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REPORT OF THE RUSSIAN FEDERATION ON COMPLIANCE WITH THE RIGHTS OF CHILDREN, FAMILIES AND MIGRANTS

1.Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

Paragraph 3 - Prohibition of employment of children subject to compulsory education

The Committee asks how the Labour Inspectorate monitors the above-mentioned exceptions in practice

The Committee asks how the Labour Inspectorate monitors the working weekly and daily hours of children who are subject to compulsory education and information on its findings.

Comment.

Conclusion of a labour contract shall be permitted with persons having reached fifteen years of age in order to perform light work that does not harm their health (p. 2 art. 63 Labour Code of the Russian Federation (hereinafter - Labour Code RF).

With the consent of one of the parents or the guardianship body, a labour contract may be concluded with a student having reached fourteen years of age to carry out light work not that does not harm his/her health or interfere in the process of study in the time free from study (p. 3 art. 63 Labour Code RF).

The Federal Law No. 139-FZ dd July 1, 2017 updated part 2 of Article 63 with the provision that persons who have reached the age of fifteen and in accordance with the Federal Law No. 273-FZ dd December 29, 2012 "On Education in the Russian Federations" that left general education institution before graduation in basic general education or expelled from that institution and continuing to receive general education in another form of education may conclude the employment contract for performing light work that does not harm their health and without prejudice to the development of the educational program.

Also, the Federal Law No. 139-FZ dd July 1, 2017, updated part 3 of article 63 with the category of persons with general education and who have reached the age of fourteen to perform light work without harm to their health. In addition, according to this Federal Law, the consent of one of the parents (guardian) and guardianship body specified in Part 3 of Art. 63 of the Labour Code of the Russian Federation must be drafted in writing.

There is no specific list of light works but the issue is solved with the help of “SanPiN 2.4.6.2553-09. Sanitary and epidemiological requirements for working conditions safety for workers under the age of 18. Sanitary and Epidemiological Rules and Regulations, approved by the Resolution of the Chief State Sanitary Doctor of the Russian Federation No. 58 dd September 30, 2009. This document establishes the necessary requirements of sanitary and epidemiological safety of working conditions for teenagers aged 14 - 18 and conditions of industrial training (industrial practice) students of educational institutions of general and vocational education, in order to ensure safe and harmless working conditions that do not affect adolescent growth, development and health.

According to article 353 Labour Code of the Russian Federation (hereinafter — LC RF) federal state monitoring and enforcement of labour law and other legal regulatory acts containing labour law norms shall be carried out by the federal labour inspectorate. .

The federal labour inspectorate shall be a unified, centralized system composed of the federal executive governmental body (Federal Service for Labour and Employment (Rostrud) charged with state supervision and control of observance of labour law and other legal regulatory acts containing labour law norms and its territorial bodies - state labour inspectorates (hereinafter - SLI) (art. 354 LC RF).

Information on addresses and telephone numbers of the SLI is available on-line: https://www.rostrud.ru/inspections/. (Rostrud portal)

SLI perform their activities through inspections, their legal regulation is also enshrined in the Federal Law No. 294-FZ dd December 26, 2008 “On Protection of the Rights of Legal Entities and Individual Entrepreneurs when Exercising State Control (Supervision) and Municipal Control” (hereinafter - Law No. 294 -FZ).

This Law provides for two types of inspections - planned and unscheduled.

Planned inspection is carried out in order to establish (Art. 9, Law No. 294-ФЗ):

- whether the legal entity complies with mandatory requirements (including those stipulated by the labour legislation) and requirements established by the municipal legal acts;

- whether the information contained in notification on commencement of certain types of business activities complies with the mandatory requirements.

Planned inspection can be documentary or on-site. It is performed once every three years (parts 2, 11, article 9, Law No. 294-FZ).

Grounds to perform unscheduled inspections taking into account the provisions of paragraph 12 part 4, article 1, Federal Law No. 294-FZ, are listed in Part 2, Art. 10, Federal Law No. 294-FZ and Part 7, Art. 360 of the Labour Code of the Russian Federation.

Federal Law No. 272-FZ dd 03.07.2016 "On Amendments to Certain Legislative Acts of the Russian Federation on Increasing Employers Liability for Violations of Legislation in Relation to labour Remuneration" introduced a new basis for conducting an unscheduled inspection to the Labour Code of the Russian Federation: appeals and applications of citizens including from the media, trade unions, individual entrepreneurs, legal entities, from government bodies, local self-government bodies to Rostrud SLI on facts of violation of the labour legislation requirements and other normative legal acts containing norms of labour law (Art. 7, Art. 360, LC RF).

The procedure to perform unscheduled inspections is stipulated by the Administrative regulation of Rostrud's execution of the state function to carry on federal state supervision over compliance with labour legislation and other regulatory legal acts containing labour law regulations approved by the order of the Ministry of labour of Russia No. 354n dd 30.10.2012.

According to the aforementioned regulations, an unscheduled inspection can be carried out in the form of an on-site inspection or a documentary one. The duration of these inspections may not exceed twenty working days. Extension of the period for unscheduled inspections is not allowed.

If, the inspections revealed violations of mandatory labour law requirements by the employer, the authorized officials of Rostrud or SLI, upon completion of supervisory measures, are obliged to:

Issue an order to the employer to eliminate the identified violations of mandatory requirements with an indication of the time limit;

take comprehensive measures to control the elimination of identified violations of mandatory requirements, prevent them, prevent possible harm to life and (or) the health of citizens, as well as measures to bring persons who have committed identified violations to justice in accordance with current legislation.

The order includes necessary measures to eliminate the revealed violations of mandatory requirements with reference to specific articles and paragraphs of legislative and regulatory legal acts whose requirements have been violated.

The requirements contained in the order are subject to execution within the time limits set therein.

Employer's failure to comply with the requirements in due time entails liability in accordance with the requirements of the Code of Administrative Offences of the Russian Federation.

Information on inspections is recorded in the Federal State Information System "Unified Register of Audits": proverki.gov.ru.

The Committee *recalls that work considered to be "light" in nature ceases to be so if it is performed for an excessive duration.* ***States are therefore required*** *to set out the conditions for the performance of "light work",*

especially the maximum permitted duration and the prescribed rest periods to allow supervision by the competent services. .

The Committee *asks if children who are still in compulsory education benefit of two consecutive weeks free from any work during the summer holidays*

Comment.

Article 63 of the Labour Code of the Russian Federation (as amended by Federal Law No. 139-FZ dd 01.07.2017) established that employment contract with a person who received general education and reached the age of fourteen to perform light work without harm to his health, or person who is still in general education and who has reached the age of fourteen in order to perform light work in his free time without harm to his health and without prejudice to the development of the educational program, shall be concluded with a written consent of one of the parents (guardian) and the guardianship body.

This provision of Article 63 of the Labour Code of the Russian Federation is of a guarantee nature and is aimed at protecting the rights and legitimate interests of children.

Russian labour legislation establishes a reduced weekly and daily working time for all underage workers, differentiating it according to age and educational relationships with a minor worker.

According to art. 92 LC RF reduced working hours shall be established: for workers aged below 16: up to 24 hours a week; for workers aged from 16 to 18: up to 35 hours a week. The length of the working time of students of general educational institutions up to eighteen years of age working during the period of study in the time free from study may not be greater than half of the norm specified for persons of the relevant age: 12 hours for workers below 16 and 17.5 hours for workers aged from 16 to 18.

The law establishes not only a limitation of working week for minors but also a limitation on duration of working day. According to Art. 94 of the Labour

Code of the Russian Federation (as amended by Federal Law No. 139-FZ dd 01.07.2017) the duration of working work (shift) for workers (including those who are still in general education or secondary vocational education and work during the holidays) from the age of fourteen to fifteen may not exceed 4 hours, at the age of 15 to 16 - 5 hours, at the age of 16 to 18 - 7 hours, and for those who are still in general education or secondary vocational education and combine education with work during the school year at the age of 14 to 16 - 2.5 hours, at the age of 16 to 18 - 4 hours.

As of periods of rest, in the Russian legislation there are the following types of rest time, (art. 107 LC RF):

breaks during the working day (shift);

daily (intershift) rest;

days-off (weekly continuous rest);

public holidays;

leave.

According to art. 108 LC RF during the working day (shift), the worker (including minor) must be provided with a break for rest and taking meals not greater than two hours and at least 30 minutes in duration which is not included in the working time. The internal labour regulations or employment contract may stipulate that this break may not be granted to the worker if the duration of his daily work (shift) does not exceed four hours.

The time of providing the break and its length shall be specified in the internal labour rules or according to the agreement between the worker and the employer.

The length of the weekly continuous rest may not be less than 42 hours. (art. 110 LC RF). All workers shall be provided with days-off (weekly continuous rest). With a five-day working week arrangement, the workers shall be provided with two days-off per week, with a six-day working week arrangement, one day-off. Sunday shall be the common day-off. The second

day-off with the five-day working week arrangement shall be specified in the collective contract or internal labour rules. Both of the days off shall be provided in succession as a rule (art. 111 LC RF).

According to article 267 LC RF annual basic paid leave shall be granted to workers under the age of eighteen for a period of 31 calendar days at a time convenient to them. Thus, labour legislation provides minor workers with the right to leave at any time convenient for them, including during the summer holidays.

In addition, 14 public holidays are established by the article 112 LC RF.

The above provisions of the Labour Code of the Russian Federation are mandatory for employers and, accordingly, are subject to inspection by the SLI during the relevant control and supervisory measures.

In Russia, minor workers rarely complain about violation of their rights to work.

In 2017, the total number of appeals of workers under the age of eighteen received by the state labour inspectorates in the subjects of the Russian Federation, included the following: wages of workers under the age of eighteen - 155 appeals; execution and termination of employment contracts with workers under the age of eighteen - 80 complaints; labour protection - 8 appeals.

According to the reports available in Rostrud as of July 01, 2017, the number of violations of labour regulation, regarding workers below 18 years of age identified by inspection results is 120.

So for the 1st half of 2018 the total number of appeals included 88 appeals on remuneration, 15 - on conclusion and termination of employment contracts, 6 - on labour protection issues.

The Committee *asks what are the measures taken by the State authorities to detect cases of children under the age of 15 working in the informal economy, outside the scope of an employment contract.*

- ***Comment.***

The Constitution of the Russian Federation establishes that labour is free. Everyone shall have the right to freely use his labour capabilities, to choose the type of activity and profession. (art. 37). Thus, the conclusion of an employment contract or civil law contract is the will of the citizen.

The proper formalization of the relationship between the worker and the employer is very important. At the same time, special attention is paid to the fact that in practice labour relations are not replaced by civil law.

According to the general rule established by p. Art. 21 Civil Code of the Russian Federation (hereinafter – CC RF) the capability of the citizen to acquire and exercise by his actions the civil rights, to create for himself the civil duties and to discharge them (the civil active capacity) shall arise in full volume with the citizen's coming of age, i.e., upon his reaching the age of 18 years .

Paragraph 1 art. 26 CC RF says that the minors of from 14 to 18 years of age shall have the right to effect deals upon the written consent of their legal representatives - the parents, the adopters or the trustee.

However, in accordance with Article 19.1. TK RF recognition of relations arising on the basis of the civil law contract, as labour relations can be performed by:

a person who uses personal work and is a customer under a specified contract, on the basis of a written application of a natural person who is a contractor under the specified contract, and (or) on the basis of an order issued by state labour inspector to remedy violations of part two article 15 LC RF that was not appealed in court in the prescribed manner;

court if a natural person who is a contractor under this contract has applied directly to court, or based on materials (documents) sent by the state labour inspectorate, other bodies and persons possessing the necessary authority in accordance with federal laws.

The Resolution of the Plenum of the Supreme Court of the Russian Federation No. 15 dated 05.29.2018 gives the following clarifications:

The characteristic features of labour relations in accordance with Articles 15 and 56 of the Labour Code of the Russian Federation include: parties reach agreement on personal execution of a certain, predetermined labour function by the worker in the interests, under the control and direction of the employer; worker's compliance with the employer's internal labour regulations, work schedule (shift); employer providing worker with working conditions; worker's performance of the labour function for a fee;

the existence of labour relations can be indicated by stable nature of these relations, subordination and dependence of labour, worker's performance of work only in a certain specialty, qualification or position, presence of additional guarantees for worker, established by laws, other legal acts regulating labour relations;

the signs of the existence of labour relations also include, in particular, the performance of work in accordance with the employer's instructions; worker's integration into the employer's organizational structure; employer's recognition of such rights as weekly holidays and annual leave; payment of expenses related to worker's trip to work by the employer; periodic payments to worker which are his only and (or) main source of income; provision of tools, materials and mechanisms by the employer (Employment Relationship Recommendation No. 198 adopted by the General Conference of the International Labour Organization on 15.06.2006);

Considering that Article 15 of the Labour Code of the Russian Federation does not allow the conclusion of civil law contracts that actually regulate labour relations, the courts have the right to recognize the existence of labour relations between the parties formally bound by a civil law contract, if during the trial it is established that this contract regulates labour relations.

In these cases, the employment relationship between the worker and the employer considered to have arisen from the day of the actual admission to

perform the duties provided for in the civil law contract (part 4 of article 19.1, Labour Code of the RF).

If the civil law contract has been concluded between the parties, however, during the court proceedings it is established that the employment relationship between the worker and the employer is actually regulated by this contract, the provisions of the labour law and other acts containing labour law shall be applied to these relationships according to article 11 LC RF.

At the same time, when considering court disputes on recognition of relations arising on the basis of the civil law contract as labour relations unavoidable doubts are interpreted in favor of existence of labour relations (p. 3, art. 19.1 LC RF).

In the case of termination of relations arising on the basis of the civil law contract, the recognition of these relations by labour relations is performed by the court.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

The Committee asks information on the applicable sanctions in cases of violation of the prohibition of employment under the age of 18 in dangerous or unhealthy activities.

Comment.

For violation of state regulatory labour protection requirements contained in federal laws and other regulatory legal acts of the Russian Federation, administrative responsibility is provided on the basis of article 5.27.1 of the Code of Administrative of the Russian Federation, which entails a warning or an imposition of an administrative fine upon:

officials in the amount of two thousand to five thousand rubles;

persons engaged in business activity without creating a legal entity - two thousand to five thousand rubles;

legal entities - fifty thousand to eighty thousand rubles.

Violating labour laws and labour protection laws by a person who has been administratively penalized for a similar administrative offence before shall entail administrative fine upon:

officials in the amount of thirty thousand to forty thousand rubles or disqualification for a term of from one year to three years ;

persons engaged in business activity without creating a legal entity - thirty thousand to forty thousand rubles or an administrative suspension of the activity for a term of up to ninety days;

legal entities - one hundred thousand to two hundred thousand rubles or an administrative suspension of the activity for a term of up to ninety days.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time

Paragraph 8 - Prohibition of night work

The Committee *asks that the next report provide information on the activity of the Labour Inspectorate, its findings and sanctions applied in cases of breach of the applicable regulations to reduced working time of young workers who are no longer subject to compulsory schooling and applicable sanctions in relation to possible illegal involvement of young workers under 18 in night work.*

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▪ ***Comment***

Russian labour legislation establishes a reduced weekly and daily working time for all minor workers, differentiating it according to age and educational relationships with a minor worker.

According to p. 2 part 1 art. 94 Labour Code of the Russian Federation length of the permitted working day (shift) may not be greater than: for workers fifteen to sixteen years of age - 5 hours, sixteen to eighteen years of age - 7 hours .

Based on the Federal Law No. 139-FZ dd July 1, 2017 workers indicated in para. 2 p. 1 art. 94 of the Labour Code of the Russian Federation also include workers who are still in general education or secondary vocational education and who work during the holidays. In addition, this Federal Law added the category of workers fourteen to fifteen years of age (their duration of daily work (shift) may not exceed 4 hours) to para. 2 p. 1 art. 94 of the Labour Code of the Russian Federation is

According to article, 5.27 of the Code of Administrative Offenses of the Russian Federation violating labour laws and labour protection laws shall entail warning or imposition of an administrative fine upon:

officials in the amount of one thousand to five thousand rubles;

persons engaged in business activity without creating a legal entity - one thousand to five thousand rubles;

legal entities - thirty thousand to fifty thousand rubles.

Violating labour laws and labour protection laws by a person who has been administratively penalized for a similar administrative offence before shall entail the imposition of an administrative fine upon:

officials in the amount of ten thousand to twenty thousand rubles or disqualification for a term of from one year to three years ;

persons engaged in business activity without creating a legal entity- ten thousand to twenty thousand rubles;

legal entities - fifty thousand to seventy thousand rubles.

2. Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

The Committee needs information on the minimum wage of young workers calculated net. It also requests information on the starting wages or minimum wages of adult workers as well as on the average wage. The Committee underlines that it requests information on the net values, that is, after deduction of taxes and social security contributions. Net calculations should be made for the case of a single person.

Comment.

One of the main principles of the legal regulation of labour relations is equality of rights and opportunities of workers (art. 2 LC RF).

According to art. 3 LC RF everyone shall have equal opportunities to implement their labour rights.

The employer shall ensure that workers receive equal payment for labour of equal value; (art. 22 LC RF).

Each worker's wage shall depend on his skill, complexity of the performed work, and quantity and quality of the expended labour (article 132 LC RF).

Any whatsoever discrimination during the establishment and amendment of terms of labour compensation shall be prohibited.

According to article 20 LC RF minors, aged 14 to 18, except for minors who have acquired civil dispositive capacity in full, may conclude labour contracts with workers if they have their own earnings, scholarship or other incomes, and on the consent in writing of their legal representatives (parents, trustees and guardians).

According to article 92 LC RF, reduced working hours shall be established: for workers aged below 16: up to 24 hours a week; for workers aged from 16 to 18: up to 35 hours a week.

According to article 271 LC RF under the hourly pay system, wages shall be paid to workers under the age of eighteen by taking into account their reduced work hours. The labour of workers under eighteen who are employed in piecework shall be compensated at the established piece rates. Compensation for the labour of workers under eighteen who are students in general education institutions and institutions of basic, secondary, and higher vocational education and work during time free from their studies shall be made in proportion to time worked or based on their output. In addition, this article says that the employer may offer them additional payments at his own expense, up to the level of the pay scale for full-time workers of the corresponding categories.

