

Мы полагаем, что для решения конкретных вопросов, связанных с защитой прав человека на практике, необходимо придерживаться позиции КМП, высказанной в комментариях к Проекту статей, в соответствии с которой вина в рамках права об ответственности государств является вопросом для толкования и применения первичных норм, нарушающихся в определенном случае, а не вторичных норм, определяющих в общих чертах элементы условия ответственности государства противоправные деяния.

Ответственность государств за нарушения основных прав и свобод человека базируется на общих принципах международно-правовой ответственности, имеющих обычно-правовую природу. В то же время, специфика международных обязательств в области прав человека накладывает свой отпечаток на правовые последствия нарушений этих обязательств. В частности, это, проявляется в том, что некоторые договоры о правах человека содержат специальные положения (*lex specialis*) (Гиони И. Международно-правовая ответственность государств за нарушение обязательств в сфере защиты прав человека в европейском праве: автореферат дис. ... канд. юрид. наук, М., 2010. — С. 32).

Исходя из вышеизложенного, можно сделать вывод, что говорить об «объективной» или «субъективной» ответственности государства можно будет исходя из конкретных обстоятельств дела, в частности, из содержания соответствующих первичных обязательств, в том числе касающихся защиты прав и свобод человека.

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RIGHTS OF YOUTH IN EUROPEAN CHARTER ON THE PARTICIPATION OF YOUNG PEOPLE IN LOCAL AND REGIONAL LIFE

Nowadays young people play an active role in a modern society. It is true to say that young generation forms the future of our world. So, protection of youth interests and rights is essentially important duty of a state and local authorities.

The President of the 68th Session of the UN General Assembly John Ashe said that youth should play an important role in shaping the global agenda in the sphere of development the period after 2015. He added that youth was one quarter of the entire population of the world and the guarantor of our future.

Youth is an important part of modern Ukrainian society, carrier of intellectual capacity, determinant of social and economic progress.

According to Art. 1 of the Law on Promotion Social Development of Youth in Ukraine (05/02/1993) young citizens are the citizens of Ukraine aged 14–35.

Young people do experience difficulties in the exercise of their rights by virtue of being young and that there are gaps in the protection of the human rights of youth. However, divergent views were expressed in regards to the need for an international instrument on the human rights of youth.

According to Executive summary and outcomes of the Expert meeting on the human rights of youth (25–26 July 2013) there was general agreement that «youth» could be viewed as a time of transition, from childhood to adulthood, from dependence to independence, but opinions differed concerning when this may occur.

One of the debates that continued throughout the meeting was how best to define «youth» in any document or action. While the UN age-range of 15 to 24 years is often used, it was pointed out that this was originally chosen purely for statistical purposes, and that it is important to undertake an in depth analysis to devise a correct definition in moving forward, instead of simply accepting the status quo.

Some participants encouraged a move away from a definition focusing purely on biological age, suggesting that «youth» is a culturally loaded concept, and will differ according to different communities, as well as in rural and urban contexts.

Rights of youth are rights that young people have due to having reached a specific age or sufficient maturity. Rights of youth have increased over the last century in many countries. There are many kinds of youth rights. They are right for proper education, for employment, for spiritual and physical development and plenty of others.

Rights of youth can be also understood as a creation of such conditions where young people would be fully accessed human rights and use social guarantees as adults.

One of the basic rights of young people is a right for participation in local and state life. Youth participation is not an end in itself, but a means to achieve positive changes in young people's lives and to build a better society. In recent years one can observe a growing number of initiatives promoting and strengthening youth involvement at very different levels — international, regional, national and a local one.

New tools have also been created for different actors working in this area. One of them is the revised European Charter on the Participation of Young People in Local and Regional Life, adopted in May 2003 by the Congress of Local and Regional Authorities of the Council of Europe.

The original charter was drawn up in 1992, but was substantially revised to take into account the rapidly changing political environment. The Charter

has been adopted by many European municipalities who have chosen to set up youth councils. The revised Charter was taken up by the Committee of Ministers of the Council of Europe in a recommendation. A number of European NGOs, such as the European Youth Forum actively support the Charter through their activities. It has been translated into eleven languages, plus a plain English version and manual entitled «Have your say».

Preamble of the Charter describes the importance of youth participation in local and regional life, the need to provide and protect the right for participation in local and regional life and the role of local and state bodies in this particular sphere. Preamble states that the active participation of young people in decisions and actions at local and regional level is essential if European countries are to build more democratic, inclusive and prosperous societies.

Additionally the Charter lists the principles of implementation of the right for participation in local and regional life. They are the following:

The participation of young people in local and regional life must constitute part of a global policy of citizens' participation in public life.

Local and regional authorities are convinced that all sectoral policies should have a youth dimension.

The principles and various forms of participation advocated in the Charter apply to all young people without discrimination.

The first part provides local and regional authorities with guidelines for how to conduct policies affecting young people in a number of areas. This part regulates youth participation in the next spheres: sport, leisure and associative life; employment and combat of unemployment; urban environment and habitat, housing policy, and transport; an education and training policy promoting youth participation; mobility and exchanges; health care; gender equality; access to culture; sustainable development and environment; combat of violence and crime; anti-discrimination policy; sexuality; access to rights and law.

The second part consolidates the duty of municipal authorities to train young people, keep them informed, provide them with means of communication, support their projects, and recognize and give a higher profile to young people's dedication to community causes and voluntary work.

Finally, the last part provides advice on how to provide institutional conditions for participation of young people. In order to carry out the sectoral policies set out in part one, local and regional authorities should undertake to put in place the appropriate structures or arrangements enabling the participation of young people in the decisions and debates affecting them. According to the third part such structures of youth participation as youth councils, youth parliaments, youth forums can be implemented.

European Charter on the Participation of Young People in Local and Regional Life is very important document in the sphere of rights of youth. However it contains only general provision and has a recommendatory character. So, it has to be further implemented into national legislation.