

STATE PARTY EXAMINATION OF THE RUSSIAN FEDERATION'S FOURTH AND FIFTH PERIODIC REPORT

65TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

13 – 31 JANUARY 2014

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The Russian Federation ratified the Convention on the Rights of the Child (CRC) on 16 August 1990. On 23 and 24 January 2014, the Committee on the Rights of the Child (the Committee) examined the fourth and fifth periodic report of Russian Federation. It was last examined on 28 September 2005.

Opening Comments

The delegation of the Russian Federation was led by Mr. Alexei Vovchenko, the Deputy Minister of Labour and Social Protection of the Russian Federation. He was supported by a high-level delegation consisting of the Presidential Ombudsman for Children, the Chair Person of Committee on Children Family in the State Duma, of representatives of the Ministry of Defence, the Ministry of Justice, Ministry of Foreign Affairs, etc. and the Permanent Mission in Geneva.

Mr. Vovchenko, stated that the protection of children remained at the top of the State Party's priorities and that its objective was to achieve the full realization of the rights of the child, including the best interest of child, physical and moral health and development of creative capacities. Mr. Vovchenko also reiterated the State Party's commitment to implement the CRC and its Optional Protocols. He further emphasized the establishment of a National Strategy for Action for Children for 2012–2017, which had extended financial support to vulnerable children, including children with special needs, orphans, children without parental care, as well as to families.

Mr. Vovchenko also highlighted the efforts made by the State Party in fighting the demographic crisis, and in particular depopulation, high death rates and extremely low birth rates. Within the framework of the demographic policy, the State Party had set out measures

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to increase fertility. As a matter of example, Mr. Vovchenko highlighted that financial support had been made available to parents caring for children with disabilities, the increase of maternal capital upon the birth of a second and subsequent child as well as the provision of additional monthly benefits to families with three and more children. Given these measures, the crude birth rate had increased substantially over the past years: in absolute terms, there were 1.4 million births in 2006 and 1.9 million births in 2012. Within these numbers, the share of second child had increased from 33 per cent in 2006 to 52 per cent in 2012.

In addition, Mr. Vovchenko highlighted other accomplishments such as the 12 December 2013 federal law on education, the raise of expenditures on children's health and the establishment of a presidential Ombudsman in compliance with the Paris Principles. In the area of juvenile justice, amicable and alternative solutions had progressively replaced sentences involving deprivation of liberty. Steps were also being taken to improve public health and more than 25 per cent of health spending was currently devoted to children's health.

Ms. Renate Winter, the Coordinator of the Task Force, offered a warm welcome to the delegation and congratulated the State Party for its fourth and fifth periodic report to the CRC, as well as for its initial report under Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC).

General Measures of Implementation

Legislation

The Committee noted that since the last report in 2005 many developments, especially between 2010 and 2013, took place in the State Party and many laws and amendments had been adopted in the area of the rights of the child. It highlighted the amendments of the Criminal Code in relation to the strengthening of sentences for abuses committed against children as well as the 2013 law on tutorship facilitating deinstitutionalization. Nevertheless, the Committee was concerned by the lack of comprehensive data and asked for more detailed information on the implementation of the new legislative amendments.

Ombudsman for children

The Committee commended the State Party for the establishment of an Ombudsman for Children under the President of the Russian Federation and asked to what extent this institution was compliant with the Paris Principles. Eventually, the Committee enquired whether an independent and accessible mechanism had been established for children to submit complaints to the Ombudsman.

Taking lesson from the 2005 Concluding Observations, the Committee explained that an independent Ombudsman for Children in line with the Paris Principles had been established by a presidential decree. The Ombudsman's office had been given the mandate to monitor administrative and governmental bodies and ensure compliance between public policies and the CRC. The Ombudsman's Office was also entitled to monitoring activities related to children's rights in all regions of the State Party. Since its creation, the Ombudsman's Office had organized numerous field visits in schools and institutions for children with disabilities in different regions.

