



Rights of the Child in the Russian Federation



The aim of OMCT country reports
are to prevent torture

In its reports on children's rights, OMCT aims to analyse national law in terms of the international commitments that a government has made. For example, in some countries families are not informed when their child is detained and this removes a precious safeguard against abuse. The absence of such safeguards facilitates situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses against children.

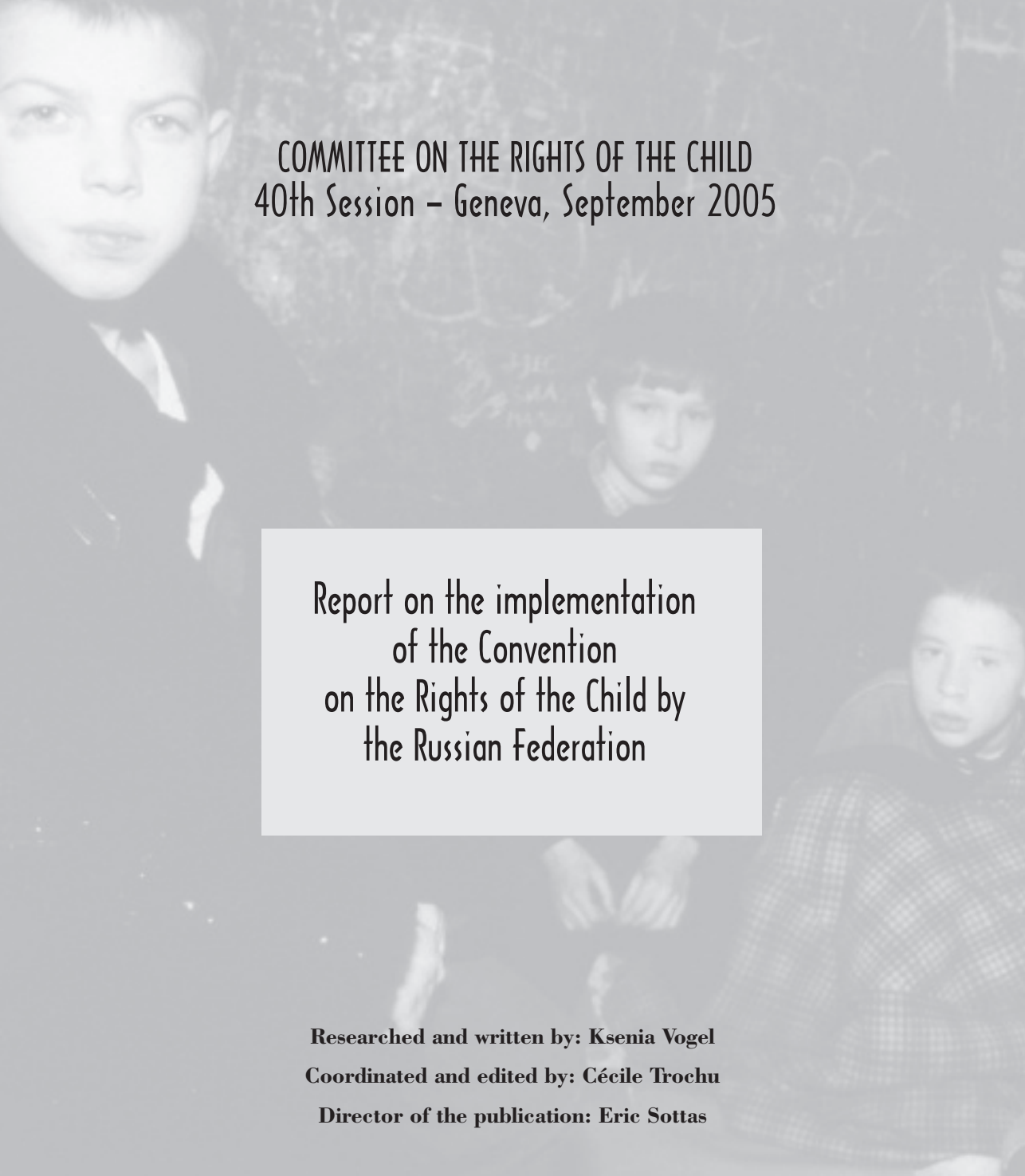
The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundation of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and feasible recommendations for legal reform aimed at reducing the incidence of child torture.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is fulfilling its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT's reports, send a strong message from the international community on the need for action to end the torture of children.

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The background of the entire page is a grayscale photograph of a classroom. In the foreground on the left, a young boy in a dark suit and tie looks directly at the camera. Behind him, a chalkboard is filled with faint, illegible drawings and text. In the middle ground, another child is visible, looking towards the camera. On the right side, a girl in a plaid shirt is partially visible, looking off to the side. The overall atmosphere is that of a typical school environment.

COMMITTEE ON THE RIGHTS OF THE CHILD
40th Session – Geneva, September 2005

Report on the implementation
of the Convention
on the Rights of the Child by
the Russian Federation

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I - Introduction

The present report is based on documents and reports by the United Nations institutions and bodies, on information received from OMCT's local NGOs' network and on public sources such as the media and internet.

By comparing the Russian Federation's international obligations with its national legislation and local practice, this report aims to identify gaps and insufficiencies in the implementation of the Convention on the Rights of the Child (CRC). It aims to give valuable neutral information on both the legislation and the practice on children's rights in Russia to the UN Committee on the Rights of the Child (hereinafter the Committee). Furthermore, it suggests useful proposals for future recommendations to the government.

1.1. General remarks on the situation of children in Russia

According to a report by UNICEF¹, dated November 2004, out of a population of 143,246,000 people, 29,723,000 were under 18 years of age and 6,119,000 under 5 years of age in 2003. Among them, some categories of children are particularly vulnerable for various reasons:

- i) difficult family situations that make children leave their homes – the Russian Federation has a total of 700,000 orphans and children lacking parental custody²;
- ii) HIV-AIDS - the official number of children under 15 living with HIV is over 8000, although it is probably three or even four times higher than these numbers³; to date, at least 7600 children have been born to HIV-positive mothers, and very often they are abandoned⁴;

1 - For these and the following statistics see http://www.unicef.org/infobycountry/russia_statistics.html

2 - UNICEF, "Children in the Russian Federation", Briefing by Carel de Rooy, 16 November 2004.

3 - Source: UNAIDS, <http://www.unaids.org/en/geographical+area/by+country/russian+federation.asp>.

4 - UNICEF, "Children in the Russian Federation", Briefing by Carel de Rooy, 16 November 2004, p. 5.

iii) poverty, alcohol, and drug abuse.

In connection, according to UNICEF (dated November 2004), despite recent economic growth in Russia, poverty remains widespread and children are at greater risk of poverty than any other group⁵. This may be explained by the fact that between 1990 and 2000, a decrease in national wealth meant a decrease in spending on basic social services such as education and health. Some progress has been achieved through a small increase in real wages and GDP, and the proportion of people living below subsistence minimum levels has slightly decreased. Still, the benefits of economic growth are not being felt by everyone and poverty still hits families with children first and hardest, as well as those with low levels of education and those in rural areas. Among the main causes of poverty, are low wages, high levels of unemployment and under-employment and widening gaps between rich and poor. These problems have a negative impact on the growing social problems such as the breakdown of the family

unit, violence and the rising numbers of “social orphans” in State care.

Other situations with a particularly high risk of children’s rights violations often result from the children’s institutionalisation - almost 2 % of the entire child population, namely 500,000, live in institutions⁶, or their involvement in the criminal system. Moreover, there is an uncertain number of street children, estimates range from 40,000 to 3.5 million.⁷ The Russian Federation is also one of the most important “suppliers” and transit countries for young sex workers and human trafficking⁸ which particularly endangers children.

With regards to the war in Chechnya, specific problems related to armed conflict, displacement, terrorism and ethnic violence emerge (see section 3.6 below).

According to the “Report of the Commissioner responsible for the implementation of the rights of the child in Moscow” dated 2003⁹, the activity accomplished by the Commissioner in 2003 in the sphere of the rights of the child shows that many of the freedoms and rights of the children announced in the Russian Constitution have not yet been implemented in the federal legislation and in the normative acts.

5 - For these and the following statistics see UNICEF “Children in the Russian Federation”, Briefing by Carel de Rooy, 16 November 2004, p. 4.

6 - UNICEF, “Children in the Russian Federation”, Briefing by Carel de Rooy, 16 November 2004, p. 5.

7 - UNICEF, “Children in the Russian Federation”, Briefing by Carel de Rooy, 16 November 2004, p. 5.

8 - UNICEF, “Children in the Russian Federation”, Briefing by Carel de Rooy, 16 November 2004, p. 7.

9 - Please refer to <http://detirossii.ru/Libr>, p. 2.

One of the main reasons for this lack of implementation of children's rights is the existing bureaucratic approach to solving the problems of the rights of the child, reflected not only in the administrative structure of the institutions specialised in the rights of the child but also in the attitude of the State agents, specialised in the protection of children's rights.¹⁰

1.2. International standards

Within the United Nations, the Russian Federation is the successor State of the Soviet Union with regards to membership to the Convention on the Rights of the Child (CRC), the Convention Against Torture and Other Inhuman and Cruel Degrading Treatment or Punishment (CAT), the Convention on the Elimination of all kinds of Discrimination Against Women (CEDAW) including its Optional Protocol, the Convention on the Elimination of all kinds of Racial Discrimination (CERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Since its transformation into the Russian Federation the State has acceded to the First Optional Protocol to the ICCPR but it only signed the Optional Protocol to the

CRC on the involvement of children in armed conflict and has taken no action concerning the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

The Russian Federation also succeeded the Soviet Union into the International Labour Organization (ILO) Convention n° 138 concerning Minimum Age for Admission to Employment, it acceded to the Convention n° 182 concerning the Elimination of the Worst Forms of Child Labour and signed the Hague Convention on Co-operation in respect to Inter-country Adoption. No action was taken for a signature of the Hague Convention on Jurisdiction, Applicable Law, Recognition in respect of Parental Responsibility and Measures for the Protection of Children and the Hague Convention on the Civil Aspects of International Child Abduction.

