://www.coe.int/en/web/children/children-s-strategy>

<sup>28</sup> Ibid.

the Commission refuses to carry out classification, such films are not shown in cinemas and on television.

Britain's Motion Picture Act (1937) prohibits the showing of animal cruelty, and the Child Protection Act (1978) prohibits the showing of indecent images involving children under the age of 16. For such violations, the court may order a fine or imprisonment, or apply both punishments at the same time.

The UK Office of Communications develops standards to protect the public from illegal and harmful information that encourages offences, etc., and publishes the Broadcasting Code, which contains the following requirements:

- prohibition of showing materials harmful to children until 9:00 p.m. for public television and until 8:00 p.m. for pay TV channels;
- Mandatory warning – programs containing information that may harm children and adolescents must include an audio warning superimposed on the screen before and during the show;
- complete exclusion from programs intended for children: scenes of violence, rude expressions or swearing; demonstrations of actions that are dangerous to the life and health of children, alcohol, drug and smoking use.

Since 2008, the UK Council for Child Internet Safety (UKCCIS) has been operating in the United Kingdom, whose mandate is to develop a strategy for ensuring the safety of children on the Internet, conduct research in this direction, provide recommendations to companies – Internet providers, develop practical guidelines, promoting public awareness of online child safety, etc.

The following internet content filtering mechanisms are in place in Great Britain:

- blocking at the level of the communication operator access to sites that contain indecent images of minors or contain information that incites international enmity;
- established self-regulation standards (network or local filtering of Internet content for minors) by communications operators (Home Office Taskforce on Child Protection on the Internet);
- a mechanism for classifying commercial content by mobile operators (Code of Practice on New Form of Content).

UK law requires internet service providers to publish declarations of whether they are taking steps to block access to internet sites containing indecent images of children. Rejection of voluntary mechanisms of self-regulation of the circulation of illegal information and information undesirable for children entails legal responsibility.

In France, in order to ensure the safety of children in the information space, providers of access to the Internet network are legally obliged to inform their subscribers about the availability and operation of free software

that allows you to set “parental controls” and filter content that can be downloaded via the network Internet. Parental control programs are also offered free of charge for television and mobile phones. Relevant information and educational campaigns are carried out by the state in educational institutions, on radio, television, with the help of social advertising. Since 2001, the state has maintained a website that provides information on cyber risks, advice for parents and youth, and the ability to report, if desired, anonymously, content that may harm minors. Such reports are transmitted to the Central Office for the fight against crime related to information and communication technologies, which is a structural unit of the French police and fights cybercrime. The operation of this site is under the jurisdiction of the French Ministry of the Interior.

In the country, there is criminal responsibility for knowingly providing minors with pornographic, racist content or with scenes of violence. Incitement to suicide, including through the Internet, involves criminal prosecution and punishment. If such inducement concerns minors, it becomes an aggravating factor when choosing the measure of punishment.

The US experience deserves attention. Under President Reagan, there was a policy of “liberalization” of the mass media, which lifted many bans on information harmful to children. The American public paid attention to the fact that mass media provokes an increase in crime, especially among minors, so the Americans returned to their previous positions in the field of information security.

Ensuring the safety of children in the information space and countering television, mobile and computer addiction are part of the general US policy in the fields of cyber security and health care, which is based on the approach of raising public awareness and stimulating relevant social educational programs. The “Stop.Think.Connect” campaign is considered the main integrating program of the federal level in this area, which was developed and implemented in 2010 by the US Department of Homeland Security.

The key goal of the campaign is to comprehensively increase the awareness of different categories of the population about the risks to personal safety of a person when using various means of communication and using the Internet.

The goals of the campaign are defined as:

- making people understand the concept of cyber security and its place in the system of national security and personal security;
- involvement of the American public, the private sector, state and local authorities in joint efforts to strengthen cyber security;
- dissemination among the public of mechanisms and strategies for ensuring the safety of the individual, family, and community when using the Internet.

Since 2000, the United States and Canada have banned the sale of televisions that do not have a special coding tool that allows parents to program the television to receive programs based on their age classification.

