



Research Article

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International norms and standards for juvenile justice

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Abstract

The evolution of international regulation in the field of protection of children's rights has its first beginnings as early as 1924, with the adoption of the Declaration on the Rights of Children. Ordinance for the benefit of children, also known as the Declaration of Geneva. "The delinquent child must be saved" is the rule from this document which emphasizes the need for special treatment, care and assistance of the child who has crossed the limits of legal and social norms as well as behavioral rules. It is clear that the violation of children's rights is the most serious form of violation of human rights, and that a state cannot be called democratic if it does not proclaim and guarantee these rights.

The norms provided for in international conventions are in the spirit of special care and protection, assistance and containment of minors. International conventions have imperative importance for the states that have signed them, and the international community develops a permanent activity in order to adequately implement the norms of international conventions by the signatory states. The purpose of this paper is to emphasize, through descriptive and normative legal methods, the importance of international legal acts in the advancement of children's rights at the national and international level.

Keywords: juvenile justice, international norms and standards, children right.

1. Introduction

Over time, it has become clear that the problem of juvenile delinquency, the protection of children from various forms of misuse and abuse that are applied to children by different persons or institutions is not only a problem that affects the states at the national level and has only to do with certain countries, but this is a comprehensive problem and issue and it affects countries everywhere in the globe. Constantly, various institutions and organizations at the international level have made and are making efforts to find the most suitable tools, ways and methods for protecting children from different forms of mistreatment and abuse. It is clear that the violation of children's rights is the most serious form of violation of human rights, and that a

state cannot be called democratic if it does not proclaim and guarantee these rights. There are many international conventions on juvenile justice, the norms of which guarantee many aspects of children's rights and which provide efficient mechanisms for their application in practice.

The evolution of international regulation in the field of protection of children's rights has its first beginnings as early as 1924, with the adoption of the Declaration on the Rights of Children Ordinance for the benefit of children, also known as the Declaration of Geneva. "The delinquent child must be saved" is the rule from this document which emphasizes the need for special treatment, care and assistance of the child who has crossed the limits of legal and social norms as well as behavioral rules (Kambovski & Velkova, 2008).

As international conventions on children's rights, we can mention: the Convention on the Rights of the Child, approved by the UN General Assembly - on November 20, 1989, the Optional Protocol to the Convention on the Rights of the Child, which deals with the sale of children, child prostitution and child pornography, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, the Worst Forms of Child Labor Convention (182) 1999 of the International Labor Organization, Convention on Relations with Children, Convention on the Civil Aspects of International Child Abduction, Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Relation to Parental Responsibility and Measures for the Protection of Children, Convention on protection of children and cooperation for adoptions abroad, etc.

The norms provided for in international conventions are in the spirit of special care and protection, assistance and containment of minors. International conventions have imperative importance for the states that have signed them, and the international community develops a permanent activity in order to adequately implement the norms of international conventions by the signatory states (Kambovski, 2006).

With the ratification of conventions and protocols, states are obliged to implement them in national legislations and implement them in practice. The request for reinforced affirmation is also submitted for rules, directions and ordinances that do not have a binding effect, but whose purpose is to define certain minimum standards, with which the criminal policy of the state is influenced and during the determination of criminal-legal solutions, that are closer to the goals proclaimed in them (Kambovski & Velkova, 2008).

2. Convention on the rights of the child

The Convention on the Rights of the Child adopted by the UN General Assembly, in its preamble, states that in accordance with the Universal Declaration of Human Rights, the child has the right to special care and support and that the child must be fully prepared to lead an individual life in society and be educated in the spirit of the ideals proclaimed in the Charter of the United Nations and especially in the spirit of

peace, dignity, tolerance, freedom, equality and solidarity. The need to give special protection to the child is affirmed in the Geneva Declaration on the Rights of the Child of 1924 and the Declaration on the Rights of the Child adopted by the United Nations on November 20, 1989 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of the agencies specialized and international organizations dealing with child welfare.

This Convention first of all contains a system of children's rights and emphasizes their interest as primary in all activities undertaken by public and private institutions, courts or other bodies, states have an obligation to protect and care for minors, which is inalienable for its development, giving importance to the mandatory rights of parents and other persons who are legally responsible for the minor (Kambovski & Velkova, 2008).