At a regional level, the Russian Federation is a member of the European Convention on Human Rights and of the Framework Convention for the Protection of National Minorities. It has signed the European Convention on the Exercise of Children's Rights. Unfortunately, no action was taken with regards to other Conventions of the

Council of Europe having provisions protecting children's rights.¹¹

In April 2004, the Russian Federation ratified the UN Convention against transnational organised crime and the additional protocols on the Prevention and punishment of human trafficking, especially regarding women and children, and its punishment and on the Illegal immigration of migrants through land, sea and air.

Article 15 par. 4 of the Russian Constitution of 1993 states that “generally-recognised principles and norms of international law and international treaties of the Russian Federation are an integral part of the legal system of the Russian Federation”. This means that the Russian Constitution not only accepts generally-recognised principles and norms of international law as part of Russian law but also the fact that such norms and principles should be placed side by side with norms of municipal Russian law. The same

provision gives priority to treaty norms over those of domestic law: “If other rules have been established by an international treaty of the Russian Federation than provided for by a law, the rules of the international treaty shall apply”. An order of a plenary session of the Supreme Court of the Russian Federation, which was adopted in 1995, issued guidance to the general courts on application of the standards of international law in the examination of specific cases. Providing the courts with further clarifications and recommendations on this matter and especially concerning the application of the Convention on the Rights of the Child remains a matter of urgency. At present, a large number of Russian scholars are researching the theoretical and practical aspects of this problem.

Despite a recommendation formulated in the last concluding observations of the Committee regarding the situation in Russia¹², the government hasn't fully reviewed its legislation to ensure its conformity with the principles and provisions of the Convention, notably in relation with issues of torture, violence against children and juvenile justice.

As a result, *OMCT would recommend the Government of Russia to adopt all necessary*

11 - Namely the European Convention on the Adoption of Children, the European Convention on the Legal Status of Children Born out of Wedlock, the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children, the Convention on Contact Concerning Children, the European Convention on Social and Medical Assistance, the European Social Charter, the European Convention on the Repatriation of Minors and the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine.

12 - Concluding observations of the Committee on the Rights of the Child: Russian Federation, 10/11/99, CRC/C/15/Add. 110, par. 5, 6.

measures to ensure the full implementation of its provisions at all administrative levels.

Practice also shows that the Russian legislation is not currently applicable and implemented on the entire territory of the Russian Federation (examples will be given further throughout the report). Already in its

1999 Concluding Observations on the Russian Federation, the Committee has shown concern that the decentralization of responsibilities and actions from the federal authorities to their regional counterparts lacks sufficient guarantees to prevent disparities in the protection of children's rights.¹³

13 - Concluding observations of the Committee on the Rights of the Child: Russian Federation, 10/11/99, CRC/C/15/Add. 110, par. 10, 11.

II - Definition of the child

The Russian Family Code defines a child as a person from birth to the age of 18.

2.1. Marriage

According to the current Russian legislation, the minimum age for marriage is 18 years. Yet, majority can be attained before 18 in exceptional cases: marriage below the age of 16 years may be permitted by the local authorities if there are valid reasons in conformity with article 13 of the Family Code of the Russian Federation of 1995.

OMCT would recommend that the Russian Federation properly apply its legislation so that, even in the instance of marriage from the age of 16, the rights of all persons under 18 be fully protected.

2.2. Education and labour

According to the Russian Law on Education (1992) and the Russian Constitution, schooling is compulsory from the age of 6 until 18 years old.

The Labour Code of the Russian

Federation of 2001 prohibits regular employment for children who are less than 16 years old and also regulates the working conditions of children under 18 years old, including banning dangerous, night time and overtime work. Children may, under certain specific conditions, work in internship programmes at the ages of 14 and 15. Moreover, according to the Labour Code, children are provided with full protection from any form of heavy, unhealthy or exploitative labour until 18 (as guaranteed by Article 3.1. of the ILO 138 Minimum Age Convention and by the ILO 182 Convention on the Worst Forms of Child Labour ratified by the Russian Federation).

2.3. Minimum age of criminal responsibility

According to the 1996 Criminal Code of the Russian Federation, the lower age limit for criminal responsibility is set in an alternative way. More precisely, individuals who have reached 16 years of age at the time of the perpetration of an offence, have general criminal responsibility for all types of offence. For some types of offence, criminal

responsibility commences at the age of 14: murder, premeditated causing of grievous bodily harm, premeditated causing of moderately severe bodily harm, kidnapping, rape, robbery with violence, etc.¹⁴, in other words the most serious crimes. In this respect

particular rules of procedure and sanctions are applied to these child offenders.

III - Discrimination

3.1. Racial discrimination

According to the Third Periodical Report on the Implementation by the Russian Federation of the Convention on the Rights of the Child, the Russian legislative framework does not contain any legal base carrying a discriminative racist character.¹⁵ In 2002, a series of normative acts were undertaken by the government in order to eradicate intolerance and discrimination. As examples, law n° 4 of the Russian Federation on mass media, which prohibits the use of mass media in order to bring about national hatred towards foreigners and intolerance, and the federal law n° 16 about public associations, which prohibits the formation of public associations, actions and goals of which are aimed at creating social, racial, national and religious hatred. Also, the Labour Code of the Russian Federation contains a series of articles aimed at eradicating discrimination from the work sphere. For

instance, in article 3 of the Labour Code it is stated that nobody should be limited in working rights and freedoms related to his sex, race, skin colour, nationality, language, origin, social position (...) and other factors which are not related to the qualities for work of the respective worker.¹⁶

In conformity with the Committee's recommendations regarding the Second Periodical Report on the Implementation by the Russian Federation of the CRC¹⁷, during the period 1998-2002, special attention was given to the undertaking of measures seeking to reduce economic, social differences, as well as prevention of all types of discrimination concerning children or in the attitude towards children, including handicapped children.

A special programme for the socio-economic development of the Russian Federation for the period 2002-2004 provides a series of measures aimed at allowing access to all social categories to essential social services such as medical, social and educational services, the quality of which could apply to all categories, including children.

15 - Third Periodical Report on the Implementation by the Russian Federation of the Convention on the rights of the child, p. 16.

16 - Third Periodical Report on the Implementation by the Russian Federation of the Convention on the rights of the child, p. 16.

17 - Concluding Observations of the Committee on the Rights of the Child: Russian Federation, 10/11/99, § 25.

Still, practice of previous years shows us a picture which contrasts strongly with the measures and practices that were undertaken by the Government in 2001-2003.

In November 2001, the European Committee against Racism and Discrimination (ECRI) has supervised conditions of tolerance in 43 member-countries of the European Union (EU), including Russia. The issuing report on the state of discrimination against ethnic minorities points out that racism and xenophobia still persist in Russia.¹⁸ More precisely, experts point out in their report that Chechens and other Northern Caucasus nationalities; natives of the Middle Asia, Jews and refugees especially suffer from discrimination.¹⁹ According to experts, one of the main causes for discrimination is the existing system of permanent and temporary registration in conformity with the place of living. Another reason for discrimination is insufficient execution of the Federal legislation at the regional level. The experts were also concerned by, in their opinion, too light a punishment set by the Russian Justice for summons to hatred and violence against certain groupings of the population.

The children of minorities also suffer from hatred and persecution, and are often the first

victims of discrimination. The World Bank and UNICEF began a project “The Changing Minds, Policies and Lives Project” in 2000 which addresses the issue of children in public institutions.

From a social point of view, belonging to a minority group can increase a child’s likelihood of being placed in an institution, particularly when combined with the other factors that so often face minorities, such as poverty.²⁰ And these children do not have the same access to health and educational services, from which the children of non-minorities benefit.

3.2. Discrimination resulting from socio-economic difficulties within the family

One of the current problems of government support to families in the Russian Federation is the fact that each year the level of support decreases. The main goal behind this policy of governmental aid is to allow, among other families, families with a criminal history to

18 - Please see “Racism and intolerance in Russia” at <http://www.prima-news.ru/eng/news/news/2001/11/13/17886.html>.

19 - Please see “Racism and intolerance in Russia” at <http://www.prima-news.ru/eng/news/news/2001/11/13/17886.html>.

20 - Please see “Children in Institutions” at <http://www.vpu.it/socpedagogika/unicef/crrtm>.

increase the level of health of the children and increase their educational level in the hopes of reducing their criminal activities. According to the international conference “Family and the future of Russia” held in *Ekaterinburg* in February 2005, as a result of governmental aid, and taking into account a decrease in the growth of Russian population, there is a growing number of economically inactive people which means that some modifications should be adopted and implemented into the programme of governmental aid to families.²¹

At present, the majority of government aid is directed towards so called ‘asocial’ families. This means that they are families where one or both of the spouses lack work either for geographical reasons (for example, they live in a secluded area), or for personal reasons (the person in question simply doesn’t want to work given that he/she already benefits from a State subsidy for his/her child(ren))²². As a result, the parent spends the money that

was intended primarily for the basic needs of the child (health, education). According to experts at the Conference “Family and the future of Russia”, the main solution to this problem is, firstly, to create a complex programme of State aid to all categories of families and not only to ‘asocial’ families with an individualised approach to each category. Secondly, according to experts, it seems useful when dealing with ‘asocial’ families to provide these families with in-kind benefits and not money, for example, food and clothing for the children. This would act as a dissuasion for parents to use the money allocated for their children for themselves.²³ Currently, no document has yet been adopted at the federal level that would allow a modification of the current system of governmental aid to Russian families.

Another subject of concern is the practice of discrimination against children and their families without resident permits. In September 1999, up to 20,000 non-Muscovites, mainly Chechens and other people from the Caucasus, were rounded up by the police. More than half of whom were refused official registration and a resident permit. Officials in Moscow claimed that some 10,000 non-Muscovites who lacked resident permits were refused registration and were consequently deported from the city.²⁴

21 - Please see “The Government forgot about a normal family” at http://www.rbcdaily.ru/cgi-bin/oranews/get_news.

