

# FAMILY RIGHTS AND CHILD INTERESTS: NON-JURISDICTIONAL APPROACHES IN UKRAINE AND EU LEGISLATION

## DIREITOS DA FAMÍLIA E INTERESSES DA CRIANÇA: ABORDAGENS NÃO JURISDICIONAIS NA UCRÂNIA E NA LEGISLAÇÃO DA UE

### VOLODYMYR VATRAS

Faculty of Law, Leonid Yuzkov Khmelnytskyi University of Management and Law, Khmelnytskyi, Ukraine.  
vatrasv@gmail.com

### ROMAN HAVRIK

Faculty of Law, Leonid Yuzkov Khmelnytskyi University of Management and Law, Khmelnytskyi, Ukraine.  
[gavrik.roman@gmail.com](mailto:gavrik.roman@gmail.com)

### OLEH OMELCHUK

Faculty of Law, Leonid Yuzkov Khmelnytskyi University of Management and Law, Khmelnytskyi, Ukraine.  
olegnik97@gmail.com

### MYKOLA STEFANCHUK

Academician F.H. Burchak Scientific Research Institute of Private Law and Entrepreneurship of the National Academy of Legal Sciences of Ukraine, Kyiv, Ukraine.  
[stefanchuk@gmail.com](mailto:stefanchuk@gmail.com)

### MARIIA LOHVINOVA

Department of Civil Law, Educational and Scientific Law Institute, Vasyl Stefanyk Precarpathian National University, Ivano-Frankivsk, Ukraine.  
[mariialohvinova@gmail.com](mailto:mariialohvinova@gmail.com)

**Received:** 18 Aug 2023

**Accepted:** 23 Nov 2023

**Published:** 12 Dec 2023

**Corresponding author:**

vatrasv@gmail.com



**Abstract:** The academic paper delves into the fundamental concept of the child's best interests, emphasizing its prevalence over adult interests in Ukrainian and EU legislation concerning the rights of the child's family. It stresses the need for a nuanced assessment of the child's needs, considering individual cases and involving the child's perspective. The article explores specific non-jurisdictional protection methods, focusing on mental well-being, education, safety, stability, and family relationships. Emphasizing the child's welfare, the study underscores the importance of preserving stable relationships and balancing parental rights with the child's best interests in family disputes. Protection of the child's family rights involves restoring violated rights and preventing future violations, ensuring the child's legal status and safeguarding their rights and interests.

**Keywords:** Non-jurisdictional protection. Family rights and interests of the child. Jurisdictional authorities. Family Code of Ukraine. Documents of the Council of Europe. Family members.

**Resumo:** O artigo acadêmico investiga o conceito fundamental do interesse superior da criança, enfatizando a sua prevalência sobre os interesses dos adultos na legislação ucraniana e da UE relativa aos direitos da família da criança. Salienta a necessidade de uma avaliação diferenciada das necessidades da criança, considerando casos individuais e envolvendo a perspectiva da criança. O artigo explora métodos específicos de proteção não jurisdicional, com foco no bem-estar mental, educação, segurança, estabilidade e relações familiares. Enfatizando o bem-estar da criança, o estudo sublinha a importância de preservar relações estáveis e equilibrar os direitos dos pais com os melhores interesses da criança em disputas familiares. A proteção dos direitos da família da criança

envolve restaurar os direitos violados e prevenir futuras violações, garantindo o estatuto jurídico da criança e salvaguardando os seus direitos e interesses.

**Palavras-chave:** Proteção extrajurisdicional. Direitos familiares e interesses da criança. Autoridades jurisdicionais. Código da Família da Ucrânia. Documentos do Conselho da Europa. Membros da família.

## 1. Introduction

In today's globalized world, safeguarding the rights of families and protecting the legitimate interests of children have transcended national boundaries. International and regional mechanisms play a pivotal role, shaping universal civilizational imperatives in this realm. The protection of children's rights, a milestone achieved through centuries of development, is not just acknowledged but firmly enshrined in numerous legal documents within the context of human rights. At the national level, a child is a central focus of family law, a socially oriented branch deeply ingrained in the legal systems of Ukraine and the European Union. This characterization of family law is rooted in the scholarly formalization of the concept of family as a social and legal institution (Kaplya, 2017).

The significance of this research is underscored by the global commitment of states to universally protect children's rights. This commitment finds expression in the widespread participation of UN member states in the Convention on the Rights of the Child and the overarching acknowledgment of the principle of the best interests of children at the national legislative level, exemplified by the Convention on Contact concerning Children (ETS No. 192). European Union nations are increasingly focusing on dismantling structural and legal barriers to enhance the well-being of children within their societies. National initiatives are reshaping legislation, prompting amendments to international legal agreements, and contributing to the progressive evolution of child protection policies.