In this Convention, it is defined that a child is any human being under the age of 18, except in cases where the age of majority is reached earlier, in accordance with the legislation to which he is subject (Article 1). States parties to this Convention shall take all appropriate measures to ensure that the child is protected from all forms of discrimination or punishment and that in all decisions concerning the child, the best interest of the child prevails (Articles 2 and 3). States parties recognize that every child has the inalienable right to life and take all possible measures to ensure the child's survival and development (Article 6). The child has the right to have a name, the right to acquire citizenship, the right to know his parents, the right to preserve his identity including citizenship, surname and family ties without unlawful interference (Articles 7 and 8). The child is given the opportunity to be heard in any judicial or administrative procedure, freedom of expression, freedom of thought, conscience and religion, freedom of organization and freedom of peaceful assembly are guaranteed (Article 12 para. 1, Article 13 para. 1, Article 14 paragraph 1 and article 15 paragraph 1).

According to this Convention, children are also protected from possible arbitrary or illegal interference in their private life, family, home or correspondence and from illegal attacks on their honor and reputation (Article 16 para. 1). According to this Convention, children are protected from any form of physical or mental violence, insult or abuse, abandonment or neglect, exploitation, including sexual abuse (Article 19 paragraph 1). This Convention also contains provisions related to the education of children, their protection from any form of sexual exploitation and abuse, from the use of narcotic drugs and psychotropic substances, not allowing children to be used for the production and trafficking of these substances, as well as regarding employment. of children a minimum size is determined. States parties to this Convention shall ensure that no child shall be subjected to torture, cruel, inhuman or degrading treatment or punishment. The death penalty and life imprisonment should not be imposed on persons under the age of 18 for breaking the law. A child shall not be

unlawfully deprived of his liberty and the arrest, detention or imprisonment of a child shall be used as a last resort, for the shortest possible time and in accordance with the law. Children deprived of their liberty must be separated from adults and be allowed to maintain ties with their families, as well as be offered legal aid and the possibility of contesting the decision to deprive them of their liberty before a competent, impartial and independent court. independent. States parties must respect the rules of international humanitarian law relating to children in armed conflict and ensure that no child under the age of 15 is recruited into the armed forces.

This Convention also contains procedural provisions related to the suspicion or accusation of the child for violating the criminal law. States Parties strive to promote the creation of special laws, procedures, bodies and institutions for children who are suspected, accused or assessed to have committed violations of criminal law.

In the second part of this Convention, there are articles that define the creation of the Committee which aims to examine the fulfillment of the obligations assumed by the party states. The Committee is composed of 10 experts of high moral standing and recognized as competent in the field dealt with by this Convention.

3. Conventions and other international documents

The guarantee and protection of the rights of minors is also defined in other international conventions. Various conventions such as: The Hague Convention of October 25, 1980 on the Civil Aspects of International Child Abduction, The Hague Convention of October 19, 1996 on Jurisdiction, Applicable Law, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the protection of children, Convention no. 182 "worst forms of child labor, 1999" of the International Labor Organization, etc., contain various aspects of the protection of children and the guarantee of their rights.

Norms related to the special criminal-legal protection of minors can also be found in the International Covenant on Civil and Political Rights of 1996, which provides for procedural guarantees, but in the case of separated and raised minors on the highest plane.

According to this Pact, accused minors must be separated from adults and their cases resolved as quickly as possible. Any judgment brought in criminal or civil proceedings must be public unless the interest of the minor requires otherwise or if it is a matrimonial or child custody dispute (Kambovski, 2006).

Regarding the involvement of children in armed conflicts and their recruitment in the armed forces, the UN General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child regarding the involvement of children in armed conflicts. Concerned by the harmful effect of armed conflict on children and the long-term consequences this has for peace, security and development, States Parties are convinced that an Optional Protocol to the Convention raising the age of recruitment of persons into the armed forces and the participation of their participation in combat

operations will effectively contribute to the implementation of the principle that the interests of the child must be taken into account in all actions related to children. This Protocol requires parties to a conflict to take every possible step to ensure that children under the age of 18 do not participate in hostilities.

With the ratification of this international document, the Republic of Macedonia accepted these provisions and integrated them into the legal system in the Defense Law. Namely, with Article 2 of the Law on Amendments and Supplements to the Law on Protection, Article 3 of the Law on Protection has been amended, by raising the age limit for military service from 17 to 18 years. The amendment of the Law means the integration of the international norms that emerge from the Convention on the Rights of the Child and the norms of the Palermo Protocol in the national legislation in the field of protection (Kambovski & Velkova, 2008).

