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Representing the child and defending its interest in Russia: current situation and challenges

In my presentation I would like to give you an understanding of the Russian situation with regard to defending children's interests in the course of investigation and court procedure. It is important that we remain sensitive to the cultural and social background when talking of implementation of child-friendly standards in each particular country, and it is especially useful to remember in the case of the Russian Federation.

Child-friendly justice in general is a relatively new theme in Russia. We are just taking first steps in this direction. Consequently, my presentation structure will differ to some extent from the previous talks, and it might seem more general. This is because so far we do not have so many fixed regulations in this field, and the system is still under formation.

BACKGROUND SITUATION

The background is also quite different from some other Baltic region states, to mention just a few things.

Firstly, there is high statistics on child abuse. According to the Ministry of Internal Affairs data (2012), more than 3 000 children each year are reported to have suffered serious physical abuse at home. And here we do not even talk of 'less serious' forms of violence against children, including psychological abuse, etc., reaching almost 600 000 cases a year.

Secondly, in Russia there exists a strong public prejudice against 'juvenile justice' technologies as such. It is mostly viewed as means of separating children from parents for almost no substantial reason, when, for instance, a bruise on a child's arm discovered by a teacher may automatically result in deprivation of parenthood.

What is different here from the experience of most Western European countries, we already have very high statistics on orphans, including those whose parents are alive, but deprived of the parental rights or refused those rights themselves.

Many kids thus have to go to an orphan's house – and such experience will be extremely traumatic to them. In other words, finding out that a child is being spanked is a poor reason to take him/her from the family and put in the orphanage. Instead, in many cases social services try to work closely with the family offering psychological support and training for both parents and children.

Another concern which is widely spread in the Russian society is that 'juvenile justice' is undermining the significance of family, promoting wrong models of parents–children relationships, and training kids to report on their parents for insignificant incidents.

Finally, there is also a fear of corruption – according to a widely shared opinion, juvenile justice could be used as a threatening tool by the corrupt officials. Thus, the task of introducing the concept of child-friendly justice is a bit complicated in our situation. But at the same time we realize the importance of joint actions (involving the state and non-governmental organizations) in this direction.

EXISTING LEGISLATION

In a criminal case where a child is either a victim, or a witness, the investigators normally act within the framework of the Criminal Procedure Code of the Russian Federation.

As far as pre-trial investigation is concerned, for children under 16 it is obligatory to have a teacher or a psychologist present while collecting evidence (Article 191.1). A parent or custodian also has to be present. In certain cases the investigator may exclude a parent from the procedure (f. ex., when he or she is a suspect), inviting another legal guardian for the child (Article 191.3). Where the interview should take place is not specified.

When a child under 14 is summoned to the court, the presence of a psychologist is obligatory, according to Article 280.1. Again, the presence of a parent or another legal guardian is necessary (Article 280.4). It is also provided that if the child (a victim or a witness) is under 18, while interviewing the child, the court MAY move the perpetrator out of the room, yet afterwards he/she has to be informed of the child's testimony, and has a right to ask questions (Article 280.6-7).

The obligation to use child-friendly methods in the course of investigation is not itself part of the Criminal Procedure Code, though there is the Supreme Court ruling from 2011 that international agreements and conventions must also be taken into account. But in practice the investigator works with the Procedure Code primarily, and it means we need to continue working on amendments to it.

RECENT DEVELOPMENTS

To address the problem of the rights of the children, the National Children-Friendly Action Strategy (*Natsionalnaya strategija dejstvij v interesakh detej*) was made in 2012 and signed by the President, and at the same time a detailed realization plan was approved by the Government for the period up to 2017, which now remains under constant state control. Today the Strategy constitutes the main framework in which different initiatives (also, legislative) on child-friendly justice are proposed.

So far it is possible to speak of two main directions with respect to the development of child-friendly justice in Russia.

a) The first one has its focus on young people who are in conflict with law. Some of them have not reached the minimal age according to the Criminal Code, and we need to find mechanisms how to work with them. Here in 2012-2014 a number of pilot programs were realized on the regional level, such as creation of special *juvenile courts*, or opening *social support services* within general courts. The purpose of those initiatives is to find best ways of cooperation between judges and social workers, as well as to give support to adolescents throughout the investigation/court procedure and afterwards.

It already had positive results, including decrease in repeated crimes among the adolescents involved, and the practice was found useful by the UN Committee on the Rights of the Child.

With respect to judges, the ruling by the Supreme Court mentioned earlier states that those judges specialized in juvenile justice also have to receive professional training in pedagogics and psychology. Unfortunately, not so many regions have been involved in this project so far.

Another recent novation is the establishment of a so-called mediation services network in 2014, which was created in order to coordinate and disseminate the existing experience of 'ex curia' reconciliation, where children are involved either as claimants, or respondents.

b) And the second direction is to provide legal and psychological assistance to the victims or witnesses of crimes and abuses. So far, it mostly exists in the form of regional pilot projects, and has not yet been adopted on the federal level. But this positive experience will most likely be used in the future.

In several regions centers for psychological, medical and social assistance were opened. Upon request from the local investigation department the specialists thus take part in interviews with children victims, study psychological climate in their families and report to the investigation department.

The centers provide various forms of psychological counseling for parents and children, take part in the court hearings as the third party, etc. They also give recommendations how to create a friendly psychological atmosphere at home, sometimes attract psychotherapists, if necessary. For the purpose of pre-trial interviews special “*green rooms*” have been arranged, not exactly as “*barnahus*” in the Nordic countries, but it is a step in the same direction. The “*green rooms*” consist of two separate areas – a comfortable space with toys, etc. (where kids play together with a psychologist), and a room for investigator, to watch and correct the psychologist, and to film the child’s testimony. The record will then be used in the court.