

## Legal obligations of a lawyer and standards for the protection of minors in juvenile justice

**Dariga Ospanova**

Master of Law, Senior Lecturer  
Caspian University  
050021, 85A Dostyk Ave., Almaty, Republic of Kazakhstan  
<https://orcid.org/0009-0008-9295-9468>

**Svetlana Moroz\***

Doctor of Law, Professor  
Caspian University  
050021, 85A Dostyk Ave., Almaty, Republic of Kazakhstan  
<https://orcid.org/0000-0002-6143-0210>

**Anara Niyazova**

Doctor of Law, Professor  
Caspian University  
050021, 85A Dostyk Ave., Almaty, Republic of Kazakhstan  
<https://orcid.org/0000-0003-0926-6174>

**Abstract.** This paper examined the legal duties of a lawyer in the context of protecting the rights and interests of minors in juvenile justice. The purpose of the study was to critically analyse the standards of legal aid provided to minors and to determine the role of an attorney-at-law in modern processes related to the protection of their rights. The research methodology included an analysis of international standards for the protection of the rights of minors, a comparative study of Ukrainian legislation, and the study of practical cases from court cases related to the protection of children's rights. The main results showed that there are significant differences in approaches to protecting the rights of minors. In EU countries, such as Germany and France, the participation of a lawyer at all stages of the process is mandatory, as well as strict standards of confidentiality and child protection. In these jurisdictions, there are clear legal provisions that provide guarantees for minors. In Ukraine, however, there are gaps in legislation that complicate the protection of children's rights and lead to a lack of legal awareness among lawyers. The study also analysed the impact of juvenile protection standards on the overall state of juvenile justice and law enforcement in Ukraine. It was found that the lack of legal awareness of lawyers and the absence of clear regulations lead to violations of children's rights. This pointed to the need to improve the juvenile justice system in Ukraine. The findings highlighted the need to integrate European standards such as the mandatory participation of a lawyer at all stages of the judicial process, the protection of the confidentiality of minors, the observance of the principle of the best interests of the child, and the provision of access to legal aid regardless of social status. The implementation of these standards can significantly improve the human rights protection of minors and ensure effective legal assistance in private law disputes related to the protection of their rights and interests

**Keywords:** legal aid; defence of children's rights; lawyers' ethics; private interests; litigation

### Introduction

The problem of legal defence of minors in the context of the development of juvenile justice is of particular relevance in Ukraine as of 2024. Minors, as one of the most vulnerable social groups, need adequate legal protection, as their rights and interests can often be violated due to insufficient legal aid and awareness of protection mechanisms. When a country

faces numerous challenges on the path of European integration, it is vital to rethink approaches to the protection of children's rights in judicial proceedings, particularly in private law disputes. In the context of current changes and reforms in Ukraine's legal system, it is necessary to pay particular attention to the role of lawyers representing the interests

### Suggested Citation

**Article's History:** Received: 21.08.2024 Revised: 25.11.2024 Accepted: 23.12.2024

Ospanova, D., Moroz, S., & Niyazova, A. (2024). Legal obligations of a lawyer and standards for the protection of minors in juvenile justice. *Social & Legal Studios*, 7(4), 231-239. doi: 10.32518/sals4.2024.231.

### \*Corresponding author



Copyright © The Author(s). This is an open access Article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

of minors in court. In this context, it is essential to emphasise that providing quality legal aid to children requires a comprehensive approach that includes not only knowledge of legal provisions, but also the ability to work with minors in psychological and social aspects. Lawyers must have special skills to interact effectively with children, understand their needs, and ensure proper communication with the court.

The significance of the legal defence of children lies not only in protecting their rights, but also in laying the foundations for their future integration into society. Juvenile justice, as a justice system that is tailored to the specificity of juvenile offenders, should provide not only punishment, but also rehabilitation and re-socialisation of young people (Yusupova, 2022). However, there are currently major problems in Ukrainian legislation that impede the exercise of children's rights and their legal protection. Specifically, the inconsistency between various legal acts and the lack of clear standards governing the work of lawyers in juvenile cases can lead to negative consequences for children.

Studies of the legal duties of lawyers in juvenile proceedings have been the subject of attention of many researchers, but the issues are still understudied, especially in the context of Ukrainian legislation. For example, M. Tyminski (2021) emphasised that the participation of lawyers at all stages of the judicial process is critical to ensure the rights of children, since the lawyer not only represents the interests of their client, but also plays an integral role in communication between the court and the minor. L. Abrams *et al.* (2019) emphasised that training for lawyers working with children should include aspects of psychology and social work to better protect the rights of the child. Furthermore, R. Khanyk-Pospolitaka and T. Fedosieieva (2023) noted the need to integrate European standards of child advocacy into Ukrainian justice practices. These studies emphasised the significance of exploring international practices in juvenile justice, as they can serve as a basis for reforming Ukrainian legislation.

It is also worth mentioning the studies by S. Kokkalera *et al.* (2021), who noted that in many European countries the lawyers representing children receive specialised training, which enables them to better understand the needs of their clients. S. Larner and H. Smithson (2023) addressed the role of ethical standards for lawyers working with juveniles as this can dramatically affect the quality of defence of children's rights in court proceedings. Thus, there is an urgent need to improve standards for the protection of children's rights in Ukraine, especially in the aspect of ensuring their legal aid in private law disputes.

An analysis of European practices by T. Bettens and H. Cleary (2024) showed that countries such as Germany have clearly defined standards for lawyers working with minors. Lawyers are required to provide not only legal defence but also to be sensitive towards the psychological aspects that may affect the child during the trial process. Comparable standards are also present in the UK, where lawyers working with children must have specialised training (Birkhead, 2016).

One of the key contributors to the defence of children's rights is L. Abrams *et al.* (2019), who stresses the significance of legal aid for minors in processes related to the distribution of property. They claimed that in the absence of adequate legal aid, there is a high probability that a child's fair trial rights would be violated. At the same time, C.M. Berryessa and J.A. Chandler (2020) emphasised that the lawyer should not

only act as a defender, but also as a counsellor for the minor, explaining rights and obligations during the proceedings.