In addition, the delegation highlighted that in December 2011, departments of the Ombudsman's Office had finally been established in all 83 regions. Coordination among departments had been ensured through regular meetings with the Federal Ombudsman for

Children. Regarding the appointing procedure, Ombudsmen had been elected in accordance with the regional laws. The general practice across regions was to nominate candidates, who met certain criteria (pedagogical or legal education, experience, etc.) and then proceed to a secret election by the local Parliament.

Regarding access of children to the Ombudsman, the delegation clarified that a special section dealing exclusively with complaints and requests from citizens had been created. Parents and children themselves were able to contact the Office, through mail, post, the webpage or through a special hotline.

Dissemination and training

The Committee enquired about the dissemination and awareness raising around the CRC and asked particularly whether General Comments number 12 and 14 had been translated into Russian. The delegation answered that the CRC had been translated and was included into educational curricula.

Coordination

The Committee enquired about the place of the CRC in the domestic legal system and asked whether in case of conflict between domestic law and the CRC's provisions, the primacy had been attached to the CRC and related international standards.

In addition, the Committee asked for more information on the body responsible for the overall coordination and implementation of the CRC at the federal and regional levels. With regards to the National Strategy for Action for Children for 2012–2017, the Committee asked about its implementation across governmental bodies. It also noted that the Strategy had not been applied in all federal regions and enquired what was behind such lack of implementation.

The delegation explained that the CRC and its Optional Protocols had the primacy over domestic law and had been regularly referred to by judges, including the Constitutional Court. Regarding the National Strategy for Action for Children for 2012-2017, the delegation explained that since its adoption it had been guiding all governmental actions and public policies. A plan for the realization of the Strategy up to 2017 had been adopted by the Parliament and a specific timeframe for the implementation had been established. The delegation concluded by saying that all 83 regions had adopted their own strategies in line with the federal Strategy and had started implementing them.

International cooperation

The Committee extended congratulations to the State Party for the considerable work in implementing the OPSC, the OPAC as well as the UN convention on the Rights of Persons with Disabilities. The Committee asked whether the State Party envisaged ratifying other international instruments, such as the Optional Protocol to the CRC on a Communication Procedures, the UN convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the UN convention for the Protection of All Persons from Enforced Disappearance and the convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

The delegation answered that in 2013 the process of ratification of the convention on Protection of Children and Co-operation in Respect of Intercountry Adoption had begun.

The role of civil society and non-governmental organizations

The Committee was concerned about the fact that, according to the 2013 law 102766-6 Non-Governmental Organizations that received foreign funding (NGOs) had to be registered as foreign agents. The Committee asked for more information about the position of these foreign based NGOs and enquired whether members of concerned NGOs had truly participated in the work of the regional Committees on the Rights of the Child.

The delegation answered that the State Party had been regularly consulting and cooperating with several NGOs, especially in areas of welfare and social assistance. In addition, the State Party established a regional system of Public Chambers, which had been evaluating and commenting on all draft laws and acts proposed by the government. The delegation clarified that most members of the Public Chambers had been elected from NGOs and CSOs and that their right to freedom of expression was guaranteed within these Chambers. In addition, since 2012, the government had the obligation to conduct public consultations on all drafts during 60 days after their introduction. The draft laws were published on the Ministries' website in order to enable NGOs and CSOs to consult and issue comments.

The delegation also explained that the State Party supported financially numerous projects developed and implemented by NGOs and highlighted that the Ministry of Labour had been granting more than 2 million of rubbles every year to support civil society's activities. In addition, a separate federal fund for assistance to children in difficult situation had been established to distribute grants and support regional NGOs working in the area of welfare and social services. It concluded that the same system had been established within regions and was supported by the regional budget.

General Principles

Non-discrimination

The Committee was concerned about increasing discrimination and hate crimes stigmatizing minorities, including LGBTs, Central Asian and migrant children. In view of these facts, the Committee asked what measures had been adopted by the State Party to stop discrimination, bullying and violent attacks against minorities. In addition, it asked whether there was a comprehensive legal definition of racial discrimination.