Thus, the reduction in wages of a minor worker as compared to the wage of a worker who has fully fulfilled the working hours and fulfilled the labour rate is due to a decrease in working hours and production rate.

Article 37 of the Constitution of the Russian Federation establishes that everyone shall have the right to labour remuneration without any discrimination whatsoever and not lower than minimum wages and salaries established by the federal law (hereinafter – MW).

The minimum wage is set simultaneously throughout the Russian Federation by the Federal Law No. 82-FZ dd June 19, 2000 "On Minimum Wage".

Federal Law No. 41-FZ dd March 7, 2018 "On Amendment to Article 1 of the Federal Law "On Minimum Wage" has set the minimum wage at RUB 11,163 per month from May 1, 2018 and it is 100% of the subsistence minimum of able-bodied population for the Q II of the previous year.

Thus, in accordance with the Constitution of the Russian Federation, a single guaranteed minimum wage for all categories of workers is established in the Russian Federation.

Considering the above mentioned information, if the monthly wage of a worker who has fully fulfilled the working hours and fulfilled the labour rate (labour duties) is set in the company in the amount equal to the minimum wage, then the salary of workers below 18 performing the same duties in this company is paid with time-based wages taking into account the reduced duration of work, that is, in proportion to the hours worked.

At the same time, the employer may make additional payments to them up to the level of remuneration of workers of relevant positions (professions), provided for the full duration of daily work.

According to Rosstat, in October 2017, the average accrued wages of workers in the whole of the Russian Federation amounted to RUB 38,609, workers below 18 - RUB 27,811.

The Committee asks *what it is understood by "the minimum wage established by federal law" and which is the net value of such minimum wage.*

Comment.

Article 37 of the Constitution of the Russian Federation establishes that everyone shall have the right to labour remuneration without any discrimination whatsoever and not lower than MW.

According to article 133 LC RF the minimum wage shall be established simultaneously all over the territory of the Russian Federation by federal law and may not be below the subsistence minimum for an able-bodied member of the population.

The monthly wages of a worker who has worked in full the rated hours for that period and has completed the rated amount of work (has executed his labour duties) shall not be below the minimum wage.

The minimum wage is set simultaneously throughout the Russian Federation by the Federal Law No. 82-FZ dd June 19, 2000 “On Minimum Wage”.

Federal Law No. 41-FZ dd March 7, 2018 “On Amendment to Article 1 of the Federal Law “On Minimum Wage” has set the minimum wage at RUB 11,163 per month from May 1, 2018 and it is 100% of the subsistence minimum of able-bodied population for the Q II of the previous year..

In accordance with Article 1 of the Federal Law No. 134-FZ dd October 24, 1997, “On Subsistence Minimum in the Russian Federation” the subsistence minimum takes into account mandatory payments and fees.

At the same time, the amount of tax on personal income is taken into account as part of expenses on mandatory payments and fees.

The tax on personal income is determined in accordance with the Tax Code of the Russian Federation on the basis of the established tax rate on personal income in the amount of 13%. Other taxes and insurance contributions are not withheld from wages of workers.

The labour of workers employed in areas with special climatic conditions shall be remunerated at a higher amount (Art. 146 and Art. 315 LC RF).

The regional coefficient and percentage bonuses paid in connection with work in areas with special climatic conditions, including in the Far North and equated areas cannot be included in the minimum wage.

Thus, the calculation of regional coefficients and percentage bonuses in the Far North and equated areas is performed in addition to the minimum wage.

Thus, taking into account the use of district coefficients and percentage bonuses to wages, the minimum wage in the Chukotka Autonomous Region will be RUB 28.5 thousand, in Magadanskaya oblast - from RUB 23.7 thousand - 25.6 thousand, Kamchatka Krai – RUB 22.8 thousand - RUB 28.5 thousand, in the Republic of Sakha (Yakutia) - RUB 20.9 thousand -RUB 26.6 thousand.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

***The Committee** asks clarification whether the legislation provides that the time spent in vocational training is considered as normal working time and thus remunerated as such.*

Comment

Periods of study can be taken into account as periods of work if the student remained employed and wages were paid during the period of this training, and these wages should be distinguished from various kinds of compensation or scholarship payments established by the companies for their workers sent to study and released from work.

When a worker is sent by an employer for skill enhancement with an interruption in work, he shall retain the job (the position) and the average wage at the primary place of work (art. 187 LC RF).

According to art. 198 LC RF an employer being a legal entity (an organisation) shall have the right to conclude an apprenticeship contract for professional training with a person seeking job, and an apprenticeship contract for vocational education or retraining with or without leaving work with the worker of the given company. The time spent on education under an apprenticeship contract on the job shall be considered as a part of the working time.

In addition, the training of workers and supplementary vocational education of workers are performed by the employer on conditions and in the manner determined by the collective agreement, agreements, and employment contract.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

Protection against sexual exploitation

The Committee *wishes to be informed of the number of cases of sexual exploitation of children that have been identified and prosecuted.*

The Committee *further asks whether simple possession of child pornography is criminalised. It also asks whether child victims of sexual exploitation may be prosecuted for any act connected with this exploitation.*

Comment.

The provisions of the Criminal Code of the Russian Federation (hereinafter - the Criminal Code), as amended by the Federal Law No. 14-FZ dd February 29, 2012 "On Amendments to the Criminal Code of the Russian Federation and Certain Legislative Acts of the Russian Federation in Order to Strengthen Liability for Sexual Crimes, Committed Against Minors"1, aimed at protecting children under the age of 18 from sexual exploitation.

In addition, Federal Law No. 380-FZ dd December 28, 2013 "On Amendments to the Criminal Code of the Russian Federation and Criminal Procedure Code of the Russian Federation" updated the Criminal Code with Article 240^1, it establishes that obtaining sexual services from minors between the ages of sixteen and eighteen by a person who has reached the age of eighteen shall be punishable by deprivation of liberty for a term up to four years. At the same time, sexual services in the article are defined as sexual intercourse, sodomy, lesbianism or other sexual activities with the condition of monetary or any other reward to a minor or third person or a promise to reward a minor or third person.

Federal Law No. 199-FZ dated June 23, 2016 updated Article 242^1 (Making and Distribution of Materials or Objects with Pornographic Pictures of

[1] Articles 240 (Inducing to Prostitution), 241 (Organization of Prostitution), 242 (Illegal Making and Distribution of Pornographic Materials or Objects), 242^1 (Making and Distribution of Materials or Objects with Pornographic Pictures of Minors) and 242^2 (Using a Minor for the Purpose of Making Pornographic Materials or Objects) of the Criminal Code.

Minors (Criminal Code), with a note defining the criteria for pornographic products with the image of minors and also it lists cases where materials and objects with images of minors cannot be considered pornographic.

On July 3, 2018, the State Duma of the Federal Assembly of the Russian Federation on first reading adopted draft federal law No. 388776-7 "On Amendments to the Criminal Code of the Russian Federation and Criminal Procedure Code of the Russian Federation in terms of Improving Mechanisms to Combat Crimes Against Sexual Inviolability of Minors".

The bill provides for increased criminal responsibility for crimes against the sexual inviolability of minors, in particular, the commission of a crime against a minor by a person living with a minor is an aggravating circumstance, as well as article 78 of the Criminal Code is updated with the provision that if the person who committed the crime against the sexual inviolability of a minor who has not reached the age of twelve has not been established, or the crime has not been reported, periods of limitation start from the day he\she reaches eighteen and in the event of his\her death - from the day he\she would have reached eighteen. At the same time, it is proposed to introduce criminal liability for advance not promised concealment of severe crimes committed against minors. At the same time, the draft law amends Article 280 of the Criminal Procedure Code of the Russian Federation (hereinafter referred to as the Criminal Procedure Code), allowing the participation of a psychologist during the interrogation of victims and witnesses under the age of fourteen during the judicial investigation..

According to article 242 Criminal Code of the Russian Federation says that illegal making, purchase, storage and/or movement across the State Border of the Russian Federation for the purpose of distribution, public demonstration or advertising, or distribution, public demonstration or advertising of pornographic materials or objects of minors shall be punishable by deprivation of liberty for a term of two to ten years.

In the Russian Federation, a safe and secure childhood is recognized as the constitutional obligation of the state, enshrined in Article 7 (Part 2) and Article 38 (Part 1) of the Constitution of the Russian Federation, and requires the development and implementation of an effective legal policy in this area aimed at preventing discrimination of minors, strengthening guarantees of their rights and legitimate interests as well as restoration of these rights in cases of their violation, formation of legal bases of guarantees of the child's rights, protection of children from headwinds affecting their physical, intellectual, mental, spiritual and moral development.

These goals are provided for by Federal Law No. 124-FZ (Clause 1 of Article 4) and are consistent with the provisions of the Declaration of the Rights of the Child (adopted by the UN General Assembly on November 20, 1959), in accordance with which the child needs special safeguards and care, including appropriate legal protection (preamble); the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity (principle 2); the child shall be protected against all forms of neglect, cruelty and exploitation. (Principle 9).

Ratification without reservation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children,child prostitution and child pornography by Federal Law No. 75-FZ dd May 7, 2013 directed the Russian Federation to take measures aimed at ensuring the interests of children, preventing all forms of physical or psychological abuse of children.

In order to form the state policy for improvement of children's situation in the Russian Federation, the Decree of the President of the Russian Federation No. 761 dated June 1, 2012 approved the National Action Strategy for Children for 2012-2017 (hereinafter referred to as the National Strategy). It determined the main directions and objectives of state policy in interests of children and key

mechanisms for its implementation based on generally accepted principles and norms of international law including those providing (Chapter 6):

development of a comprehensive national program to prevent violence against children and rehabilitate child victims of violence;

creating a non-profit partnership The Russian National Monitoring Center for Missing and Affected Children in order to unite the efforts of the state and civil society in search for missing children, preventing and suppressing violent and sexual crimes including those committed using information and telecommunication networks, and also increase the effectiveness of investigative bodies in investigating criminal offenses against children;

enforcement of the UN *Guidelines on Justice in Matters involving Child Victims* and *Witnesses o*f Crime dated July 22, 2005;

creation of organizations network performing psychological and social rehabilitation of child victims of violence as well as assisting the investigating authorities in investigating criminal offenses against children.

In order to implement the most important provisions of the National Strategy, the Action Plans1[1] were formed and executed, they include development of strategic documents aimed at ensuring the rights and legitimate interests of minors and protecting against all forms of violence.

Among them: State youth policy fundamental until 2025[2].

Development strategy of education in the Russian Federation for the period up to 20253,

The concept of development of supplementary education of children[4], the concept of development of system for prevention of neglect and juvenile delinquency for the period up to 2020, approved jointly with the Action plan for

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1 The plan of verification activities up to 2014, approved by the Government of the Russian Federation No. 1916-r dd October 15, 2012, Action Plans for 2015-2017, approved by order of the Government of the Russian Federation No. 167-r dd February 5, 2015

2 Order of the Government of the Russian Federation No. 2403-r dd November 29, 2014

3 Order of the Government of the Russian Federation No. 996-r dd May 29, 2015

4 Order of the Government of the Russian Federation No. 1726-r dd September 4, 2014

2017–2020 for its implementation by the decree of the Government of the Russian Federation No. 520-r dd March 22, 2017.

In order to improve the state policy in the field of child protection, taking into account the results achieved during the implementation of the National Strategy, the Decree of the President of the Russian Federation No. 240 dated May 29, 2017 announced the Decade of Childhood: the decree of the Government of the Russian Federation No. 1375-r dated July 6 2018 approved the plan of the main activities until 2020 within the Decade of childhood.

To ensure the interaction of federal, regional and municipal authorities, public associations, scientific and other organizations when considering issues related to the implementation of the aforementioned Decree of the President of the Russian Federation, the Resolution of the Government of the Russian Federation No. 823 dated July 14, 2018 found the Coordination Council for the Government of the Russian Federation on the Decade of Childhood in the Russian Federation.

In accordance with the Regulation, approved by the Government of the Russian Federation No. 216 dated March 28, 2008, the Government Commission for Prevention of Offenses at the national (level) is the coordinating body established to ensure concerted actions of the interested executive authorities in the implementation of measures in the system of state prevention of offenses including in relation to children.

Its main tasks are:

coordination of the activities of federal executive bodies, executive bodies of the subjects of the Russian Federation as well as interaction with local governments and organizations for implementation of the legislation of the Russian Federation in the field of crime prevention;

development of solutions and coordinating organizational and practical measures within the state system for prevention of offenses aimed at intensifying antialcoholism, combat drug addiction, illegal migration, re-

socialization of people released from prison, and other measures aimed at reducing the crime rate in the Russian Federation Federation;

development of comprehensive measures in priority areas for prevention of offenses, their introduction into the practical activities of the subjects implementing measures aimed at preventing crimes and offenses;

organization and conduct of the all-Russian and interregional preventive measures aimed at reducing the level of crime in the territory of the Russian Federation at the federal level;

at the level of the subjects of the Russian Federation, these functions are performed by interdepartmental commissions on prevention of offenses.

Coordination of the activities of law enforcement agencies to combat crime including sexual crimes committed against minors is performed by the Prosecutor's Office of the Russian Federation in accordance with Federal Law No. 2220-1 dd January 17, 1992 "On the Prosecutor's Office of the Russian Federation".

Russia has established cooperation between the competent state bodies, civil society institutions and private sector in order to combat sexual exploitation and sexual abuse of children more effectively.

The main forms of such cooperation are:

participation of representatives of civil society institutions and private sector in the activities of expert and public councils under the Commissioner for the President of the Russian Federation, chambers of the Federal Assembly of the Russian Federation, Government of the Russian Federation, federal executive bodies;

participation of representatives of civil society institutions and private sector in the activities of working groups in the State Duma in preparation and consideration of draft federal laws concerning the prevention of sexual exploitation and sexual abuse of children;

forums, conferences and round tables with the participation of representatives of state bodies, civil society institutions and private sector dedicated to the issues of combating sexual exploitation and sexual abuse of children (for example, the annual Safe Internet Forums);

state support to non-profit organizations involved in activities to combat sexual exploitation and sexual abuse of children as well as selected community projects in this area.

As regards cooperation between the competent authorities in relation to prosecuted persons or persons convicted of crimes recognized as such in accordance with the Convention, the provisions of Article 180 of the Criminal Corrections Code of the Russian Federation (hereinafter - CCC) says that no later than two months before the expiration of the term of arrest, or six months before the expiration of the term of forced labor or imprisonment, and in relation to those sentenced to imprisonment for up to six months after entry of judgment into legal force, the administration of the correctional institution shall notify the local self-government bodies and federal employment service at the chosen place of residence on the person's forthcoming release, his housing, his ability to work and his specialties.

At the same time, convicted of crimes against sexual inviolability and sexual freedom of the individual, the administration of the correctional institution not later than six months before the expiration of the sentence, shall explain the right of the convicted to be examined by the commission of psychiatrists regarding sexual preferences (pedophilia) and to determine medical measures aimed at improving his mental state, preventing new crimes and appropriate treatment.

Upon expiration of imprisonment or in the case of parole or replacement of the unserved part to the forthcoming release, the availability of housing, his ability to work and available specialties.

At the same time, convicted of crimes against sexual inviolability and sexual freedom of the individual, the administration of the correctional institution not later than six months before the expiration of the sentence, shall explain the right of the convicted to be examined by the commission of psychiatrists regarding sexual preferences (pedophilia) and to determine medical measures aimed at improving his mental state, preventing new crimes and appropriate treatment.

Upon expiration of imprisonment or in the case of parole or replacement of the unserved part with a milder punishment, the necessary materials for a person over eighteen years and convicted of a crime against sexual inviolability of a minor who has not reached the age of fourteen, and based on the conclusion of the forensic psychiatric examination and recognized as suffering from a disorder of sexual preference (pedophilia) not excluding criminal capability, and in respect of which the court decided to conduct a forensic psychiatric examination in order to decide on the need for application of compulsory medical measures during the period of parole or while serving a milder punishment, as well as after serving the sentence, the administration of correctional institution shall notify the penitentiary inspection at the place of residence chosen by him.

In case of termination of the use of compulsory treatment in a mental hospital, a court of law may transfer the necessary materials about the person who was treated to the bodies of public health or executive body of public health of the subjects of the Russian Federation for settlement of the question of his/her medical treatment or of sending him/her to a mental or neurological establishment of social security in the procedure prescribed by the laws of the Russian Federation on public health (article 102 CC RF).

In accordance with the Federal Law No. 242-FZ dd December 3, 2008 “On State Genomic Registration in the Russian Federation”, persons convicted and serving a sentence for committing severe or especially severe crimes, as

well as all categories of crimes against sexual inviolability and sexual freedom of the individual shall pass compulsory genomic registration.

Its procedure is established by the Regulations on compulsory state genomic registration of persons convicted and serving sentences approved by Resolution of the Government of the Russian Federation No. 828 dated October 11, 2011.

The following authorities within their powers participate in the compulsory state genomic registration of persons convicted and serving a sentence:

Federal State Institution "Expert Forensic Center of the Ministry of Internal Affairs of the Russian Federation";

forensic units of the territorial bodies of the Ministry of Internal Affairs of the Russian Federation authorized to perform compulsory state genomic registration;

correctional institutions of imprisonment.

Accounting, storage and classification of genomic information obtained during the compulsory state genomic registration of persons convicted and serving sentences, shall be performed by the federal state institution "Expert Forensic Center of the Ministry of Internal Affairs of the Russian Federation" by creating and maintaining a federal genomic information database.

According to the statistics of the Ministry of Internal Affairs of Russia, the dynamics of crimes against minors in the Russian Federation were unstable over the past four years (2014 - 86,267; 2015 - 95,208; 2016 - 69,595; 2017 - 91,554).

However, in general, over the period 2014–2017, there is an increasing trend in the level of criminal acts against children (by 6%).