The purpose of this study was to critically analyse the role of lawyers in defending the rights of minors in juvenile proceedings and to examine the legal duties that lawyers must perform in this area. The objectives of the study were as follows:

- to critically analyse the current scientific concepts of the role of lawyers in juvenile proceedings;
- to propose clarifications to the existing theoretical constructs on the duties of a lawyer in juvenile proceedings;
- to examine the terminological problems of Ukrainian legislation on legal aid for children.

### Literature review

Juvenile justice is a significant branch of law that is constantly changing in the context of contemporary social, legal, and ethical challenges. The role of lawyers in the defence of juvenile rights is acquiring new forms and dimensions through the development of legislation, the latest technologies, social, and psychological factors. Analysing the existing literature on this topic allows exploring the key aspects of lawyers' practices, their approaches to the defence of juvenile rights, and the contemporary challenges they face. L. Abrams *et al.* (2019) focused on the moral challenges arising in the work of advocates with juvenile offenders. They emphasised the need for ethical standards and moral responsibility of lawyers in the context of protecting the rights of juveniles, particularly considering their vulnerability and need for a special approach to defence.

C.M. Berryessa and J.A. Chandler (2020) explored the effects of neurobiological studies on judicial decisions regarding juvenile offenders. Their findings showed how scientific research can change legal approaches and processes affecting the lives of juveniles. This is an example of the growing influence of interdisciplinary research on legal practice. T. Bettens and H. Cleary (2024) noted the necessity of considering the age and psychological characteristics of adolescents during trials. They underscored the role of psychological training for lawyers and the use of modern scientific approaches in working with juveniles. This is essential in the context of developing specialised programmes to prepare lawyers for work in the juvenile justice field (Abdrasulov *et al.*, 2023).

T. Birkhead (2016) addressed the social stigmatisation of juvenile offenders and how lawyers can help minimise this impact. The researcher also highlighted the significance of social justice in the juvenile system and the role of advocates in achieving it. Other researchers, notably E. Buss (2000), noted the significance of participation of juveniles in court proceedings. E. Buss stressed that juveniles are entitled to take an active part in the decision-making process concerning their cases and lawyers play a key role in protecting these rights.

B. Feld and S. Schaefer (2010) considered the juvenile justice system in comparison to the adult system. They emphasised that juveniles require specific legal defence that is tailored to their age and psychosocial characteristics. This is an approach that requires advocates to possess not solely legal expertise, but also a profound understanding of developmental psychology. I. Kalinina (2023) explored the role of the latest technologies in legal aid for minors. The researcher noted the value of using digital tools to enhance the protection of children's rights, which is particularly relevant in

the current era of digitalisation. R. Khanyk-Pospolitaka and T. Fedosieieva (2023) emphasised innovative approaches to the legal defence of minors. They addressed the need to integrate social, psychological, and legal aspects into the law enforcement process to ensure comprehensive protection of the rights of minors.

J. Lesnick *et al.* (2023) examined the re-socialisation of juvenile offenders after trials. They emphasised the vital role of lawyers in this process and noted the need to ensure that juveniles are provided with legal aid even after trials are concluded. B. Mathews (2022) pointed out the ethical standards in the work of lawyers with juveniles, especially in the context of personal data protection and confidentiality of information. This issue is crucial because minors are a particularly vulnerable group in the legal system (Yakymenko, 2023). The study by M. Tyminski (2021) analysing the influence of lawyers in overcoming the school-prison pathway deserves special mention. The researcher emphasised that lawyers working with LGBTQ+ minors must be sensitive to their specific needs and concerns to ensure a fair legal defence.

N.T. Padgaonkar *et al.* (2020) investigated the neuropsychological aspects of juvenile delinquency. Their findings are valuable in understanding how the psychological state of adolescents may influence their behaviour and court decision making. T. Remley *et al.* (2020) highlighted the significance of specialised education for lawyers to work with juveniles, noting the need to incorporate psychological aspects into training programmes. M. Welner *et al.* (2023) emphasised the value of an integrated approach to the defence of juvenile offenders, combining legal, psychological, and social aspects. They noted that the work of lawyers should include cooperation with other professionals to ensure the comprehensive protection of children's rights. Thus, the existing literature suggests the significance of a multidimensional approach to the work of lawyers with juveniles.

### Materials and methods

The theories of children's rights and juvenile justice provided the conceptual framework for this study, which allowed focusing on the specific features of the legal defence of minors in Ukraine. In this context, M. Tyminski (2021), R. Wright and J. Roberts (2022) emphasised the value of introducing innovative legal aid methods that meet the individual needs of children. This study reviewed academic works highlighting the core concepts of children's rights, juvenile justice, and advocacy practice. The study focused on a critical review of the available theoretical approaches to the legal defence of juveniles. The reviewed studies of authors such as M. Welner *et al.* (2023) helped in forming a theoretical framework for further conclusions.

Such documents as Law of Ukraine No. 3460-VI "On Free Legal Aid" (2023) are key laws that regulate access to free legal aid for all citizens, including children. These laws set out the right to defend the interests of minors and define the rules for the provision of legal aid by advocates. Draft Law of Ukraine "On Child Friendly Justice" (2021) is a legislative act aimed at creating special conditions for the protection of children in the legal system. This law emphasises the value of a child-friendly approach to children in court and ensures that their rights are exercised in an age-appropriate manner. The Law of Ukraine No. 5076-VI "On Advocacy and Advocate's Activity" (2012) is a regulation that governs the activity of lawyers in Ukraine, including their

obligations and rights in the defence of minor clients. This law establishes standards for the professional activities of advocates who specialise in juvenile justice. The Code of Ukraine on Administrative Offences (1996) establishes legal provisions on the liability of minors for administrative offences and defines special conditions for the protection of their rights in administrative proceedings. The Convention on the Rights of the Child (1989) (Convention) is the principal international instrument for the protection of children's rights. The explanatory memorandum to the Draft Law of Ukraine No. 5617 "On Child Friendly Justice" (2021) is an analytical document outlining the aims and objectives of the future law, which is aimed at improving the legal defence of children in the judicial system of Ukraine. The Rules of Advocacy Ethics (2012) regulates the professional and ethical standards of lawyers, including their obligations regarding minor clients. This document is a significant benchmark for professionalism and ethical standards in juvenile justice.