In Japan, the National Association of Commercial Broadcasters (NAB) and the Broadcasting Standards Board have developed a document requiring that certain programs are not suitable for minors to be warned by subtitles during the showing of such programs, as well as in pre-comments in print media and on Internet pages. Japanese TV and radio journalists are required to issue such warnings if the program contains scenes of sex and violence<sup>29</sup>.

### **3. The experience of the countries of the world in countering bullying by means of an administrative and legal nature**

The problem of children's bullying (harassment) increases from year to year, and it is increasingly possible to observe the disappointing consequences of ignoring violence in society<sup>30</sup>. Children are not immune from bullying even in the most progressive countries of the world. Bullying (harassment) – actions (actions or inaction) of participants in the educational process, consisting of psychological, physical, economic, sexual violence, in particular, with the use of electronic communications, committed against a minor or a minor and (or) by such a person against others participants in the educational process, as a result of which damage to the mental or physical health of the victim could be or was caused<sup>31</sup>.

In contrast to Ukraine, in many countries the phenomenon of bullying is reduced to minimal manifestations. There, the bullying stops at the very beginning. Thus, in 2006, the anti-bullying program KiVa (abbreviation of the Finnish term “against bullying”) was developed at the University of Turku in Finland for students aged 7 to 15 years. The program has three different age-specific versions (7–9, 10–12 and 13–15 years) and consists of two types of activities: universal activities and specific activities. Each school has a KiVa team, which includes teachers and staff, including school counselors and psychologists, who have received special training in the

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<sup>29</sup> Безпека дитини в інформаційно-комунікаційному просторі. Щорічна державна доповідь про становище дітей в Україні за підсумками 2016 року / Держ. ін-т сімейної та молодіжної політики. Київ, 2017. С. 94–97.

<sup>30</sup> Буллінг: детская жестокость URL: [http://www.tagilib.ru/readers/"/ot\\_20\\_and\\_starshe/meropt/bulling.php](http://www.tagilib.ru/readers/)

<sup>31</sup> Опацький Р. М., Кабаненко А. М. Булінг: причини виникнення та протидія. *Актуальні проблеми ювенальної деліктології*: матеріали Всеукр. наук.-практ. семінару (м. Дніпро, 5 листоп. 2021 р.). Дніпро: Дніпроп. держ. ун-т внутр. справ, 2022. С. 73–75; Миролюк Р. В. Ефективність адміністративної відповідальності за булінг. *Актуальні проблеми ювенальної деліктології*: матеріали Всеукр. наук.-практ. семінару (м. Дніпро, 5 листоп. 2021 р.). Дніпро: Дніпроп. держ. ун-т внутр. справ, 2022. С. 143–146.

KiVa program. Such a team investigates cases of bullying or similar events. When a conflict situation arises at school, the adult who first hears about it determines whether it is bullying. If necessary, the KiVa team is involved. A bullied student discusses the situation with other bullies. The team also organizes a discussion with the rest of the children. The teacher meets with several of the victim's classmates and encourages them to support the victimized child. Work is also carried out with the bowler in order to make them aware of their behavior and to change it.

The universal activities of the KiVa program are quite extensive, many people are involved in their implementation. During the academic year, a course of special lessons is held for students at different levels of education for individual age groups. These are 10 lessons lasting 45 minutes each. The lessons cover such topics as: respect for others, recognition of people's differences, recognition and regulation of emotions, identification of bullying, constructive actions if you witness bullying.

A very interesting anti-bullying measure is the special computer game KiVa. Children play it in thematic lessons, during breaks or at home. During the game, schoolchildren become participants in virtual stories that allow them to see the consequences of certain actions or, on the contrary, inaction. The universal or preventive KiVa program also works with parents. In particular, school-wide and class parent meetings devoted to the prevention of bullying are held regularly. A website has been created especially for parents, which contains general information on this topic and information on specific cases. School management and representatives of the KiVa team are in constant contact with parents of children who have already been in bullying situations or are potential participants. Much attention is paid in the program to training coaches and school staff in the skills of handling and responding to bullying situations, as well as countering it<sup>32</sup>.

The so-called "Farst Method", which consists in creating special "anti-bullying" teams of students and teachers in schools, whose task is to protect other students from the first to the ninth grade, has become a fairly effective way of combating bullying in Sweden. Schoolchildren with leadership qualities are selected for such teams and assigned to them several subordinates from the younger classes. Each "leader" should approach the students entrusted to him at least once a day, find out if everything is okay and make it clear that he is ready to help in solving bullying problems<sup>33</sup>.