The UN General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in order to expand the measures that States Parties should take to ensure the protection of children, children from selling, prostitution and pornography with them.

Also, in this Optional Protocol it is foreseen that the States Parties will take appropriate measures to protect the rights and interests of child victims of the practices prohibited by this Protocol in all stages of criminal proceedings.

In terms of the practical implementation of this important Protocol, the Government of R.N.M. in March of 2006 introduced the Strategy for the fight against human trafficking and illegal migration in the Republic of North Macedonia, in the context of which two action plans for the fight against human trafficking and illegal migration and the action plan for the fight against human trafficking of children were brought. These documents were prepared by the National Commission for the fight against human trafficking and illegal migration after many of North Macedonia in the European integration processes.

With the action plan, it is proposed to supplement Article 418 of the IPC, with the introduction of the provision that the trade in children exists even in cases where the child has voluntarily agreed to the trade, namely in sexual exploitation or another type of exploitation. With the amendments of the Criminal Code of 2008, trafficking in minors is criminalized as a special criminal offense (Article 418-g), (Kambovski & Velkova, 2008).

4. Directions and standards

Provisions on the rights of minors, apart from being provided in international conventions which at the moment of ratification have binding effect on the states that ratify them, also in other international documents that contain guidelines and standard rules, provisions on juvenile justice are included. Their nature consists not only in establishing strict imperative or prohibitive norms, but in defining certain minimum standards with which to influence the criminal policy of the state and in

finding the most adequate criminal-legal solutions that are closer to the proclaimed goal. The establishment of international standards for criminal law for minors is intended to bring them closer, if not to eliminate the existing differences in criminal legislation (Kambovski, 2006).

Such documents have been approved by the UN and the Council of Europe. The UN General Assembly – adopted the Beijing Rules on November 29, 1985, the Riyadh Rules for the Prevention of Juvenile Delinquency and the United Nations Rules for the Protection of Juveniles Deprived of Liberty, adopted by General Assembly Resolution of December 14, 1990, otherwise known as the Havana Rules.

The general provisions of the Beijing Rules stipulate that these Standard Minimum Rules shall apply without distinction to juvenile offenders. A juvenile offender is a child or young person who has committed a behavior that is defined as an offense and which is punishable by law and who is accused of having committed or is found to have committed an offence.

Given that the age of criminal responsibility varies widely in different countries, these rules stipulate that this age should not be too young, taking into account the facts of emotional, mental and intellectual maturity (4.1).

According to these Rules, the goal of juvenile justice must emphasize the welfare of the juvenile and the principle of proportionality, i.e. ensure that any response to juvenile offenders must always be proportionate to the circumstances of the offender and the offense (5.1). These Rules also provide for the main procedural guarantees such as the presumption of innocence, the right to receive notification of the charges, the right not to speak, the right to a defense lawyer, the right to have one parent or guardian present, the right to cross-examine witnesses, the right to appeal to a higher authority, the preservation of secrecy during all stages of the procedure and the preservation of private life.

In the second part of these Rules, it is determined how to deal with the minor during the investigation and development of the procedure against him, as well as the possibility of not opening a formal court session by the competent bodies where this is possible and based on the assessment of the competent bodies.

The Standard Minimum Rules have been deliberately worded in such a way as to be applicable by different legal systems and at the same time establish some minimum standards for the treatment of juvenile offenders under all juvenile designations and under all systems dealing with offenders. minor.

These rules and guidelines do not have a binding effect, but define certain minimum standards, with which the criminal policy of the state is influenced and during the determination of the most adequate criminal-legal solutions which are closer to the proclaimed goals, with the minimum repressive sanction behavior of children. In the last decade comes the increase in the importance of these instruments and the change in their nature: they increasingly evolve from political to legal documents that contain rules of the type of imperative and prohibitive norms (Kambovski & Velkova, 2008). The Riyadh Principles approved by the UN General Assembly on December 14,

1990 contain standards and measures for the prevention of juvenile delinquency. By investing in legal and social activities and adopting a humane orientation towards society and life, young people can develop non-criminogenic attitudes. These principles put a special emphasis on preventive policies facilitating the process of improving social relations and the integration of all children and young people, particularly through family, community, schools, professional training, work and through voluntary organizations. Adequate personal development of young people must be respected and they must be accepted as worthy partners in the process of improving social relations.