The study also examined the practice of protecting children's rights in Ukraine. The key sources that formed the basis of the study were the Case No. 4287/19 "Bezotecheska v. Ukraine" (2019), a notable precedent in the field of juvenile rights protection at the international level. This judgement of the European Court of Human Rights illustrates issues related to the violation of children's rights and is an important reference point for Ukrainian juvenile justice. The "Vadym Melnyk v. Ukraine" Cases Nos. 62209/17 and 50933/18 (2022) provide another example of the European Court of Human Rights judgement that illustrates the issues related to the violation of children's rights and is a significant reference point for Ukrainian juvenile justice.

These sources helped to examine the existing legal framework for the protection of minors' rights and to identify gaps in current practice, which became the basis for developing recommendations to improve the juvenile justice system in Ukraine.

### Results

Advocates working with minors must observe not only the general principles of advocate's ethics, but also specific norms regulating their activities. Advocates must use all legal methods available to protect the rights of their clients. This includes filing appeals, attending hearings, and initiating lawsuits, if necessary. According to international standards, advocates must always consider the best interests of children under the Convention on the Rights of the Child (1989). Lawyers are obliged not only to protect the rights of children, but also to teach them and their parents about those rights. This obligation includes holding information sessions, developing manuals and guidelines. Analysis of documents such as the Code of Ukraine on Administrative Offences (1996) and the Law of Ukraine No. 3460-VI "On Free Legal Aid" (2023), revealed the need for further improvement of legislation in this area. Recommendations based on the findings include the introduction of new legal aid methods, as well as the development of information materials and training sessions for children and their parents.

The legal responsibilities of lawyers in the field of juvenile justice include several key aspects. Firstly, lawyers must ensure the right of minors to a defence that provides them with information and legal aid (Law of Ukraine..., 2012). Secondly, lawyers must protect the interests of clients, acting in their best interests and considering the individual

needs of children (Clarification of the Ministry of Justice of Ukraine No. n0008323-12, 2012). In addition, a lawyer must ensure client confidentiality, which is one of the core ethical standards of the profession (Rules of Advocacy..., 2012). Finally, liaising with other services, such as social services and educational institutions, to ensure that the interests of minors are comprehensively protected is a crucial obligation (Explanatory Note to the Draft Law of Ukraine “On Child Friendly Justice” (2021).

Advocates should consider that working with minors has its specific features. For instance, the use of non-violent methods of communication is an important aspect, as children can be very sensitive to stressful situations. According to T. Birkhead (2016), advocates must adapt their methods of work according to the age and emotional state of the child. E. Buss (2000) also addressed the need to provide softer communication during the court process, which will help to avoid further stress for children.

An essential element of working with children is to involve them in the decision-making process. J. Fagan (2008) noted that advocates must explain to children the legal aspects of their case, as well as consider their views and concerns. This approach, according to B. Feld and S. Schaefer (2010), can greatly increase children’s trust in the advocate and the justice system overall. In the opinion of the author of the present study, J. Fagan’s assertion is particularly important in the context of ensuring children’s involvement in decision-making, as it can strengthen their legal defence. The inclusion of psychologists in the advocacy process is an essential aspect that can improve the quality of defence of juvenile rights. According to K. Finlay *et al.* (2023), psychologists help advocates to better understand the emotional needs of children, which enables lawyers to better formulate a defence strategy. J.F. Rice (2023) also emphasised the role of psychologists in preparing children for court hearings, which helps to reduce children’s anxiety levels. Advocates’ active use of modern technology such as electronic databases and communication platforms has proven successful in providing legal aid to children. I. Kalinina (2023) found that the use of video communication during the COVID-19 pandemic made legal services more accessible. R. Khanyk-Pospolitaka and T. Fedosieieva (2023) highlighted that such innovative solutions improve communication between advocates and their clients, which positively affects the effectiveness of defence.

A study by J. Lesnick *et al.* (2023) found that lawyers who are active on social media can improve their image and develop closer ties with juvenile clients. It was also emphasised that preparing attorneys to work with children requires not only legal knowledge but also emotional sensitivity and the ability to build trusting relationships. It was found that lawyers play different roles at each stage of the juvenile process. In Ukraine, the legal defence of minors is a crucial aspect of justice.

For example, in the Cases Nos. 62209/17 and No. 50933/18 “Vadym Melnyk v. Ukraine” (2022), the advocate raised the issue of violation of the right to a fair trial, which includes the right to an objective and impartial tribunal. The defence argued that the minor was not given the opportunity to present his case during the trial, which resulted in a biased decision. This case emphasised the significance of due process rights to ensure equal access to justice for children.

Another relevant precedent is Case No. 4287/19 “Bezo-techeska v. Ukraine” (2019), where the advocate pointed out the violation of a minor’s right to take part in proceedings concerning their personal interests. This right guarantees that children are allowed to express their views on matters that affect them, including their defence in court proceedings. It was also noted that the minor had not been adequately informed of the consequences of their actions and of the right to legal aid. For example, in Case No. 28253/11 “Timchenko v. Ukraine” (2021), the advocate appealed against the court’s decision, arguing that the minor’s rights had not been respected during the investigation stage. Specifically, it was the right to defence, which implies that a minor should be allowed to be represented by an advocate at all stages of the proceedings. The defence lawyer also emphasised the minor’s right to be informed of their rights, which should include an explanation of all procedural actions related to their case. Thus, advocates in Ukraine play a key role in protecting the rights of minors by ensuring their right to legal aid and defence at all stages of the judicial process. The use of international human rights standards, particularly in cases where minors are suspected of having committed an offence, is becoming increasingly relevant in Ukrainian practice. One important aspect is the advocate’s ability to explain legal terms and procedures in an understandable language. Many lawyers note that they use simple examples and analogies to facilitate the perception of information by juvenile clients (Fagan, 2008; Feld & Schaefer, 2010). This strategy helps children better understand complex legal terms and procedures, which then encourages minors to become more involved in the defence of their rights.