At the same time, the number of crimes against life and health significantly decreased (2014 - 30,213; 2015 - 33,333; 2016 - 24,535; 2017 - 10

662), against property (2014 - 12 445; 2015 - 11 800; 2016 - 10 330; 2017 - 9 611).

The structure of registered crimes is dominated by minor crimes (2014 - 70.4%; 2015 - 71.4%; 2016 - 58.4%; 2017 - 71.4%).

The smallest proportion of criminal acts against minors is classified as severe (2014 - 7.8%; 2015 - 7%; 2016 - 7%; 2017 - 6.3%).

At the same time, the number of crimes against sexual inviolability and sexual freedom of minors increased (2014 - 9 989; 2015 - 11 840; 2016 - 12 353; 2017 - 13 487).

The number of juvenile victims of crimes increased (2014 - 95,430; 2015 - 102,519; 2016 - 78,698; 2017 - 105,519).

The dynamics is also observed in the category of minors affected by crimes against sexual inviolability and sexual freedom of the individual (2014 - 8,089; 2015 –10,201; 2016 - 10,942; 2017 - 11,410).

In accordance with Parts 2 and 2 1 of Article 3 of the Federal Law No. 64-FZ dd April 6, 2011 "On Administrative Supervision of Persons Released from Places of Detention" the court set the administrative supervision for an adult to be released or released from places of deprivation of liberty and withoutstanding conviction or unexpunged conviction for a crime against the sexual inviolability and sexual freedom of a minor, as well as for a person committed a crime against the sexual inviolability of a minor under 14 and suffering from a disorder of sexual preference (pedophilia), not excluding criminal capacity,

The bodies of internal affairs exercise control the observance of temporary restrictions on rights and freedoms by persons released from places of imprisonment, established by court, also bodies of internal affairs control the fulfillment of the duties assigned to these persons.

A failure of a person in respect of which an administrative supervision is established to arrive, when released from the place of confinement, at the place of residence or stay selected by him/her at the time fixed by the administration

of the correctional institution, as well as unauthorized leaving by this person of the place of residence or stay for the purpose of evading the administrative supervision shall be punished according to art. 314^1 (Evading administrative supervision or repeated non-compliance with the restrictions or limitations established by the court in accordance with federal law) of the CC RF.

The number of persons taken under administrative supervision, released from prison after serving their sentence for crimes against sexual inviolability and sexual freedom of minors, increases every year (2014 - 2 006; 2015 - 2 057; 2016 - 2 033 ; 2017 - 2 218).

Accordingly, the number of persons of this category, under administrative supervision, has increased by 31% in the last three years (2014 - 4 960; 2015 - 5 825; 2016 - 6 258; 2017 - 6 498).

Protection against the misuse of information technologies

The Committee asks for full information concerning supervisory mechanisms and sanctions for sexual exploitation of children through the information technologies. It further asks whether legislation or codes of conduct for Internet service providers are foreseen in order to protect children.

Comment.

Article 4 of Federal Law No. 124-FZ defines the goals of state policy in the interests of children: exercise of rights of children provided for by the Constitution of the Russian Federation, prevention of their discrimination, strengthening of basic guarantees of rights and legitimate interests of children, and restoration of their rights in cases of violations; promoting the physical, intellectual, mental, spiritual and moral development of children, raising patriotism and civic consciousness in them, as well as implementing the child's personality in the public interest and in accordance with the traditions of the people of the Russian Federation and the achievements of Russian and world

culture that do not contradict the Constitution of the Russian Federation and federal legislation .

According to article 14 of the Federal Law No. 124-FZ, the state authorities of the Russian Federation take measures to protect the child from information, propaganda and agitation that are harmful to his health, moral and spiritual development, including national, class, social intolerance, alcohol advertising products and tobacco products, from propaganda of social, racial, national and religious inequalities, from information of a pornographic nature, from information promoting non-traditional sexual relations as well as from the distribution of printed materials, audio and video products that promote violence and cruelty, drug addiction, substance abuse, antisocial behavior.

The Federal Law No. 436-FZ dd December 29, 2010 "On Protection of Children from Information Harmful to their Health and Development" provides for the types of information harmful to health and (or) development of children, establishes requirements for classification of information products for circulation and examination of such products, as well as requirements for state supervision and public monitoring of compliance with the legislation of the Russian Federation on protection of children from information harmful to their health and (or) development.

In accordance with Article 12 of the Federal Law No. 149-FZ dd July 27, 2006 "On Information, Information Technologies and Information Protection", state regulation in the field of information technologies provides for the provision of information security for children.

In order to restrict access to sites on the Internet containing information that is prohibited in the Russian Federation, a unified automated information system - the Unified registry of domain names, website pages, and Internet addresses used to identify sites on the Internet containing information, the distribution of which is prohibited in the Russian Federation by federal law "(hereinafter – the Registry) has been established.

The grounds to include the information in the register are the decisions of the federal executive bodies authorized by the Government of the Russian Federation taken within their competence in the manner established by the Government of the Russian Federation regarding the Internet distributed information (which is prohibited by federal laws) including materials with pornographic images of minors and (or) announcements about the involvement of minors for participation in entertainment events of pornographic nature, as well as information about minors who have suffered from illegal actions (inaction).

For the commission of crimes related to the sexual exploitation of children through information technology, the Criminal Code established the following penalties:

paragraph «в» part three article 242 (Illegal Making and Distribution of Pornographic Materials or Objects) - shall be punishable by deprivation of liberty for a term of two to six years with or without deprivation of the right to hold definite offices or to engage in definite activities for a term of up to fifteen years;

paragraph «г» part two article 242^1 (Making and Distribution of Materials or Objects with Pornographic Pictures of Minors) - shall be punishable by deprivation of liberty for a term of three to ten years with or without deprivation of the right to hold definite offices or to engage in definite activities for a term of up to fifteen years and with restriction of liberty for a term of up to two years or without such ;

paragraph «г» part two article 242^2 (Using a Minor for the Purpose of Making Pornographic Materials or Objects) - shall be punishable by deprivation of liberty for a term of eight to fifteen years with or without deprivation of the right to hold definite offices or to engage in definite activities for a term of up to twenty years or with restriction of liberty for a term of up to two years or without such .

Protection from other forms of exploitation

The Committee asks for an updated information regarding the numbers of cases involving labour exploitation, begging and trafficking of children. It asks what measures are taken to assist street children.

Countering human trafficking is considered by the Russian Federation as an integral part of personal security and respect for fundamental human rights and freedoms guarantee.

The legal and organizational tools provided by the state allow law enforcement agencies to complete tasks for provision of such a guarantee.

The Russian Federation is also a party to a number of international legal acts related to human trafficking.

*For reference: The United Nations Convention against Transnational Organized Crime and the Protocols thereto to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and Protocol against the Smuggling of Migrants by Land, Sea and Air**, ; Co**nvention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949); the Slavery Convention, as amended by the Protocol of December 7, 1953; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956); Declaration on the Protection of All Persons from Enforced Disappearance (1992); Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000).*

Within the fulfillment of its obligations to implement the provisions of the designated documents in domestic legislation, in 2003 the Russian Federation introduced criminal liability for purchase-and-sale of a human being, other transactions with respect to a person, as well as the recruiting, carriage,

transfer, concealment or receiving performed for the purpose of his or her exploitation (article 127^1 (Human beings trafficking) CC RF). At the same time, such a corpus delict as "Use of Slave Labour" was included. (Article 127^2 CC RF).

According to the data of the Ministry of Internal Affairs of Russia, in 2014–2017, the number of registered crimes stipulated by Article 127^1 (Human beings trafficking) of the Criminal Code decreased (2014 - 25; 2015 - 37; 2016 - 19; 2017 - 21). Accordingly, the number of disclosed crimes of this category (2014 - 33; 2015 - 26; 2016 - 16; 2017 - 13) and the number of identified persons committed these criminal acts (2014 - 39; 2015 - 54; 2016 - 30; 2017 – 28) decreased.

The number of minor victims of these crimes decreased by 25% (2014 - 12; 2015 - 12; 2016 –28; 2017 - 16).

A similar situation takes place in detection (2014 - 7; 2015 - 4; 2016 - 21; 2017 - 6) and disclosure (2014 - 10; 2015 - 7; 2016 - 3; 2017 - 8) of crimes stipulated by Article 127^2 (Use of slave labour) of the Criminal Code, as well as the persons who committed them (2014 - 21; 2015 - 9; 2016 - 2; 2017 - 5).

In respect of minors, no crimes of this category were registered in the period under review.

The Criminal Code also identifies elements of crimes related to human trafficking in particular, articles 240 (Inducing to Prostitution), 240^1 (Obtaining sexual services of a minor), 241 (Organization of Prostitution), 242 (Illegal Making and Distribution of Pornographic Materials or Objects), 242^1 (Making and Distribution of Materials or Objects with Pornographic Pictures of Minors), 242^2 (Using a Minor for the Purpose of Making Pornographic Materials or Objects).

In 2017, 267 (2014 - 387; 2015 - 212; 2016 - 211) crimes were recorded under Article 240 of the Criminal Code; 262 crimes (2014 - 337; 2015 - 242; 2016 - 131) were solved, 124 (2014 - 185; 2015 - 168; 2016 - 104) persons

committed them were detected.

As of Article 240^1 of the Criminal Code, 16 (2014 - 3; 2015 - 0; 2016 - 27) crimes were registered, 21 (2014 - 2; 2015 - 0; 2016 - 16) crimes were solved, 9 (2014 - 2; 2015 - 0; 2016 - 10) persons committed them were detected.

As of article 241 of the Criminal Code, 468 (2014 - 632; 2015 - 650; 2016 - 632) crimes were registered, 328 (2014 - 450; 2015 - 481; 2016 – 369) crimes were solved; 564 (2014 - 708; 2015 - 721; 2016 - 556) persons committed them were detected.

In the sphere of combating the production and distribution of pornographic materials involving minors on the Internet, in 2017, 542 (2014 - 996; 2015 - 1,131; 2016 - 455) crimes stipulated by the Article 2421 of the Criminal Code were committed, 441 were solved (2014 - 613; 2015 - 896; 2016 – 270), 257 (2014 - 205; 2015 - 226; 2016 - 223) persons committed them were detected.

As of Article 242^2 of the Criminal Code, 155 (2014 - 45; 2015 - 88; 2016 - 193) crimes were detected, 176 crimes were solved (2014 - 53; 2015 - 71; 2016 - 129); 52 (2014 - 22; 2015 - 27; 2016 - 39) persons committed them were detected.

The Russian practice of detection and solving crimes related to human trafficking shows that this is a well-organized type of criminal business both within the state and internationally.

In this regard, the expansion of international cooperation in this area is of particular importance.

Interaction with law enforcement agencies of foreign countries consists of the following main aspects:

exchange of operational information;

search for persons flee from prosecution, trial or serving sentences;

execution of requests of general and confidential nature;

holding joint events.

Issues of combating human trafficking are included as one of the areas of cooperation in intergovernmental and interdepartmental agreements on cooperation in the fight against crime, concluded with more than 60 countries.

The transparency of borders within the Commonwealth of Independent States (hereinafter referred to as the CIS) and absence of a visa regime leads to the fact that most of trafficking in this area is performed with legal border crossing and with valid documents. A small number of human trafficking intentions can be stopped at the border and prevented through border control measures.

In this regard, the most effective is the deployment of fight against human trafficking in the CIS.

Thus, in September 2010, an Agreement on cooperation of the Ministries of Internal Affairs (police) of the CIS Member States in combating human trafficking was signed.

In October 2014, the Concept of Cooperation of the CIS Member States in Combating Human Trafficking was adopted.

The concept establishes that human trafficking is recognized as one of the most dangerous types of transnational organized crime in order to generate criminal income.

Along with the above-mentioned international legal acts, the Council of Heads of the CIS Member States developed and approved the Program of Cooperation in Combating Human Trafficking for 2014–2018, its purpose is to: harmonize national legislation including on the basis of model legislative acts adopted by the Interparliamentary Assembly of the CIS Member States regarding human trafficking; development of specific recommendations and mechanisms for harmonization and improvement of national legislation in determining the list of crimes constituting the scope of human trafficking including regulating general approaches to establishing a list of such crimes, procedure for their statistical accounting, reporting, analysis and synthesis of

data about them; analysis of the results of the CIS Member States financial monitoring bodies participation in detection, tracking and seizing the criminal incomes of traffickers, as well as ways to increase the effectiveness of these bodies interaction with competent law enforcement agencies in this work; organization of complex joint interdepartmental preventive and special operations.

Currently, taking into account the nature of criminal situation in the Russian Federation, one of the effective ways to prevent the commission of crimes is joint implementation of preventive measures and special operations of the Ministry of Internal Affairs of Russia with the competent authorities. In accordance with the Schedule of agreed preventive, operational-search activities and special operations for 2014-2018 (hereinafter referred to as the Schedule), in March 2017, measures were taken to block the channels of illegal migration and human trafficking, detect and stop illegal trafficking of fake passports, visas and other documents, as well as seizure (confiscation) of criminal income from human traffickers.

For reference: *for the period of these activities, 2,691 crimes were detected, of which: related to illegal migration - 2020; illegal manufacture and trafficking of fake passports, visas and other documents - 669; human trafficking - 2. 1,701 persons were brought to criminal liability for commission of this category of crimes. The activities of 5 organized criminal groups connected with illegal migration, human trafficking and illegal manufacture and trafficking of fake passports, visas and other documents were stopped. 4 channels of illegal migration were liquidated.*

In March 2018, in accordance with the Schedule, the Ministry performed coordinated, preventive, operational-search measures and special operations to counter criminal activities related to kidnapping and human trafficking, human organs and tissues trafficking in accordance with the cooperation programs of the CIS Member States.

For reference: *according to reports received from the territorial bodies of the Ministry of Internal Affairs of Russia, for the period of these activities, 19 crimes were detected, of which: related to kidnapping - 16, and human trafficking - 3. 39 persons were prosecuted for committing these criminal acts, activity of 3 organized groups were stopped.*

In addition, in June 2018, measures were taken to counter illegal migration, prevent, detect and suppress crimes related to exploitation of women and children, production and distribution of pornographic products.

For reference: *during the period of these activities, 2,004 crimes were detected, of which: 827 associated with illegal migration, 76 - with exploitation of women and children, 101 - with production and distribution of pornographic products. 1 075 persons were brought to criminal responsibility for committing these crimes; activities of 4 organized groups were stopped.*

In September 2017, the Ministry of Internal Affairs of Russia implemented measures aimed at combating illegal migration, preventing and detecting crimes related to exploitation of women and children, production and distribution of pornographic products.

For reference: *for the period of the events, 2,003 crimes were detected, of which: related to illegal migration - 1,860; exploitation of women and children - 499; production and distribution of pornographic products - 94. 1,641 persons were prosecuted for committing crimes. The activities of 4 organized groups related to illegal migration, exploitation of women and children, production and distribution of pornographic products were stopped.*

3. Article 8 - Right of employed women to protection of maternity

Paragraph 1 - Maternity leave

It furthermore asks the next report to provide any relevant statistical data

on the average lenght of maternity leave effectively taken. It reserves in the meantime its position on this issue. .

The Committee asks whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

Comments.

Maternity benefit is a type of insurance coverage for compulsory social insurance in case of temporary disability and in connection with maternity.

According to Part 1 of Article 14 of the Federal Law No. 255-FZ dd December 29, 2006 "On Compulsory social insurance in case of temporary disability and in connection with maternity" (hereinafter - the Federal Law No. 255-FZ) the benefit is calculated on the basis of the average earnings of the insured person calculated for two calendar years preceding the year of the insured event, including during work (service, other activities) with another plan sponsor (other plan sponsors).

The calculation of benefits on earnings for two preceding calendar years is aimed at ensuring social justice in relation to citizens insurance contributions have been consistently paid for and who have the right to claim the amount of insurance coverage adequate to the insurance contributions paid. The two-year period used to calculate average earnings is the same for all insurance events in compulsory social insurance in case of temporary disability and in connection with maternity and it complies with the established periods and amounts of benefit payments. Maternity benefits and a monthly childcare allowance for children aged under 1.5 in total are paid for a period of more than 20 months. Insurance period necessary for full entitlement cannot be less than the period of insurance coverage payment; therefore, the two-year period is optimal.

Article 11 of Federal Law No. 255-FZ establishes that maternity benefit is paid during the maternity leave lasting seventy (eighty-four in the case of a

multiple pregnancy) calendar days before birth and seventy-six (in the case of complicated births - eighty-six, at the birth of two or more children - one hundred and ten) calendar days after birth in the amount of 100 percent of the average earnings. In 2016, the maximum amount of maternity benefit was RUB 53,916.67 per month on average, in 2017 – RUB 57,833.3 on average for a full calendar month; from January 1, 2018, the maximum amount of maternity benefit is RUB 61 375 on average for a full calendar month.

It should be noted that the periodic payments (insurance coverage) established by the legislation of the Russian Federation on compulsory social insurance are aimed at compensating or minimizing the consequences of change in the financial position of the insured person, that is, they are intended to compensate the worker for his\her lost earnings in case of insured event.

The earnings of the insured person in accordance with the provisions of the Constitution of the Russian Federation (Part 2 of Article 7) and labour legislation of the Russian Federation cannot be lower than the established guaranteed minimum wage.

Thus, in accordance with Article 14 of Federal Law No. 255-FZ, it is stipulated, in particular, that if the insured person in the previous two years did not have an income to be taken into account when calculating temporary disability, maternity, childcare benefits as well as if the average earnings calculated for these periods, calculated for a full calendar month, are lower than the minimum wage established by federal law on the day the insured event occurs, the average earnings used to calculate benefits are taken equal to the minimum wage established by federal law on the day the insured event occurs, that is, in effect, the minimum amount of insurance coverage for compulsory social insurance in case of temporary disability and in connection with maternity is being established.

The minimum wage is set simultaneously throughout the Russian Federation by the Federal Law No. 82-FZ dd June 19, 2000 “On Minimum

Wage" (hereinafter - Federal Law No. 82-FZ). In determining the minimum wage, the following factors are taken into account: subsistence minimum of the working age population; needs of workers and their families, taking into account the overall level of wages in the country, cost of living, social benefits and comparative standard of living of other social groups; economic considerations including demands for economic development, level of productivity and desirability of achieving and maintaining a high level of employment.