This study delves into the enhancement of the legislative framework and policy strategies at the national level, particularly concerning non-jurisdictional protection of family rights and children's interests. These efforts stand as vital contributors to elevating the overall quality of life for children, as emphasized by Kot (2018). The transformative impact of globalization on the Ukrainian legal system is evident. It drives a concentrated effort toward safeguarding family rights and the welfare of children while aligning with European standards in the realm of child protection, as evidenced by the World Declaration on the Survival, Protection, and Development of Children. While extensive research has explored children's rights in scholarly circles, the growing importance of

this field is accentuated. The scientific approach serves as the cornerstone for shaping Ukraine's state policy in the realm of child protection, underlining the urgency and relevance of this study.

The purpose of the present academic paper is to study and analyze non-jurisdictional (out-of-court) methods of protecting family rights and children's interests provided for by the laws of Ukraine and the European Union, to identify their features, advantages and disadvantages, and to offer recommendations for their optimization and effective implementation in practice.

The research objectives are as follows:

- to analyze in detail the key modern theoretical and methodological concepts in the field of studying non-jurisdictional protection of the family's rights and interests of the child;
- to highlight the nature and key aspects of the principle of acting in the best interests of the child;
- to clarify the essence and features of non-jurisdictional protection of the family's rights and child's interests;
- to identify the major methods and means of ensuring the family's rights and interests of the child.

## 2. Literature Review

In the legal literature, the definition of the essence of non-jurisdictional methods aimed at protecting the rights of the child's family has long been one of the most controversial issues in the doctrine of family law. This is because not all scholars consider this method of protection and its application in family law as a sustainable way to stop, restore and prevent future violations of the right. During consideration, it is not deprived of the status of an independent method of protecting the right; it is quoted in various branches of law. For instance, Shelukhin et. al., 2021; Leko, 2017; and Shepit'ko, 2018 interpret this concept in family law as "independent actions of citizens and non-governmental organizations that are carried out without applying to the competent authorities".

Onishchenko, Lvova, and Suniehin, 2013, define non-jurisdictional measures of protection as "actions that are legal and aimed at protecting violated rights or recognizing legitimate interests". According to Nana, Ablamskyi 2020 and Venediktova 2014, non-jurisdictional protection in the context of the social and legal guarantee of motherhood and childhood is described as "a set of actions on the part of citizens, family members and civil society organizations to protect the rights and interests that they exercise independently, without applying to the relevant institutions". For

instance, Krestovska 2008, considering non-judicial protection through the prism of material legal relations of the family, points out that “non-judicial forms operate within the framework of indisputable material legal relations and are implemented directly by the participants of these relations”. This concept is significant because it emphasizes that the resolution of disputes under family law concerns not only adults but also children.

Melzer, 2016; Nalyvayko, and Verba, 2018 note in their scientific works: “In some cases, the legislator allows substitution of a non-judicial form of judicial protection. According to these authors, this approach is implemented based on the following scheme: family members have the right to settle the dispute themselves”. This opinion also deserves attention since judicial and non-judicial mechanisms for protecting family rights are interrelated legal categories, and even institutions that can replace and complement each other, while fulfilling this function, are combined.

For instance, Marochkin, 2002; Reshetnyk, 2014 state that “protection of rights and legitimate interests in the field of family legal relations is manifested in the following possible options: replenishment, substitution, combination; the first of which are implemented under the influence of the principles of imperativeness and disputativeness, the latter is exercised only from the beginning of freedom of expression”.

It is proposed to define non-judicial methods as “independent protection without the participation of a court using permitted physical impact on the offender (self-protection) or the use of legal measures of influence (termination of legal relations by unilateral refusal to perform in cases provided for by law or contract, suspension of the fulfilment of an obligation, etc.)”.

According to Kudriavtseva 2016, a family agreement is a typical example of family members’ interaction. As the author emphasizes, “a family agreement is a mutual agreement between family members that determines the exercise of personal rights and obligations or the procedure and methodology for fulfilling property obligations by one of the family members”. In this context, Zhurylo 2017 notes: “in situations where a person cannot effectively protect his or her rights, he or she has the opportunity to apply to the competent bodies that have the authority to make a decision binding on the parties to the dispute: it may be a court of general jurisdiction, an arbitration or reference court, a higher government body or an administrative institution”. This vision highlights the interaction between judicial and non-judicial methods of protecting family rights.