Sometimes advocates who actively work to create a comfortable atmosphere during meetings get better results in communicating with clients. This includes attention to detail, such as the physical environment where counselling takes place, as well as the use of non-verbal communication tools that foster a trusting relationship (Rice, 2023; Lerner & Smithson, 2023).

To demonstrate the significance of advocates’ attention to details such as the physical environment and non-verbal communications, concrete examples of judicial practice can be cited where these aspects have played a significant role in ensuring that the rights of juveniles are adequately protected. In the Case “J.D.B. v. North Carolina” (2011), an attorney argued that the conditions of the juvenile’s interrogation, particularly the physical environment where he was interrogated (the interrogation was conducted in a classroom without a parent or guardian present), significantly interfered with his ability to express himself freely. The judge held that the adolescent’s age and environment must be considered when determining whether their rights were violated. This emphasises the value of considering the physical environment when communicating with minors.

Based on the findings of this study, a series of evidence-based recommendations can be formulated to improve the juvenile justice system in Ukraine. Specifically, Article 18 of the Law of Ukraine No. 5076-VI “On Advocacy and Advocate’s Activity” (2012) should be supplemented with a provision on compulsory completion of specialised courses on juvenile justice. An analogous approach is used in the UK, where lawyers working in this area are required to undergo specialised certification (Rice, 2023). Development of electronic platforms for legal aid: to increase the

accessibility of legal services, it is advisable to create electronic platforms that enable minors to receive counselling online. During the COVID-19 pandemic, such systems were proven to be effective (Kokkalera *et al.*, 2021). The legislative basis for this already exists, for instance, Article 7 of the Law of Ukraine No. 3460-VI “On Free Legal Aid” (2011) can be supplemented with provisions on the introduction of electronic counselling for minors.

To ensure comprehensive protection of minors’ rights, it is necessary to create teams consisting of advocates, psychologists, and social workers. This approach has already been successfully implemented in Germany, where lawyers collaborate with other child protection professionals (Birckhead, 2016). This will ensure a comprehensive approach to solving the problems of juvenile clients. Setting standards for advocacy: it is necessary to clearly regulate the requirements of advocates in the field of juvenile justice. Article 4 of the Law of Ukraine No. 5076-VI (2012) should be supplemented with a provision on the development of standards of advocacy in cases involving minors. The establishment of uniform criteria would improve the quality of services and ensure homogeneity of practice.

Activities to develop educational programmes for juveniles and parents have also proven effective in Canada, where educational programmes for young people about their rights are in place (Feld & Schaefer, 2010). In Ukraine, it is possible to create such programmes based on Article 3 of the Law of Ukraine No. 2145-VIII “On Education”, supplementing it with provisions on mandatory legal education of minors in schools. Each of the above recommendations is supported by the experience of other countries and scientific data, which indicates their feasibility and possibility of implementation in Ukraine. Each of these factors has its specifics and may be key to the development of a successful advocate’s practice in juvenile justice. The professional training of a defence lawyer plays a critical role. Advocates working with minors must have not only knowledge of the law, but also an understanding of the psychological aspects of working with children. As T. Birckhead (2016) noted, specialised education and training in working with juveniles helps attorneys better understand the emotional and social needs of their clients. Additionally, K. Finlay *et al.* (2023) emphasised that attorneys with emotional sensitivity and communication skills can work more effectively with children. Modern technology opens new opportunities for attorneys to effectively consult clients through electronic platforms. E. Buss (2000) showed that the use of digital solutions considerably increases the availability of legal aid for young people, which is particularly significant in resource-limited settings. T. Bettens and H. Cleary (2024) argued that technology allows for improved communication between lawyers and juvenile clients, which can lead to more effective advocacy. Establishing a trusting relationship with minors is a vital aspect of advocacy work. Children should feel comfortable seeking help. According to J. Fagan (2008), the ability of the defence lawyer to establish trust with the client positively affects the quality of the interaction and facilitates more open discussion of sensitive topics.

Counsel’s experience in juvenile justice also significantly influences their effectiveness. B. Feld and S. Schaefer (2010) showed that the number of years of experience of a defence lawyer is related to their ability to solve cases, as experience allows for a more accurate assessment of the situation and

finding the most suitable solutions. The inclusion of parents in the child advocacy process is crucial to ensure a comprehensive approach to legal issues. J.F. Rice (2023) noted that active parental involvement improves case outcomes because parents can provide considerable support to their children during difficult times. Cooperation with psychologists and social workers is also an essential aspect. I. Kalinina (2023) emphasised that an interdisciplinary approach enables lawyers to consider various aspects of the child’s situation, ensuring a more complete understanding of the child’s needs and problems.

Finally, the level of awareness of minors and their parents of their rights greatly increases the chances of a successful resolution of the case. J. Fagan (2008) argued that a high degree of legal literacy among youth and their families promotes greater participation in defence processes, which improves advocacy outcomes. Thus, comprehensive attention to these factors can substantially improve advocacy outcomes in juvenile cases, making the child advocacy process more effective and efficient.

