

значајно обликује најбољи интерес детета и ограничава право детета на слободу вероисповести, нарочито у ваневропским правним оквирима.

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THE CHILD'S RIGHT TO FREEDOM OF RELIGION IN THE CONTEXT OF PARENTAL RESPONSIBILITY REGARDING CHILD'S RAISING AND EDUCATION

Summary

The right of the child to freedom of religion belongs to a group of child's participation rights that is of exceptional importance both in terms of child's development and in the context of the identity of a child. However, this right has less legal and practical scope than other child's participation rights. The basic reason for limited range of the child's right to freedom of religion is that the mentioned right is primarily exercised within the legal space in which parents exercise the right to raise and provide education to a child. Simultaneously, the right of the child to freedom of religion has external limitations set by the rights and interests of third parties, as well as the interests of wider social environment.

The child's right to freedom of religion comprises two distinctive elements which may be referred as internal and external element of the right. Thus, the internal element of the right includes freedom to have or to adopt a religion or belief of his/her choice. On the other hand, the external component of this right involves freedom to manifest his/her religion or belief in worship, observance, practice and teaching. The United Nations Convention on the Rights of the Child explicitly recognises only external element of the child's right to freedom of religion. That is why the content of this right should be primarily determined in the line with the European Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No. 1 to this Convention and International Covenant on Civil and Political Rights that offer more complete approach to the right to freedom of religion.

Generally, The UN Committee on the Rights of the Child is more reluctant to suggest stronger application of the child's right to freedom of religion at the expense of parental responsibility comparing to cases when other participation rights of a child are at stake. To be more precisely, the closer determination of this right is left to

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national legislations. Therefore, three different approaches to the scope of a child's rights to freedom of religion may be distinguished in terms of national laws. The first approach may be designated as paternalistic one since the child's right to freedom of religion is primarily subordinated to parental rights to raise and provide education to a child. Unlike this approach, dogmatic standpoint implies the existence of official and dominant religion where parents are obliged to raise their child in accordance with religious rules. From the child rights-based aspect, the most adequate standpoint is to adopt participatory approach where the child of certain age is empowered to fully exercise the right to freedom of religion.

Concerning parental rights to provide religious education to their children, it is important to consider case law of the European Court of Human Rights in respect to state interference with the one's right to manifest his/her religion or belief. It may be concluded that a state does not have a duty to provide educational program that will correspond to each and every parent's desire.

Key words: *child's rights, freedom of religion, freedom to manifest one's religion, parental rights, religious education, limitation of right.*