22 - Please see “The Government forgot about a normal family” at http://www.rbcdaily.ru/cgi-bin/oranews/get_news, p. 1.

23 - Please see “The Government forgot about a normal family” at http://www.rbcdaily.ru/cgi-bin/oranews/get_news, p. 2.

24 - Message sent by Mariana Katzarova, researcher on the Russian Federation of the Amnesty International’s public statement on the implementation of human rights in the Russian Federation, from 10 October 1999, at Public-Interest-Law-Network at piln@law.columbia.edu.

3.3. The situation of homeless children

The situation of homeless children is not much better than that of children from poor or minority families. There are three main reasons for a child to become homeless: firstly, family crisis, and secondly, the worsening of the socio-economic conditions of life for the Russian population in general. Thirdly, there is a lack of a social assistance system dealing with homeless children in the Russian Federation.²⁵

In society, homeless children are seen as a failure on the part of the government and it's not surprising to learn that homeless children do not have access to public health services in Russia²⁶. According to Carel de Rooy, UNICEF's representative in the Russian Federation, there are 14 shelters catering for homeless children in Russia, where homeless children can access basic healthcare services, food, water and clothing.²⁷ In shelters such as "Children without Homes", "Love's bridge", homeless children are allowed to spend the night only on the condition that they quit substance abuse and resume their studies.²⁸ This shows that the ultimate goal of such shelters for street children is to allow the latter to lead a normal life and everything that accompanies it: studies,

access to health care and other social services.

Leading a normal life means recreating a normal family structure, without domestic violence occurring in the home as, according to research, violence is the main reason that children leave home. At present, the Russian educational system still has a role to play in diverting homeless children from the street. More precisely, by utilizing the potential of qualified educators, psychologists and social workers, educational establishments can be very effective in dealing with the problem of street children. Surveys conducted by several international organisations such as the International Labour Organization, show that most street children are prepared and willing to study.²⁹ However, the degree of intervention by the Russian educational system should be different for different categories of street children.

25 - Please see "The need for a federal programme in order to promote children's rights in Russia" at <http://www.mirtv.ru/cgi-bin>, p. 1.

26 - Please see "'Child by child', group aids homeless street kids" at <http://www.familycare.org/network>.

27 - Please refer to "Gap widens between rich and poor" at <http://www.abc.net.au/worldtoday>.

28 - "'Child by child', group aids homeless street kids" at <http://www.familycare.org/network>.

29 - "In-depth analysis of the situation of working street children in Moscow, 2001" at <http://www.ilo.org/publns>, pp. 27-28.

3.4. The situation of HIV-child victims

According to UNICEF, Russia has the second fastest growing HIV epidemic in Europe. At the end of 2004, the total number of officially registered cases exceeded 320 000. At present, the actual number of infected people is closer to one million.³⁰ In 2004, approximately 40 % of all newly registered cases of HIV infection were among women, with those in the most active reproductive age group (20-29 years old), accounting for 58 % of the total number of HIV-infected women³¹. According to UNAIDS, in its Report on the Russian Federation, in 2004, the number of HIV-infected women was 290,000³².

Nowadays, more and more women are infected with HIV through sexual transmission. As the number of HIV-infected women increases, so does the risk of mother-to-child transmission (MTCT). According to the

article “Russia’s HIV-children”, latest figures show that 22,000 babies have been born to HIV-positive women in 2005.³³

There is a growing problem of care for both HIV-positive and HIV-negative children born to HIV-positive mothers: in general, these children are abandoned at birth and are placed in maternity or infectious disease hospitals while others are unable to gain access to education and protection. Preschools, schools, and residential care and education institutions are not prepared to enroll these children.³⁴ Out of all the children born from HIV-infected mothers, only 10-15 % of them will be infected with HIV. The remaining 85-90 % are simply children born from HIV-positive mothers³⁵. But practice shows that society ignores this fact: at present, a large number of these children born from HIV mothers are left in the infection division of the hospitals and are often treated by hospital staff as if they represent a danger to everybody’s health.

According to the article “Stigmatization and discrimination of HIV-infected women and their children in the Russian Federation”, there is a lack of governmental financing of antiretroviral treatment which decreases the risk of so-called “vertical” transmission of HIV from mother to child³⁶. Because of the

30 - Please refer to http://www.unicef.org/ceecis/media_3324.html

31 - Please refer to http://www.unicef.org/ceecis/media_3324.html

32 - Please refer to http://www.unaids.org/en/Regions_Countries/Countries/russian_federation.

33 - The article can be found on the web-site <http://www.tpaanet/news/regionalnews?id=1851>

34 - The article can be found on the web-site <http://www.tpaanet/news/regionalnews?id=1851>

35 - Please refer to <http://www.aids.ru/aids/child.shtml>

36 - Please refer to <http://www.aids.ru/aids/berem.html>

lack of governmental financing of this treatment therapy, only HIV-infected pregnant women who fulfil certain criteria have access³⁷.

Generally speaking, the problem of babies born with HIV is the failure of the Russian government to provide all pregnant HIV-infected women any treatment at birth which prevents mother-to-child transmission and which could save the lives of thousands³⁸.

According to the Transatlantic Partnership Against Aids (TPAA), the Russian government should, among other measures, expand coverage of prophylaxis regimes throughout the Russian Federation to HIV-infected women who become pregnant in order to prevent mother-to-child transmission of HIV infection and the abandonment of their babies by HIV-infected mothers.³⁹

3.5. Living conditions of child orphans in State institutions

In addition to difficulties for establishing their legal status, child-orphans suffer in a number of situations. Firstly, there is a lack of cooperation between the institutions which specialise in determining the children who are in need of State protection, such as orphans. Secondly, these institutions often lack

the resources which would allow them to provide orphans with qualified help and assistance. For example, the Boarding House for Children n°11 of the Department of the Social Protection of the Population⁴⁰. This educational house is specialised in providing assistance to handicapped orphans. However, in practise there is a lack of night-time teachers, nurses specialised in caring for handicapped children, psychologists, nutritionists and social assistants. The need for night-time teachers is due to the fact that handicapped children are often aggressive, have asocial behaviour, which makes it difficult for the personnel, often nurses, to establish night-time control over these children. There is also a lack of resources for the organisation of a summer holidays for handicapped children.

Moreover, child-orphans often suffer from violence. According to the TV broadcast “To survive in children institutions”⁴¹, in 2004, the Office of Attorney-General initiated and conducted a total revision of children institutions in Russia. The situation in many of these institutions was found to be terrible. As a result of the survey, a number of

37 - Please refer to <http://www.aids.ru/aids/berem.html>

38 - Please refer to <http://www.aids.ru/aids/berem.html>

39 - Please refer to <http://www.tpaa.net/files/upload/publications/845.pdf>.

40 - Please refer to <http://detirossii.ru/Libr>, p. 14.

41 - Programme of Eduard Petrov “Honest detective” of 19 March 2005, can be found at <http://www.rtr-planet.com>.

criminal prosecutions were initiated against a considerable number of teachers. They were accused of violence, a denigrating attitude towards children, humiliating the children, stealing the children's food, and psychological and sexual abuse. Terrible figures were cited: at present, the number of officially registered orphans in Russia is approximately 700,000, compared to immediately after the Second World War, when the number was 678,000. Every year, about 40,000 children in these institutions become victims of their adult educators. Every year up to 3,000 children try to escape from those institutions.

OMCT welcomes the efforts to bring these facts into the open and the mobilization through the mass media of the general public in order to solve this problem indicating that the Russian government has become serious in implementing its obligations on democratic and humanistic values, in this specific case, concerning children. However, OMCT remains gravely concerned over the actual situation of children living in State institutions.

3.6. Child victims of the war in Chechnya

From the second half of 2002 onwards, there has been an intensification of hostilities taking place in Chechnya between Chechen armed groups and Russian military forces. In the wake of the international political climate resulting from the 2001 September 11th terrorist attacks in the United States, children have been directly affected in Chechnya by the "fight against terrorism".

Along with other grave violations of the rights of ethnic Chechens (extradition of men wanted by Russian authorities without court decision, arbitrary execution of suspects by Chechen rebel forces in obscure circumstances, etc.), some children were ill-treated, tortured and stigmatized as suspects of terrorist acts. This fact was underlined by Amnesty International in its statement on the Rights of the Child in Russia, dated of 10 October 1999: "The Russian Federation was also criticized for serious violations of the rights of children during the armed conflict in the Chechen Republic, including the involvement of children in combat, the violations of the provisions of international humanitarian law and the treatment of internally displaced children. (...) The Russian authorities should provide all

necessary protection and assistance to the thousands of internally displaced children and children living in the area of conflict in Chechnya.”⁴²

An extreme example of this violation of the rights of the child is the fact that, according to the statistics, during the years of Russia’s war against Chechnya 40,000 Chechen children have been killed. According to

Alexander Podrabinek, the author of the article “Terror and children”⁴³, ironically, the death of these 40,000 Chechen children did not seize as much international attention as the Beslan tragedy and, worst of all, the death of these 40,000 children seemed to go unnoticed by the Russian government. These children were mere victims of an armed conflict between Russia and Chechnya.

42 - Please refer to Public-Interest-Law-Network at piln@law.columbia.edu.

43 - Please refer to “Terror and children” at <http://www.prima-news.ru/eng/news/articles/2004/9/6>.