Best interest of the child

The Committee was concerned about the lack of legal definition regarding the principle of the best interest of the child. It also noted that parental rights took precedents over children's rights. In addition, the Committee expressed concern about the proliferating anti-juvenile campaigns, hampering the principle of the best interest of the child. The delegation answered that parents movements were an integral part of a civil society and that these movements did not advocate against minors and children's rights in general, but rather against State interventions into the privacy of families. At the same time, the delegation stated that in some instances, the State Party had the obligation to assist parents and intervene into the private life of families in order to protect the best interest of the child. The delegation concluded by stating the State Party's commitment to organize a dialogue between the government and parents movements on the issue of juvenile justice.

Civil Rights and Freedoms

Corporal punishment

The Committee was concerned about the lack of explicit criminalization of corporal punishment. It also noted that corporal punishment at home and institutions had not been prohibited. Given this situation, the Committee enquired why no efforts had been made to prohibit this practice in care institutions, especially considering that State Party's officials had supported the Council of Europe's petition against all forms of corporal punishment. The Committee noted that in 2013, a law on domestic violence had been drafted and asked whether a prohibition of corporal punishment had been proposed in this context. Eventually, it asked whether any public awareness raising campaign had been organized and whether non-violent disciplinary measures had been promoted. The delegation stated that corporal punishment in schools was unlawful, but was lawful in homes and alternative care settings.

Unlawful detention of minors

The Committee was concerned with the frequent unlawful detention of minors, occurring in situations when there was no illicit behaviour from their parts. This phenomenon was often linked to ill-treatment and violations of procedural rights by law enforcement agencies, such as the right to be informed about the reasons for being detained, the right to contact family members and the right to see a lawyer. The Committee described concrete cases, such as the death of a 15-year-old minor who was detained by a police officer and beaten to death in a police station in St. Petersburg. Moreover, the adoption of the law on curfews in 2009 in St. Petersburg and other regions seemed to have increased the rates of arbitrary detentions of minors. Eventually, the Committee was also concerned about the fact that in many cases, the police had sent information about the arrests to schools, with negative consequences for the children concerned.

The delegation regretted the death of the 15-year-old minor in St. Petersburg and emphasized that a criminal case had been opened and the former police officer had been sentenced to 6 and half years of prison. Also 7 supervisors had been held accountable, some had been demoted and some had been subjected to disciplinary measures.

The delegation further noted that the phenomenon of unlawful detention of minors had been discussed and a research had been conducted in order to investigate root-causes of this phenomenon. In addition, agencies of the Prosecutor General had been monitoring conditions of detention, including in police stations, especially when minors were involved. When violations of procedural rights of minors had been detected, the Office of the Prosecutor General had conducted further investigations. The delegation committed to ensure that all doubtful cases of unlawful detention involving minors would be investigated.

Regarding the 2009 law on curfews, the delegation explained that such provision did not exist under the federal law. It had been established under the regional law in order to promote physical, mental and moral health of children and a healthy way of life. In line with the provisions under the curfew law, children could be detained for a maximum period of 3 hours (timeframe for identification and assistance) and a maximum of 24 hours if suspected of having committed a crime. The delegation concluded by highlighting that since the adoption of the curfew law in 2009, crimes committed against children and by children decreased significantly in St. Petersburg and other regions, which adopted this law.

Family Environment and Alternative Care

Adoption

The Committee was concerned about the so-called Dima Yakovlev law, which entered into force on 1 January 2013 and prohibited United States citizens from adopting Russian children, even though they were already set up for the adoption process. It further noted that this law harmed the interest of orphans and children with disabilities. The Committee asked the delegation to comment on this legal provision. The delegation clarified that United States citizens did not have any contact with children involved in the adoption. Moreover the delegation noted that the State Party had the right to impose restriction on international adoptions. It mentioned that Brazil likewise restricted international adoption to the United States.