The discourse surrounding non-judicial methods in family law literature reveals a rich tapestry of perspectives, reflecting the multifaceted nature of family rights protection. The

literature navigates the nuances of individual agency, familial agreements, and the intricate relationship between jurisdictional and non-jurisdictional methods. While various definitions exist, they collectively illuminate the intricate landscape of family law, indicating the need for a nuanced and context-specific approach in understanding and implementing non-jurisdictional methods for protecting family rights.

### **3. Methods**

In this study, a multifaceted approach was employed to investigate non-jurisdictional methods of protecting family rights and the interests of the child in the legislation of Ukraine and the European Union. The research methodology involved historical-legal analysis, comparative analysis, systemic analysis, formal-logical analysis, and the dialectical method. Each method contributed to a comprehensive understanding of the subject matter.

The key stages of the development of non-jurisdictional protection of family rights and the child's interests were identified through historical-legal analysis. This approach provided valuable insights into the evolution of legal frameworks over time. Comparative analysis was conducted to study acts of civil procedure and family law in both Ukraine and the European Union. By comparing these legal documents, we gained a deeper understanding of the similarities and differences in the approaches taken by the two jurisdictions. Systemic analysis was employed to examine the fundamental legal regulations governing the protection of family rights in both Ukraine and the EU. This method allowed for a holistic evaluation of the legal frameworks, considering how different elements interact and influence each other. The formal-logical method was applied to analyze existing legal norms, including the Family and Civil Procedure Codes of Ukraine. This approach helped identify inconsistencies in the legislation and formulate recommendations for its improvement. The dialectical method was used to evaluate the dynamics and changes in the legal regulation of protecting family rights and the child's interests. This method allowed for a nuanced understanding of the challenges and opportunities within the legal frameworks of both Ukraine and the EU.

Furthermore, extensive literature reviews were conducted to contextualize the findings within the existing body of knowledge. Theoretical frameworks and scholarly perspectives were critically analyzed to enrich the understanding of non-jurisdictional methods and their effectiveness in protecting family rights. This multifaceted methodology enabled a comprehensive analysis of non-jurisdictional methods of protecting family rights in Ukraine and the European

Union. By triangulating legal analysis, qualitative interviews, and scholarly insights, this study provides a nuanced and holistic understanding of the topic, contributing valuable knowledge to the field of family law and child protection.

#### 4. Results and Discussion

##### *The legal framework of the EU states on the protection of family rights and the child's interests*

The EU's efforts to improve and protect human rights in its international human rights policy, particularly children's rights, are based on the Human Rights Guidelines, a solid regional foundation (United Nations, 2002). Over its more than 60 years of existence, the Council of Europe has developed standards, monitoring mechanisms, policies and awareness-raising programs that, when implemented, have proven to be extremely effective in children's rights (Charter of Fundamental Rights of the European Union). The Council of Europe's policy on children's rights is based on four main pillars: protection of childhood, prevention of violence, punishment of perpetrators of violence, and taking into account children's opinions (Consolidated version of the Treaty on European Union; Universal Declaration of Human Rights).

The most significant norms established by the Council of Europe in the field of children's rights belong to the group of legal documents of a binding nature. These include the European Convention on Human Rights and the European Social Charter. The main document of the Council of Europe on human rights, that is, the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), which deals with political and civil rights, does not mention children's rights. The first reference to children added to this convention was made in paragraph 5 of Protocol No. 7, which was adopted in 1984 (European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126); the European Code of Social Security (ETS No. 048); Towards an EU Strategy on the Rights of the Child. Communication from the Commission. Brussels, 4.7.2006 COM (2006)).

The European Social Charter is another core document of the Council of Europe, which sets out economic and social rights. The references to children's rights mostly relate to the right to protection in the workplace and protection from economic and social vulnerability; these issues are explained in paragraphs 7, 8, 16, 17, 19, 27, and 31.

The Council of Europe has also adopted several documents (treaties, contracts, agreements) on children's rights. They may be called upon to dispute violations of rights, in

particular: the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the European Convention on the Exercise of Children's Rights, the European Convention on the Legal Status of Children Born Out of Wedlock, the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, the European Convention on Nationality, the European Convention on the Repatriation of Minors, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS 201), the Convention on Action against Trafficking in Human Beings, the Convention on Cybercrime (the European Convention on the Legal Status of Children born out of Wedlock (ETS No. 085); the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children; the European Convention on the Exercise of Children's Rights (ETS No. 160).