IV - Protection from all forms of violence

The questions of physical, sexual and psychological violence directed towards children are covered in the Criminal Code by articles 106, 126, 127, 131, 132, 134 135, 150, 151, 152, 153, 154, 155, 156, 157, 230 and those articles of the Criminal Code that concern crimes against the dignity of the person. The Criminal Code also provides more severe punishment for those who commit the above-mentioned crimes against children, for example, for the following crimes: torture (article 117); infecting with venereal disease (article 121); infecting with HIV infection (article 122); stealing a person (article 126); illegal deprivation of freedom of the person (article 127 part 2); trafficking of people (article 127); the use of child labour (article 127); rape (article 231 part 2). The Russian legislation has recently examined a list of legislative acts which aim to increase the responsibility for crimes committed against children. For instance, in December 2002, the parliament considered a law that would enlarge the framework of legal rights for children against all kinds of abuses. A modifi-

cation of the Criminal Code was adopted in 2003 by a federal law that increases the penalty for the commitment of a crime of psychological abuse, sexual abuse and sexual exploitation of children.⁴⁴

4.1. Violence, abuse and neglect within the family framework

According to Tatyana Sudakova and Sally Stoecker, authors of “Domestic violence as a Factor Contributing to Child Homelessness in Russia”⁴⁵, the notion of “domestic violence” in the West is often used to describe abuse inflicted by or against one’s spouse or intimate partner and does not usually connote abuse of children or minors. In the legal sense, the term of family violence has broader application in that it covers not only spousal abuse but abuse between parents and children as well. Although both terms – domestic and family – indicate familial or relational ties among family members, it is also important to have a broad understanding of the term “family member”

44 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/ 125/Add.5, pp. 4-5.

45 - Tatyana Sudakova and Sally Stoecker, “Domestic violence as a Factor Contributing to Child Homelessness in Russia” Please refer to web site www.american.edu.

because in many cases children reside with persons who are not blood relatives. In this sense, “child abuse” would be a better term here. However, the abuse, be it physical, emotional or psychological, can result from children witnessing violence between other family members that may not be directed at the child. Therefore, the authors consider that it would be more appropriate to employ the term “family abuse” in order to have a broader understanding of the problem than that just associated with child abuse and domestic violence.⁴⁶

Abusive behaviour against children and young people should be understood as an action or threat of action that is characterised as being physical, psychological, sexual or emotional aimed at a child victim that can affect her/his life, health, or sexuality and that violates criminal law.

Physical abuse regroups actions against a minor that cause physical pain and suffering. Psychological abuse regroups actions against a minor that cause psychological suffering or a high degree of psychic tension. Sexual abuse means the violation of a minor’s sexual inviolability, accompanied by physical and/or psychological suffering. Finally, emotional abuse regroups actions against a minor that cause emotional stress.⁴⁷

The Russian legislation covers the notion of violence in general under article 21 paragraph 2 of the Constitution of the Russian Federation. The forms of violence which are covered in the same article are: physical, psychological, sexual, abuse, degrading and ill-treatment, violence shown in the media that may cause a negative impact on health and spiritual development.

In the Concluding Observations of 1999, the Committee recommended that the Russian Federation give special attention to the problem of ill-treatment, neglect and abuse, including sexual abuse, of children both within and outside the family (paragraph 32). The Committee also stressed (paragraph 33) the need for information and education campaigns to prevent and combat the use of any form of physical or mental violence against children, in accordance with article 19 of the Convention on the Rights of the Child.

According to the authors of “Domestic violence as a Factor Contributing to Child Homelessness in Russia”⁴⁸, the modern family, while being charged with performing

46 - Tatyana Sudakova and Sally Stoecker, “Domestic violence as a Factor Contributing to Child Homelessness in Russia” Please refer to web site www.american.edu, p. 4.

47 - Tatyana Sudakova and Sally Stoecker, “Domestic violence as a Factor Contributing to Child Homelessness in Russia” Please refer to web site www.american.edu, p. 5.

48 - Tatyana Sudakova and Sally Stoecker, “Domestic violence as a Factor Contributing to Child Homelessness in Russia” Please refer to web site www.american.edu, p. 7.

child-raising functions, is faced with an assortment of problems. In many cases, families are run by only one parent or other relatives, such as the grandmother. In many cases, studies show that this is accompanied by amoral parental or guardian behaviour and a psychological dysfunction in the family. In fact, the pathology of family relations affects various aspects of deviation in a child's behaviour. Homelessness, crime and drug addiction appear to have one thing in common: social maladjustment, the roots of which are to be found in the problems of the family. But before a child becomes socially maladjusted, the child or youth's rights to full development and self-realisation in society have often been violated. Therefore, when a child becomes a law-breaker, it is a way signalling to society that their own rights have been violated.

The two factors that contribute to a family's ill-treatment of children are the following: the pervasiveness of poverty in Russia and the high rate of divorce. The pervasiveness of poverty in Russia requires many parents to work two or three jobs simultaneously which allows them little time to spend with their children and to monitor their behaviour properly. Separated, single parents are often

victims of stress, anxiety or depression and they tend to be rude and aggressive, becoming a source of violence against their own children. According to reports of Russian police agencies, the number of parents and guardians who fail to fulfil or unreliably fulfil their child-rearing responsibilities continues to grow. For example, in 1996 the internal affairs agencies of the Russian Federation investigated 182,700 parents who failed to fulfil their responsibilities; the number had increased to 280,700 in 2002.⁴⁹

According to research conducted in Russia by sociologists, psychologists and doctors, one fact appears as conclusive: it is difficult to establish a direct link between family abuse and homelessness, because the abuse is hidden within and confined to the family. From certain criminal court cases of abusive behaviour against minors and criminal cases of crimes committed by abused minors, one can see that the violence inflicted upon the child by his parents or guardians is accepted by children as normal because they are not aware of other forms of treatment by their family members. Medical records show that children often enter the hospital with signs of severe physical abuse. For example, traces of torture and mutilation are found on their bodies, as well as evidence that they were nearly starved to death. Ironically, the doc-

tors very frequently ignore these bruises on the child's body because the reason the child got these bruises is supposedly not their business, as this subject relates to the private sphere of the child – his family.

Furthermore, statistics reveal only a few instances of parents being held accountable for the crimes committed against their child, although family abuse is much more widespread. There are several explanations to this. Firstly, a comprehensive preventive mechanism for law enforcement work/investigation in this area is hindered by a shortage of special services, absence of a single coordinated system of exposing these facts or proof and means of bringing the guilty parties to account for their crimes of neglecting parental responsibilities of raising a child, particularly if such actions are combined with the ill- and cruel treatment of children. Secondly, law enforcement agencies find it difficult to collect the evidence needed to help them solve crimes and bring the members of a family to court for failing to fulfil or fulfil properly their parental responsibilities⁵⁰.

4.2. Economic exploitation of Children

Child labour

According to the International Labor Organization (ILO) report, “In-depth analysis of the situation of working street children in Moscow”⁵¹, child labour, although prohibited by Russian law, has become widespread in recent years in the Russian Federation. The social and economic challenges of the past years have contributed to the escalation of child labour in Russia, particularly in Moscow. In fact, Russian legislation forbids the employment of children under the age of 15; according to article 173 of the Labour Code, children aged 14 may only work with the consent of their parents or legal guardians. Minors can only be hired for light work which does not harm their health and does not prejudice their attendance at school. However, evidence collected by ILO experts suggests that legislation banning child labour is not always a sufficient deterrent to the growth of this market.

50 - Tatyana Sudakova and Sally Stoecker, “Domestic violence as a Factor Contributing to Child Homelessness in Russia” Please refer to web site www.american.edu, pp. 8-13.

51 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002. Please refer to www.ilo.org/public/english/standards/ipec/simpoc/russia/ra/street_m.pdf.

According to experts, today's problems of child labour include not only neglected children but also children subjected to exploitation.

The current Russian legislation provides the children with considerable protection against heavy and hazardous work. The Labour Code also carries a restriction on heavy and dangerous forms of child labour as well as work in dangerous and harmful conditions. In conformity with article 175 of the Labour Code, this comprises such activities as gambling, nightclubs, alcohol production, alcohol, tobacco, toxic substances transportation and trade. This type of employment is intended only for people who have reached 18 years of age.⁵²

According to research conducted by ILO, trade unions have lost much of their influence and can hardly protect children's rights on the labour market. The city and district employment services appear to have greater legal, administrative, financial and information resources and therefore greater potential for tackling the problem. For example,

the introduction of special employment assistance services for children under 15 years of age could help meet the legal demand for jobs and partly fill jobs unwanted by adults. Greater commitment by these government institutions could bring about an improvement in the situation.

Child labour occurs most of the time in the informal sector of the workforce.⁵³ Children cannot be officially employed for two reasons: firstly, Russian labour legislation prohibits entering into a contract with children under the age of 14 (article 173 of the Labour Code) and secondly, in a number of sectors, workers are frequently hired informally without due registration. It is often the case for temporary employment in the trade or service sectors where all payments to workers are made in cash, either daily or at the end of the work contract. The ILO experts identified about 30 jobs in which most child labour is used. Non-criminal jobs can be divided into the following categories: retail; car services; apprenticeship in small workshops and assistance to self-employed workers; courier services; collection of salvage; and casual street services.⁵⁴

Also, long hours of work are one of the main hazards to the health of working children. Among other hazards, one can name the risk

52 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002, p. 17.

53 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002, p. 36.

54 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002.

of injuries and diseases originating from lifting of weights, lack of individual means of protection and abuse by employers and other persons.

According to the experts' survey, current labour inspections reveal that despite some improvements the rate of violations of labour rights and the legitimate interests of under-age employees by employers is still high. Ongoing statistical surveys conducted by the federal Labour inspection indicate that in the year 2000, accidents at work took the life of 32 under-aged workers, 19 of them in the agricultural sector. The deaths occurred in Karelia, Sakha (Yakutia), Tatarstan, Kabardino-Balkaria, Udmurtia, Chuvashia, Krasnoyarsk krai, Krasnodar krai, Vologda, Kaluga, Kursk, Nizniy Novgorod, Novosibirsk, Sverdlovsk, Smolensk and Yaroslavl regions and in Moscow.⁵⁹ The common causes of death were: 1) failure to administer proper training and work safety instructions prior to work, non-assignment of foremen to under-age employees; 2) use of faulty equipment, violations of process standards, ineffective workplace and process organisation; 3) assignment of under-age employees to hazardous and heavy jobs. Wherever violations were detected, the State inspection applied statutory sanctions against the enterprise management. These sanctions

included: administrative instructions, administrative and disciplinary court actions, and even suspensions of work in some individual production areas and units.⁵⁵

Sexual exploitation

Russian legislation treats the involvement of children in prostitution, and pimping, pandering of minors, as well as unlawful distribution of pornographic materials as felonies. According to the new Criminal Code, only children under 14 are protected against being involved in prostitution. Indeed, according to articles 134, 135 of the Criminal Code of the Russian Federation, non-violent lewd actions involving a person over the age of 14 do not constitute a criminal offence.⁵⁶ Such legislation makes it possible to use persons between 14 and 18 years old, that is to say children according to the national and international law, as prostitutes or involve them in pornography.