Research shows that the use of digital technologies and electronic platforms can greatly improve advocates’ performance. For example, E. Buss (2000) emphasised that the introduction of technology into the legal aid process allows lawyers to be more flexible in responding to changes in legislation and client requirements. As T. Bettens and H. Cleary (2024) pointed out, the integration of interdisciplinary teams, including lawyers, psychologists, and social workers, provides a more comprehensive approach to the protection of juvenile rights, which also requires innovative methods of interaction. An analysis of current trends in juvenile justice confirms the need to train attorneys to use new tools and approaches to stay effective in an environment where conventional strategies may not produce the desired results. It is vital that advocates not only possess knowledge of legislative changes but are also prepared to adopt new approaches based on the principles of flexibility and adaptability (Feld & Schaefer, 2010). This is particularly relevant considering the rapid changes in public perceptions of juvenile rights and the growing role of technology in the legal field.

Psychosocial factors play a critical role in the juvenile justice process because they directly influence juveniles’ interactions with advocates and the outcomes of their cases. Having a supportive environment in both the family and school greatly improves the ability of attorneys to create trusting relationships with children (Spytska, 2023). It is essential to understand that children in stressful situations, such as legal problems, need emotional support and understanding from adults.

J. Fagan (2008), as well as B. Feld and S. Schaefer (2010) emphasised that support from the family and educational institution not only improves the child’s emotional well-being, but also increases the child’s level of trust in the lawyer. This trust facilitates the communication process and enables the advocate to more accurately assess their client’s needs and concerns. Schools also become valuable allies in juvenile justice because they have direct contact with minors and can play a key role in raising awareness of their rights. For example, Ukraine implements legal education programmes in schools, such as “The Right to Education”. It is part of a broad education reform that began with the adoption of the new Law of Ukraine No. 2145-VIII “On Education” (2017). This law establishes the rights and obligations of

participants in the educational process and emphasises access to quality education. A vital purpose of programmes such as “Right to Education” is to improve the legal literacy of students and develop their awareness of their rights and responsibilities in the educational system. The programme was approved by the Ministry of Education and Science of Ukraine within the framework of the implementation of the national strategy of legal education aimed at improving legal culture and ensuring equal opportunities for all students. The programme has already shown its effectiveness: according to a survey of students who have taken part in such programmes, some 70% have become more aware of their rights and obligations. The involvement of lawyers in workshops in educational institutions enables children to receive accessible information about legal aid and familiarise themselves with legal terms in an informal setting, making it much easier for them to communicate with lawyers when necessary. Furthermore, communities can play a crucial role in building a support network for juveniles. Programmes that facilitate collaboration between lawyers, social workers, and community-based organisations can create a safe environment for children. Lviv has a successful Safe School programme designed to make the school environment safer and prevent juvenile delinquency. This initiative involves cooperation between law enforcement agencies, educational institutions, and community organisations aimed at creating a safe and secure environment for children. As noted in Nashe Misto, the programme includes joint initiatives aimed at preventing delinquency among youth (Tanchenko, 2020). One of the key elements of the programme is free courses for children and their parents to discuss the issues of legal responsibility. Through educational and informational initiatives, children and their parents become more aware of their rights and responsibilities, which contributes to a safe environment. It is also important for lawyers working with minors to receive specialised training covering psychosocial aspects. Such training enables them to better understand the emotional needs of their clients and to adapt approaches to the defence of their rights, which is critical in the context of juvenile justice.

### Discussion

The findings of the study of advocacy strategies in juvenile justice significantly influence the understanding of the effectiveness of legal defence for juveniles. The analysis showed that the integration of mediation as an alternative dispute resolution method reduces stress for young people and improves the outcome of their cases. This is in line with findings from other countries indicating the positive effects of mediation on young people’s social adjustment (Kokkalera *et al.*, 2021). In a study analysing mediation practices in juvenile cases, the researchers noted that mediation facilitates better understanding between the parties and the development of more constructive relationships.

Furthermore, the findings of the study emphasise the value of incorporating psychosocial factors into the process of legal representation. They indicate that lawyers who actively engage with their clients’ families and consider their social contexts can achieve better results in the defence of children’s rights. This is consistent with the findings of J.F. Rice (2023) who noted the significance of family support in juvenile justice processes. Involving parents and guardians in the process can foster a more supportive environment

for juveniles. The results point to the need for increased awareness of ethics and professional responsibility among advocates. This is essential since the decisions of defence lawyers in juvenile justice can have long-term consequences on the lives of juveniles. Research emphasises that adherence to ethics and professional standards is key to ensuring quality advocacy for children (Kokkalera *et al.*, 2021; Lesnick *et al.*, 2023). Thus, advocates must not only be aware of the legislation, but also recognise their moral responsibility to their clients and society.

Advocates must be aware of the consequences of their decisions and actions for their clients, because their decisions can significantly affect the future of young people (Apakhayev *et al.*, 2024). Access to justice for minors is a separate issue. Despite existing legislative initiatives aimed at ensuring this access, the findings of the study suggest the presence of substantial barriers to the exercise of these rights. This is confirmed by the findings of I. Kalinina (2023) indicating problems of inadequate legal support for minors in conflict with the law. Further discussion of the findings should consider how the proposed approaches and conclusions relate to existing research in the field of juvenile justice. For example, the findings emphasising the significance of psychosocial factors and technology are consistent with those of S. Lerner and H. Smithson (2023), who also emphasised the value of the moral responsibility of advocates in juvenile cases. At the same time, differences may arise in interpreting the role of social media in juvenile justice processes. While many researchers note the positive influence of social media on young people’s awareness of their rights, others emphasise the risks associated with misinformation (Kokkalera *et al.*, 2021). A critical analysis of existing models of advocacy practice shows that some of them may be ineffective in the context of the Ukrainian juvenile system. For instance, approaches used in countries with developed legal defence systems for children, such as Sweden or the Netherlands, may not always be applicable in Ukraine without considering specific cultural and social features (Maksymenko, 2024). This emphasises the need to adapt international practices to local conditions. Thus, the findings of the study not only confirm already existing ideas about the need for a comprehensive approach in juvenile justice, but also expand them by adding new aspects, such as the use of mediation and modern technologies. This opens new perspectives for further investigations aimed at improving advocacy practice in juvenile justice and protecting the rights of juveniles. The study highlighted the relevance of an interdisciplinary approach to legal representation in juvenile justice, which includes the collaboration of lawyers with psychologists, social workers, and other professionals. This approach provides a deeper understanding of clients’ needs and a comprehensive assessment of the juvenile’s situation. For example, J. Fagan (2008) confirmed that advocates working in interdisciplinary teams can develop more holistic defence strategies, which leads to improved case outcomes and reduced stress for youth interacting with the juvenile system. Additionally, findings from the study by B. Feld and S. Schaefer (2010) also showed that such collaboration fosters a more supportive environment for juveniles, which is an essential factor in the legal defence process. This emphasises that interdisciplinary approaches not only improve the quality of services provided, but also greatly enhance the effectiveness of the protection of juvenile rights.