For instance, the Council of Europe Convention on the Exercise of the Rights of the Child provides for specific measures that allow children to request their pre-trial execution. It legitimizes the need to provide children with information about guardianship, housing, the right of parents to communicate with their children, adoption issues, and protection from cruel or degrading treatment.

### ***Legislation of Ukraine in the field of protecting family rights and children's interests***

In the context of self-protection of civil rights, Ukrainian law has direct provisions. Although Article 18 of the Family Code of Ukraine does not directly refer to the possibility of self-protection of family rights, this possibility can be deduced from analyzing Article 8 of the Family Code of Ukraine. This article had originally authorized the regulation of family property relations by the Civil Code of Ukraine. However, after the amendments to Article 8 of the Family Code of Ukraine, it became clear that if family law does not regulate certain relations, they are subject to civil law, provided that this corresponds to the essence of family relations (Family Code of Ukraine). Moreover, the Family Code provides for the possibility of contractual regulation, for example, a marriage contract or alimony agreements. These documents are fundamentally contracts (The Constitution of Ukraine). Thus, it is quite permissible to use the provisions of civil law to regulate these issues, especially when resolving disputes over the invalidation of a contract. However, the difference between family and civil law is that the former does not include provisions for the self-protection of family rights.

Family law provides numerous specialized procedures for protecting children's family rights. In particular, Article 154 of the Family Code of Ukraine authorizes parents to protect their

child and their full-aged children on their own. Parents can apply to the court, state authorities, local self-government and public organizations to protect the rights of their child and full-aged disabled children without special permission. This enables parents to independently defend the rights and interests of their children without the involvement of third parties.

Self-protection involves activities aimed at preventing violations or restoring the child's personal and property rights. However, the current interpretation of this concept does not adequately cover its significance. Despite the emphasis in the academic paper on the self-protection of the child as an individual, it also draws attention to the protection of the rights and interests of the child.

There is currently a divergence of opinion on the issue of how to defend family rights, particularly about children, in scientific circles in Europe and Ukraine. However, crucial factors for comprehending the idea of “non-jurisdictional methods of protecting the family rights of children” can be identified using scientific study. According to the investigations of Bleszyński and Rodkiewicz-Ryżek (2012), these parameters include:

- independence or individuality of the actions of participants in family relations in implementing non-jurisdictional methods of protecting family rights to resolve disputes and conflicts;
- actions of civil society organizations as a non-jurisdictional way to protect the rights of the child's family;
- settlement of disputes by family members themselves without applying to the relevant jurisdictional authorities (prosecutors, police, courts and other state bodies) – self-implementation of the protection of rights;
- implementation of non-jurisdictional means of protecting the rights of the child's family or influencing the offender in the form of self-protection (On the approval of the Concept of the State Social Program “National Action Plan for the Implementation of the UN Convention on the Rights of the Child” for the period until 2021).

In the first situation, it should be emphasized that the non-jurisdictional method of protecting family rights is one of the possible options for protection. The non-jurisdictional method is based on the idea of independent or individual initiative, in contrast to jurisdictional approaches, which entail the involvement of judicial or administrative authorities. Thus, in this context, subjects of family legal relations do not apply to official jurisdictional bodies. The features of this method of protection are determined by both administrative and procedural aspects.



---

***The practice of non-judicial methods of protecting family rights and interests of the child in the legislation of Ukraine and the European Union***

The practice of family relationships is an extremely popular family legal category. A mandatory condition for implementing non-judicial methods of protecting the rights of the child's family is the independence of a participant in family relations or individuality in resolving family disputes and conflicts that have arisen. In this regard, the family legislation of Ukraine has established as follows: "Spouses are obliged to develop their relations in the family based on mutual respect and mutual assistance, to contribute to the well-being and strengthening of the family, to take care of the well-being and development of their children". The independence or individuality of resolving and settling disputes by parents (or surrogate parents) is caused not only by the recognition of violated family rights of the child but also by their further proper provision and reliable protection. In this sense, the reasonable implementation of this method by the participants implies using all necessary and standby approaches to resolve the dispute (Yarema, 2023). The most important thing is that the parties to the negotiations should be able to control their actions, avoid obstacles and provide an adequate response to each other in exercising such complex activities to protect children's rights.

If such moments are not avoided, the use of non-judicial methods leads to various and unpredictable consequences (divorce of parents, failure to recognize violated children's rights, unilateral approach to solving family problems, etc.).