According to the Criminal Code of the Russian Federation, the following acts are considered as crimes against the individuality of a child: rape; sexual act performed by an 18-year old person with a child under 14 years old; depraved actions made to a

55 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002, pp. 59-60.

56 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002, p. 60.

person under 14 years old. National statistics show that in 2001, as compared to 1998, there has been a decrease in the number of crimes of sexual character, including crimes accomplished by 18 year olds towards children under 14 years old. However, this may partially be explained by the decrease in the sexual inviolability of a child, the latter being reduced from 16 to 14 years of age.⁵⁷

The Federal Law of June 2002 concerning the modifications to be implemented into the current Criminal Code of the Russian Federation provides, among others, an increase in the penalty due for the crime of sexual exploitation of children and their forcible involvement into pornography. This law defines, for the first time in the history of the Criminal Code, the terms of prostitution, pornographic production, television programmes of a sexual nature.

Pornography

The Criminal Code of the Russian Federation prohibits the spreading and advertising of pornographic materials and related objects. In 2001, 442 such crimes were registered.

The Internet also plays an important role in increasing the amount of child pornography which is produced and sold.

Pornographic child videos can be obtained at nearly every radio market in Moscow. For example, at Kursky railway terminal at least four kiosks offer such videos at night-time. Each tape costs between 70 and 200 roubles.⁵⁸

Prostitution

In present-day Moscow teenage prostitution is a smoothly organised and a highly lucrative business. Experts estimate that it involves over 100 thousand people, 20-25 % of whom are minors. The different forms of prostitution are the following: street prostitution; call-girl prostitution (advertised in tabloids, specialised publications and the Internet); parlour prostitution (salons, massage parlours, sauna baths, etc.); prostitution in bars, clubs, discos, etc. Children are involved in all these different forms of prostitution.

Children are recruited through a complex system of informers. Informers are persons who work in dormitories of vocational schools, colleges and college preparation courses, restaurants, beauty parlours, saunas,

57 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/Add.5, p. 17.

58 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/Add.5, § 361-362.

etc. There is a regional network of informers who recruit girls from all over Russia and the Commonwealth of Independent States (CIS) by offering them highly-paid jobs in Moscow and forcing them into prostitution afterwards. One of the reasons for underage girls to become engaged in prostitution is, in the case of migrant girls, the need to support impoverished families outside the capital. Groups of 3-5 such girls share 1-2 bedroom flats or dormitory rooms at vocational schools, technical schools, colleges where they work or study.

Approximately 2.7 % of the children engaged in prostitution surveyed stated they worked under threat (the ILO Convention classifies forced or compulsory labour as one of the worst forms of child labour which demands immediate intervention).⁵⁹ They become dependent on pimps for appointments and security. For instance, on average, children engaged in street prostitution earn between 500 and 1500 roubles daily: half of what the client pays. The remaining sum goes to the pimp who covers the cost of protection, drivers and other overhead expenses.⁶⁰

Children are actively exploited at various criminal “hook-up” points offering girls with the sole purpose of “skinning” the client (for

example, putting him to sleep with drugs and then robbing him, etc.). Points usually operate for no longer than 1-2 days in different parts of the city and offer only child prostitutes.⁶¹

Call-girl prostitution is widely spread in erotic tabloids sold in Moscow. These tabloids usually contain classifieds advertising call services in indirect but unambiguous wording, offering services of girls under 13 years of age. The Russian part of the Internet contains many easy-to-find sites which advertise home services or visits to private house-brothels. These sites often offer girls “from 12 years old and up”.

Pimp-controlled prostitution is not frequent in so-called hangout places. They are mostly popular among young girls from the peripheral districts of Moscow, who go to these places in order to make a little money to “chill out” afterwards.⁶²

Prostitution may also come in a veiled form. Experts at the ILO estimate that approximately 100 firms in Moscow specialise in

59 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/ 125/Add.5, p. 42.

60 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/ Add.5.

61 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/ 125/Add.5, p. 41.

62 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/ Add.5.

“procuration”, which is another term for “veiled prostitution”. The procedure used by these firms is simple, reliable and legally impeccable: the firm in question maintains a database of young boys and girls aged 13 and up “for any taste”. A set of 10-15 such advertisements complete with photos can be obtained for 80-200 roubles. Potential clients then contact girls on their own. Both the “procuration” firms and the law enforcement authorities admit that to launch a case against a client, a person involved in prostitution or “procuration” firm would be near to impossible. Even in the case when a client uses the service through this type of prostitution, payment will not likely be proven in court.

Trafficking

The Criminal Code of the Russian Federation contains a legislation establishing criminal responsibility for the trafficking of children, which includes the buying and selling of a child, or actions undertaken in order to transfer the child. In 2001, 16 crimes falling under article 152 of the Criminal Code were registered and in 2002, 10 such crimes were registered. During investigations of the crimes committed under article 152 in 2001

and 2002, 53 victims of trafficking of children were heard.

According to the U.S. State Department’s Trafficking in Persons Report of June 2004⁶³, Russia is a major source country for women and girls trafficked globally for the purpose of sexual exploitation. Russia appears to be also a transit and destination country for persons trafficked for sexual and labour exploitation, which includes sex tourism, from regional and neighbouring countries into Russia, and on to the Gulf States, Europe, and North America. In fact, a 2004 ILO report estimated that 20% of the five million illegal immigrants in Russia are victims of forced labour. Internal trafficking from rural to urban areas, especially Moscow, causes concern too.

According to the ILO experts, the Government of Russia does not fully comply with the minimum standards for the elimination of trafficking; however, considerable efforts are being made in order to overcome this lack of implementation. The lack of implementation consists of the following: Russia has been placed on Tier 2 Watch List⁶⁴ in 2004 for lack of progress on victim protection measures, and because the new coordinating mechanism had not yet sufficient time to show results. Also, reports

63 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/Add.5, p.41.

64 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/Add.5, p. 40.

on trafficking-related complicity among Russian officials are a continuing concern and the implementation of the anti-trafficking amendments of the Criminal Code have not yet shown results. The Government should continue to stay engaged on trafficking by implementing protection for trafficking victims immediately, including foreign victims in Russia, and by focusing prevention efforts towards vulnerable groups. The actions that aim to root out official complicity in trafficking should also be reinforced.

On the level of prosecution of criminals guilty of trafficking, in December 2003 President Putin signed legislative amendments to the Criminal Code outlawing trafficking in persons and forced labour, and expanding liability for prostitution-related offences, with abuse of official position being considered as an aggravating factor. Although investigations and prosecutions on trafficking under this new legislation were initiated during the reporting period, no convictions were reported and still more prosecutions were underway under pre-existing trafficking-related legislation. According to ILO experts, seven members of a criminal gang were sentenced for acts involving recruitment and sexual exploitation of children; 20 prosecutions were ongoing for the sale of minors;

six defendants were charged with kidnapping for internal trafficking for sexual exploitation; six criminal organisers were arrested and placed in pre-trial detention on trafficking-related charges involving the trafficking of 43 women to the United Arab Emirates and Thailand. The government reported on accomplishing one anti-corruption action targeting an organised crime group in the Ministry of Interior suspected of, among other things protecting prostitution businesses. As a result of this action, the suspects were arrested and placed in pre-trial detention. On its own behalf, the Russian government co-sponsored a regional law enforcement conference to establish working-level cooperation on specific cases and a new resolution for cooperation. The government also assisted other governments in their investigations into trafficking to Russia.

With regards to protecting victims of trafficking, The Russian State Parliament Duma did not pass trafficking victim protection legislation but some progress has been made at the level of legislation regarding witness protection. Still, there is much work to be done in the following spheres: defining the status of the trafficking victims under Russian law; elaborating specific mechanisms to assist or protect them; and instituting a victim screening or referral process

in Russia. On the positive side, the Russian government issued instructions to its consulates regarding assistance to Russian trafficking victims, and assisted in returning 33 victims trafficked from the United Arab Emirates.

On the level of prevention, although high-level government officials addressed the issue of trafficking in the media, the government did not authorise budgetary allocations for prevention programmes. Moreover, there has been no focus on prevention activities towards vulnerable categories of the population, such as educated women between 18-34, orphans, street children, and foreign labourers. In April 2004, the government announced the formation of a central governmental authority to coordinate implementation of anti-trafficking policies. The government hosted a national NGO Conference that drew widespread media attention. The government continued to cooperate with NGOs, and an estimated 30% of NGOs, according to the experts, reported receiving some local government financial or in-kind support for anti-trafficking projects⁶⁵. One regional government collaborated with an anti-trafficking NGO in order to produce a list of guidelines for

Ministry of Interior employees working with children and trafficking victims.

At present, the Russian Federation is considering the possibility of ratifying the Alternative Protocol to the Convention on the Rights of the Child related to the trafficking of persons, child prostitution and child pornography. Still, representatives from the Russian Federation have participated in the Second World Congress against commercial sexual exploitation of children, held in Yokohama in December 2001, as well as participating in the preparatory conference related to the Congress, organised by the Council of Europe, held in Budapest in November 2001.⁶⁶

4.3. Street children

Homeless children are one of the most vulnerable category of people in Russian society. Several reasons why a child lives in the street exist, but more often it is due to a difficult family background. Sometimes, parents themselves force their children to beg on a regular basis and thus groom them to become homeless whether they realise it or not. Living and surviving on the streets is in

65 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, CRC/C/125/ Add.5, p. 41.