The sixth part of the Riyadh principles, which deals with legislation and the implementation of juvenile justice, which guides the conduct and application of laws and special procedures for the advancement and protection of the rights and interests of young people, by our aspect is especially important. It is estimated that with the introduction of the new codified juvenile legislation, the Juvenile Justice Law incorporates all the highlighted principles: humanity and softening of criminal sanctions, escape from stigmatization and criminalization, respect for the principle of presumption of non-trial, as well as the public prosecutor for children's rights.

The Riyadh principles are directed towards the realization of comprehensive and efficient social measures as well as activities such as protection from delinquent behavior of children and young people, based on the maxim: "the best criminal policy is a good social policy" (Kambovski & Velkova, 2008).

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty were approved by the UN General Assembly on December 14, 1990, otherwise known as the Havana Rules.

In addition to the Convention on the Rights of the Child and other rules and principles of juvenile criminal law, the Havana Rules are also based on the UN Minimum Standards for Non-custodial Measures, the so-called Tokyo Rules of 1990. According to these rules, communities must have an increased and strengthened commitment to the implementation of criminal justice, especially during the treatment of perpetrators, initially with non-custodial measures and the provision of other alternative measures, which will reduce the amount of imprisonment and rationalize the policy of criminal justice in terms of implementation of human rights.

The Havana Rules also foresee higher special standards, which must be elaborated in the national legislations. These Rules are based on the principle of limited and exceptional use of detention and sanctions consisting of deprivation of liberty (Kambovski & Velkova, 2008).

Here are defined the rules of action with young people under arrest or awaiting trial, the position of young people in penitentiary institutions, their rights in these institutions such as the right to education, professional training and work, the right to religious belief, the right in free time for the development of free activities, medical care, keeping in contact by phone or correspondence with the people he wants. The use of physical restraints and the use of force against minors is prohibited, except in

cases where, by order of the director of the institution, such measures must be used to prevent the youth from self-injury, injury to others, or damage to property. Disciplinary measures must contain the interest of safety and be understood as educational so that the young person has an easier socialization, while any disciplinary measures that include cruel, inhuman and degrading treatment are strictly prohibited. Competent bodies must undertake all measures to assist young people in their social and family life, education or employment after release.

The most important conventions, rules, guidelines and documents of the Council of Europe related to juvenile justice are based on and represent the superstructure of the European Convention on Human Rights of the Council of Europe and other international documents (Kambovski & Velkova, 2008).

Documents of the Council of Europe are: social response to juvenile delinquency of 1987, social response to juvenile delinquency of young persons from immigrant families of 1989 and European rules on sanctions and community measures of 1992. These resolutions present further processing of UN international documents, for specific European conditions and for countries - members of the Council of Europe and the European Union (Kambovski & Velkova, 2008).

Meanwhile, the Committee of Ministers of the EU has approved Recommendations for the social reaction of juvenile delinquency, where some requirements are highlighted, starting from the definition of special legal treatment of juveniles, as well as principles for the prevention of juvenile delinquency. This Recommendation is based on the need for special legal treatment of juvenile delinquency, and all measures that are pronounced and applied to juveniles have an educational character, considering that it is about people who are still developing, respecting the specifics of personality and their needs.

5. Conclusion

The analysis of international conventions, rules, recommendations and other documents leads to the determinants of the new model of juvenile criminal legislation as a preventive model, which removes minors from the general criminal legislation, and develops for them a complete system of separate and inclusive, in which priority is given to the right education, care and supervision of minors (Kambovski & Velkova, 2008). Such a definition is also observed in the Law on children's justice of the Republic of North Macedonia, in which it is determined the objectives of the Law and its application are realization of priority interest and protection of children from crime, violence and from any form of threat to their freedoms and rights and their proper development, protection of children perpetrators of acts that by law are provided as criminal acts and misdemeanors and from the return of such acts, their socialization, education and re-education, help and care for children and protection in the proceedings before the court and other organs of their freedoms and rights guaranteed by the Constitution of the Republic of North Macedonia, with the

Convention on the Rights of the Child and with other international agreements on the position of children, ratified in accordance with the Constitution of the Republic of North Macedonia.

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