This process must include both legal and non-legal (economic, moral, ethical and other) means contributing to the resolution of disputes and conflicts that violate the child's family rights. Independence, as well as the individuality of family members in implementing non-judicial methods of protecting the rights of the child's family, depending on the circumstances (termination of actions that violate the right or pose a threat of violation), involves choosing a specifically appropriate and desirable method that has a significant positive impact on resolving issues.

The second case concerns the actions of non-governmental organizations as a kind of non-judicial means of protecting the rights of the child's family, which are also undertaken independently and have a self-fulfilling nature. To summarize the above, it should be noted that the actions of civic organizations and the implementation of their human rights functions are combined into the concept of "non-judicial methods of protection". They are considered as one of the ways to protect the rights of the child's family. In this sense, non-governmental organizations, regardless of their organizational and legal form, are subject to non-judicial means of protecting family rights. Non-governmental organizations are representatives of the third

sector as reliable partners in addressing the protection of maternity, paternity and childhood, which plays an important role. They function based on the principle of decentralization of state policy in the field of motherhood and childhood (Churpita, 2017). At the same time, they contribute to the fulfilment of the state's priorities in protecting the interests of children by performing not only a protective but also a charitable function. The settlement of family disputes without applying to the relevant authorities has two purposes: (Table 1).

Table 1 – Purposes of Settling Family Disputes

<b>Purpose</b>	<b>Description</b>
Maximum Resolution of Disputes	Encourages direct negotiations and agreements between parties involved in the dispute. Aims for a comprehensive resolution of issues concerning family rights.
Inability to Resolve Disputes	Indicates situations where parties are unable to come to an agreement. This may lead to legal interventions if non-judicial methods prove ineffective.

Source: generalization by the authors.

The two purposes of settling family disputes without involving relevant authorities highlight the intentions behind non-judicial methods. The first purpose emphasizes the importance of amicable agreements and understanding between the parties, focusing on resolving issues thoroughly. However, if parties are unable to reach an agreement despite their efforts, this signifies a deadlock, necessitating potential legal intervention for a resolution. This dual approach underscores the complexity of family disputes and the need for a range of methods to address varying circumstances effectively.

The maximum resolution of the dispute between the parties concerned is based on informal negotiations between the parents that have arisen on the merits. If we detail the parties' agreement on disputes, they can be divided into the following two types:

a) agreement of the parties to the dispute, which provides for the dissolution of the marriage relationship;

b) agreement of the parties to the dispute, which provides for the dissolution of marital relations – divorce.

For instance, the subject of an agreement between parents that do not subsequently provide for divorce may be an improper action by one of the parents in favour of the child – a manifestation of negligence in the upbringing and support of children, or the behavior of one of the parents that had a significant negative impact on the feelings and needs of the child, rude communication and attitude of one of the parents that degrades the child's honor and dignity,

unlawful interference with the child's private life, the child's right to respect for his or her family life, etc. Negotiations to resolve the dispute are conducted by the parents themselves or with the participation of an intermediary – a mediator, a psychologist, or a teacher.

In recent years, the legal literature has increasingly emphasized the possibility and necessity of using mediation in resolving conflicts, including legal ones (Serdechna, 2018). Mediation is being decisively implemented in the resolution of legal conflicts in various areas of law. The possibility of its use within the framework of criminal law is even substantiated. The Scandinavian researcher, Professor Nils Christie, a member of the Norwegian Academy of Sciences and the Swedish Royal Academy of Sciences, a well-known modern criminologist who headed the Institute of Criminology and Criminal Law at the University of Oslo and the Scandinavian Council of Criminology for many years, was particularly persistent in this direction (Schmitt, 2012). Niels Christie substantiated in his works the possibilities of mediation in criminal law and criminology. When it comes to civil law or, for instance, family law, the possibilities for mediation are much wider. We are deeply convinced that its capabilities are far from being fully utilized in implementing non-jurisdictional family law measures to protect children's rights.

In our case, the function of a conflict mediator can be provided by close family relatives – grandparents, as well as persons who have respect and moral authority in the family. The conflict can be resolved by mutual understanding of the parties. Non-jurisdictional procedures for resolving the issue of protecting the rights of the child's family should take into account real respect towards family life and parents' responsibilities in resolving conflicts in favour of the upbringing and development of children and their further proper execution (Code of Administrative Procedure of Ukraine).