66 - "Russia – trafficking in persons" at <http://gvnet.com/humantrafficking/Russia-2.htm>.

itself a situation of violence towards children but it is often a basis for further abuses. Most of the street children become addicted to alcohol, drugs and cigarettes, or break the law, or are victims of various kinds of exploitation.

Whatever the grounds of his/her situation, in practice, the child is on the street, as a rule, for a long period of time and his territory changes and expands over time. The majority of children who beg are very young, six to ten years of age. Another concern is the fact that, after learning to get money “the easy way” and having learned how to survive, children appear reluctant or refuse to go to a shelter or other institution because they know that their freedom will be curtailed. In other words, they are used to doing what they want, when they want and those habits are hard to change and this makes their re-insertion into society more difficult. The best way to prevent children living on the streets is to fight against the roots of this problem (socio-economic difficulties).

Most working street children are confronted with the work-or-die dilemma and they undertake casual jobs to earn a little pocket money. Still, the ILO survey already mentioned shows that for some children street work is a major if not the only source of in-

come⁶⁷. This was the case with about one third of the sample of street children who filled out the ILO questionnaire on the work of street children. Some children work to afford more and better food (31,5%), others rely completely on street work to survive (27,2%). This is predominantly the case among children who happen to be involved in prostitution (77,9%) and criminal activities (56,9%).⁶⁸

Analysis of the root causes of child labour indicates that in most cases the problem can be partially alleviated by launching relief programmes to assist street children and their families financially. For certain categories of children, in particular for children who work in order to buy drugs, a different kind of response is needed. In fact, although this last category represents only a small part of the total number of street children, it is this category that requires immediate intervention on the part of the government.

4.4. Prevention from violence

From its past, the Russian Federation has inherited a complex multidivisional system of agencies responsible for the enforcement of

67 - Russia – trafficking in persons” at <http://gvnet.com/humantrafficking/Russia-2.htm>.

68 - Third periodical Report on the Implementation of the rights of the child in the Russian Federation, § 360.

the rights of the child. The system consists of specialised departments for education, healthcare, etc. and cross-departmental bodies like prosecution offices, committees for minors and ombudsmen offices. Separate laws and other regulatory instruments define the responsibilities of the latter groups of agencies concerning minors. According to ILO experts who conveyed the survey on the work of homeless children, there have been significant steps made in the sphere of human rights in Russia; by establishing the protection of human rights as the uppermost priority of the state, the Constitution of the Russian Federation grants its citizens a large scope of possibilities for defending their individual rights and liberties.⁶⁹ NGOs and governmental organisations both see enforcement of the rights of the child as part of their mission. The ILO survey shows that enforcement of the rights of the child and detection of violations is an extremely pressing concern, especially today when very few children have access to the effective use of procedures intended for the protection of their rights. The obstacles that arise in the application of such procedures are both objective and subjective. In many cases their

limited legal capacity prevents children from seeking help directly themselves from State bodies (including courts), allowing them to act through formal representatives. In addition, a situation where a child's rights are violated by his/her formal representatives is not covered by legislation. In general, children are not knowledgeable or competent enough to defend their rights.

Although a number of steps have been taken by the government at the national level regarding the basic rights of the child, there is still much more work to be done in order to assist the least protected social groups of children, in particular orphans and children without parental care, as well as children from low-income families. Ways to assist these categories of children may include the following: strengthening the control of federal institutions over execution of federal laws and programmes aimed at protecting the rights and social welfare of orphans and children without parental care; preparing and implementing a series of organisational and legal measures aimed at strengthening co-ordination between departments in the placement of children abandoned by their parents.⁷⁰

69 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002, p. 31.

70 - ILO, In-depth analysis of the situation of working street children in Moscow 2001, ILO/IPEC Working Paper, Moscow, International Labour Office, 2002.

V - Protection from torture and other cruel, inhuman or degrading treatment or punishment

5.1. Analysis of the legal framework

a) Prohibition of torture

Torture is explicitly prohibited under various provisions of the Russian law:

- The 1993 Constitution of the Russian Federation states in article 21 (2) that “no one shall be subjected to torture, violence or other cruel, inhuman or degrading treatment or punishment. No one may be subjected to medical, scientific or other experiments without voluntary consent”.

- Torture is also prohibited in articles 9 of the Criminal Procedure Code and 12 of the Criminal Execution Code, as well as by a number of legal acts such as article 5 of the Law “On Police” and article 4 of the Law “On the confinement of suspects and defendants”.⁷¹

Despite the prohibition of torture, there was no definition of torture until a reform of the Criminal Code (CC) in 2003. It was only invoked as an aggravating circumstance in

case of ill-treatment (article 117 CC) or coercion to give evidence (article 302 CC). It was generally classified as abuse of power (article 286 CC). Despite the absence of special provisions in the Russian criminal law criminalising torture as such, officials who had committed acts of torture could be prosecuted under those provisions.⁷²

Article 117 CC: Torture

1. The causing of physical or mental sufferings by means of the systematic infliction of beatings or other forcible actions, if this did not entail the consequences specified in articles 111 [severe damage to health] and 112 [damage to health of average seriousness] of the present Code shall be punished by deprivation of freedom for a term of up to three years.

2. The same act committed: [...] with the application of torture [...] shall be punished by

71 - Olga Shepeleva, Moscow Helsinki Group, Russian Legislation Now Features the Definition of “Torture”, available on www.mhg.ru/english/2F7698B.

72 - Olga Shepeleva, Moscow Helsinki Group, Russian Legislation Now Features the Definition of “Torture”, available on www.mhg.ru/english/2F7698B.

deprivation of freedom for a term of from three up to seven years.

By torture in the present Article and other Articles of the present Code is understood the causing of physical or moral sufferings for the purpose of coercion to give testimony or other actions contrary to the will of the person, and also for the purposes of punishment or other purposes [added by Federal Law of 8 December 2003].

Article 286 CC: Exceeding official powers

1. The performance by an official of actions clearly exceeding the limits of his powers and which entailed a material violation of the rights and legal interests of citizens or Organisations or the interests of society or the State protected by a law

- shall be punished by a fine in an amount of up to eighty thousand roubles or in the amount of earnings or other revenue of the convicted person for a period of up to six months, or by deprivation of the right to occupy determined posts or to engage in a determined activity for a term of up to five years, or by arrest for a term of from four up to six months, or by deprivation of freedom for a term of up to four years [as amended by Federal Law of 8 December 2003].

2. The same act committed by a person occupying a State post of the Russian Federation or State post of a subject of the Russian Federation, and likewise the chief of an agency of local-self government

- shall be punished by a fine in an amount of from one hundred thousand up to three hundred thousand roubles or in the amount of earnings or other revenue of the convicted person for a period of from one year up to two years, or by deprivation of freedom for a term of up to seven years with or without deprivation of the right to occupy determined posts or to engage in a determined activity for a term of up to three years [as amended by Federal Law of 8 December 2003].

3. The acts provided for by paragraphs one or two of the present Article, if they are committed:

(a) with the application of force or with the threat of the application thereof;

(b) with the application of a weapon or special means;

(c) with the causing of grave consequences – shall be punished by deprivation of freedom for a term of from three up to ten years with deprivation of the right to occupy determined posts or to engage in a determined activity for a term of up to three years.

Article 302 CC: Compelling to give testimony

1. The compelling of a suspect, accused, victim or witness to give testimony or of an expert or specialist to give an opinion or to testimony by means of the application of threats, blackmail, or other illegal actions on the part of an investigator or person performing an inquiry, and likewise another person with the knowledge or tacit consent of the investigator or person performing an inquiry by means of the application of threats, blackmail, or other illegal actions on the part of the investigator or person performing an inquiry [as amended by Federal Law of 8 December 2003]

- shall be punished by deprivation of freedom for a term of up to three years.

2. The same act committed with the application of force, mockery, or torture

- shall be punished by deprivation of freedom for a term of from two up to eight years.⁷³

However, this situation was not satisfying mainly because none of above-mentioned provisions covered the full scope of acts that constitute torture under the definition set out in the UN Convention Against Torture (articles 1 and 4). Moreover, as underlined by the Moscow Helsinki Group, “the absence of

the definition of torture in the national legislation contributed to the misunderstanding on the side of the law enforcement bodies of the obligations, taken by the Russian Federation under the Convention Against Torture, (...) and the International Covenant on Civil and Political Rights”.⁷⁴

In May 2002, the UN Committee Against Torture repeated for the third time its recommendation that Russia should criminalise torture and define it in conformity with the Convention Against Torture. Indeed “the designation of torture as an aggravating circumstance for some enumerated cases does not satisfy the requirements of articles 1 and 4 of the Convention.”⁷⁵

Therefore, the State Duma⁷⁶ finally adopted the Federal Law of 8 December 2003 “On the Introduction of Changes and Amendments to the Criminal Code of the Russian Federation” which defines torture, amending article 117 CC with the following paragraph: “By torture in the present article

73 - Olga Shepeleva, Moscow Helsinki Group, Russian Legislation Now Features the Definition of “Torture”, available on www.mhg.ru/english/2F7698B.

74 - Conclusions and recommendations of the Committee Against Torture: Russian Federation, 06/06/2005, CAT/C/CR/28/4, para. 6 (a).

75 - The State Duma is the lower house of Federal Assembly of Russia (Parliament), the upper house being the Federation Council of Russia.

76 - Translation by W. E. Buttler, Criminal Code of the Russian Federation, Wildy, Simmonds & Hill Publishing Ltd, London, 4th edition, 2004, p.74.

and other articles of the present Code is understood as the causing of physical or moral sufferings for the purpose of coercion to give testimony or other actions contrary to the will of the person, and also for the purposes of punishment or other purposes”⁷⁷. Articles 286 and 302 have also been amended.