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<sup>32</sup> Верховна рада схвалила антибулінговий закон. URL: <http://ukrainepravo.com/news/ukraine/verkhovna-rada-skhvalyla-antybulingovyy-zakon>

<sup>33</sup> Проект Закону про внесення змін до деяких законодавчих актів України щодо протидії булінгу. URL: [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64402](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64402)

The most effective anti-bullying program was recognized as the Norwegian nationwide program by Dan Olweus. The secret of success lies in a systematic approach to the problem of bullying: psychologist and scientist Dan Olweus insists on the importance of working with the whole set of social roles: the so-called “bullying circle” consists not only of the victim and the aggressor, but also supporters and passive observers. This program is based on principles that provide for the creation of a warm and positive school (ideally – and home) environment and emphasizes not on punishment, but on encouraging peaceful coexistence with firm frameworks and restrictions on unacceptable behavior.

The implementation of a complex of informative and advisory, diagnostic, corrective and organizational actions involves three levels: school-wide, group (class level) and individual. According to the decision of the Norwegian government, the D. Olweus program was included in the implementation in all schools as mandatory.

There are a significant number of correctional programs in the world. For example, only in Great Britain there are more than 200 correctional programs, in France – 30, in Germany – 56, in Spain – more than 70, and 40 of them are designed for people who are serving sentences for committing domestic violence. There are 67 programs for offenders in Israel. 2,265 such programs have been implemented in the United States. Each state has an average of 42–45 programs, with the largest number concentrated in the Northeast. A similar situation is observed in many other countries. Almost all programs for working with domestic abusers are designed for men, with the exception of Switzerland, where there are 8 specialized programs for female offenders<sup>34</sup>.

By the way, in schools in Sweden and Norway, at the beginning of each academic year, a tripartite contract is concluded, which is signed by the student (even a first-grader!), parents and the school administration. The purpose of this agreement is to prevent unacceptable and aggressive behavior at school.

Thus, every student is warned that he has no right to threaten other students with words or deeds, to cause physical or psychological harm to classmates, to damage their property. Otherwise, the school specialist and the school director have the right to report the culprit to the police at the first opportunity, and their parents will be fully responsible for the

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<sup>34</sup> Стан системи попередження насильства в сім'ї в Україні: правові, соціальні, психологічні та медичні аспекти / В. М. Бондаровська, О. О. Кочемировська, Г. М. Лактіонова та ін. ; за заг. ред. О. О. Кочемировської. Київ : Клименко Ю. Я., 2010. С. 111.



children's behavior. In addition, parents undertake to solve problems of this kind together with school psychologists<sup>35</sup>.

Delvin Tatum's program is implemented in Great Britain, similar in many respects to D. Olveus's development, which includes three stages: crisis management, intervention and prevention. Every week in British schools there is a Personal and Social Education lesson, during which, among other things, interpersonal problems in the classroom are discussed. Many schools have developed special maps (most often online maps) on which children mark the places where bullies molested them. As this map is updated, teachers patrol new dangerous locations. Very often, schools themselves organize self-help groups, where older students who have faced bullying tell younger students how to overcome it.

According to the law (Education and Inspections Act), all public schools must have a statute regulating rules and measures to prevent bullying among students. Teachers, students and their parents must be aware of this document. In addition, according to the Equality Act, school employees are obliged to prevent bullying. If a complaint is received, the offender is punished based on the seriousness of his actions – from disciplinary measures to police reports. Each school has clear sanctions against aggressors, up to expulsion from the school. In some elementary schools, a so-called “school court” is organized, where a commission consisting of representatives of schoolchildren and teaching staff examines complaints about bullying and determines the “measure of punishment”.

In Great Britain, the representative of Facebook joined the fight against bullying in cyberspace, organizing the work of “responsible for the Internet” at each secondary school, and in 2014, in cooperation with Yale University, Facebook launched a special online project “Center for the prevention of bullying”. In turn, the Prince William Foundation announced the launch of a project that teaches children aged 11–16 how to combat online bullying<sup>36</sup>.