De-institutionalization

The Committee asked the delegation to provide more information on measures taken to prevent widespread and systematic institutionalization of children. It noted with concern that in 75 per cent of the detected cases, children had been deprived of parental care for social reasons. Given these facts, the Committee asked whether the State Party had adopted any measures in order to prevent the placement of children in institutions for social reasons.

The delegation answered that considerable progress had been made over the past 6 years in decreasing the number of children deprived of parental care. In 2006 there were 177.000 children left without parental care and in 2013 the number decreased to 106.000. The delegation explained that this was a result of a governmental decree on the placement of Orphans and Children Deprived from Parental Care, which had been developed in cooperation with NGOs. This decree prioritized family environment rather than institutional care and introduced a system of material incentives to promote foster families. Eventually, the delegation explained that the State Party was committed to do more in order to prevent institutionalization. It highlighted the 2013 law on tutorship, which had been facilitation de-institutionalization of children.

Baby boxes

The Committee was concerned about the fact that 10 baby boxes had been set in different regions since 2011. Given this fact, the Committee asked whether special measures had been taken in order to support mothers to keep their children. It also requested more information regarding legal procedures in case the mother decided to claim back her child.

The delegation stated that the main concern was to prevent the death of the new-born and that baby boxes were the last resort solution for mothers. In order to prevent mothers from leaving their child in baby boxes, assistance was provided to mothers in maternity clinics and they were encouraged to stay with their new-borns in the same room. If a mother decided to claim back her child, a court would have to intervene in order to prove the biological bond between the mother and the child.

Abduction

The Committee requested more information about abduction and measures taken in order to ensure the return of children. The delegation answered that the Hague convention on the Civil Aspects of International Child Abduction had entered into force on 1 October 2011. A draft bill submitted to the Duma for ratification would ensure its implementation. The delegation

regretted that there were continuous difficulties in securing return of children from countries with whom the State Party did not signed any bilateral agreements.

Basic Health and Welfare

Children with disabilities

The Committee was concerned about the excessive diagnosis of mental disabilities, which had increased the number of children with special needs in special institutions (there were half a million of children with disabilities in 2009). The Committee noted that in some cases, children suffered from psychological and behavioural problems, which were inaccurately diagnosed as disabilities. Over-medicalization of children with disabilities was equally a concern. Faced with such a reality, the Committee asked whether the State Party supported parents taking care of children with disabilities in order to prevent institutionalization. It also required more information about inclusive education.

The delegation noted that in 2014, there were 129 specialized State institutions hosting 22.500 children with special needs throughout the country. Institutionalized children were mainly suffering from severe forms of mental disabilities and related illnesses. The majority of them had been sent to specialized institutions by their parents, and therefore only a small percentage was orphans. The delegation explained that specialized institutions provided social protection, including housing, clothing and food for these children, as well as distance learning courses.

Regarding inclusive education, the delegation explained that the 2012 federal law on education supported inclusive education and aimed to increase the number of facilities for children with special needs. Moreover trainings for teachers and educational personnel had been encouraged in order to assist parents in taking care of children with disabilities. The delegation noted that 9 million rubbles had been spent on such trainings.

Health services

The Committee asked what had been done to improve access to health services. The delegation answered that all children, including migrant children were entitled to health care. In 2013, the Ministry of Health had spent 40 billion of rubbles in vaccination programmes for children. Emergency care was mandatory and was provided for free to all citizens. In 2013, mandatory check-ups in schools had been introduced in order to determine disabilities at an early stage. Regarding the access to health in remote areas, the State Party had established mobile emergency teams.

Adolescent health

The Committee was concerned by the increasing rates in suicide amongst adolescents. It asked whether preventive measures had been adopted. Eventually, it asked whether adolescents had access to confidential reproductive services.

The delegation noted that in 2013, 653 cases of suicide had been reported. In order to prevent such high rates, the State Party had increased the number of psychiatric clinics in schools and had created special hotlines in order to assist vulnerable minors. It also clarified that there had been a 1.8 decrease since 2007 in suicide rates.