The minimum wage has been set at RUB 11,163 per month since May 1, 2018. For example: *the minimum amount of maternity benefit for 140 days of maternity leave, which began on May 1, 2018, is RUB 51,380 (11,163 × 24/730 × 140).*

Article 8 - Right of employed women to protection of maternity

Paragraph 2 - Illegality of dismissal during maternity leave

The committee asks what criteria are applied in deciding compensation, when reinstatement is not possible, and whether any upper limit apply to such compensation.

Comment.

The Labour Code of the Russian Federation establishes guarantees regarding the termination of an employment contract in relation to pregnant women. Employment contracts concluded with pregnant women shall not be rescinded on the initiative of the employer, except for the cases of winding up of an organization or termination of the activity of an individual entrepreneur (p.1 art.261 Labour Code of the Russian Federation hereafter — LC RF). The dismissal of a pregnant woman is not allowed, including in cases where she performs guilty activities, which are generally grounds for termination of employment contracts at the initiative of an employer.

A way to protect the right of a woman dismissed during pregnancy is her reinstatement in work. She also has the right to receive moral damages in cash, as well as to recover unearned income. This is ensured by the following standards of the LC RF.

According to p. 1 art. 394 LC RF if a dismissal is deemed illegal the worker shall be reinstated in his/her previous job by the body that examines the individual labour dispute. According to p. 9 art.394 LC RF in the event of a dismissal without legal grounds or in breach of the established dismissal procedure the court, at the worker's request, may issue a decision on collecting monetary compensation for the benefit of the worker for moral harm inflicted thereupon by said actions. The amount of the compensation shall be set by the court. .

Art.234 LC RF says that an employer shall be obliged to compensate a worker for wages not received by the worker in cases where the latter was unlawfully denied the opportunity to work. In particular, this obligation shall ensure if wages were not received due to the worker's being unlawfully removed from work.

In accordance with the relevant judicial practice, decisions to recognize the dismissal of pregnant women illegal are made including in cases where the employer was not aware of the pregnancy.

If a fixed-term labour contract expires during the term of pregnancy of the woman the employer shall extend the effective term of the contract until the end of the pregnancy on the woman's application in writing if a medical statement is shown acknowledging the state of pregnancy.

Federal Law No. 201-FZ dd June 29, 2015 amended Part 2 of Article 261, in accordance with which the above guarantee to extend the term of an employment contract shall apply to women who were granted maternity leave in the prescribed manner. The employment contract shall be extended until the end of such leave.

A pregnant woman, whose employment contract is terminated at the initiative of the employer, is to be reinstated in work even if the pregnancy has not been preserved by the time the court considers her claim for reinstatement in work.

If during liquidation of the organization (employer) the procedure for termination of the employment contract was violated, the worker may apply to court in order to restore labour rights and receive compensation for moral harm. By the court decision, such a claim can be satisfied, however, reinstatement is impossible, since the organization has been liquidated.

Monetary compensation shall be paid to a worker for psychological damage he suffers due to an employer's unlawful actions or inaction, in amounts to be determined by the parties to a labour contract. The fact of psychological damage suffered by a worker and the amount of compensation shall be determined by a court (art. 237 LC RF).

So, the employer shall be obliged to compensate a worker for wages not received by the worker in cases where the latter was unlawfully denied the opportunity to work. The court shall take a decision on paying the worker his/her average earnings for the entire term of involuntary absence at his/her workplace (art. 394 LC RF).

Article 8 - Right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

The Committee asks the next report to clarify whether the employed women concerned are transferred to daytime work until their child is three years old and what rules apply if such transfer is not possible.

Comment.

Labour legislation of the Russian Federation also provides for a number of guarantees for persons with family responsibilities. Article 259 LC RF prohibits dispatching pregnant women on business travel or assigning them to work overtime or at night, on weekends, or on public holidays.

Also, part two art. 259 LC RF says that dispatching women with children under the age of three on business travel or assigning them to work overtime or at night, on weekends, or on public holidays shall be allowed only with their written consent and on the condition that it not be prohibited in accordance with a medical certificate issued in the procedure established by federal laws and other normative legal acts of the Russian Federation. In addition, women with children under the age of three must be made aware in writing of their right to refuse to participate in business travel or work overtime or at night, on weekends, or on public holidays. .

If it is not possible to transfer her to work during the daytime, the worker shall retain no less than two-thirds of the wage rate, salary (official salary) calculated pro rata to the time actually worked (p. 2 art. 155 LC RF).

The guarantees provided in the second part of art. 259 LC RF shall likewise be given to the mothers and fathers who bring up children aged up to five without a spouse, workers with disabled children and to workers who provide care to sick family members pursuant to a medical finding. .

Article 8 - Right of employed women to protection of maternity

Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

The Committee asks whether paid leave is provided to nursing workers when it is not possible to reassign them to another post and whether women who have been reassigned or exempted from work in connection with maternity have a legal right to return to their previous employment when their protected period comes to an end.

Comment.

Part 4 art. 254 LC RF says that if it is impossible for them to perform their previous work, women with children under 18 months of age shall at their request be transferred to another job, with the wage/salary for the job performed but not below average wage from their former position until the child reaches the age of 18 months.

The impossibility to perform the previous work should be understood as cases where such work is incompatible with child feeding and proper childcare. This also applies to work with travels or remote from the place of residence, etc. (third paragraph of clause 22, Resolution of the Plenum of the Supreme Court of the Russian Federation No. 1 dd January 28, 2014 "On Application of Legislation Regulating Labour of Women, Persons with Family Responsibilities and Minors", hereinafter - Resolution No. 1).

If a woman is transferred to a lower paid job, the employer is obliged to keep her average earnings from her previous job until the child reaches the age of 1.5 (part four of Article 254 of the Labour Code of the Russian Federation, paragraph four of paragraph 22 of Resolution No. 1).

At her request, a woman shall be granted leave to care for a child under the specified age. She shall retain her job position during leave to care for a child under the age of three years. (Article 256 LC RF).

If, upon the expiry of the term of transfer, the worker's previous job is not returned thereto, and he does not demand that it be returned and keeps working then the temporary transfer clause is deemed no longer effective and the transfer is deemed permanent. (Article 72.2 LC RF).

- ***4. Article 16 - Right of the family to social, legal and economic protection***

- ***Social protection of families***

Housing for families

- *The Committee recalls that in order to comply with the Charter, legal protection for persons threatened by eviction must include:*

1.an obligation to consult the parties affected in order to find alternative solutions to eviction;

2.an obligation to fix a reasonable notice period before eviction;

3.accessibility to legal remedies;

4.accessibility to legal aid;

5.compensation in case of illegal eviction

Comment.

With regard to remedies for individuals against illegal evictions, as well as their right to decent housing, the following should be noted.

Part 1 of Article 11 of the Housing Code of the Russian Federation (hereinafter referred to as the HC RF) establishes the priority of judicial protection of violated housing rights, that is, rights arising from relations regulated by housing legislation. At the same time, the right to appeal to court for protection of housing rights remains with the person even in the case when the law provides for an administrative procedure for the protection of housing rights. In case of disagreement with the decision adopted by the administrative procedure, the interested person has the right to appeal.

In addition, in accordance with Federal Law No. 193-FZ dated July 27, 2010 “On an alternative dispute resolution procedure involving a mediator (mediation procedure)”, parties can settle disputes arising due to housing relations by mediation.

Paragraph 5, part 1, article 150 of the Code of Civil Procedure of the Russian Federation (hereinafter referred to as CCP RF) establishes that as he is preparing the case for an action at law, the judge shall be obliged to take measures conducive to the conclusion of a voluntary arrangement by the parties, for instance according to the results of a mediation proceeding which is carried out in the procedure established by a federal law and which may be implemented by the parties at any stage of court process.

Also article 172 CCP RF establishes that at the consideration of a case on merit the presiding justice shall find out if the parties wish to end the case by reaching an amicable settlement or carry out a mediation proceeding. In case of mediation proceeding the court shall decide to postpone the hearing (article 169 CCP RF).

The summary of cases with conciliation procedures considered in civil proceedings drafted by the Supreme Court of the Russian Federation several times shows that parties use mediation procedure including in order to resolve disputes about evictions from residential premises. However, it should be noted that the number of such cases is insignificant.

Housing disputes (on recognition of the right to dwelling, on eviction, on termination of the right of the owner's former family member to use dwelling, on retaining the right of the owner's former family member to use dwelling, on withdrawal of owner's dwelling by redemption in connection with the withdrawal of a land plot for state or municipal needs, on provision of dwelling under a social rent contract, on cancellation of the decision to provide dwelling under social rent contract and concluded on the basis thereof social rent contract, on compulsory exchange of occupied dwelling, on dwelling exchange cancellation, etc.) on the basis of the provisions of Articles 23 and 24 CCP RF are considered by the district court of the first instance.

Evictions cases are considered with the mandatory participation of the prosecutor, who, by virtue of part three of article 45 CPC enters the process and gives an opinion on this category of cases.

Decisions of courts on housing disputes made by the district court of the first instance may be appealed by interested parties using appellate, cassation and supervisory procedures according to the rules provided for by the Code of Civil Procedure of the Russian Federation.

When resolving housing disputes, including those related to eviction of citizens, the courts follow the Constitution of the Russian Federation, Housing Code of the Russian Federation, other federal laws, as well as other regulatory legal acts. If an international treaty of the Russian Federation establishes other rules than those stipulated by the housing legislation, then, by virtue of Article 9 of the Housing Code of the Russian Federation, the courts apply the rules of an international treaty.

The courts take into account the legal positions contained in the rulings of the Constitutional Court of the Russian Federation, Plenum of the Supreme Court of the Russian Federation, as well as in reviews of the judicial practice of the Supreme Court of the Russian Federation.

In order to ensure the unity of judicial practice in cases arising from housing legal relations, the Plenum of the Supreme Court of the Russian Federation adopted Resolution No. 14 on July 2, 2009 “On some issues arising in judicial practice in applying the Housing Code of the Russian Federation”.

A number of explanations contained in the said resolution of the Plenum of the Supreme Court of the Russian Federation also concern issues related to the eviction.

For example, in paragraph 8 of this resolution of the Plenum, the attention of the courts was drawn to the fact that “when resolving disputes related to the protection of housing rights, the courts need to keep in mind that the principle of inviolability of the home and inadmissibility of arbitrary housing deprivation is

one of the basic principles of constitutional and housing legislation (article 25 of the Constitution of the Russian Federation, articles 1, 3 of the Housing Code of the Russian Federation). The principle of inadmissibility of arbitrary housing deprivation implies that no one can be evicted or limited in the right to use dwelling including the right to receive public utilities, except on the grounds and in the manner provided for by the Housing Code of the Russian Federation and other federal laws (Part 4 of Article 3 of the HC RF). In the third part of the same paragraph, it is explained that "provisions of part 4 of Article 3 of the Housing Code of the Russian Federation on inadmissibility of arbitrary housing deprivation which is understood as housing deprivation in an extrajudicial manner and on grounds not provided for by law, apply to every person moved in the dwelling.

Issues regarding the satisfaction of evictions claims and recovery of compensation in the event of illegal evictions are resolved by the courts on the basis of current legislation taking into account the established actual circumstances of a particular dispute.

The eviction of citizens from dwellings provided under social rent contracts is performed in a judicial order:

1) with the provision of other comfortable living spaces under social rent contract;

2) with the provision of other dwelling under social rent contract;

3) without the provision of other dwelling (Article 84 of the Code).

If the tenant and his\her family members living with him/her do not pay for dwelling and utilities for no good reason for more than six months, they can be evicted using court procedures with the provision of other residential premises under social rent contract, the size of which corresponds to the size of dwelling established for moving of citizens into the dormitory (Article 90 of the Code).

If the tenant and/or his/her family members living together with him/her use the dwelling for other purposes, systematically violate the rights and legitimate interests of neighbors or handle the dwelling carelessly destroying it, the landlord must warn the tenant and his/her family members about the need to eliminate the violations . If these violations entail the destruction of the dwelling, the landlord also has the right to give the tenant and his/her family members a reasonable time to eliminate these violations. If the tenant and (or) the family members living with him/her after the landlord's warning do not eliminate these violations, the guilty citizens, at the request of the landlord or other interested persons, shall be evicted using court procedures without providing other premises. Citizens deprived of parental rights may be evicted from dwelling without the provision of other dwelling if the joint residence of these citizens with children in respect of which they are deprived of parental rights is recognized by the court as impossible (Article 91 of the Code).

Articles 102 and 103 of the Code provide for cases and procedures for citizens eviction from specialized dwelling. At the same time, orphans and children left without parental care, persons from orphan children and children left without parental care cannot be evicted from specialized dwelling without providing other comfortable dwelling within the boundaries of the respective settlement.

Since all cases are resolved in court, special attention is paid to work with judges. Information on practice of applying and interpreting international legal provisions on protection of human rights including the protection of right to housing is constantly brought to the attention of judges and court staff.

As for “fix a reasonable notice period before eviction” the conditions and procedure for enforcement of judicial acts including court decisions on eviction is regulated by Federal Law No. 229-FZ dated 2 October 2007 “On Enforcement Proceedings” .

As for special attention to Roma people, we inform you that on January 31, 2018, the Russian Federation adopted a comprehensive plan of activities for the socio-economic development of Roma.

Family counseling services

The Committee asks the next report to indicate the outcomes of the work done by this specialist in practice and its distribution across the country. .

Comment:

Regarding the right to counseling on family planning and psychological aspects of family-marriage relations during pregnancy, we would like to report the following.

The provision of psychological and medical and social assistance to women and their families, counseling on issues of psychological support for women, are the most important functions of maternity counseling, mother and child care center, family health and reproduction center, adolescent reproductive health center, medical and social center for support of pregnant women in difficult life situations.

In order to provide medical and psychological assistance to women and members of their families, to implement medical and social measures aimed at preserving and strengthening women's health, medical and social assistance offices are set up in women's clinics.

In addition, subjects of the Russian Federation have counseling centers that assist parents on education, parenting, their speech and intellectual development, adaptation and socialization of the child in the children's team, creating conditions for child's cold training and health improvement, school - readiness etc.

Grants in the form of subsidies are given to legal entities from the federal budget within the implementation of the event “Subsidies for projects ensuring

the creation of an infrastructure of centers (services) to help parents with children of preschool age, including from 0 to 3 years - pedagogical, diagnostic, consulting assistance to parents with children of preschool age, including from 0 to 3 years old ".

The federal budget for 2019 and 2020 envisages an increase in allocations in the form of subsidies to these organizations.

Legal protection of families

Rights and obligations of spouses

The Committee asks the next report to provide information on the rights and obligations of spouses regarding children

Comment:

According to paragraph 2 article 31 of the Family Code of the Russian Federation the issues of motherhood and fatherhood, of the children's upbringing and education, and other issues involved in the life of the family, shall be resolved by the spouses jointly, proceeding from the principle of the spouses' equality .

According to article 34 of the Family Code of the Russian Federation the property acquired by the spouses during their marriage, shall be their joint property

The spouses' joint property shall be possessed, used and disposed of by the mutual consent of the spouses.

According to paragraph 1 article 61 of the Family Code of the Russian Federation the parents shall enjoy equal rights and shall discharge equal duties with respect to their children (the parental rights).

Protection of the rights and of the interests of children shall be imposed upon their parents. The parents shall be the legal representatives of their children and shall come out in protection of their rights and interests in their relations with any natural and legal persons, including in the courts, without having to obtain special powers (paragrapg 1 article 64 Family Code of the Russian Federation).

Article 65 of the Family Code of the Russian Federation establishes that all the issues, involved in the children's upbringing and education shall be resolved by the parents by mutual consent, proceeding from the children's interests and taking into account the children's opinion. The parents (or one of them) shall have the right, if there exist differences between them, to turn for resolving these differences to the guardianship and trusteeship body, or to a court .

The place of the children's residence in case the parents live apart, shall be established by an agreement between the parents. In the absence of an agreement, a dispute between the parents shall be resolved in court, proceeding from the children's interests and taking into account the children's opinion.

According to article 66 of the Family Code of the Russian Federation the parent, residing apart from the child, shall have the right to communicate with the child and to take part in his upbringing and in resolving the issue of the child's receiving an education. The parent, with whom the child lives, shall not prevent the child's communication with the other parent, unless such communication damages the child's physical and mental health or his moral development. The parents shall have the right to conclude a written agreement on the way the parent, residing apart from the child may exercise his parental duties. The parent residing apart from the child shall have the right to get information on his/her child from educational establishments and medical centres, from institutions for social protection of the population and also from other similar institutions.

Mediation services

The Committee asks the next report to provide information on mediation services: access to the said services as well as whether they are, free of charge and cover the whole country, and how effective they are.

Comment:

According to Part 2 of Article 65 of the Federal Law No. 273-FZ dated December 29, 2012 "On Education in the Russian Federation" (hereinafter referred to as the Federal Law No. 273-FZ), the founder of an institution conducting educational activities establishes a fee for the care of a child charged to parents (legal representatives) (hereinafter referred as the parental fee), and its amount unless otherwise provided by Federal Law No. 273-FZ.

In accordance with Part 5 of Article 65 of Federal Law No. 273-FZ, in order to provide material support for upbringing and education of children attending educational institutions implementing the educational program of pre-school education (hereinafter referred to as educational institutions), compensation is provided to parents (legal representatives) . At the same time, one of the parents (legal representatives) who have paid the parental fee for supervision and care of children in the appropriate educational institution has the right to receive compensation.

At the same time, the method of payment by parents (legal representatives) of the parental fee is not established by the Federal Law No. 273-FZ.

The procedure for applying for the said compensation and procedure for its payment are established by the state authorities of subjects of the Russian Federation (Part 6 of Article 65 of Federal Law No. 273-FZ).