In Canada, fines can be imposed even on witnesses of bullying who did not tell about it to the responsible persons or those who can intervene in the situation. Also, in accordance with the federal law “On Educational Institutions” (2011), every school must hold annual Bullying Awareness Week and organize anti-bullying training. In 2015, the Canadian Federal Criminal Code was updated to include cyberbullying as an offence. It is important that in Canada methods of early psychodiagnosis of children's

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<sup>35</sup> Закон про булінг передбачає чіткі алгоритми дій, – Гриневич. URL: <http://osvita.ua/school/62936/>.

<sup>36</sup> Дети, «вооруженные» Конституцией: зачем нужен закон о буллинге. URL: <https://www.segodnya.ua/ukraine/deti-s-konstituciey-v-zubah-zachem-nuzhenzakon-о-bullinge-1199390.html>; Издательства в японских школах: пути решения проблемы. URL: <https://www.nippon.com/ru/currents/d00290/>

aggressiveness are widely used, which allow predicting and partially correcting the future behavior of a potentially problematic child<sup>37</sup>.

Japan took quite a long time to recognize the problem of bullying at the legislative level. The reason for this was the cultural specificity of the country – bullying has always been perceived by the Japanese as a completely acceptable phenomenon in the school environment (first of all, we are talking about boys, since girls have not gone to school for a long time). Yes, it was believed that the bullying of peers should harden the character, and therefore it was humiliating and shameful to complain about such actions from the side of classmates. It was assumed that a person who is unable to cope with bullying on his own will not be able to protect his loved ones or his homeland in the future. The first law on the development of bullying prevention measures was adopted in 2013. Today, current law requires school administration to report serious cases of bullying to the police. At the same time, educational institutions should form an effective organizational structure to combat bullying at school, in particular, the creation of a special commission to investigate the causes and consequences of unfortunate incidents, as well as the development of a school policy on the prevention of bullying, is foreseen. In addition, the authorities order regular monitoring of social networks and other Internet platforms for online bullying of children<sup>38</sup>.

In the US, no federal law directly addresses bullying, but the issue is partially reflected in the main provisions of “discrimination” laws that prohibit bullying based on race, national origin, color, sex, age, disability, or religion. All states have their own anti-bullying laws, each of which implements local policies to address this problem. Relevant laws and regulations governing various aspects of the issue focus on both individual and school responsibilities for security, giving due consideration to issues of anonymity and confidentiality. The peak period for the development and implementation of anti-bullying laws in the United States was between 1999 and 2010, when state legislatures introduced or amended more than 120 bills addressing bullying and related behaviors. In 2011, the US Department of Education developed a conceptual framework for evaluating anti-bullying laws and policies in 46 states, based on a series of studies and a report analyzing the legal content of practices to present best practices. A key challenge was to identify those states where the implementation of the laws resulted in a significant reduction in bullying in practice. The improvement of the existing legislation continues. Since 2010, the US

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<sup>37</sup> Буллингу здесь не место: что это за явление, как с ним борются в Великобритании и куда обращаться за помощью. URL: <https://angliya.com/2018/06/06/bullingu-zdes-ne-mesto/>

<sup>38</sup> Школьное насилие: буллинг и хейзинг. URL: [http://www.academy.edu.by/files/29052013\\_Scholnoe%20nasikie.pdf](http://www.academy.edu.by/files/29052013_Scholnoe%20nasikie.pdf)

Department of Education has been publishing special “Dear Colleague Letters” – strategies for teachers detailing the responsibilities of public schools in the direction of implementing antibullying policies. All information about relevant state and local laws is available on the federal anti-bullying website at [www.StopBullying.gov](http://www.StopBullying.gov)<sup>39</sup>.

In 1966, all US states passed laws requiring citizens to report child abuse, confirming that child abuse continued to be a serious social problem. Further steps of the American government in this direction were embodied in the Federal Law “On the Prevention of Violence against Children”, adopted in 1974. In accordance with this law, the US National Center on Child Abuse was established within the Department of Health, Education, and Welfare.