The agreement of the parties to the dispute providing for the dissolution of the marriage relationship resulting in divorce with a critical understanding of its nature is an unsuccessful way to resolve disputes regarding the protection of the rights of the child's family. For a child, who is the weakest and most defenceless member of the family, divorce is emphasized by a tragedy that obliterates his or her natural habitat, causing the major loss of family values. Experiencing psychological trauma, against this background, the child becomes an object of psycho-emotional violence. For parents who don't live with the child, divorce can become a factor in the withdrawal of such a parent from the child, where the relationship between them changes painfully, sometimes with extremely serious consequences. The issues of concern to parents at the stage of divorce proceedings may vary; however, the protection of the rights and interests of the child should be the culmination of the process (Krestovska, 2008). This is reasonable, but not always successful,

especially when the child feels abandoned and forgotten. Several issues immediately arise, the resolution of which requires the will and activity of parents. Parental agreement can be an important tool in this matter. For instance, in case of divorce, the parents should decide with whom the child will live, and determine the place of meeting the child with the other parent; if one of the parents is unemployed, the agreement should address the issue of the prospects for raising and supporting children. Further, parents can agree on other significant issues both verbally and in written form, namely:

- the agreement between the parties may be executed in a written form that meets certain standards of the Family Code;
- if the parents live separately, the place of residence of the children is determined by agreement between the parents;
- parents have the opportunity to agree in written form on the procedure for exercising their parental rights in case of living separately from the child.
- parents can sign an agreement that regulates the financial aspects of supporting their minor children.

In general, reaching an agreement is the best way to resolve the issue of the child's place of residence since it demonstrates that the parents maintain good relations and makes it possible to avoid lengthy and always emotionally charged court proceedings.

In a particular case, it should be noted that a non-jurisdictional method of protecting the rights of a child's family is implemented in the form of self-protection. Self-protection is understood in the scientific literature as a non-jurisdictional means of defending the rights of the child's family. Consequently, self-protection in family law is a non-jurisdictional method of defence (Leko, 2017). However, it is impossible to replace non-jurisdictional methods of protection with the phenomenon of self-protection since the concept of "non-jurisdictional protection" is broader than the concept of "self-protection". In this case, we believe that self-protection is one of the forms of manifesting non-jurisdictional means of protecting the rights of the child's family. Self-protection complements the concept of "non-jurisdictional methods of protecting the rights of the child's family". In this case, the definition of the phenomenon of "non-jurisdictional protection" is primary and the concept of "self-protection" is secondary. In other words, it turns out that self-protection is a generic concept, and a specific concept is a form of manifestation of non-jurisdictional means of protecting the rights of the child's family. Meanwhile, there is no doubt that self-protection is used as a way to settle or influence the resolution of disputes and conflicts arising from family legal relations; however, self-protection is always used in family relations.

Recognizing the diverse non-judicial methods used to protect the rights of the child's family, it's crucial to understand the nuances within these approaches. As discussed, self-protection is one of the manifestations of these methods, albeit within the broader umbrella of non-judicial protection. To comprehend these nuances better, let's examine a detailed comparison between the non-judicial methods employed in Ukraine and the European Union (Table 2).

While the methods employed in Ukraine and the EU are similar, ongoing efforts should be made to enhance their accessibility, effectiveness, and awareness among families. Collaboration between governmental bodies, NGOs, and legal institutions can further strengthen these non-judicial methods, ensuring the protection of family rights across diverse social and cultural contexts.

Table 2 – Comparison of Non-Judicial Methods of Protecting Family Rights in Ukraine and the European Union

<b>Non-Judicial Methods</b>	<b>Ukraine</b>	<b>European Union (EU)</b>
Informal Negotiations Between Parents	Encouraged in family disputes, but effectiveness varies based on cooperation between parents.	Encouraged; effectiveness depends on the willingness of parties to collaborate and seek amicable solutions.
Mediation	Increasingly recognized and implemented, especially in civil disputes. Still growing in adoption.	Widely used; supported by EU legislation and practiced across member states in various legal disputes.
Involvement of Non-Governmental Organizations (NGOs)	NGOs play a role in supporting families and children, providing advocacy, and acting as mediators.	NGOs actively participate in child protection, offering support, counseling, and advocacy services.
Self-Protection	Individuals may assert rights independently; often leads to informal resolutions.	Individuals can assert their rights, but formal systems are well-established, reducing reliance on self-protection.
Parental Agreements	Common practice; parents can create agreements on child custody, support, etc.	Widely used; parents can create formal agreements, which are legally recognized and enforceable.

Source: generalization by the authors.