Furthermore, the analysis considered the impact of cultural and social contexts on lawyers' practice in juvenile justice. In Ukraine, as in other countries, there is a need to adapt advocates' working methods to the specific conditions and needs of diverse ethnic and social groups. N.T. Padgaonkar *et al.* (2020) emphasised that cultural sensitivity when working with juveniles can substantially improve the outcomes of defence.

The issue of human rights and their defence is another crucial aspect that emerged in the study. Defence lawyers should not only defend the rights, but also be human rights advocates covering not just legal but also moral and ethical aspects. Furthermore, the findings indicate the need for further training of advocates in the field of juvenile justice. As the situation in this field is constantly changing, it is essential for advocates to be aware of the latest methods, technologies, and legislative developments. The study highlighted the significance of introducing training programmes that focus on soft skills such as communication and empathy. This is in contrast to conventional approaches that emphasise solely on legal aspects, which may attract criticism. T. Remley *et al.* (2020) pointed to the lack of training of lawyers in emotional intelligence, which may lead to a lack of understanding of the needs of juvenile clients. This supports the need to move towards a more interdisciplinary approach that integrates knowledge from multiple fields including psychology and social work.

Comparing the various approaches, one can see that S. Larner and H. Smithson (2023) emphasise the value of the emotional competence of advocates. Their findings are consistent with the conclusions that soft skills are critical to improving interactions between defence lawyers and juvenile clients. However, the question arises as to exactly how these skills can be integrated into existing advocate training programmes. The answer to this question requires more in-depth analyses and further research. In addition, B. Feld and S. Schaefer (2010) demonstrated that approaches to emotional support may vary depending on the social context of minors. This necessitates the need for advocates to develop adaptive strategies that are tailored to the unique characteristics of their clients. However, the lack of standardised methods for assessing these factors in advocacy practice continues to be a genuine problem. Finally, M.F. Nazim *et al.* (2024) emphasised the significance of continuing professional development for lawyers. The researchers argued that advocates must be actively involved in shaping policies to protect the rights of minors. This emphasises the need for lawyers not only as human rights defenders but also as activists, which opens new avenues for professional practice.

Thus, the findings emphasised the need for an integrated approach to advocacy practice in juvenile justice. The integration of modern approaches and technologies, soft skills development, emotional support, and interdisciplinary collaboration can drastically improve juvenile rights advocacy, which is supported by a plethora of existing research. However, further studies are required to understand how best to put these strategies into practice and how they can be adapted to the dynamically changing juvenile justice

context. The integration of soft skills such as communication and empathy, as well as ongoing professional development for attorneys, are critical to improving the quality of juvenile legal defence. Furthermore, successful implementation of these approaches requires adaptation to unique social contexts and active involvement of advocates in shaping legal policy, which will contribute to a better understanding of clients' needs and safeguarding their rights.

## Conclusions

This study investigated the role of advocates in juvenile justice with a focus on their influence in protecting the rights of juvenile offenders. The purpose of this study was to analyse how advocacy can positively influence the outcome of cases involving children and whether certain goals in ensuring a fair process can be achieved. The study covered several phases, including analyses of legislation, advocates' practice, and statistical data on trial outcomes. At all stages, the impact of advocates on case outcomes, their role in protecting children's rights, and the challenges they face were analysed.

The findings showed that the involvement of lawyers greatly improves the outcome of court cases, contributing to a fairer treatment of juvenile offenders and their further social recovery. Defence lawyers play a key role in ensuring the protection of children's rights, which emphasises the need for their active engagement in juvenile justice. They not only represent the interests of juveniles but also facilitate their rehabilitation in society, which is a crucial aspect of their work. Furthermore, the study found that advocates often face challenges in accessing necessary information and resources, which can compromise the quality of their work. This underscores the significance of ensuring that advocates have the necessary tools and resources to advocate for children's rights in court effectively. Public education and outreach can considerably increase understanding of the value of protecting children's rights and supporting advocates in this endeavour. Discussing advocates' strategies and approaches can help create a more knowledgeable society that supports the rights of minors.

The findings of this study have major implications for the protection of children's rights in juvenile justice. The participation of defence lawyers greatly contributes to improving case outcomes and rehabilitation of juveniles, which emphasises their role as mediators between children and the legal system. These findings emphasise the need for further research to improve legal aid for juveniles.

Future studies should focus on more qualitative methods, such as interviews with advocates and judges, to better understand the role of defence lawyers in juvenile justice. Analyses of international practices may also be useful for improving national standards for the protection of juvenile rights.

## Acknowledgements

None.

## Conflict of interest

None.

## References

- [1] Abdrasulov, E., Saktaganova, A., Saktaganova, I., Zhenissov, S., & Toleuov, Z. (2023). Legal awareness and its significance when determining the nature of a person's legal behaviour. *International Journal of Electronic Security and Digital Forensics*, 15(6), 578-590. doi: 10.1504/IJESDF.2023.133960.