Nutrition and health of the children living in the Arctic Region

The Committee asked whether the State Party ensured that concerned children had access to a varied diet, including fish. In addition, the Committee expressed concern about the extracting industry which had a devastating impact on indigenous communities. It asked the delegation whether a special mechanism had been established in order to monitor the delivery of support to indigenous communities.

The delegation explained that there were 40 different indigenous groups living in the Arctic region and that the number of the indigenous people had increased by 3 per cent. It stated that a National Strategy on indigenous people had been adopted in 2009 to provide support and assistance as well as to ensure access to natural resources, such as fish. The quotas on fish had been set at 40 to 100 kg/person based on scientific calculations.

In regards to the extracting industry, companies and government had provided compensations for damage and lost revenues to indigenous communities living in the Arctic Region. Social benefits, material and financial support to children's education and promotion of traditional ways of living had been guaranteed by companies, such as Gazprom, Petroleum or BP Russia, on a basis of bilateral and trilateral agreements. The delegation further stated that federal and regional resources (over 10 billion of rubbles) had been allocated to protect indigenous communities. There had been various ways to monitor implementation of the agreements with the indigenous communities, mainly by NGOs and CSOs. Moreover the delegation explained that legislation created specific obligations for extracting industries to publicly discuss all projects involving indigenous communities and highlighted that if a consensus had not been reached the project could not continue.

Children living in prison with a mother

The Committee was concerned about the fact that incarcerated mothers had could see their children only one hour per day. It explained that it was not possible to create mother-baby bonding within such limited timeframe. The Committee asked whether the State Party envisaged establishing special units, where these children could live with their mothers. The delegation answered that in 2014, there were 43 correctional institutions for women. In 13 of these institutions, special homes, where children until the age of 3 could live with their mothers, had been established. There were 671 minors living in these correctional centres in 2014. In accordance with the Criminal Executive Code, necessary living conditions had been ensured for these children.

Education, Leisure and Cultural Activities Education

Education and language acquisition

The Committee requested more information about the 2012 law on education. The delegation stated that in December 2012 the Law on Education in the Russian Federation number. 273-FZ had amended the 1992 law on education. It increased the number of learning languages used in schools. According to the 2002 national population census, 239 languages were spoken in the State Party. Developed languages of the major ethnic groups had been used as languages of learning and non-written languages had been renewed and taught in classrooms as a special subject.

Special Protection Measures

Juvenile justice

The Committee commended the State Party for the significant reduction in sentences of imprisonment of juveniles. It asked whether there were special courts for children in conflict with law throughout the country and whether trainings in the area of juvenile justice had been provided to judges, police authorities and prosecutors. Further on, the Committee enquired whether there were special programmes on rehabilitation and reintegration of children in conflict with law. The Committee requested more information about guarantees ensuring that procedural safeguards had been respected. Eventually, the Committee asked whether children in closed institutions had access to free legal aid.

The delegation stated that although legislation did not provide for a juvenile justice system, the State Party ensured a friendly juvenile justice system for administrative and criminal offenses committed by minors. The delegation highlighted the fact that new legislation in line with the CRC had been adopted for those children who committed administrative or criminal offences. The number of agencies providing juvenile justice had increased and included Courts of General Jurisdiction. Regional Commissions for Protection of Minors Rights (quasi-judicial organs under the Administrative Code for Offenses) had been established and were dealing with administrative offenses committed by minors and parents against their children. Cases of minors committing a criminal offence were processed by ordinary courts. For both administrative and criminal cases involving a minor, the right to appeal had been ensured. Moreover, the Plenum of the Supreme Court issued a decision number 1 of the 1 February 2011 on *Judicial practice in the application of the law governing particular features of criminal liability and punishment as they relate to minors*. This decision clearly stated that all cases involving minors had to be addressed by the most experienced judges. A specialization in juvenile cases implied for judges, a certain professional competence through re-trainings in pedagogics, sociology, youth psychology and the use of the juvenile justice methods. These ongoing trainings had been organized by the Russian Academy of Justice. The delegation also clarified that judges had the obligation to take into account relevant international legal agreements when considering criminal cases involving minors. The delegation also clarified that criminal responsibility was set at the age of 16, but that it could go down to 14 in cases of serious offences.