Part 1 of Article 7 of the Federal Law No. 256-FZ dated December 29, 2006 "On Additional Measures of State Support for Families with Children"

established that the funds (part of funds) of maternal (family) capital are disposed of by persons who received the state certificate for maternal (family) capita by filing an application for disposing of funds of the maternal (family) capital (hereinafter referred to as the application for disposing) with the territorial authority of the Pension Fund of the Russian Federation, directly or through the multifunctional center, this application for disposing specifies the way to used the maternal (family) capital in accordance with the Federal Law № 256-FZ.

In accordance with Part 2 of Article 11 of Federal Law No. 256-FZ, funds (part of funds) of maternal (family) capital may be directed, among other things, to pay for other expenses related to education, the list is established by the Government of the Russian Federation.

Funds (part of funds) of maternal (family) capital in accordance with clause 8 (1) of the Rules for allocation of funds (part of funds) of maternal (family) capital for education of a child (children) and other expenses related to education of the child (children), approved by a Regulation of the Government of the Russian Federation No. 926 dated December 24, 2007 (hereinafter referred to as the Rules) may be directed to pay for supervision and care of the child (children) in an educational institution.

Funds (parts of the funds) of maternal (family) capital are directed to pay for supervision and care of the child (children) in the educational institution by the territorial authority of the Pension Fund of the Russian Federation in accordance with the agreement between the educational institution and person who received the certificate, this agreement includes the institution's obligations to supervise and care for the child (children) in the educational institution and calculation of the amount of payment for support of the child (children) and (or) supervision and care of the child (children) in the educational institution by cashless transfer to the accounts (personal accounts) of the institution specified

in the agreement between the educational institution and person who received the certificate (paragraph 8 (3) of the Rules).

Thus, persons who have received the state certificate for maternal (family) capital have the right to spend funds (part of the funds) of the maternal (family) capital in order to pay for supervision and care of the child (children) in the educational institution implementing the educational programs of pre-school education and (or) educational programs for primary general, basic general and secondary general education, by sending a relevant application to the Pension Fund of the Russian Federation, and these persons are parents (legal representatives) of children who have paid parental fees.

Domestic violence against women

The Committee asks the next report to provide information on domestic violence against women.

Comment:

According to the Constitution of the Russian Federation state support ensured to the family, maternity, paternity and childhood (part 2 article 7) and every citizen of the Russian Federation shall enjoy in its territory all the rights and freedoms (part 2 article 6).

Article 19 of the Constitution says that all people shall be equal before the law and court. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex. And according to part 3 of the said article man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.

These constitutional principles are reflected in legislative and other regulatory legal acts of the Russian Federation in full.

The task of the Criminal Code is the protection of the rights and freedoms of man and citizen against criminal encroachment and it does not single out a woman as a special subject of criminal law protection.

According to the Criminal Code of the Russian Federation (hereinafter referred as the CC RF) , the object of criminal law protection is life and health, freedom, sexual inviolability and sexual liberty of an individual, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances

The Criminal Code of the Russian Federation sets responsibility for crimes against human life and health (chapter 16 CC RF) and for crimes against the sexual inviolability and sexual freedom of the person (part 18 CC RF), also intentional infliction of a grave injury is criminally liable (article 111 CC RF) as well as intentional infliction of injury of average gravity (article 112 CC RF), intentional infliction of light injury (article 115 CC RF), torture (article 117 CC RF), threat of murder or infliction of grave injury to health (article 119 CC RF) and others

In addition, depending on the circumstances, acts, including those related to the commission of violence, including in the family, may be qualified under articles 131 «Rape», 132 «Violent actions of sexual character », 133 «Compulsion to Perform sexual actions », 134 «Sexual intercourse committed by a person who has reached the age of eighteen years of age with a person who has not reached the age of sixteen years», 135 «Depraved actions» and 156 «Failure to discharge duties of bringing up a minor » of the Criminal Code of the Russian Federation.

It should also be noted that when imposing punishment in accordance with the Criminal Code of the Russian Federation, the special condition of a woman due to her physiological features, as well as the minor age of the victim, are taken into account as aggravating circumstances. Commission of a crime against a woman who is obviously in a state of pregnancy, or against a minor, another defenseless or helpless person, or a person who is dependent on the guilty person and making an offense in respect of a minor boy (minor girl) by a

parent or other person upon whom the duty of bringing up the minor boy (minor girl) is imposed under law shall be deemed to be aggravating circumstances (paragraph «h» and «p» first part article 63 CC RF).

Also in a number of elements of crimes provided for by the relevant articles of the Criminal Code of the Russian Federation, committing acts in relation to these categories of victims entails stricter responsibility (for example, paragraphs “c” and “d” of part two article 105, paragraph b of part two article 111, paragraph “a” of part three article 131, paragraph “a” of part three o article 132 of the Criminal Code, etc.)

Article 136 (Violation of the Equality of Human and Civil Rights and Freedoms) CC RF establishes responsibility for Discrimination, that is, violation of the rights, freedoms and legitimate interests of man and citizen based on gender, race, nationality, language, origin, property or official status, place or residence, attitude to religion, convictions, or affiliation with public associations or any social groups, made by a person through the use of the official position thereof .

According to article 1 of the Criminal procedural code of the Russian Federation (hereinafter referred to as the CPC RF) the procedure for criminal court proceedings on the territory of the Russian Federation is established based on the Constitution of the Russian Federation. (Part 1). The generally recognized principles and norms of international law and international treaties of the Russian Federation make up a component part of the legislation of the Russian Federation regulating criminal legal proceedings. If an international treaty of the Russian Federation has laid down the rules different from those stipulated by the present Code, the rules of the international treaty shall be applied (part 3).

This standard of the CPC RF guarantees equal access of women to justice.

The Resolution of the Government of the Russian Federation No. 410-p dated March 8, 2017 approved the National Action Strategy for Women (2017-

2022) in order to determine the main directions of state policy for women aimed at the implementation of principle of equal rights and freedoms of men and women, creation of equal opportunities for their implementation by women in accordance with the provisions of the Constitution, generally accepted standards of international law, international agreements of the Russian Federation,

One of the parts of this Strategy is "Prevention of social disadvantage of women and violence against women".

The implementation involves the following tasks:

6.improvement and liberalization of legislation with respect to women who are in places of deprivation of liberty for committing minor crimes including women with children;

7.improvement of legislation in order to form the legal basis for social support for women released from places of detention including women with children including the development of a system of socialization and re-socialization of such women;

8.improvement of legislation in the field of prevention of domestic violence.

9.The solution of these problems involves the implementation of the following measures:

10.mitigation of punishment for minor crimes including wider use of grounds for exemption from punishment, provided for by article 172 of the Penal Code of the Russian Federation, regarding pregnant women and women with minor children;

11.providing social and legal and social and psychological support to women released from prison promoting their social adaptation, socialization and re-socialization;

12.monitoring the effectiveness of measures implementation to prevent various forms of violence including domestic and sexual violence against women and children in order to assess the extent and quickly respond to the facts of such violence;

13.development of effective models for prevention of violence against women and children including training of personnel with the major in judicial social work;

14.expanding the practice of conducting informational and educational activities on prevention of violence against women including for law enforcement officers, judges, health workers, psychologists and social workers who assist women in crisis situations;

15.development and strengthening of the material and technical base of institutions providing services to women and children affected (suffering) by domestic violence, sexual violence and other forms of violence, including crisis centers for women as security measures for the period of conflict resolution including marital caused violence;

16.assisting non-profit organizations that provide shelter to victims of violence and provide them with psychological and social support;

17.development and implementation of educational and training programs on non-violent methods of conflict resolution for children, adolescents and young people;

18.development and implementation of measures aimed at women sexual exploitation elimination, human trafficking and formation of an uncompromising attitude towards such phenomena in society.

The Resolution of the Government of the Russian Federation No. 420-p dated March 14, 2018 approved an action plan for implementation of the Strategy to implement the tasks.

In addition, the Russian Federation is launching a separate cooperation project with the Council of Europe on implementation of the National Action Strategy for Women (2017-2022), the key areas of cooperation are "Prevention of social disadvantage of women and violence against women" and "Women's participation in public and political life".

In addition, there is the Concept of State Family Policy in the Russian Federation for the period until 2025, it was approved by the Decree of the Government of the Russian Federation No. 1618-p dated August 25, 2014. It provides for the development of crisis centers (shelters, temporary stay centers and branches) for abused women including women with children.

In coordination with the Ministry of Internal Affairs of Russia, the Ministry of Labor and Social Protection of the Russian Federation issued an order No. 565n dated May 17, 2012 "On approval of procedure for notification of internal affairs agencies by medical institutions about admission of patients in case of reasonable grounds to believe that they were injured as the result of illegal actions."

According to this order, medical institutions transmit information to the territorial bodies of the Ministry of Internal Affairs of Russia at the location of the medical institution about the admission (treatment) of patients with injures received as a result of illegal actions, so this information is subject to consideration in the prescribed manner.

The Instruction on receipt, registration and consideration of statements and reports about crimes, administrative offenses, incidents by territorial bodies of the Ministry of Internal Affairs of the Russian Federation was approved by order of the Ministry of Internal Affairs of Russia No. 736 dated August 29, 2014, it defines the actions of officials of internal affairs nascences when

considering reports of incidents as well as departmental control over their observance aimed at excluding the cover of such reports from the records.

In this regard, the refusal to accept a statement on domestic violence, making unreasonable decisions regarding already registered statements are considered by the Ministry as violations of the registration procedure. Actions of workers committed these violations shall be assessed in each case, and disciplinary measures shall be applied to them as part of the control.

When implementing educational programs in institutions of higher education of the Ministry of Internal Affairs of Russia, issues of domestic violence prevention and response to it are studied within the following disciplines: Criminal Law, Criminal Procedure, Administrative Law, Criminology with the topics: Crimes against the person , Initiation of a criminal case, Administrative offenses that infringe health, sanitary and epidemiological well-being of the population and public morality, Prevention of crimes against the person.

In addition, the programs of vocational education (vocational training) for citizens recruited to serve in the internal bodies for the first time as precinct police officers, inspectors for minors, include the following issues: Actions of police squads in identifying domestic conflicts, Preventing and suppressing domestic conflicts and violent offenses in the residential sector.

When educational institutions of the Ministry of Internal Affairs of Russia implement supplementary educational training programs for workers of juvenile units, precinct police officers, following issues are included: The concept, principles and main directions of the state’s criminal policy for prevention of crimes committed by minors and against minors in the modern Russia as well as prevention of domestic violence and violence at school, Peculiarities of work of the precinct police officer for prevention of offenses committed on the grounds of family conflicts, Identification techniques and methods of people likely to commit crimes on the basis of family relations".

According to the departmental statistical report called "Prevention" over the past three years, the number of crimes committed in the sphere of family relations, has almost halved (2015 - 54 285, 2016 - 63 535, 2017 - 38 311), including among women - by 26.2% (2015 – 32 602, 2016 – 42 164, 2017 – 24 058), minors - by 73.3% (2015 – 9 118, 2016 - 3 851, 2017 - 2432). At the same time, the number of grave and especially grave crimes committed in the sphere of family and domestic relations decreased by 20% (2015 – 4,257, 2016 – 3 851, 2017 – 3, 417), of which against women - by 10.8% (2015 - 1227, 2016 - 1214, 2017 - 1095), minors - by 17.9% (2015 -301, 2016 -264, 2017 - -247).

Economic protection of families

Family benefits

The system of state benefits for citizens with children in connection with their birth and upbringing is established by the Federal Law No. 81-FZ dated May 19, 1995 “On State Benefits for Citizens with Children”.

The Federal Law No. 81-FZ dated May 19, 1995 “On State Benefits for Citizens with Children” provides for 7 types of state benefits:

1. maternity benefit;

2. lump-sum benefit for women who have registered with medical institutions in the early stages of pregnancy;

3. lump-sum benefit at child's birth;

4. monthly child care benefit ;

5. lump-sum benefit for transfer of a child to be raised in a family;

6. lump-sum benefit for a pregnant wife of a military man in call in military service;

7. monthly child care benefit for a child of a military man in call in military service .

The size of the lump-sum benefit at child's birth from February 1, 2018 is RUB 16,759.09. A monthly child care benefit up to the age of one and a half years is paid to citizens who are not subject to compulsory social insurance in

case of temporary disability and maternity in the amount of RUB 3,142.3 for the first child care = and RUB 6,284.65 for the second child care.

The maximum amount of child care benefits for citizens who are subject to compulsory social insurance in case of temporary disability and maternity is RUB 23,666.27.

The lump-sum benefit for a pregnant wife of a military man in call in military service is RUB 26,539.76. The monthly childcare benefit for a child of a military man in call in military service is RUB 11,374.19.

The benefits established by the Federal Law No. 81-FZ dated May 19, 1995 "On State Benefits for Citizens with Children" are provided to citizens in connection with the birth and upbringing of children, regardless of their income.

At the same time, the Federal Law No. 418-FZ dated December 28, 2017 "On monthly payments to families with children" stipulates that families whose per capita income does not exceed 1.5 subsistence minimum of the working-age population established in the subject of the Russian Federation in the amount of the subsistence minimum for children established in the subject of the Russian Federation for the second quarter of the year preceding the year of application for appointment are provided with monthly payments in connection with the birth (adoption) of the first child from January 1, 2018 and monthly payments in connection with the birth (adoption) from January 1, 2018) of the second child at the expense of the maternal (family) capital.

The average monthly payment for the whole of the Russian Federation is RUB 11,011.04.

Monthly payment at birth (adoption) of the first child is made at the expense of the federal budget in the form of a subvention to the budgets of subjects of the Russian Federation. The distribution of the subvention was approved by decree of the Government of the Russian Federation No. 3008-p dated December 30, 2017. Monthly payment at birth (adoption) of the second child is made at the expense of the maternal (family) capital.

In addition, in accordance with the Decree of the President of the Russian Federation No. 606 dated May 7, 2012 “On Measures for Implementing the Demographic Policy of the Russian Federation” in most subjects of the Russian Federation, families in need of support are provided with a monthly cash payment in the amount of a subsistence minimum for children determined in the subject of the Russian Federation.

This payment has been granted to families at birth of the third child or subsequent children after December 31, 2012, until the child is three years old.

Thus, the legislation of the Russian Federation has established a system of measures of social support for families at child's birth and upbringing.

It should also be noted that, in accordance with subparagraph 24 of the second part of Article 26.3 Federal Law No. 184-FZ dated October 6, 1999 “On General Principles of Organization of Legislative (Representative) and Executive Bodies of the Government of Subjects of the Russian Federation”, the issues of social support for families with children, including single parents, single-parent families, large families shall be solved by the state authorities of the subject of the Russian Federation.

According to the Federal Law, as well as Article 16 Federal Law No. 81-FZ dated May 19, 1995, state authorities of subjects of the Russian Federation establish a child benefit as well as other measures of social support for families with children at the expense of the budget of the subject of the Russian Federation.

The amount, appointment procedure, indexation and payment of child benefit including the conditions and frequency of its payment (at least once a quarter) as well as using the need criterion are governed by laws and other regulatory legal acts of the subject of the Russian Federation.

Child benefit is paid by the executive authorities of subjects of the Russian Federation at the expense of the budgets of subjects of the Russian Federation.

As for the application of legislation of the Russian Federation on measures of social support to families in connection with birth and upbringing of children in relation to foreign citizens we would like to report the following:

In accordance with Article 1 the scope of the Federal Law No. 81-FZ dated May 19, 1995 covers including:

19.foreign citizens and stateless persons permanently residing in the Russian Federation as well as refugees;

20.foreign citizens and stateless persons temporarily residing in the Russian Federation and subject to compulsory social insurance in case of temporary disability and maternity.

Documents confirming permanent and temporary residence of a foreign citizen in the Russian Federation are established by the Federal Law No. 115-FZ dated July 25, 2002 "On Legal Status of a Foreign Citizen in the Russian Federation".

In accordance with Article 2 of this Law, the document confirming the permanent residence of a foreign citizen in the Russian Federation is a residence permit, temporary residence - temporary residence permit in the Russian Federation.

Thus, foreign citizens permanently residing in the Russian Federation, as well as foreign citizens temporarily residing and subject to compulsory social insurance in case of temporary disability and maternity in the territory of the Russian Federation, are entitled to state benefits for birth and upbringing of children according to the Federal Law No. 81-FZ dated May 19, 1995.

4. Article 17 - Right of children and young persons to social, legal and economic protection

In order to continue work on improving state policy in the field of child protection, Decree of the President of the Russian Federation No. 240 dated May

29, declared 2018-2027 the Decade of Childhood in the Russian Federation, taking into account the results achieved during the implementation of the National Action Strategy for Children for 2012–2017.

Considering the above mentioned information, the work within the main directions of state policy in the sphere of childhood, such as family policy of child guarding, availability of high-quality education and training, cultural development, health care, recreation shall be continued as part of the implementation of the Action plan until 2020 performed within Decades of childhood, approved by the decree of the Government of the Russian Federation No. 1375-p dated July 6, 2018.

Thus, the plan includes measures aimed at developing tools for providing material support to families at birth and upbringing of children, creating infrastructure for childhood, improving medical care for children and laying the foundations for healthy lifestyle, increasing the availability of quality education for children, cultural and physical development of children, recreation and tourism, ensuring information security of children, ensuring equal opportunities for children in need of special care of the state, developing protection systems and ensuring the rights and interests of children.

The legal status of the child

The Committee wishes to be informed about the applicable legislation on equality of rights between children born within marriage and outside marriage

Comment

According to article 53 Family Code of the Russian Federation (hereinafter referred to as the FC RF) in establishing the fatherhood in the procedure, stipulated by Articles 48-50 of the present Code, children shall have the same rights and duties with respect to the parents and to their relatives as the children, born of married persons .

The legislation of the Russian Federation does not contain differences in the legal regulation of inheritance and child support obligations with respect to children born within marriage and outside marriage.

The Committee asks what may constitute a valid reason to marry a couple at 16.

Comment:

According to article 13 Family Code of the Russian Federation (hereinafter referred to as the FC RF), the marriageable age shall be established as eighteen years. In the presence of valid reasons, the bodies of local self-government at the residence of persons wishing to enter into a marriage may, at the request of such persons, permit entering into a marriage to persons who have reached the age of sixteen years. The procedure and the terms because of whose existence a marriage may be entered into by way of an exception, with account for specific circumstances, before reaching the age of sixteen years, may be laid down by the laws of the subjects of the Russian Federation.