Poland’s experience with the introduction of the “Blue Cards” procedure is noteworthy, according to which a district police officer keeps a collection folder for each family in which violence has occurred, where any documents that shed light on the circumstances of the case are accumulated. Therefore, in case of repeated violence, the Polish police officer has all the necessary information about the situation in the family and better understands how he can help the victim of domestic violence. In addition, the creation of a 24-hour telephone “blue line”, which can be used to immediately notify the police in case of domestic violence, should be considered a positive experience of Poland, as a result of which the police together with the prosecutor’s office immediately take actions to eliminate the threat<sup>40</sup>.

Positive for implementation is the experience of Latvia, which introduced the practice of protective orders that limit the rights of parents: communication with the child, access to places where the child is often<sup>41</sup>. In order to improve the response to incidents of domestic violence, the Latvian police cooperates with non-governmental organizations that conduct training for police officers on domestic violence situations. As in most countries of the European Union, in this country, in the case of domestic violence, the approach of removing the person who committed the violence from the family is used, i.e. the offender, who is forcibly placed in so-called social hostels, where he undergoes a correctional course.

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<sup>39</sup> Буллинг: детская жестокость URL: [http://www.tagilib.ru/readers/"/ot\\_20\\_and\\_starshe/meropr/bulling.php](http://www.tagilib.ru/readers/)

<sup>40</sup> Міжнародний досвід попередження та протидії домашньому насильству : монографія / А. О. Галай, В. О. Галай, Л. О. Головка та ін. Київ : КНТ, 2014. С. 109.

<sup>41</sup> Насильство в сім’ї та діяльність органів внутрішніх справ щодо його подолання : навч.-метод. посіб. для курс. вищ. навч. закл. МВС України / А. В. Запорожцев, А. В. Лабунь, Д. Г. Заброда та ін. Київ, 2012. С. 108.

## **CONCLUSION**

Thus, the above-mentioned foreign practice of administrative and legal protection of children indicates the multifaceted forms and methods of state-authority influence on the sphere of organization of conditions for the full implementation of the rights provided for by the law. The analysis of the considered forms of administrative and legal protection of the rights of the child, which are used by other states, confirms the clear social orientation of the functioning of all branches of the state apparatus, the focus on the priority of ensuring the rights of the child in the state policy system. The generalization of the foreign experience of administrative and legal protection of the rights of the child proved that the system of ensuring a safe childhood is inextricably linked and complemented by the activities of civil society institutions, which are engaged in monitoring the level of protection of children's rights and formulating proposals for state authorities to improve the state of state protection of the legal status of the child. The use of foreign experience in the administrative and legal protection of children's rights proved the feasibility of: increasing the level of prevention of social orphanhood through the introduction of targeted social services at the level of the territorial community to families with children who need social support; development of family forms of raising orphans and children deprived of parental care; introduction of an effective system of bringing to administrative responsibility parents who improperly perform parental duties; introduction of elements of juvenile justice – specialized judges in family cases in general courts, specializing in handling cases regarding the resolution of disputes between parents about participation in the upbringing of a child, the place of his residence, the appointment of alimony, the establishment of guardianship/care, adoption, deprivation of parental rights or removal of a child without depriving parents of parental rights, etc.

## **SUMMARY**

The scientific work examines the experience of foreign countries in the field of administrative and legal protection of children from violence. The multifaceted forms and methods of state-authority influence on the sphere of organization of conditions for the full realization by children of their rights and legitimate interests provided for by the legislation of other countries are emphasized. The generalization of the foreign experience of administrative and legal protection of the rights of the child proved that the system of ensuring a safe childhood is inextricably linked and complemented by the activities of civil society institutions, which are engaged in monitoring the level of protection of children's rights and formulating proposals for state authorities to improve the state of state protection of the legal status of the child. The use of foreign experience in the administrative and legal protection of children's rights proved the

feasibility of: increasing the level of prevention of social orphanhood through the introduction of targeted social services at the level of the territorial community to families with children who need social support; development of family forms of raising orphans and children deprived of parental care; introduction of an effective system of bringing to administrative responsibility parents who improperly perform parental duties; introduction of elements of juvenile justice – specialized judges in family cases in general courts, specializing in handling cases regarding the resolution of disputes between parents about participation in the upbringing of a child, the place of his residence, the appointment of alimony, the establishment of guardianship/care, adoption, deprivation of parental rights or removal of a child without depriving parents of parental rights, etc.

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