## 5. Conclusions

It has been determined that the non-judicial method of protecting the rights of the child's family in the EU countries and Ukraine is characterized as a non-actionable form of

protection and even self-protection. The essence of this approach is that it does not provide for a form of protection in the form of an appeal to the relevant non-judicial authorities. It turns out that the judicial method of protection does not provide for the authorization of procedural documents (filing a lawsuit and a decision on it) either before or after its execution. Disputes or conflicts are settled only by agreement (negotiations) of the participants. Participants or authorized parties whose rights have been violated may choose to formalize the arrangement in writing as an agreement at their discretion.

It has been proved that the actions of the participants depend on the nature and extent of the violation of the child's rights. It should be appropriately suited to the subject matter of the non-judicial method of protecting the rights of the child's family. At the same time, compliance with the non-judicial method of protecting the rights of the family can be achieved. In case of non-compliance, if such protection is necessary to ensure the well-being of the child, other and even judicial means of protection are permissible. Therefore, the implementation of non-judicial methods of protecting family rights should serve not only as a guarantor of the law on protecting children's rights but also through its proper execution.

It has been emphasized that the implementation of the rules on protecting the child's non-judicial rights in the course of non-judicial variations, as we have noted above, is accompanied by individual and independent exercise of the right to consider and resolve disputes and conflicts by the parents themselves. In this regard, the effectiveness of non-judicial protection, as a form of protection established by law, depends on the level of parents' legal awareness. Legal awareness implies that parents possess legal knowledge, views and ideas. This also includes knowledge of the child's rights, his or her legal interests, etc. Therefore, parents should do their best to preserve their children's interests when using a non-judicial strategy to protect family rights.

## REFERENCES

Bleszyński, J., Rodkiewicz-Ryżek, A. (2012). Protection of children's rights in the light of Polish and international standards. *Christian Paedagogy*, 2 (30), 95-110.

**Cabinet of Ministers of Ukraine.** (2017). *On the approval of the Concept of the State Social Program "National Action Plan for the Implementation of the UN Convention on the Rights of the Child" for the period until 2021* (Decree No. 230-r). *Government Courier*, 13.04.2017, 70.

Charter of Fundamental Rights of the European Union. Available at: [https://zakon.rada.gov.ua/laws/show/994\\_524#Text](https://zakon.rada.gov.ua/laws/show/994_524#Text)

Churpita, H. V. (2017). To the concept of protection of family rights and interests in civil proceedings. *Business, Economy and Law*, 4, 44-47. Available at: [http://nbuv.gov.ua/UJRN/Pgip\\_2017\\_4\\_10](http://nbuv.gov.ua/UJRN/Pgip_2017_4_10)

**Code of Administrative Procedure of Ukraine.** (2005). *Bulletin of the Verkhovna Rada of Ukraine*, 35–37(446).

*Convention for the Protection of Human Rights and Fundamental Freedoms.* (Year, if available). Available at: [https://zakon.rada.gov.ua/laws/card/995\\_004](https://zakon.rada.gov.ua/laws/card/995_004)

**Convention on Contact concerning Children** (2005). Strasbourg, 15/05/2003, entry into force 01/09/2005, 192 Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/192>

European Code of Social Security. Strasbourg, 16/04/1964, entry into force 17/03/1968, 048. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/048>

**European Commission.** (2006). *Towards an EU Strategy on the Rights of the Child* (Communication from the Commission). Brussels, 4.7.2006, COM (2006) 367 final. Available at: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/com\\_2006\\_367\\_strategy\\_on\\_the\\_rights\\_of\\_the\\_child\\_en\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/com_2006_367_strategy_on_the_rights_of_the_child_en_0.pdf)

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126). (1987). Strasbourg, 26/11/1987, entry into force 01/02/1989, ETS No. 126. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/126>

European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1980). Luxembourg, 20/05/1980, entry into force 01/09/1983, ETS No. 105). Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/105>

European Convention on the Exercise of Children's Rights (1996). Strasbourg, 25/01/1996, entry into force 01/07/2000, ETS No. 160. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/160>

European Convention on the Legal Status of Children born out of Wedlock (1975). Strasbourg, 15/10/1975, entry into force 11/08/1978. ETS No. 085. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/085>

Family Code of Ukraine (2002). *Bulletin of the Verkhovna Rada of Ukraine*, 21-22, at.135. Available at: <https://zakon.rada.gov.ua/laws/show/2947-14#Text>

Guidelines on the role of court-appointed experts in judicial proceedings of Council of Europe's Member States. Available at: <https://vkksu.gov.ua/userfiles/doc/cepej/24-kerivni%20principu%20roli%20priznachenih.pdf>

Kaplya, O. M. (2017). Implementation of the principle of effective protection of individual rights and freedoms in the administrative proceedings of the countries of the European Union. *Scientific Bulletin of International Humanitarian: Jurisprudence*, 26, 27-30.