- [2] Abrams, L., Barnert, E., & Bryan, I. (2019). When is a child too young for juvenile court? A comparative case study of state law and implementation in six major metropolitan areas. *Crime & Delinquency*, 66(2), 219-249. doi: 10.1177/001128719839356.
- [3] Apakhayev, N., Adilova, K., Bugybay, D., Toktybaev, A., & Kopbayev, D. (2024). The problem of protecting the rights and legitimate interests of the child in the family and outside it. *Danube*, 15(3), 221-236. doi: 10.2478/danb-2024-0013.
- [4] Berryessa, C.M., & Chandler, J.A. (2020). The role of the defense attorney in relation to biological interventions as rehabilitative strategies. *Journal of Offender Rehabilitation*, 59(7), 389-415. doi: 10.1080/10509674.2020.1784350.
- [5] Bettens, T., & Cleary, H. (2024). Defense attorney perspectives about juvenile interrogations: SROs, parents, and the adolescent defendant. *Psychology, Crime & Law*. doi: 10.1080/1068316X.2024.2391971.
- [6] Birkhead, T. (2016). *The racialization of juvenile justice and the role of the defense attorney*. *Boston College Law Review*, 58(2), 379-462.
- [7] Buss, E. (2000). *The role of lawyers in promoting juveniles' competence as defendants*. In T. Grisso & R.G. Schwartz (Eds.), *Youth on trial* (pp. 243-265). Chicago: University of Chicago Press.
- [8] Clarification of the Ministry of Justice of Ukraine No. n0008323-12 "The Law of Ukraine "On Free Legal Aid": Main Provisions and Approaches to Implementation". (2012, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/n0008323-12#Text>.
- [9] Code of Ukraine on Administrative Offences. (1996, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.
- [10] Convention on the Rights of the Child. (1989, November). Retrieved from <http://surl.li/xopyja>.
- [11] Draft Law of Ukraine No. 5617 "On Child Friendly Justice". (2021, June). Retrieved from <http://surl.li/pgwczg>.
- [12] Facts and case summary in Case "J.D.B. v. North Carolina". (2011). Retrieved from <https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-jdb-v-north-carolina>.
- [13] Fagan, J. (2008). Juvenile crime and criminal justice: Resolving border disputes. *The Future of Children*, 18(2), 81-118. doi: 10.1353/foc.0.0014.
- [14] Feld, B., & Schaefer, S. (2010). The right to counsel in juvenile court: Law reform to deliver legal services and reduce justice by geography. *Criminology & Public Policy*, 9(2), 327-356. doi: 10.1111/j.1745-9133.2010.00631.x.
- [15] Finlay, K., Mueller-Smith, M., & Street, B. (2023). Children's indirect exposure to the U.S. justice system: Evidence from longitudinal links between survey and administrative data. *Quarterly Journal of Economics*, 138(4), 2181-2224. doi: 10.1093/qje/qjad021.
- [16] Judgment of the European Court of Human Rights in Case No. 4287/19 "Bezotecheska v. Ukraine". (2019, December). Retrieved from [https://zakon.rada.gov.ua/laws/show/974\\_e75#Text](https://zakon.rada.gov.ua/laws/show/974_e75#Text).
- [17] Judgment of the European Court of Human Rights in Cases Nos. 62209/17 and 50933/18 "Vadym Melnyk v. Ukraine". (2022, September). Retrieved from [https://zakon.rada.gov.ua/laws/show/974\\_h65#Text](https://zakon.rada.gov.ua/laws/show/974_h65#Text).
- [18] Kalinina, I. (2023). Features of the procedural status of minors in criminal justice of Ukraine. *Bulletin of Mariupol State University. Series: Law*, 26, 59-67. doi: 10.34079/2226-3047-2023-13-26-59-67.
- [19] Khanyk-Pospolitaka, R., & Fedosieieva, T. (2023). The specific nature of representing children's interests under martial law. *Problemy Prawa Prywatnego Międzynarodowego*, 33, 75-94. doi: 10.31261/PPPM.2023.33.03.
- [20] Kokkalera, S., Tallas, A., & Goggin, K. (2021). Contextualizing the impact of legal representation on juvenile delinquency outcomes: A review of research and policy. *Journal and Family Court Journal*, 72(1), 47-71. doi: 10.1111/jfcj.12192.
- [21] Lerner, S., & Smithson, H. (2023). "How can you punish a child for something that happened over a year ago?". The impacts of COVID-19 on child defendants and implication for youth courts. *Journal of Criminal Law*, 87(4), 252-265. doi: 10.1177/00220183231172432.
- [22] Law of Ukraine No. 2145-VIII "On Education". (2017, September). Retrieved from <https://kodeksy.com.ua/pro-osvitu/statja-3.htm>.
- [23] Law of Ukraine No. 3460-VI "On Free Legal Aid". (2011, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/3460-17#Text>.
- [24] Law of Ukraine No. 5076-VI "On Advocacy and Advocate's Activity". (2012, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/5076-17#Text>.
- [25] Lesnick, J., Abrams, L., & Barnert, E. (2023). Youth justice at a crossroads: Twenty-first century progressive reforms and lessons to inform the path forward. *Social Service Review*, 97(4). doi: 10.1086/725710.
- [26] Maksymenko, O. (2024). International practices in the development of administrative legal relations in the field of child protection. *Law. Human. Environment*, 15(1), 37-52. doi: 10.31548/law/1.2024.37.
- [27] Mathews, B. (2022). Adolescent capacity to consent to participate in research: A review and analysis informed by law, human rights, ethics, and developmental science. *Laws*, 12(1), article number 2. doi: 10.3390/laws12010002.
- [28] Nazim, M.F., Amjad, S., & Shahid, A. (2024). *Juvenile justice reform: A comparative study of international practices*. *International Journal of Islamic & Social Sciences*, 4(1), 42-53.
- [29] Padgaonkar, N.T., Baker, A., Dapretto, M., Galván, A., Frick, P., Steinberg, L., & Cauffman, E. (2020). Exploring disproportionate minority contact in the juvenile justice system over the year following first arrest. *Journal of Research on Adolescence*, 31(2), 317-334. doi: 10.1111/jora.12599.
- [30] Remley, T., Byrd, R., & Luke, C. (2020). Legal and ethical implications for working with minors. In R. Byrd & C. Luke (Eds.), *Counseling children and adolescents* (pp. 69-92). London: Routledge. doi: 10.4324/9781351133159-7.
- [31] Rice, J.F. (2023). *Training & resource manual for juvenile defense attorneys*. Retrieved from [https://sc.edu/study/colleges\\_schools/law/centers/childrens\\_law/docs\\_general/juvenile\\_justice\\_publications/jj\\_defender\\_manual\\_23.pdf](https://sc.edu/study/colleges_schools/law/centers/childrens_law/docs_general/juvenile_justice_publications/jj_defender_manual_23.pdf).
- [32] Rules of Advocacy Ethics. (2012, November). Retrieved from <https://zakon.rada.gov.ua/rada/show/n0003418-12#Text>.
- [33] Spytka, L. (2023). Principles of delinquent behavior correction program creation for youth detention centers. *Human Research in Rehabilitation*, 13(2), 188-199. doi: 10.21554/hrr.092301.