We note that the list of relevant valid reasons is not defined by the Family Code of the Russian Federation.

Determining the criteria for classifying the reasons indicated by minors in the application as valid reasons for allowing persons who have attained the age of sixteen to marry is within the competence of local self-governments at the place of residence of persons wishing to marry.

According to the position reflected in the decision of the Constitutional Court of the Russian Federation No. 568-O-O dated October 21, 2008 , based on the fact that coming of age implies the attainment of biological and psychological maturity as a condition of marriage, the federal legislator on the basis of article 72 (paragraph “k” part 1) of the Constitution of the Russian Federation established the age of marriage (eighteen years) in Article 13 of the Family Code of the Russian Federation while providing for (taking into account constitutionally

significant interests of protecting the family and child) the right of the bodies of local self-government at the residence of persons wishing to enter into a marriage may, at the request of such persons, permit entering into a marriage to persons who have reached the age of sixteen years (paragraph 1 and 2), and the right of subjects of the Russian Federation to determine through their laws the procedure and conditions under which marriage can be allowed as an exception taking into account special circumstances, until the age of sixteen is reached.

Thus, the achievement of biological and psychological maturity should be decisive for establishing criteria for valid reasons for marriage of persons who have reached the age of sixteen.

The Committee asks whether there are restrictions on the right for an adopted child to know his or her origins and under what circumstances.

Comment:

Paragraph 2 article 54 Family Code of the Russian Federation says that «Every child shall have the right to live and to be brought up in a family insofar as it is possible, the right to know his parents, the right to enjoy their care and the right to live with them, with the exception of cases when this is contrary to his/her interests ».

According to article 139 Family Code of the Russian Federation and article 47 of the Federal law № 143-FZ dated 15.11.1997 «On vital acts» the secret of the child's adoption shall be protected by law. The judges who have passed a decision on the child's adoption, or the official persons who have affected the state registration of the adoption, as well as the persons, who have learned about the adoption in another way, shall be obliged to keep the secret of the child's adoption. Workers of the civil registry office may not, without the consent of the adoptive parents (adoptive parent), report any information about the adoption and

issue documents, the contents of which show that the adoptive parents (adoptive parent) are not the parents (parents) of the adopted child.

The Constitutional Court of the Russian Federation in Decree No. 15-P dated June 16, 2015, "On verification of the constitutionality of the provisions of Article 139 Family Code of the Russian Federation and Article 47 of the Federal Law "On vital acts"due to complaint of citizens G.F. Grubich and T.G. Gushchina" noted that the legislator - based on the fact that disclosing the secret of adoption can cause moral suffering to a child, affect his/her mental state, prevent the creation of a normal family environment and impede the process of upbringing, links the possibility of disclosing information about the adoption exclusively with the will of his/her adoptive parents; family relations interference by other persons in a situation where the child can get information about his/her origin directly from his/her adoptive parents is not in the interests of either the adopted, or even more so the adoptive parents.

The Constitutional Court of the Russian Federation recognized that the disputed provisions did not contradict the Constitution of the Russian Federation, since they do not prevent the descendants of the adopted person after the death of such person and his adoptive parents from providing information on adoption to the extent necessary for them (descendants) in order to know their origin.

By virtue of Article 6 of the Federal Constitutional Law No. 1-FKZ dated July 21, 1994 "On Constitutional Court of the Russian Federation", the constitutional and legal meaning of the provisions of Article 139 FC RF and Article 47 Federal Law "On vital acts", revealed in the said decree, is compulsory and excludes any other interpretation in law enforcement practice.

Protection from ill-treatment and abuse

The Committee considers that not all forms of corporal punishment are explicitly prohibited in the home and in institutions. .

Comment:

Paragraph 1 article 63 Family Code of the Russian Federation says that the parents shall be answerable for the education and development of their children. They shall be obliged to take care of the health and of their children's physical, mental, spiritual and moral development.

The exercising of the parental rights shall not be in contradiction with the children's interests. Providing for the children's interests shall be an object of their parents' principal care. In exercising the parental rights, the parents shall not have the right to inflict a damage on the children's physical and mental health, or on their moral development. The methods of the children's upbringing shall exclude contempt, cruelty and rudeness in their treatment, humiliation of their human dignity, the abuse or the exploitation of the children. The parents exercising parental rights to the detriment of the rights and the interests of the children shall be made answerable in the law-established procedure (paragraph 1 article 65 Family Code of the Russian Federation).

According to article 69 Family code of the Russian Federation the parents (one of them) may be deprived of parenthood if they - treat the children cruelly, including by physical or mental suppression, or infringe upon his sexual inviolability.

Paragraph 1 of Article 141 Family Code of the Russian Federation established that the child's adoption may be canceled if the adopters treat the adopted child cruelly.

Battery or the commission of similar violent actions, which have caused physical pain but not involved the consequences referred to in Article 115 of the Criminal Code of the Russian Federation (hereinafter referred to as the CC RF) «Intentional Infliction of Light Injury» committed through ruffian-like motives; by reason of political, ideological, racial, national or religious hatred or enmity, or by reason of hatred or enmity with respect to some social group (article 116 CC RR) are criminally liable.

At the same time, battery or other violent actions that caused physical pain, but did not entail the consequences specified in Article 115 of the Criminal Code of the Russian Federation, in the absence of the above qualifying features, form an administrative offense under Article 6.1.1 of the Code of Administrative Offenses of the Russian Federation (hereinafter referred to as the CAO RF).

Repeated commission of the administrative offense under Article 6.1.1 CAO RF by a person, who has been administratively punished for it, entails criminal liability under Article 116.1 of the Criminal Code of the Russian Federation.

Also the CC RF includes a responsibility for failure to discharge of to discharge or improper discharging of the duties of bringing up a minor by a parent or by any other person charged with these duties, or by a teacher or other worker of an educational, medical, or other establishment which is duty-bound to exercise surveillance over a minor if this deed is associated with the cruel treatment of the minor (article 156 CC RF).

The main object of the crime in question is the public relations related to ensuring the normal development of a minor and his/her upbringing, and the additional object is the health of the minor.

At the same time, upbringing is understood as the process of purposeful, systematic formation of the personality in order to prepare it for active participation in social, industrial and cultural life. The duty of parents and other persons mentioned is not only to upbring minors but also to protect their rights and legitimate interests, as well as to care.

The objective side of the crime is expressed in action or inaction, that is, the improper performance or non-performance of obligations to upbring the minor (combined with child abuse), entrusted to the person by the law, subordinate, including departmental, regulatory legal acts, and if to talk about institutions - by internal regulations. Responsibility for inaction is possible under the condition that the guilty person should and could fulfill the duties

assigned to him/her. The ability of the person to perform the duties assigned to him/her is determined by the objective conditions necessary for performance of these duties, and the subjective, personal qualities of the person (education, qualifications, experience, etc.).

The final offense does not require any consequences (formally defines crime).

The concept of child abuse is disclosed in paragraph 2 of sub-paragraph "d" paragraph 16 Resolution of the Plenum of the Supreme Court of the Russian Federation No. 44 dated November 14, 2017 "On Practice of Legislation Application by Courts in Resolving Disputes Related to Protection of Rights and Lawful Interests of a Child with Immediate Threat to His/Her Life or Health, as well as in Restriction or Deprivation of Parental Rights " according to which child abuse can be expressed, in particular, in physical or mental violence of parents, in assault against child's sexual inviolability.

Also article 63 CC RF says that commission of a crime against a minor, another defenseless or helpless person, or a person who is dependent on the guilty person shall be deemed to be aggravating circumstances (paragraph «h» part one).

The Committee asks whether the financial conditions and material circumstances of the family can become a ground for placement of children in alternative care.

Comment.

Family relations shall be regulated in conformity with the principles of the priority of bringing children up in a family, of taking care of their well-being and development, and of ensuring priority protection of the rights and interests of underaged and disabled family members (paragraph 3 article 1 Family Code of the Russian Federation).

Paragraphs 8 and 13 Resolution of the Plenum of the Supreme Court of the Russian Federation No. 44 dated November 14, 2017 "On Practice of Legislation Application by Courts in Resolving Disputes Related to Protection of Rights and Lawful Interests of a Child with Immediate Threat to His/Her Life or Health, as well as in Restriction or Deprivation of Parental Rights " clarified that in order to protect the rights of the child and taking into account his/her interests, parents may be limited on parental rights by the court (article 73 Family Code of the Russian Federation). Deprivation of parental rights is an extreme measure of parental responsibility; it is applied by court only for the guilty behavior of parents on the grounds specified in article 69 Family Code of the Russian Federation, the list of grounds is exhaustive. Deprivation of parental rights is permitted in case when it is not possible to protect the rights and interests of children in any other way.

If a direct threat exists to the child's life or health, the guardianship and trusteeship body shall have the right to immediately take the child away from his parents (from one of them) or from other persons, in whose charge he/she is (paragraph 1 article 77 Family Code of the Russian Federation).

Paragraphs 31 and 33 of the above-mentioned Resolution noted that courts need to keep in mind that the measure for protection of the child's rights, as provided for in Article 77 Family Code of the Russian Federation, is of an extraordinary nature, it can be used in exceptional cases on the basis of exigent circumstances due to threat to child's life or health and only on the basis of the relevant act of the executive authority of the subject of the Russian Federation or the head of the municipality, adoption of this act entails a temporary suspension of the rights of parents (one parent) or other persons in charge of child to personal upbringing (before the court considered the application to limit rights of parents (one of parents) or to deprive them of parental rights, to cancel the adoption or till the guardianship and custody authority decides to suspend (guardian), foster parent, foster carer from duties). At the same time, financial

conditions of the family is not in itself a sufficient reason to separate children from parents on the basis of article 77 Family Code of the Russian Federation, if parents conscientiously fulfill their responsibilities, take care of children, create the necessary conditions for the development of children in accordance with available material and financial capabilities of the family.

Young offenders

The Committee asks what the maximum length of the pre-trial detention is.

Comment:

Part one article 108 Criminal Procedure Code of the Russian Federation (hereinafter referred to as the CPC RF) says that taking into custody as a measure of restriction shall be applied through a court decision towards the suspect or the accused of committing crimes for which the criminal court envisages the punishment in the form of the deprivation of freedom for a term of over three years, if it is impossible to apply a different, milder measure of restriction .

According to part two article 108 CPC RF Taking into custody as a measure of restriction may be applied towards a minor suspect or accused, if he is suspected or accused of committing a grave or an especially grave crime. In the exceptional cases, this measure of restriction may be applied with respect to a minor who is suspected or accused of committing an ordinary crime.

At the same time according to part six article 88 CC RF Punishment in the form of deprivation of liberty may not be inflicted upon a minor convict who has committed at the age of less than sixteen years old a crime of little or medium gravity. Considering the requirements of the first part of Article 108 CPC RF, a measure of restraint in the form of detention may not be chosen in respect of such persons.

Article 109 CPC RF describes time terms for holding in custody and it says that holding in custody during the inquisition of crimes shall not exceed two months (part one).

If it is impossible to complete the preliminary investigation within a term of up to two months and if there are no grounds for changing or for canceling the measure of restriction, this term may be extended by the judge of the district court or of the military court of the corresponding level in accordance with the procedure, established by the third part of Article 108 of the present Code, for a term of up to six months. Further extension of the term may be effected with respect to the persons, accused of committing grave and especially grave crimes, only if the criminal case is of a particular complexity and if there are grounds for selecting this measure of restriction, by the judge of the same court upon application from the investigator, filed with the consent of the head of the investigation office for the subject of the Russian Federation or of the head of investigation office equated with him or upon application from the investigator in cases set in the part five article 223 CPC RF with the consent of the procurator of the subject of the Russian Federation or of the military prosecutor equated with him , for up to twelve months (part two).

The term of holding in custody for over twelve months may be extended only in exceptional cases, with respect to the persons accused of committing especially grave crimes, by the judge of the court specified in Part 3 of Article 31 of the Criminal Code, or of the military court of the corresponding level at an application from the investigator, filed with the consent of the Head of the Investigation Committee of the Russian Federation or of the head of the investigation office for the federal authority (in case of any), for up to 18 months (part three).

A further extension of the said term is inadmissible. The accused, who is held in custody, shall be subject to an immediate release, with the exception of the

cases mentioned in Item 1 of the eighth part and part 8.1-8.3 of article 109 CPC RF (part four).

On the expiry of the maximum term of detention in the instances, provided for by Item 4 of Part Ten of Article 109 CPC RF, and when it is necessary to hold a preliminary investigation, the court shall be entitled to extend the term of holding a person in custody in the procedure established by this Article but for six months at the most (part eleven).

In addition, the maximum periods of detention may be extended at the request of the prosecutor up to 30 days if they expire by the time the criminal case is sent to the court for court to decide on the incoming criminal case in the manner provided for by Article 227 CPC RF

Federal Law No. 103-FZ dated July 15, 1995 "On detention of suspects and accused of committing crimes" provides for the peculiarities of detention of minors (Articles 7, 21, 25, 30, 33, 37, 38).

Clause 1 of paragraph 2 of Article 33 Federal Law No. 103-FZ provides for the separation of minors and adults; in exceptional cases, with the consent of the prosecutor, it is allowed to detain positively characterized adults brought to criminal responsibility for crimes of small and medium gravity for the first time in cells with minors .

According to part two article 423 CPC RF when resolving the question of selecting a measure of restriction towards a minor suspect or accused, in each case shall be discussed the possibility of putting him under surveillance of parents, guardians, trustees or other trustworthy individuals in accordance with the procedure, established by Article 105 of the CPC RF

The supervision of a minor suspect or accused is a special preventive measure applied to this category of persons.

The specifics of courts examination of criminal cases regarding minors are explained in the decision of the Plenum of the Supreme Court of the Russian Federation No. 1 dated February 1, 2011 "On judicial practice of applying

legislation regulating the specifics of criminal responsibility and punishment of minors" (hereinafter referred to as the decision).

In accordance with paragraph 6 of the Decision, detention before trial can be applied to a minor only as a sanction of last resort and for the shortest period of time. When examining the petition of the preliminary investigation bodies on application of measure of restraint in the form of detention to a minor suspect or accused, the court should check the validity of the application's grounds about the need for a minor to be detained and the inability to apply a different measure to him.

In addition, it is necessary to take into account that article 105.1 CPC RF provides for the possibility of applying a preventive measure in the form of ban on certain actions.

According to the first part of Article 105.1 CPC RF the ban on certain actions as a preventive measure is chosen by court regarding a suspect or accused when it is impossible to use a different, milder preventive measure and consists the suspect or accused duty to respond in a timely manner to the calls of the inquiry officer, investigator or to court, to comply with one or several prohibitions provided for by the sixth part of Article 105.1 CPC RF as well as in control over observance of the obligations imposed. The ban on certain actions can be elected at any time during the criminal proceedings.

The sixth part of Article 105.1 CPC RF establishes that the court taking into account the identity of the suspect or accused, actual circumstances of the criminal case and information provided by the parties may ban the following actions as a preventive measure:

1) go out at certain periods of time outside the premises in which he\she lives as an owner, tenant or on other legal grounds;

2) be in certain places as well as closer than the established distance to certain objects, attend certain events and participate in them;

3) communicate with certain individuals;

4) send and receive postal and telegraph dispatches;

5) use the means of communication and information and telecommunication network "Internet";

6) drive a car or other vehicle if the crime committed is related to violation of traffic rules and operation of vehicles.

In accordance with paragraph 4 of the decision, criminal cases involving minors in the courts of both the first and second instances should be considered by the most experienced judges.

To this end, it is necessary to improve the professional qualifications of judges considering cases of juvenile crimes constantly and to increase their personal responsibility for fulfilling the requirements of legality, validity, fairness and motivation of a court decision.

At the same time, measures are being taken to ensure uniformity of judicial practice in the use of juvenile technology in juvenile proceedings, to develop mechanisms for interaction of courts with law enforcement agencies and services for prevention of juvenile delinquency and neglect, to improve legislation in this area.

As for the proposal to accelerate the adoption of laws establishing a juvenile justice system including juvenile courts with specialized personnel and restorative justice approach, we report the following.

Legislative norms aimed at ensuring the protection of rights, freedoms and legal interests of minors in the Russian Federation fully comply with the guarantees regarding the legal status of minors, in particular, in the administration of justice, and are constantly being improved.

The juvenile justice system (juvenile justice) is primarily aimed at ensuring the rights and legitimate interests of a minor participant in legal proceedings and also at ensuring that measures of legal influence on juvenile offenders are always commensurate with both the characteristics of his/her personality and circumstances of the offense.

The main principles in creation of juvenile justice are: value of minor's personality brought to justice; increased judicial protection of a minor participant in the process; special methods of litigation; application of a milder punishment, as well as the replacement of its punitive orientation with a more effective one - educational. Special attention is paid to the training of juvenile judges and formation of special institutions system for prevention of juvenile delinquency.

Based on the listed principles, the existing sufficient infrastructure of bodies and institutions, specialists for implementation and development of procedures, methods, juvenile technologies within juvenile justice, we believe that the juvenile justice system has been developed in the Russian Federation.

In particular, the Russian procedural legislation establishes peculiarities of administration of justice in cases involving minors relating to legal proceedings.

Chapter 50 CPC RF establishes procedure on criminal cases against minors including, detention of a minor suspect, selection of a measure of restriction for a minor suspect or accused, interrogation of a minor suspect or accused , participation of the legal representative of a minor suspect or accused in the process of pre-trial proceedings on a criminal case, termination of the criminal prosecution with an application of a coercive educational measure.

The Code of Civil Procedure of the Russian Federation (hereinafter referred to as the CCP RF) establishes the rules for determining the civil procedural capacity of minors, procedure for applying to court of other persons to protect the rights and legal interests of minors, consideration of disputes about children, interrogation of a minor witness, and procedure for consideration of adoption cases by courts, on limitation of the juvenile's legal capacity or on his\her emancipation.