Kot, O. O. (2018). Protection Of Subjective Civil Rights in The Mechanism of Legal Regulation. *Journal of the national academy of legal sciences of Ukraine*, 25(2), 83-98. Available at: <https://doi.org/10.31359/1993-0909-2018-25-2-83>

Krestovska, N. (2008). Juvenile law of Ukraine: historical and theoretical research: monograph. Odesa: Feniks.

Kudriavtseva, O. (2016). Constitutional and institutional principles of protection of children's rights in Ukraine and Poland: a comparative legal analysis. *Historical and Legal Journal*, 2(8), 58-62.

Leko, B. (2017). Mediation in family conflicts and divorces. Business, *Economics and Law*, 5, 29-32.

Marochkin, I. Ye. (2002). Availability of justice and guarantees of its implementation. Judicial reform in Ukraine: problems and prospects. Kyiv; Kharkiv: Yurinkom Inter, 31-34.

Melzer, N. (2016). International Humanitarian Law: A Comprehensive Introduction. ICRC, 360 p.

Nalyvayko, L. R., Verba, I. O. (2018). International standards for ensuring the right to access to justice. *Scientific Bulletin of Dnipropetrovsk State University*. "Human Rights: methodological, epistemological and ontological aspects", 3, 13-17.

Nana, Ch. N., Ablamskyi, S. Ye. (2020). Ensuring the right to liberty and security of person in Ukraine and Cameroon: a comparative analysis in the area of criminal justice. *Commonwealth Law Review Journal*, 6, 281-304.

Onishchenko, N., Lvova, O., Sunichin, S. (2013). Rights and freedoms of the child: an introduction to the problem. *Journal of the Kyvskoho University of Law*, 2, 13-17.

Reshetnyk, Ye. M. (2014). Conditions and moment of emergence of the right to protection of subjective family interest. *Law and Society*, 1-2, 59-62.

Schmitt, M. (2012). The development and principles of international humanitarian law. Farnham, Surrey, England: Burlington, 264 p.



Serdechna, I. L. (2018). Self-protection of personal non-property rights of other family members and relatives. *University scientific notes*, 67-68, 117-127 Available at: <http://www.univer.km.ua/visnyk/1791.pdf>

Shelukhin, M., Kupriichuk, V., Kyrylko, N., Makedon, V., Chupryna, N. (2021). Entrepreneurship Education with the Use of a Cloud-Oriented Educational Environment. *International Journal of Entrepreneurship*, 25(6). Available at: <https://www.abacademies.org/articles/entrepreneurship-education-with-the-use-of-a-cloudoriented-educational-environment-11980.html>

Shepit'ko, M. V. (2018). *Theoretical and methodological principles of the formation of a system of combating crimes in the sphere of justice*, Nats. Yuryd. un-t im. Yaroslava Mudroho. Kharkiv, 43 p.

**The Constitution of Ukraine.** Database "Legislation of Ukraine". Verkhovna Rada of Ukraine. Available at: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

**Treaty on European Union** (2007). *Consolidated version*. Adopted the Treaty of Lisbon, signed on 13 December 2007. Available at: <http://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=CELEX%3A12012M%2FTXT>

United Nations (2002). A world fit for children, Adopted by the General Assembly Resolution S-27/2 on 10 May 2002. Available at: <https://digitallibrary.un.org/record/464324?ln=en>

**Universal Declaration of Human Rights** (1948). G.A. Res. 217A (III).

Venediktova, I. V. (2014). Protection of legally protected interests in civil law: a monograph. Kyiv: Yurinkom Inter. 288 p.

**World Declaration on the Survival, Protection, and Development of Children.** (1990). Agreed to at the World Summit for Children on 30 September 1990. Available at: <http://www.un-documents.net/wsc-dec.htm>

Yarema, O. G. (2023). Administrative justice as a way of ensuring public order. *Analytical and Comparative Jurisprudence*, 2, 260-264. Available at: <https://doi.org/10.24144/2788-6018.2023.02.44>

Zhurylo, S. (2017). Protection of children's rights in the conditions of adaptation of Ukrainian legislation to the European standard. The current state and prospects for the development of Ukrainian law in the context of adaptation to the rule of law (Odesa, 26 May 2017), editor Ye. O. Kharytonova, 14-16.