

ILYINA Y. P.

International Humanitarian University,
Associate Professor of the Department of International Law and
Comparative Law, PhD in Law

REALIZATION OF MAINTENANCE OBLIGATIONS ON THE CONTENT OF CHILDREN IN SOME EUROPEAN COUNTRIES

In the given theses foreign experience on collecting payments for the maintenance of the child on performance by parents of parental obligations on this issue is considered.

Key words: *alimony, maintenance obligations, parents, child maintenance, rights.*

Attention should be paid to the fact that in foreign countries the recovery of maintenance for the maintenance of a child is quite a significant and topical issue. However, approaches to understanding this extremely important issue have a different understanding in countries.

Alimony obligations were studied by such well-known and foreign scholars as V. Antoshkina, L. Afanasyev, L. Baranova, K. Verkhovets, G. Grishin, N. Ershova, O. Kalitenko, Yu. Kuznetsova, V. Nikitina, V. Trumpet, S. Fursa and others.

Alimony obligations of parents in relation to the maintenance of children are related to maintenance obligations of the first turn. In this context, the point of view of L.V. Sapeiko, which recognizes the advisability of borrowing Swedish experience in national legislation, where the right to alimony is provided only for children and spouses. In all other cases, the security is provided for a set of funds provided by way of social security of a person from the state [1, p. 87].

In order to avoid confusion with other obligations, the law provides for the term «alimony», denoting by this term only the content that one citizen undertakes to provide to the other due to family relations existing between them [2, p. 64]. In particular, the maintenance obligations of parents on the maintenance of their children is a legal relationship, by virtue of which parents are obliged to perform it taking into account a set of legal facts, one of which is the fact of the child's origin from the parents' data [3].

It should be noted that in fulfilling the maintenance obligations in many foreign countries, in particular in Italy and Switzerland, they are guided by the norms of the 1973 Hague Convention. «On the right to apply maintenance obligations» [4].

The said Convention applies to decisions rendered by a court or an administrative body of a contracting state for the maintenance of a child born both in marriage and out of wedlock: the recipient of the alimony and the alimony payer, or the alimony payer and the state body that collects reimbursement of funds paid to the alimony recipient.

Regarding to the legal regulation in Lithuania, it should be noted that family norms are part of the Lithuanian Civil Code [5], including the

maintenance obligations of parents to support the child. It is envisaged that children, to comprehend the age of majority, are subordinate to the power (Article 3.155 of the Civil Code of Lithuania). Parents have the right to conclude an agreement between themselves according to which parents agree on the maintenance of their minor children, the size and form of this content must be approved by the court (Article 3.193 of the Civil Code of Lithuania). According to Lithuanian law, the obligation to maintain a child rests with the parent who lives separately from the child.

Article 3.198 of The Lithuanian Civil Code provides that the maintenance of two or more children is paid in proportion to one of the parents, but some objective reasons for the increase in the collection rate, such as a child's illness, are taken into account.

Lithuanian legislation provides for one parent to go to court regarding the recovery of child support. In accordance with Art. 197 of the Civil Code of Lithuania, recovery of funds occurs through the pledge (mortgage) procedure, which can also be applied to the defendant in court. If the court's decision is not executed by the respondent, the maintenance of the child is paid in respect of the property that is the subject of the pledge (mortgage).

In accordance with the Agreement between Ukraine and the Republic of Lithuania on legal assistance and legal relations in civil, family and criminal matters of 07.07.1993. [6] does not provide for the existence of rules regarding the settlement of legal conflicts between parents and children. But, in the art. 28 of the Agreement it is established that in accordance with the legislation of the Contracting Party, where one of the parents with the child is, is determined by the legislation of that country.

A similar norm exists in the legislation of Georgia, namely, in the Law of Georgia «On International Private Law» [8] which stipulates that when performing parental responsibilities for maintaining a child, the place of residence of the child or the citizenship of the child is taken into account.

Another regulation is supposed by the civil law of Greece, namely art. 18 of the Civil Code of Greece [9], where it is established that the relationship between parents and child is determined by the following sequence:

- 1) according to the law of the country of the last general citizenship of the parents;
- 2) according to the law of the country of their last joint residence;
- 3) according to the law of the country of which the child is a citizen.

According to the results of this study, it can be concluded that according to the legislation of foreign countries there are certain peculiarities regarding maintenance obligations for the maintenance of a child. Of course, taking into account the experience of the states of the European Union is important for the further reform of the family law system in Ukraine.

References:

1. Family Law: Notary. Advocacy. Court: Science. Pract. manual : 2 books / For the community edit S.Ya. Fursi – K.: 2005 – 783 p.
2. Sverdlov G.M. Soviet family law / G.M. Sverdlov – M.: 1951. – 327 p.

3. Kostenko L. An agreement between parents on payment of maintenance for a child / L. Kostenko [Electronic resource]. – Access mode: <http://www.justinian.com.ua/article.php?id=1813>.
4. The Hague Convention of 02.10.1973. [Electronic resource]. – Access mode: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwie-_be-ZDiAhWtpIsKHXvwBXwQFjAAegQIBBAB&url=http%3A%2F%2Fdocs.cntd.ru%2Fdocument%2F901889339&usg=AOvVaw3_oGa8KobwjmNua0-cLzjy.
5. Code of Civil Procedure of the Republic of Lithuania of July 18, 2000 [Electronic resource]. – Access mode: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwj47a7Yh5jiAhXSwcQBHSq1BTYQFjAAegQIARAC&url=http%3A%2F%2Fwww.newyorkconvention.org%2F11165%2Fweb%2Ffiles%2Fdocument%2F%2F1%2F21088.pdf&usg=AOvVaw0nkf27ogMyOr_B7wLPtcQt.
6. Agreement between Ukraine and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters dated 07.07.1993. (The treaty was ratified by the Verkhovna Rada of Ukraine No. 3737-XII of 17.12.1993). Official Bulletin of Ukraine. 2006. – No. 47. – P. 234. – Art. 3170.
7. About private international law: Verkhovna Rada of Ukraine; Law of 23.06.2005. – No. 2709-IV [Electronic resource]. – Access mode: <https://zakon.rada.gov.ua/laws/show/2709-15>.
8. About International Private Law: The Law of Georgia [Electronic Resource]. – Access mode: <https://pravo.hse.ru/intprilaw/doc/050301>.
9. Civil Code of Greece from 1940. [Electronic resource]. – Access mode: <https://pravo.hse.ru/intprilaw/doc/040501>.

KISLITSYNA I. O.

National University «Odesa Law Academy»,
Assistant Professor of the Department of Judiciary,
Law Enforcement Agencies and Advocacy, PhD in Law

THE RIGHT TO PROTECTION AS A SIGN OF A FAIR TRIAL IN JUDGMENT OF THE EUROPEAN COURT OF HUMAN RIGHTS

The article researches the right to protection as one of the signs of a fair trial on the basis of the legislation of Ukraine and the practice of the European Court of Human Rights. On the basis of the decisions of the European Court of Human Rights, the importance of the right to protection is emphasized to comply with the rules of judicial review and the protection of human rights and freedoms in each state.

Key words: *the right to protection, court's judgement, trial, court, justice, European Court of Human Rights.*

The right to protection is one of the fundamental standards for criminal proceedings. The observance of this principle depends on the outcome of the pre-trial investigation of criminal proceedings and court proceedings.