Thus, in the Russian Federation there is a legislation ensuring the specialization of justice, in particular, with regard to juvenile participants in legal proceedings.

We also believe that it is possible to note that pursuant to paragraph 58 of the Action Plan 2014 to implement the most important provisions of the National Action Strategy for Children for 2012–2017, approved by the decree of the Government of the Russian Federation No. 1916-r dated October 15, 2012 a draft Federal Law No. 103372-7 "On Amendments to the Code of Civil Procedure of the Russian Federation" (hereinafter - the draft law) has been developed.

The draft law is aimed at improving the legal regulation of procedure for conducting civil proceedings with the participation of minors as well as clarifying the procedural status of minors and their legal representatives.

In particular, the peculiarities of procedural actions with the participation of minors include participation of a teacher and psychologist, time limits for procedural actions taking into account the age of a minor. The draft law proposes to supplement the Code of Civil Procedure of the Russian Federation with article 179.1 "Features of interrogation of a minor witness".

Similar provisions are currently contained in articles 191, 425, 426, 428 and 429 of the Criminal Procedure Code of the Russian Federation.

In connection with this draft law, it is the duty of the court to find the opinion of a minor who has reached the age of ten years on matters affecting his rights and legal interests when deciding whether to accept a waiver of a claim, when satisfying claim or amicable agreement of the parties.

In addition, it is offered to amend articles 50 and 52 of the Code of Civil Procedure of the Russian Federation in order to prevent conflicts of interest between a minor and his/her legal representative.

Right to assistance

The Committee asks what assistance is given to children in irregular situation to protect them against negligence, violence or exploitation.

Comment:

The fundamentals of legal regulation of relations arising in connection with the activities on prevention of negligence and juvenile delinquency are defined by Federal Law No. 120-FZ.

The main objectives of the activities for prevention of negligence and juvenile delinquency are: prevention of negligence, homelessness, delinquency and anti-social actions of minors, identification and elimination of its causes and conditions; ensuring the protection of rights and legitimate interests of minors; social and pedagogical rehabilitation of minors in a socially dangerous position; identification and suppression of cases involving minors in the commission of crimes, other unlawful and (or) antisocial acts, as well as cases of inclining them to suicidal acts (Article 2).

A system has been formed for prevention of negligence and juvenile delinquency[1], it includes commissions on affairs of minors and protection of their rights, social protection authorities, federal bodies of state power and bodies of state power of subjects of the Russian Federation, and bodies of local self-government managing education, tutorship and guardianship agencies, youth affairs bodies, health management authorities, employment agencies, law enforcement bodies, institutions of correctional system (detention centers, juvenile correctional facilities and penal inspections) (Article 4).

The bodies of the Prosecutor's Office of the Russian Federation, within the authority granted by the Federal Law "On the Prosecutor's Office of the Russian Federation", constantly monitor the timeliness of providing assistance to children in socially dangerous situations, children from low-income and large families; cases of child abuse are suppressed; systematic supervision is provided for implementation of legislation requirements by guardianship and custodianship authorities on timely detection of orphans and children left without parental care, and their placement in families, in custody, guardianship, adoption or in boarding schools; observance of rights of children-victims of

[1] Hereinafter referred to as the system for prevention

human trafficking, sexual and other types of commercial exploitation, their rehabilitation with the use of security measures provided by law.

Social rehabilitation centers for minors were established in the Russian Federation in order to assist and implement rehabilitation programs in accordance with the aforementioned laws and Federal Law No. 442-FZ dated December 28, 2013 "On Principles of Social Services for Citizens in the Russian Federation". They perform prevention of negligence and social rehabilitation of minors in difficult life situations; there are social shelters for children providing temporary accommodation and social rehabilitation for minors in difficult life situations and in need of emergency social assistance from the state; centers of assistance to children without parental care, intended for temporary detention of minors left without parental care or other legal representatives, and to assist them in future, also there are emergency phone psychological help centers etc.

The principles of their activity are targeting, accessibility, voluntariness, prioritizing the provision of social services to minors in difficult life situations, confidentiality, preventive way of work ensuring the protection of children rights and legitimate interests. Minors in a difficult life situation, victims of physical or mental violence are provided with a temporary shelter in specialized social service institutions, counseling, psychological and pedagogical assistance, social and legal protection, social and medical care, and rehabilitation services. The state system of social services is managed by the executive bodies of subjects of the Russian Federation in accordance with their authorities. The state supports and encourages the development of social services of other forms of ownership.

The specialized institutions for minors in need of social rehabilitation accept minors 24\7 in the prescribed manner: children left without parental care or other legal representatives; children living in families in a socially dangerous position; lost or abandoned children; children who left the family without authorization, who left institutions for orphans and children left without parental

care without permission, except for those who left special educational institutions of a closed type without permission; children without place of residence, place of stay and (or) means of subsistence; children caught in another difficult life situation and in need of social assistance and (or) rehabilitation.

The grounds for admission to specialized institutions for minors in need of social rehabilitation are: personal application of a minor; statement of the parents of the minor or his\her other legal representatives taking into account the opinion of the minor who has reached the age of ten years, with the exception of cases when the minor's opinion contradicts his\her interests; referral of social protection body or petition of an official of the body or institution of the system for prevention of negligence and juvenile delinquency, coordinated with this body; decision of the person conducting the inquiry, investigator or judge in cases of detention, administrative arrest, conviction for detention, restriction of liberty, imprisonment of parents or other legal representatives of a minor; act of an officer of territorial internal affairs department on the need to admit a minor to a specialized institution for minors in need of social rehabilitation. A copy of this act shall be sent to the governing body for population social protection within five days.

Minors are served in these institutions for the time needed to provide them with social assistance and (or) their social rehabilitation, except for those received on the basis of personal application, who have the right to leave it also on the basis of personal application.

Educational authorities are in charge of two types of educational institutions: open[5] and secure[6].

SUVUOT admit for care, education and training persons aged from eight to eighteen in need of special pedagogical approach based on decision of the

[5] **Hereinafter referred to as SUVUOT.**
[6] **Hereinafter referred to as SUVUZT.**

commission on minors and protection of their rights, conclusion of the psychological-medical-pedagogical commission and with the consent of parents or other legal representatives, as well as the consent of minors who have reached the age of fourteen; organize psychological, medical and pedagogical rehabilitation of minors and participate, within their competence, in individual preventive work; protect the rights and legitimate interests of minors, provide them with medical support, provide primary general, basic general, secondary general education, secondary vocational education in accordance with federal state educational standards.

Minors between eleven and eighteen years of age in need of special conditions of upbringing and education and require a special pedagogical approach may be placed in SUVUZT on the basis of a court ruling or a judge's verdict, if they:

- are not subject to criminal liability due to the fact that by the time of the commission of a socially dangerous act they had not reached the age of criminal responsibility;

- have reached the age stipulated in the first or second parts of Article 20 of the Criminal Code, and are not subject to criminal liability due to the fact that because of lag in mental development that is not associated with a mental disorder, they could not fully realize the actual nature and public danger of their actions (inaction) or to control their actions;

- convicted of committing a crime of moderate severity or grave crime and released by court from punishment in the manner provided for in the second part of Article 92 of the Criminal Code.

SUVUZT, implementing adapted basic educational programs, admit separate categories of minors with disabilities or minors with diseases that necessitate their care, upbringing and education in such institutions.

A minor may be sent to a secure special educational institution until he\she reaches eighteen but not more than for three years.

The extension of a minor's stay in the secure special educational institution upon the expiration of the term established by court in case of the need to continue applying this measure to the minor, is decided upon by a judge at the institution's location on the basis of a reasoned submission by the administration of the institution agreed with the commission on minors affairs and protection of their rights at the location of the institution and submitted no later than one month before expiration of the term established by the court. At the same time, the total period of stay in the secure special educational institution may not exceed three years.

In the system of internal affairs there are temporary detention centers for juvenile offenders that: provide round-the-clock reception and temporary detention of juvenile offenders in order to protect their life, health and prevent reoffending; conduct individual preventive work with the delivered minors, identify among them persons involved in the commission of crimes and socially dangerous acts, and also establish the circumstances, causes and conditions led to their commission, and inform the relevant internal affairs agencies and other interested bodies and institutions; deliver minors to secure special educational institutions as well as carry out, within their competence, other measures for placement of minors in these institutions.

On the basis of a court judgment or judge's decision, minors may be placed to the Juvenile offenders reception centers (Hereinafter referred to as TSVSNP) if they are:

- sent by court verdict or by judge's order to secure special educational institutions;

- temporarily awaiting the court's decision to place them in secure special educational institutions;

- voluntarily gone from secure special educational institutions;

- committed a socially dangerous act until the age of criminal liability in cases where it is necessary to protect the life or health of minors or prevent them from performing a repeated socially dangerous act, and also in cases where their identity is not established or they do not have a place of residence, place of stay or do not live in the territory of the subject of the Russian Federation, where they have committed the socially dangerous act, or if they live in the territory the subject of the Russian Federation where they committed the socially dangerous act, however, due to the remoteness of their place of residence, they cannot be transferred to parents or other legal representatives within three hours;

- committed an offense entailing administrative responsibility, including until the age of administrative liability, in cases where their identity is not established or they do not have a place of residence, place of stay or do not live in the territory of the subject of the Russian Federation, where the offense was committed, or if they live in the territory of the subject of the Russian Federation where the offense was committed however due to the remoteness of their place of residence, they cannot be transferred to parents or other legal representatives within three hours.

Minors may stay in the TSVSNP for the time required for their placement but not more than 30 days.

In exceptional cases, this time may be extended on the basis of a decision of the judge for up to 15 days.

According to clause 4 of Article 8.1 Federal Law No. 120-FZ, in relation to minors held in institutions of the system for prevention of negligence and delinquency of minors, the following are not allowed: use of physical and mental violence; use of measures of influence without regard to the age of minors; use of measures that are anti-pedagogical in nature, degrading human

dignity; restriction of contacts of minors with parents or other legal representatives or deprivation of minors of contacts with parents or other legal representatives; reduced nutritional rates; deprivation of walks.

At the same time, it is reported that the Fund for Supporting Children in Difficult Life Situations (hereinafter referred to as the Fund), together with the regions of the Russian Federation, implements programs aimed at preventing child negligence and homelessness, juvenile delinquency, and introducing effective technologies for social rehabilitation of minors in conflict with the law (committed offenses and crimes).

In addition, the Fund is working to promote key ideas of an information campaign to promote the values of the child and responsible parenthood in society. Issues of promoting responsible parenthood and non-violent methods of raising children are a mandatory component of all activities carried out by the Fund.

5. Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 5 - Equality regarding taxes and contributions

The Committee wishes to receive clarification of whether tax which has been paid at the rate of 30% during the first 6 months is reimbursed upon acquisition of tax-resident status, to the extent that the tax payable over the

entire period of employment is equal to 13%, and whether tax deductions may become applicable to the whole period of employment.

Comment:

In accordance with Article 3 (2) of the Tax Code of the Russian Federation (hereinafter referred to as the Code) taxes and charges cannot be discriminatory and applied differently on the basis of social, racial, national, religious or other similar criteria.

It shall not be permissible to establish differentiated rates of taxes and levies or tax exemptions depending on form of ownership, the nationality of physical persons or the place of origin of capital.

For the purposes of paying individual income tax in the Russian Federation, the tax-resident status of an individual is important, that is, whether an individual is a tax resident of the Russian Federation or not.

There shall be recognized as tax resident's individual persons who are actually in the Russian Federation for not less than 183 calendar days over 12 consecutive months. The period of time for which an individual person is deemed to be in the Russian Federation shall not be interrupted by periods in which he departs from the Russian Federation for short-term (i.e. less than six months) treatment or education as well as for performance of labor or other duties related to the performance of labor (provision of services) on offshore hydrocarbon deposits.

Both citizens of the Russian Federation and foreign citizens can be tax residents. At the same time, citizens of the Russian Federation may not be tax residents of the Russian Federation if they present in the territory of the Russian Federation less than 183 days in a calendar year.

In accordance with paragraph 1^1 of Article 231 of the Code, in the event when a taxpayer acquires the tax-resident status of the Russian Federation, the tax authority returns to the taxpayer the amount of individual income tax previously paid (withheld) at a rate of 30 percent due to the recalculation of his\her tax duties at a rate of 13 percent with the use of all tax deductions due to residents of the Russian Federation when the taxpayer filed a tax return at the end of the tax period.

Thus, in accordance with paragraph 1^1 of Article 231 of the Code, when an individual acquires the tax-resident status of the Russian Federation, the recalculation and refund of the tax amount is made according to the results of the tax period by the tax authority.

However, if the individual is a worker of the organization and during the tax period the he\she has acquired the tax-resident status of the Russian Federation and this status can no longer change (that is, the individual is in the Russian Federation for more than 183 days in the current tax period) all amounts of remunerations received by the worker from an employer for performing labor from the beginning of the tax period are subject to tax at a rate of 13 percent.

At the same time, starting from the month in which the number of days the worker stayed in the Russian Federation exceeded 183 days in the current tax period, the tax amounts withheld by the tax agent from his\her income before he\she receives tax-resident status at a rate of 30 percent, are taken into account when determining the tax base by cumulative total for all amounts of worker's income including income the tax was withheld from at the rate of 30 percent.

As for *countries among the States party to the Charter have concluded international agreements on avoidance of double taxation with the Russian Federation,* we would like to inform that the Russian Federation has concluded relevant international agreement with the following State parties to the Charter: Albania, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary,

Iceland, Ireland, Italy , Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Macedonia, Turkey, Ukraine, the United Kingdom.

At the same time, we would like to inform that the Republic of Armenia acceded to the Treaty on the Eurasian Economic Union dated May 29, 2014. Subject to the provisions of Article 73 of the said Agreement, income from employment of citizens of Armenia in Russia is subject to individual income tax at a rate of 13%, starting from the first day of their work in Russia.

As for the question regarding the taxation of income of foreign workers working in Russia based on work permit

In accordance with paragraph 3 of Article 224 of the Code and paragraph 1 of Article 227.1 of the Code, the tax rate of 13 percent is established for income of individuals from employment in organizations and (or) with individual entrepreneurs in the Russian Federation on the basis of a work permit issued in accordance with the Federal Law N 115-FZ dated July 25, 2002 "On the Legal Status of Foreign Citizens in the Russian Federation" (hereinafter referred as the work permit).

According to paragraph 6 of Article 227.1 of the Code, the total amount of income tax is calculated by tax agents and is subject to decrease by the amount of fixed advance payments made by such taxpayers for the period of the work permit validity for the relevant tax period, in the manner provided for by this paragraph.

During the tax period, a calculated tax amount is reduced only with one tax agent at the taxpayer's choice, provided that the tax agent receives a notice from the tax authority at the location (place of residence) of the tax agent

confirming the right to reduce the calculated tax amount by the fixed advance payments amount paid by the taxpayer.

Thus, incomes of foreign citizens who are not tax residents of the Russian Federation working in the Russian Federation on the basis of work permits are subject to individual income tax at a the rate of 13 percent.

As for insurance contributions payable in the relation to employment of migrant workers

Article 420 of the Code establishes that the insurance contributions are paid by organizations in relation to payments and other remuneration accrued by them in favor of individuals, in particular within labor relations and under civil law contracts, the subject of which is the performance of work, service provision.

According to subparagraph 15 of paragraph 1 of Article 422 of the Code, insurance contributions are not payable by organizations in relation to amount of payments and other remuneration under employment contracts and civil law contracts in favor of foreign citizens and stateless persons temporarily staying in the Russian Federation, except for the amounts paid and other remuneration in favor of such persons recognized as insured persons in accordance with federal laws on specific types of compulsory social insurance.

The fact whether a foreign citizen is an insured person or not in accordance with the legislation on certain types of social insurance directly depends on citizenship and its status, determined depending on the grounds of its presence in the Russian Federation in accordance with the provisions of the Federal Law No. 115-FZ dated July 25, 2002 “On the Legal Status of Foreign Citizens in the Russian Federation” (hereinafter referred to as the Federal Law No. 155-FZ).

In accordance with the provisions of paragraph 1 of Article 7 of the Federal Law No. 167-FZ dated December 15, 2001 “On Compulsory Pension

Insurance in the Russian Federation", foreign citizens who are permanently or temporarily residing in the Russian Federation as well as foreign citizens temporarily staying on the territory of the Russian Federation are subject to compulsory pension insurance (except for highly qualified specialists in accordance with Federal Law No. 115-FZ).

Part 1 of Article 2 of the Federal Law No. 255-FZ dated December 29, 2006 "On Compulsory Social Insurance in Case of Temporary Disability and Maternity" stipulates that foreign citizens temporarily or permanently residing in the Russian Federation as well as foreign citizens temporarily staying in the Russian Federation are subject to compulsory social insurance in case of temporary disability and maternity (except for highly qualified specialists in accordance with Federal Law No 115-FZ).

The provisions of Article 10 of the Federal Law No. 326-FZ dated 29.11.2010 "On Compulsory Medical Insurance in the Russian Federation" determined that insured persons for compulsory medical insurance include in particular, foreign citizens permanently or temporarily residing in the Russian Federation (except for highly qualified specialists and their family members as well as foreign citizens engaged in labor activities in the Russian Federation in accordance with Article 135 of Federal Law No. 115-FZ).

Thus, in accordance with the established procedure payments to all state extra-budgetary funds in favor of foreign citizens who are permanently or temporarily residing in the territory of the Russian Federation are subject to insurance contributions.

As for payments made in favor of foreign citizens who are temporarily staying in the Russian Federation, insurance contributions are calculated only for compulsory pension insurance and compulsory social insurance in case of temporary disability and maternity.

In addition, the legislation on certain types of social insurance determined that in cases where an international agreement of the Russian Federation

establishes other rules than those provided by the said legislation, the rules of the international agreements of the Russian Federation shall apply.

Paragraph 9 - Transfer of earnings and savings

The Committee asks whether there are any restrictions on the transfer of the movable property of migrant workers.

Comment:

The amendments to Federal Law No. 173-FZ dated December 10, 2003 “On Currency Regulation and Currency Control” regarding the definition of the term “resident” has come into force since January 1, 2018,.