Regarding procedural rights, the delegation explained that juveniles were entitled to the same rights as adults (presumption of innocence, rights to free legal assistance, etc.). In addition, minor offenders had been also entitled to special protection. The additional protection measures ensured a mandatory participation of pedagogues and psychiatric during the court proceedings. Since 2012, all serious crimes involving minors were under the competence of a specific investigating Committee. In addition, the delegation stated that the Prosecutor's office had been monitoring hearings involving children and ensuring compliance with the rights of the child.

The delegation concluded by saying that the number of crimes committed by juveniles had decreased by 17 per cent between 2010 and 2013. In 2013, the percentage of juvenile offending was less than 5 per cent of the total number of crimes. Moreover, given the fact that milder measures had substituted the deprivation of liberty, only 1 out of 10 trailed minors had been incarcerated in 2013 and the trend in recidivism had decreased.

Roma community

The Committee was concerned about illegal detention of Roma people and illegal searches in Roma settlements. The Committee mentioned the case of a Tajik-Roma settlement in St. Petersburg which had been devastated during a police raid. 28 Mugat children had been detained, transferred to the *Tranzit* orphanage and subsequently repatriated to their country of origin. Despite complaints filed by NGOs, police authorities did not proceed to any investigations. Facing such a reality, the Committee asked what action had been taken to address this situation.

The delegation stated that several measures had been taken, including strategies, plans and awareness raising campaigns in order to provide assistance to the Roma community and protect it from stigmatization, discrimination and hate crimes. It highlighted the adoption of a Comprehensive Plan of Activities for Cultural Development of Roma (2013-2014). The plan had been implemented in 33 regions out of 83 and the first assessment report of this plan was being currently drafted. In addition, the delegation explained that different regional programmes had been established in order to improve the situation of Roma communities, including passportization campaigns (provision of passports to Roma by the federal migration services). Regarding programmes supporting cultural autonomy, a pilot project for cultural autonomy, targeting pre-school Roma children, had been piloted in 2 regions: Moscow and Smolensk. The delegation also highlighted that a Roma Women's Conference had been organized, bringing together different stakeholders.

Moreover, the State Party had been closely cooperating with the Council of Europe on the inclusion of Roma communities. As a matter of example, the delegation highlighted the first ROMED training of trainers working with the Roma community in November 2012 as well as the 2013 Training Session of Mediators, which took place in Strasbourg. Moreover inter-regional cooperation on the situation of the Roma had been supported by the State Party and inter-regional seminars, including regional authorities and representatives from NGOs had been organized. The delegation also highlighted that a federal agency for Roma had been established in every region.

Regarding prevention of intolerance, a Presidential Council of Interethnic Relations had been established in 2012, composed of representatives from NGOs and leaders of organizations representing national ethnic minorities. Its objective was to monitor inter-ethnic relations in all regions of the State Party. Moreover, in December 2012, Vladimir Putin signed the Nationalities Policy Strategy, a presidential decree that replaced the 1996 Concept of State Nationality Policy. Its main goals were the protection and development of ethnic variety and the harmonization of ethnic relations. In 2013, a governmental 3 year Action Plan had been adopted to carry out the Strategy.

LGBT minority

The Committee was concerned about increasing hate crimes against the LGBT minority. It enquired what happened to adolescent going through the change of sexual orientation. It asked specifically whether LGBT minors were subjected to forced treatment and whether they had access to confidential counselling.

Concluding Remarks

Ms. Renate Winter thanked the delegation for the very interesting discussion. She appreciated

the dialogue which served to clarify many issues and invited the country delegation to send further information on issues that were outstanding in the discussion.

Mr. Alexei Vovchenko thanked the Committee for the many questions and recommendations and said that the State Party would make them a top priority to improve the rights of the child in the Russian Federation.