- [34] Summary of the judgement in the Case No. 28253/11 “Timchenko v. Ukraine”. (2021). Retrieved from [https://supreme.court.gov.ua/userfiles/media/new\\_folder\\_for\\_uploads/supreme/Tymchenko\\_22\\_07\\_2021.pdf](https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Tymchenko_22_07_2021.pdf).
- [35] Tanchenko, S. (2020). “Safe School” in Dnipro: Detailed answers to all questions on the programme. Retrieved from <https://nashemisto.dp.ua/ru/2020/09/02/bezopasnaja-shkola-v-dnepre-detalnye-otvety-na-vse-voprosy-po-programme/>.
- [36] Tyminski, M. (2021). *The role of the zealous advocate: Implementing LGBTQIA + -conscious ethics in juvenile criminal defense to combat the school-to-prison pipeline*. Retrieved from <http://surl.li/cctuhf>.
- [37] Welner, M., DeLisi, M., Knous-Westfall, H., Salsberg, D., & Janusewski, T. (2023). Forensic assessment of criminal maturity in juvenile homicide offenders in the United States. *Forensic Science International: Mind and Law*, 4, article number 100112. doi: 10.1016/j.fsml.2022.100112.
- [38] Wright, R., & Roberts, J. (2022). Expanded criminal defense lawyering. *Annual Review of Criminology*, 6, 241-264. doi: 10.1146/annurev-criminol-030421-035326.
- [39] Yakymenko, B. (2023). Formation of the institute of personal data protection and experience of its implementation in the countries of the EU. *Scientific Journal of the National Academy of Internal Affairs*, 28(4), 68-79. doi: 10.56215/naia-herald/4.2023.68.
- [40] Yusupova, K. (2022). Legal regulation of defence lawyer’s involvement in criminal proceedings against minors: Genesis of the issue, stages of development. *Law Journal of the National Academy of Internal Affairs*, 12(2), 79-92. doi: 10.56215/04221202.79.

## Правові обов’язки адвоката та стандарти захисту неповнолітніх у ювенальній юстиції

### Дарига Оспанова

Магістр права, старший викладач

Каспійський університет

050021, просп. Достик, 85А, м. Алмати, Республіка Казахстан

<https://orcid.org/0009-0008-9295-9468>

### Світлана Мороз

Доктор юридичних наук, професор

Каспійський університет

050021, просп. Достик, 85А, м. Алмати, Республіка Казахстан

<https://orcid.org/0000-0002-6143-0210>

### Анара Ніязова

Доктор юридичних наук, професор

Каспійський університет

050021, просп. Достик, 85А, м. Алмати, Республіка Казахстан

<https://orcid.org/0000-0003-0926-6174>

**Анотація.** У роботі досліджено правові обов’язки адвоката в контексті захисту прав та інтересів неповнолітніх у ювенальній юстиції. Мета дослідження полягала у критичному аналізі стандартів правової допомоги, що надається неповнолітнім, та у визначенні ролі адвоката в сучасних процесах, що стосуються захисту їхніх прав. Методологія дослідження включала в себе аналіз міжнародних стандартів захисту прав неповнолітніх, порівняльне дослідження законодавства України, а також вивчення практичних кейсів із судових справ, що стосуються захисту прав дітей. Основні результати засвідчили наявність значних відмінностей в підходах до захисту прав неповнолітніх. У країнах ЄС, таких як Німеччина та Франція, обов’язковою є участь адвоката на всіх етапах процесу, а також дотримання суворих стандартів конфіденційності та забезпечення прав дитини. У цих юрисдикціях існують чіткі правові норми, які забезпечують гарантії для неповнолітніх. Натомість в Україні спостерігаються прогалини в законодавстві, що ускладнюють захист прав дітей і призводять до недостатньої правової обізнаності адвокатів. У дослідженні також проаналізовано вплив стандартів захисту неповнолітніх на загальний стан ювенальної юстиції та правозастосування в Україні. Виявлено, що недостатня правова обізнаність адвокатів та відсутність чітких регуляцій призводять до порушень прав дітей. Це вказало на необхідність удосконалення системи ювенальної юстиції в Україні. Висновки підкреслили необхідність інтеграції таких європейських стандартів, як обов’язкова участь адвоката на всіх етапах судового процесу, захист конфіденційності неповнолітніх, дотримання принципу найкращих інтересів дитини, а також забезпечення доступу до правової допомоги незалежно від соціального становища. Впровадження цих стандартів може значно поліпшити правозахист неповнолітніх і забезпечити ефективну правову допомогу в приватноправових спорах, пов’язаних із захистом їхніх прав та інтересів

**Ключові слова:** правова допомога; захист прав дітей; адвокатська етика; приватні інтереси; судові процеси