However, this definition of torture is narrower than that of article 1 of the CAT. Moreover the definition of torture in article 117 CC failed to fully comply with that of the CAT because it does not concern torture committed by official agents specifically. In this respect officials would be prosecuted on the grounds of articles 286 or 302 instead of according to article 117.

The new wording of article 302 (compelling to give testimony with the application of torture) does not fully comply with article 4 of the CAT with respect to the attempts to apply torture which is not punishable. It is also ambiguous concerning the person(s) who shall be prosecutable for the offence – the immediate torturer, the investigator, with whose knowledge or acquiescence the torture was used, or both?⁷⁸

Thus, despite the recent definition of torture in the Criminal Code, OMCT remains concerned over the absence of criminalisation of torture as such. Moreover, in the absence of any particular definition of torture in cases where the victim is a child, OMCT also encourages the Russian Federation to provide more severe penalties in those situations.

Concerning the sanctions provided under criminal law, no punishment or other measures applied under criminal law to an offender do cause physical suffering. Neither the death penalty, nor life imprisonment can be applied for an offence committed by persons up to 18 years of age. In conformity with the Punishment Code of the Russian Federation, the use of the correctional legislation is based on strict observance of the guarantees of protection against torture, violence and other cruel or degrading treatment of convicted persons.⁷⁹ Moreover, higher penalties are provided for a number of offences knowingly committed against a minor. Indeed, according to the Criminal Code, when a crime causing grave harm to health is committed against a minor, it will be punished more heavily than if the crime was committed against a non-minor. For example, in the case of rape (article 131 of the Criminal Code), the general punishment for

77 - Revived articles 117, 286 and 302 of the Criminal Code can be found in the annexe of the present report.

78 - Translation by W. E. Buttler, Criminal Code of the Russian Federation, Wildy, Simmonds & Hill Publishing Ltd, London, 4th edition, 2004, pp.74, 228, and 240.

79 - Second Periodic Report of the Russian Federation of 20/11/98, CRC/c/65/Add.5.

committing this kind of crime is deprivation of freedom from 3 up to 6 years. If the victim of rape is a minor, then the perpetrator will be punished with deprivation of freedom from 4 up to 10 years.

b) Implementation of mechanisms

In the Russian Federation, a system of public prosecution institutions exists, the function of which is to control the implementation of the rights of citizens, including those persons who are being held in places depriving them of freedom, during a police investigation, and also in boarding and other institutions for children. The institutions of the public prosecution regularly control the legality of procedures and measures used in children's institutions and boarding institutions, and following this control, a certain number of measures are being undertaken in order to reinstall the rights of the child that were breached. With respect to children's rights, the person who is competent to control the above-mentioned institutions is the Representative for the rights of the child in the Russian Federation. In other subjects of the Russian Federation, where a position of the Representative for the rights of the child is installed, competent officials should make an independent survey on the implementa-

tion of the rights of the child and in particular on the implementation of the prohibition of the use of torture, violence or other cruel or degrading treatment or punishment, particularly regarding children placed in boarding and penitentiary institutions.

With regards to torture in particular, at present, no centralised control mechanism for torture exists in the Russian Federation. This can be explained partially by the existing differences in the legislation of the subjects of the Russian Federation and by the fact that the Russian legislation itself does not provide for such a mechanism.

Another subject for concern is the lack of procedural implementation on the local level of the federal legislation on the rights of the child. More precisely there is a lack of motivation on the part of local officials to implement the federal legislation, i.e. an excessive formalism and non-application of preventive measures aiming at reducing homeless and breaching of law among children, which are two important grounds for child abuse and severe acts of violence such as torture against children. This is particularly true in the case of the work of judicial institutions in relation to children. The quality of crime investigations related to children's rights is also low, according to

prosecutors.⁸⁰ Efforts should therefore be made regarding impunity.

c) Procedures of complaint in the case of torture perpetrated against a child

There is currently an absence of two mechanisms which exist in all western countries that have ratified the Convention on the Rights of the Child⁸¹, and that still need some time to be implemented in the Russian Federation: the mechanism for filing a complaint against a violation of the rights of the child by a State official and the existence of a special institution allowing a child to file a suit against a parent/police official who has infringed his/her rights.

The mechanism for filing a complaint regarding a violation of children's rights by State officials does exist but is not efficient. The main shortcoming in the Russian judicial system is the impunity of State officials

because of a said 'inability' of the public prosecution to judge Interior Ministry employees within judicial institutions because of an existing 'conflict of interest'. However, administrative sanctions also exist but are not applied. The inability to judge its own on the violation of human rights, and in particular the rights of the child, means that an efficient mechanism of control of the implementation of child's rights is inexistent. As such, the Russian Federation still needs to address this issue.

Another problem related to the mechanism for filing a complaint for a violation of the rights of the child is the inexistence in the Russian Federation of an institution that would allow a child to file a suit against his/her parents or police official(s) for violating his/her own rights without the parent/legal representative acting as an intermediary. There are two possible reasons for this: firstly, that Russian society is not yet ready to recognise the child as a rights holder, and to accept that a child has the right to defend him/herself; secondly, a certain number of improvements and effective implementation is lacking in the existing Russian judicial system. A control mechanism should also be set up in order to ensure that the judicial system is functioning properly.⁸²

80 - "The general public prosecution has discovered breaches in the implementation of the rights of the child almost in half of the regions of Russia", p.4, at <http://detroitrossii.ru/News-Libr-st-doc>.

81 - Article 12.2 of the CRC implicitly requires those kinds of protection: "for this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law".

82 - This has also been recommended by B. Altschuler in his "Systematic factors which play a role in organising and providing assistance to children in extreme situations". Please refer to <http://detroitrossii.ru/Libr>, pp. 7-8

5.2. Torture against children overview

In Russia, at present, the use of torture by officials has become a massive and persistent phenomenon. Torture is used by police for the purpose of obtaining testimony from detainees, witnesses, and their families. It is also used in the Army by officers or with their knowledge or consent and, in psychiatric hospitals.⁸³ In particular, for children who suffer periods of deprivation of liberty (including police custody) torture is also used in boarding institutions for children and cases of violence and cruel behaviour of teachers towards children have been registered notably in the following regions: the Republic of Buryatia, Comy; Tyva; the town of Saint-Petersburg⁸⁴.

Furthermore, the General Prosecutor Office of the Russian Federation conducted a survey in 2004 on the implementation of the legislation on the rights of the child in the 32 subjects of the Russian Federation. The results were reported by the General Prosecutor of the Russian Federation, V. Ustinov, to the President of Russia.

According to this survey, in almost half of the regions comprising Russian Federation the legislation on the rights of the child is either not implemented or implemented at all in a way which is inconsistent with the dispositions of the Convention on the Rights of the Child.⁸⁵ In several regions, cases have been noted where the local judicial acts, adopted by local authorities, do not correspond to the federal legislation on the rights of the child.

83 - NGO Newsletter, Legislative Process in the State Duma: Human Rights Analysis, Issue 56, Short version, April 29, 2003; available at www.demokratia.ru/en/analyst/reviewlaws/archive/2003/Legislative_Process_56.doc

84 - "The general public prosecution has discovered breaches in the implementation of the rights of the child almost in half of the regions of Russia", p.2 at <http://detirossii.ru/News-Libr-st-doc>.

85 - "The general public prosecution has discovered breaches in the implementation of the rights of the child almost in half of the regions of Russia", p.1 at <http://detirossii.ru/News-Libr-st-doc>.

VI - The administration of juvenile justice

A reduction in the State budget has led to the decay of the child protection and social welfare systems, leaving those most negatively affected by socio-economic hardship without adequate support. Only when children come in conflict with the law, either by committing offences or by simply disturbing public order, do they fully attract public attention. OMCT would like to remind the Russian authorities that the great majority of children in conflict with the law are those most in need of support, and they are often victims of violence themselves, and can become key players in the country's socio-economic stability if they are adequately supported. OMCT is also convinced that prevention is a key aspect to the struggle against juvenile delinquency.

6.1. Legal framework

The Third Periodic Report on the implementation of the rights of the child in the Russian Federation states that a number of actions have been undertaken by the Russian government in order to install the protection of the rights of children in the judicial framework.⁸⁶

In particular, the following legislative acts have been adopted:

- 1) The federal law of 1998 on the main guarantees of the rights of the child in the Russian Federation installs the guarantee of the rights of the child in all aspects of social life, including the Russian judicial system.
- 2) The federal law on the modifications to be implemented into the Criminal Code, the Criminal Procedural Code, the Criminal Executive Code of the Russian Federation and other legislative acts of the Russian Federation dated 2001. This law has changed the Criminal Code in several ways:
 - i. it established a single regime for chil-

dren, instead of having a so-called colony regime;⁸⁷

ii. it changed article 108.4 in the sense that it compelled the administration of the rehabilitative institutions to increase efforts to allow detainees to acquire basic compulsory education and the highest possible professional education.

3) The Criminal Procedural Code of the Russian Federation came into force in July 2002. It contains a revised, more human approach towards the trial procedure of a child offender, with a focus on the respect of child's rights and its guarantees.

4) The federal law concerning the activity of a lawyer and law firms in the Russian Federation of 2002. This law provides for a lawyer's assistance to children and the costs in this case are carried by the government. It also allows children from closed educational institutions to have a right to the free services of a lawyer.

5) The federal law concerning the foundations of the system of prevention of homelessness and breaching of law by children of 1999. This law establishes the creation of rehabilitative programmes and procedures for children sentenced to non-jail terms and

for children whose cases are stopped for non-rehabilitative reasons.

Since there is no genuine juvenile justice system in the Russian Federation, in the absence of provisions particular to children, general provisions apply for children, that is to say even children aged between 14 and 18 who could be considered as criminally responsible.