For the purposes of applying the Federal Law “On Currency Regulation and Currency Control”, it is necessary to determine the status of a person arriving in the Russian Federation as a resident or non-resident.

Thus, in accordance with paragraph 6 of Part 1 of Article 1 of the above Federal Law, the following individuals are referred to residents:

a) individuals who are citizens of the Russian Federation;

b) foreign citizens and stateless persons permanently residing in the Russian Federation on the basis of a residence permit provided for by the legislation of the Russian Federation.

Individuals who are not residents in accordance with the above provisions of the Federal Law "On Currency Regulation and Currency Control" are non-residents.

Residents can transfer money abroad by:

- transfer to their accounts opened with banks outside the territory of the Russian Federation,

- transfer of currency of the Russian Federation to the accounts of other residents opened with banks outside the territory of the Russian Federation,

- transfer of foreign currency to accounts of other residents opened with banks outside the territory of the Russian Federation in the amount not exceeding $ 5,000 at the official exchange rate set by the Bank of Russia on the date of writing off in one operating day through one authorized bank (without restrictions in favor of spouses or close relatives),

- transfer without opening bank accounts in an amount not exceeding $ 5,000 at the official exchange rate set by the Bank of Russia on the date of debit in one calendar day through one authorized bank,

- transfer to accounts of non-residents opened with banks outside the territory of the Russian Federation.

A foreign citizen who has acquired resident status as a result of obtaining a residence permit and performing labor activity in the territory of Russia, transferring his\her money abroad in favor of a non-resident, shall perform a currency transaction between residents and non-residents. According to Art. 6 of the Federal Law "On Currency Regulation and Currency Control", currency transactions between residents and non-residents are performed without restrictions. Purchase and sale of foreign currency and checks (including traveller's checks) with nominal value indicated in foreign currency is made in the Russian Federation through authorized banks without restrictions.

Wages are paid in the Russian Federation in the Russian rubles regardless of the worker's citizenship. Requirements relating to currency exchange apply to all persons residing in the Russian Federation, and only concern the identification of a client - an individual when a specified person conducts a transaction to buy or sell foreign currency in cash in an amount that exceeds the equivalent of RUB 40,000 or regardless the amounts - in the event when the authorized bank workers have suspicions that this operation is performed in order to legalize (launder) proceeds from crime or financings terrorism.

There are no legal norms restricting the freedom of foreign workers who are residents of the Russian Federation to transfer their earnings abroad.

6. Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

Employment, vocational guidance and training

Conditions of employment, social security

As for support for people with family responsibilities to keep their job and return to work, there are several basic measures provided by law.

The following guarantees and peculiarities in the regulation of labor relations are provided for workers with family responsibilities, they are aimed at facilitating their ability to combine family responsibilities and work related to conditions of work and rest.

Federal Law No. 242-FZ dated July 13, 2015, amended the Labor Code of the Russian Federation supplementing it with a new article 262.1, it provides that one of the parent (guardian, custodian, adoptive parent) raising a disabled child under the age of eighteen shall have an annual paid leave granted at his\her request at a convenient time for him\her.

Federal Law No. 360-FZ dated 11.10.2018 amended the Labor Code of the Russian Federation supplementing it with a new article 262.1, it provides that workers with three or more children under the age of twelve receive annual

paid leave at their request at a convenient time for them.

Dispatching workers with family responsibilities on business travel or assigning them to work overtime or at night, on weekends, or on public holidays shall be allowed only with their written consent and on the condition that it not be prohibited in accordance with a medical certificate issued in the procedure established by federal laws and other normative legal acts of the Russian Federation. In addition, they must be made aware in writing of their right to refuse to participate in business travel or work overtime or at night, on weekends, or on public holidays (p.2 art.259 LC RF).

This rule also applies to the following type of workers with family responsibilities:

- women with children under the age of three (p.2 art.259 LC RF);
- workers with disabled children (p.3 art.259 LC RF);
- workers who provide care to sick family members pursuant to a medical conclusions (p.3 art.259 LC RF);
- mothers and fathers who bring up children aged up to five without a spouse (p.3 art.259 LC RF).

Federal Law No. 125-FZ dated of 18.06.2017 gave a new addition to Part 1, Art. 93 of the Labor Code of the Russian Federation according to which, by agreement of the parties to the labor contract, the worker can be given either part time work (part time (shift) working day and (or) part time working week, including separation working day apart). Part-time work can be established either without time limit or for any period agreed by the parties to the labor contract.

The employer shall be obliged to set a part time working day (shift) or part time working week at the request of workers with family responsibilities (p. 2 art.93 LC RF):

- request of an expectant mother

one of the parents (guardian, trustee) with a child up to fourteen years of age ;

one of the parents (guardian, trustee) with a disabled child up to eighteen years of age;

a person taking care of a sick member of the family as specified in the medical statement issued in the procedure established by federal laws and other normative legal acts of the Russian Federation .

The basis for the establishment of part time work (part time working week, part- time working day) is a worker's written request. The employer has no right to refuse to establish part time work.

Federal Law No. 125-FZ dated 18.0.2017 supplemented Part 2 of Article 93 of the Labor Code of the Russian Federation stating that part time work is set at a time convenient for worker but no more than for the period of existence of circumstances that were the basis for compulsory establishment of part time work, and working hours and rest time including daily work (shift), time of commencement and completion of work, time of breaks, are set in accordance with the wishes of the worker taking into account the conditions of production (work) for the employer.

With a part time work arrangement, the earnings to the worker are paid in proportion to the working time or depending on the fulfilled volume of work. Work under part-time arrangement does not incur any restrictions of the length of the main annual paid leave, calculation of the length of service and other labor rights of the worker.

Pregnant women and women with children under the age of three cannot be involved in work performed on a rotational basis (form of labor process outside the place of permanent residence of workers when their daily return to

the place of permanent residence cannot be provided). (art. 298 LC RF)

Some categories of workers with family responsibilities are eligible for extra paid days off.

Categories of persons eligible for extra paid days off:

Categories	*Article LC RF*	*Number of extra days off*	*Salary saving*
One of the parents (guardian, trustee) with a disabled child	p.1 art.262	4 days per month	Average salary at the expense of SIF funds
Women working in rural areas	p.2 art.262	1 day per month	Unpaid
Parents (custodians, guardians or adopting parents) of a couple who work in a Far Northern region or equivalent area and have a child under the age of sixteen	art.319	1 day per month	Unpaid

Working parents (or a guardian or custodian) shall, upon their request, be granted four extra paid days off per month in order to care for a disabled child and person with lifelong disabilities until they reach the age of 18. (p.1 art. 262 LC RF). These days may be used by one of the indicated persons or divided between them at their discretion.

In 2014, the Government of the Russian Federation (Resolution No. 1048 dated 13.10.2014) approved the Procedure and Rules for provision of extra paid days off for the care of disabled children.

According to paragraphs 2, 6, 12 of these Rules, one of the parents

(guardian, custodian) upon his\her request is granted 4 extra paid days off per calendar month drawn up by an order (instruction) of the employer.

The frequency of application (monthly, once a quarter, once a year, according to the request or other) is determined by the parent (guardian, custodian) in consultation with the employer depending on the need in extra paid days off.

If one of the parents (guardian, custodian) used extra paid days off in the calendar month used partially, the other parent (guardian, custodian) shall be provided with the remaining extra paid days off in the same calendar month.

Payment of each extra paid day off is made in the amount of the average earnings of the parent (guardian, custodian).

Women working in rural areas may, upon their written request, be granted one extra-unpaid day off per month (p.2 art.262 LC RF). The woman is not obliged to provide other documents for the provision of such a day off.

One of parents (custodian, guardian or adopting parent) who work in a Far Northern region or equivalent area and has a child under the age of sixteen shall, upon his/her written request, be granted an additional unpaid day off each month. (art.319 LC RF). According to art. 287 LC RF guarantees and compensation for persons combining jobs in areas of the Far North and equivalent areas shall be granted to workers only for their principle place of employment.

Workers combining work and studies may have more convenient working hours. At the request of persons on child care leave, they may work while on child care leave on a part-time basis or at home while retaining their right to receive the state social insurance benefit. (p.3 art.256 LC RF).

Persons who take care of children may be granted extra unpaid leave. The right to such leave, specified in Article 263 of the Labor Code of the Russian Federation, may be provided for under collective agreement. According to art. 263 LC RF at a time convenient to them additional annual unpaid leave of up to

fourteen calendar days may be established for:

- for workers with two or more children under the age of fourteen ;
- workers with a disabled child under eighteen, ;
- single mothers raising a child under fourteen ;
- fathers raising a child under fourteen without a mother.

The collective agreement may expand the list of persons eligible for additional leave in comparison with the given list.

The said leave at a worker's application in writing may be combined with annual paid leave or used separately, in whole or in parts. This leave may not be carried over to the following work year. .

As for *periods of leave due to family responsibilities that should be taken into account for determining the right to pension and for calculating the amount of pension* according to Article 11 of the current Federal Law No. 173-FZ dated December 17, 2001 "On labor pensions in the Russian Federation»[7] insured periods include:

- each parent period of care for each child up to the age of one and half years, but not more than four and a half years in total (paragraph 3, part 1, article 11);

- period of care provided by an able-bodied person to a disabled person of group I, disabled child, or person who has reached the age of 80 years (paragraph 6 of Part 1 of Article 11).

The insured period of care provided by one parent for each child up to the age of one and half years was increased from 3 years to 4.5 years by Federal

[7]Federal Law No. 173-FZ dated December 17, 2001 "On labor pensions in the Russian Federation". "Corpus of legislative acts of the Russian Federation", December 24, 2001, No. 52 (p. 1), Art. 4920.

Law No. 427-FZ dated December 28, 2013[8].

In connection with the implementation of the pension reform, the Federal Law "On Insurance Pensions" No. 400-FZ dated December 28, 2013, has entered into force since January 1, 2015. Article 15 of this law provides that the insurance period includes, in particular:

- each parent period of care for each child up to the age of one and half years, but not more than six years in total; (paragraph 3, Article 15);

- period of care provided by an able-bodied person to a disabled person of group I, disabled child, or person who has reached the age of 80 years (paragraph 6, Article 15).

The Committee asks whether the legislation provides guarantees to grant a parent raising a child or nursing a sick family member part time work at the request

Comment:

According to art. 93 LC RF a part time working day (shift) or part time working week may be fixed by agreement between the worker and the employer at hiring or later including the division of the working day into parts). Part-time work can be established either without time limit or for any period agreed by the parties to the labor contract.

The employer shall be obliged to set an part time working day (shift) or incomplete working week at the request of an expectant mother, one of the

[8]Federal Law No. 427-FZ dated 28.12.2013 "On Amendments to Article 11 of the Federal Law" On labor pensions in the Russian Federation "and Article 1 of the Federal Law "On funds of the federal budget allocated to the Pension Fund of the Russian Federation for reimbursement of insurance component of old age, disability and survivors pensions to certain categories of citizens ". "Corpus of legislative acts of the Russian Federation", 30.12.2013, No. 52 (Part I), Art. 6992.

parents (custodian) with a child up to fourteen years of age (invalid child up to eighteen years of age), as well as a person taking care of a sick member of the family as specified in the medical statement issued in the procedure established by federal laws and other normative legal acts of the Russian Federation. The part time work is set at a time convenient for worker but no more than for the period of existence of circumstances that were the basis for compulsory establishment of part time work, and working hours and rest time including daily work (shift), time of commencement and completion of work, time of breaks, are set in accordance with the wishes of the worker taking into account the conditions of production (work) for the employer.

With a part-time work arrangement, the earnings to the employee are paid in proportion to the working time or depending on the fulfilled volume of work.

Work under part-time arrangement does not incur any restrictions of the length of the main annual paid leave, calculation of the length of service and other labor rights of the worker.

Child day care services and other childcare arrangements

At present, a professional standard "Nanny (care taker)" has been adopted to create in the Russian Federation a system for certifying babysitters.

The mechanism in accordance for independent assessment of a nanny's qualification is established by the Federal Law No. 238-FZ dated July 3, 2016 "On independent qualification assessment" (hereinafter referred to as Federal Law No. 238-FZ), as well as by regulatory legal acts adopted in order to implement it.

An exemplary training program for the nanny has been developed.

In addition, paragraph 14 of the Action plan until 2020 within the Decade of Childhood, approved by the decree of the Government of the Russian

Federation No. 1375-p dated July 6, 2018, defines the content of childcare services, requirements for childcare specialists.

Paragraph 2 of the Action Plan to promote employment of persons on child care leave for 2018-2020, approved by the Government of the Russian Federation with the number 1749p-P12 dated March 5, 2018 includes establishment and operation of pre-school groups including those providing only services for the care of children in the family, on the basis of general educational institutions, vocational educational institutions, educational institutions of higher education, institutions of supplementary education, institutions of supplementary vocational education and institutions of culture and sports and other organizations, including of private ownership.

Paragraph 2 - Parental leave

The Committee asks whether the legislation guarantees the individual right of fathers to a non-transferable parental leave and if so, what is its length.

Comment:

From the moment of the child's birth parents have equal rights and bear equal responsibilities with respect to their children (parental rights). In accordance with the Family Code of the Russian Federation. The parents shall be responsible for the education and development of their children. They shall be obliged to take care of the health and of their children's physical, mental, spiritual and moral development (article 63 Family Code of the Russian Federation).

In other words, the duty to care for a newborn child is imposed, first of all, on parents. The decision on personality to take care of a small child - father or mother – is taken by them independently.

When the *parent* caring for a minor child works, the Labor Code of the Russian Federation grants him\her the right to interrupt his\her labor activity

while caring for a child and take parental leave to attend to a child up to the age of three years (article 256 of the Labor Code of the Russian Federation).

During the leave to attend to a child up to the age of one and a half years, in accordance with the legislation of the Russian Federation, the citizens who actually care for the child are paid monthly child care allowance.

Federal Law No. 81-FZ dated May 19, 1995 "On state benefits for citizens with Children" establishes that a monthly child care allowance is provided for both working and non-working citizens. This benefit is available for working citizens in order to compensate the lost earnings due to interruption of work or part-time work partially. For non-working parents - this allowance is also a compensation for the inability to get a job and start working during the period to attend to a child up to the age of 1.5 years.

That is, the monthly allowance is paid to the very parent who actually takes care of the child and cannot work.

According to part 2 article 256 of the Labor Code of the Russian Federation leave granted to care for a child may also be used, in full or part, by a child's father, grandmother, grandfather, other relative, or guardian who is actually providing care for the child. In accordance with Federal Law No. 255-FZ, the right to receive a monthly child care allowance for the period of such leave to attend to a child up to the age of 1.5 years is given to any of the above persons actually caring for the child.

Considering the above, parental leave with the payment of a monthly child care allowance is granted to one of the parents (as well as another relative or guardian) who actually takes care of the child. The legislation of the Russian Federation on compulsory social insurance does not establish a monthly childcare benefit to both parents at the same time and it does not provide a different "parental", "fatherly" parental leave to attend to a child.

In addition, a collective agreement may establish an annual extra unpaid leave at a convenient time for up to 14 calendar days for a father raising a child

under the age of fourteen without a mother. At the written request of the worker, this specified leave may be attached to the annual paid leave or used separately in whole or in parts.

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

The Committee asks whether the protection against dismissal on the ground of family responsibilities is also guaranteed to fathers with children under three years of age. .

Comment:

Based on provisions of Article 261 of the Labor Code of the Russian Federation, termination of a labor contract on the initiative of the employer is not allowed (except for dismissal on guilty grounds) with a father who has a child aged up to three and raising him\her without a mother, with a single father raising a disabled child aged up to eighteen or a minor child - a child aged up to fourteen and who is the sole breadwinner of a disabled child aged up to eighteen, or the sole breadwinner of a child aged up to three in a family raising three or more minor children, if the other parent (another legal representative of children) is not in labor relations.

The Committee asks whether the legislation sets an upper limit to the amount of compensation that is awarded in case of unlawful dismissal on the ground of family responsibilities.

Comment:

Article 3 of the Labor Code of the Russian Federation says that persons who consider that they were subject to discrimination in the labor sphere may apply to a court to restore the violated rights, reimburse material damage and compensate for the moral damage.

Article 234 of the Labor Code of the Russian Federation says that an

employer shall be obliged to compensate a worker for wages not received by the worker in cases where the latter was unlawfully denied the opportunity to work.

So, an employer shall be obliged to compensate a worker for wages not received by the worker in cases where the latter was unlawfully denied the opportunity to work. In particular, this obligation shall ensure if wages were not received due to:

- the worker's being unlawfully removed from work, fired, or transferred to another job;

- the employer's refusal to execute, or delayed execution of a ruling made by a labor dispute review body or a state labor law inspector ordering the worker's reinstatement to his former position;

- a delay by the employer in releasing the worker's employment record book to him, or entries made in the employment record book that include reasons for the worker's termination that are incorrectly worded or worded in a way not allowed by law .

The court decides on payments of average earnings to the worker for the entire time of a forced absenteeism (Art. 394 of the Labor Code of the Russian Federation).

Also, according to art. 236 LC RF if an employer delays the established date of disbursement for the payment of wages, paid vacation time, severance pay, or other payments due to a worker, the employer shall be required to pay them to the worker. Such payments shall include interest (monetary compensation) on all amounts not disbursed on time, in an amount not less than one 150 of the current refinancing rate of the Central Bank of the Russian Federation for each day of delay, from the day following the scheduled day of payment to the day when settlement was actually made, inclusively. In case of incomplete payment of wages and (or) other payments due to a worker within the established period of time, the amount of interest (monetary compensation)

is calculated from the amounts actually unpaid on time.

The amount of monetary compensation paid to a worker may be increased by a collective agreement, local legal act or labor contract. The duty to pay the said monetary compensation emerges regardless of the employer's fault .

Monetary compensation shall be paid to a worker for psychological damage he suffers due to an employer's unlawful actions or inaction, in amounts to be determined by the parties to a labor contract. In the event a dispute should arise, the fact of psychological damage suffered by a worker and the amount of compensation due him shall be determined by a court, independently of any property damage subject to restitution. (art. 237 LC RF).