Several steps are currently being undertaken by the Russian government in order to establish a system of juvenile justice. An important step was made on 15 February 2002 when the State Duma, with an absolute majority of votes in the First Reading, passed the addition to the Federal Constitutional Law "On the system of courts in Russian

87 - The colony type institutions for adult offenders in Russia or PKTs, as they are called in Russian, exist under several forms⁹²:

1) a minimum security ("general regime") type colony for male non-violent first-time offenders and for all female offenders except those found to be "especially dangerous repeat offenders" by the court;

2) a medium security ("strengthened regime") colony for males convicted for the first time for serious crimes;

3) a medium to maximum security ("strict regime") colony for male and female "especially dangerous repeat offenders";

4) a maximum security ("special regime") colony for "especially dangerous male repeat offenders";

5) open-prison settlements that are institutions of the half-closed type for those convicted for the first time for non-premeditated crimes and for prisoners, who have been transferred from minimum, medium and medium to maximum security-colonies by the decision of the court. PKTs of various security levels differ according to detention conditions and restrictions. In general, the administration of PKTs and pre-trial detention centers decide whether to send a convict to a specialised PKT or a prison hospital.

Federation”, the goal of which was to introduce the very notion of Juvenile Court into this basic law⁸⁸. This was the first of three laws from the package of laws on juvenile justice which the head of the Russian delegation spoke about at the CRC “Russian” Session on 23 September 1999. However, since, the process of adopting laws on juvenile justice was stopped and until now the laws are not considered by the State Duma, regardless of efforts which triggered officially expressed support from Supreme Court, the government, and other State institutions.

Meanwhile, there has been some progress in establishing juvenile justice in some Russian regions, particularly in the region of Rostov where a first Russian Juvenile Court was opened in the town of Taganrog. However, on the whole, OMCT remains somewhat pessimistic regarding essential progress in regions in the absence of adoption of federal laws on juvenile justice⁸⁹.

a) Minimum age of criminal responsibility

As explained in chapter II of this report, in conformity with the 1996 Criminal Code, the lower age limit for criminal responsibility has been set in an alternative way. Meaning that individuals who have reached 16 years of age at the time of perpetrating an offence, have general criminal responsibility for any type of offence (article 20 § 1 of the Criminal Code). For some offences (in general serious offences), criminal responsibility commences at the age of 14.⁹⁰ OMCT considers the second paragraph of article 20 CC to be a clear violation of article 40 para. 3 a) of the CRC which states that State Parties shall set up “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law”.

88 - “Russian NGOs’ Alternative Report – Comments to Russia’s Federal “Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child”, of 10 February 2005, p. 9.

89 - “Russian NGOs’ Alternative Report – Comments to Russia’s Federal “Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child”, of 10 February 2005, p. 10.

90 - Article 20 para. 2 of the Criminal Code states that “Persons who have attained fourteen years of age at the time of commission of a crime shall be subject to criminal responsibility for homicide (article 105), intentional causing of grave harm to health (article 111), intentional causing of average gravity of harm to health (article 112), stealing of a person (article 126), rape (article 131), forcible actions of sexual character (article 132), theft (article 158), open stealing (article 161), assault with intent to rob (article 162), extortion (article 163), unlawful taking possession of automobile or other means of transport without purpose of stealing (article 166), intentional destruction or damaging of property under aggravating circumstances (art 167 para. 2), terrorism (article 205), taking of hostage (article 206), knowingly false communication concerning act of terrorism (article 207), hooliganism under aggravating circumstances (article 213 para. 2 and 3), vandalism (article 214), stealing or extortion of weapon, ammunition, explosive substances or explosive devices (article 226), stealing or extortion of narcotic means or psychotropic substances (article 229), and bringing means of transport or railways into unfitness (article 267).

b) Legal procedures applicable to children

General principles

During the period from 1998 to 2002, a certain number of modifications have been made to the Russian juvenile justice legislation. For example, articles 14 and 20 of the Criminal Code, chapter 17 of the Criminal Executive Code, chapter 11 of the Family Code have been modified regarding the rights of children.⁹¹ All these modifications aim at guaranteeing more judicial rights to implement the rights of the child. For instance, in the Criminal Code, it is prohibited to begin investigations concerning a crime which is not registered in the Criminal Code or if the crime is missing. The investigation of the case can only take place with the agreement of the prosecutor. The legal representative of the child has a significant role to play in the investigation. The child can be found guilty only upon the decision of the court. The presumption of innocence remains a Constitutional principle for everybody (article 49).

Principles applicable to a child who has been arrested

- 1) the time period during which a protocol of arrest should be formed is 3 hours after the arrest;
 - 2) the prosecutor should become informed of the arrest of the child in a period of 12 hours (article 92);
 - 3) the child should be informed in maximum 24 hours about the reason for his arrest and be questioned;
 - 4) the prosecutor should inform the family of the arrested child in a period of 12 hours after the arrest (article 46.2, 96);
 - 5) from the moment the child is arrested, he/she has a right to a lawyer and to be questioned in his presence (article 425). If the lawyer is hired upon the order of the investigator, then his services to the child will be paid by the government (article 50).
- Prohibition of torture as well as the punishment of abuse of official power and of compelling to give evidence are other rules protecting all citizens including children against possible abuses by police officers (see chapter 5.1 above for further details).

Principles before the court/judge(s)

The court, has a maximum of 14 days to examine the case and take a decision about the crime and the possible measures (article 233.1 Criminal Procedural Code). The time frame for a court to take a decision for a first hearing of the case is: a) 14 days if the offender is kept under guardian surveillance; b) 30 days if he/she is not under surveillance. At the end of the investigation, the child and his representative have the right to be informed of and given all the documents that relating to the case in question (article 217 Criminal Procedural Code).

The following important modification has been brought to the Criminal Procedural Code: upon the acceptance by the child of the crime that he is declared guilty with at the beginning of investigation, the child can demand to be sentenced without having a complex court trial. This demand should be signalled either at the moment the child becomes familiar with the documents, or at the moment of the first hearing in the presence of a legal assistant or lawyer. In this case of “shortened” trial, the child offender is not questioned nor are the witnesses; there is no research of evidence for the crime. In this case, the penalty should not exceed two-

thirds of the maximum time limit or of the highest punishment for the particular type of crime for which the child is responsible (chapter 40).⁹² This legislation could lead to abuses as the child offender may who lack a legal assistant and therefore be unaware of the above, which is often the case (see further in chapter 5.2. a) Inadequate implementation of the proceedings).

A psychologist can take part in the child’s trial and by questions to the child to allow the court to take an equitable final decision (article 425 Criminal Procedural Code).

In conformity with the Criminal Procedural Code of the Russian Federation, the rights, freedoms and interests of children from 14 until 18 years of age should be defended by the legal representatives of these children. However, if the minor wishes, the court should let the child in question participate in defending her own rights, in conformity with article 37 § 3. In some situations provided by the federal law concerning cases of civil, family, labour, or of another nature, the child from 14 until 18 years of age is in a position to defend his rights and freedoms⁹³. Until the child is 14 years of age, his rights should obligatory be represented by his/her legal representatives – parents, guards, trusteeship persons.⁹⁴

92 - The Third Periodical Report on the Implementation of the rights of the child in the Russian Federation, p. 60.

93 - The Criminal Code of the Russian Federation, article 37 § 4.

94 - The Criminal Code of the Russian Federation, article 37 § 5.

c) Sanctions applicable to a child offender

The sanctions applicable to children who have committed a crime are covered by section V “Criminal Responsibility of Minors” of the Criminal Code of the Russian Federation, articles 87-96.

According to article 87 § 2 of the Criminal Code of the Russian Federation, “to minors who have committed a crime compulsory measures of educational influence may be applied or punishment may be assigned to them”.

Articles 90 and thereafter deal with compulsory measures of educational influence. Article 90 covers the situation where “a minor who has committed a crime of minor or average gravity may be relieved from criminal responsibility if it is deemed that his reform may be achieved by means of the application of compulsory measures of educational influence”.⁹⁵ It also lists the types of compulsory measures of educational influence that may be assigned to a minor.

Article 91 describes the content of compulsory measures of educational influence which can be assigned to a minor. Article 92 lists the conditions under which a minor can be relieved of punishment by substituting the

initial assigned punishment with the application of compulsory measures of educational influence provided for by article 90 of the Criminal Code.

Article 88 § 1 establishes the types of punishments which could be assigned to minors, that is, “persons who at the time of the commission of a crime were fourteen years of age but not eighteen years of age” (article 87 § 1):

- 1) fine (a fine is given for a conviction ranging between 2 weeks and 6 months);
- 2) deprivation of right to engage in determined activity;
- 3) obligatory tasks (they range from 40 to 160 hours; if this type of punishment is assigned to persons under 15 years of age, then the number of daily hours for this category of persons should not exceed 2 hours, and for persons between 15 and 16 years of age, then the number of hours should not exceed 3 hours daily);
- 4) correctional tasks (they are assigned for a conviction under one year);
- 5) arrest (as a measure decided by a court; in this case the arrest is assigned to “a

minor convicted person who has attained sixteen years of age at the moment of the rendering of judgment by the court, for a term of from one up to four months”(article 88 § 5));

6) deprivation of freedom for determined period (this shall be assigned to a minor convicted person who has committed a crime for a term not exceeding ten years and who is placed in a socio-educational institution).

The Federal Law of 8 December 2003 amended article 88 CC which now provides that, in case of deprivation of liberty, the lowest limit of punishment for committing a grave or especially grave crime shall be reduced by one-half.

A court may give an instruction to the agency executing the punishment concerning records of the minor convicted person when determined peculiarities of his personality are to be treated. Article 89 of the Criminal Code affirms in its paragraph 1 that the assignment of punishment to a minor should take into account the conditions of his life and nurturing, level of mental development, other peculiarities of the personality, and also the influence of older persons on him. Paragraph 2 of the same article states that

minority age as a mitigating circumstance shall be taken into account in aggregate with other mitigating and aggravating circumstances.

Article 93 lists the conditions which provide for a conditional-early relief from serving punishment, applicable to persons who committed a crime at the age of a minor and was sentenced to deprivation of freedom after actually serving. Article 94 states that the periods of limitation established by articles 78 and 83 shall, when relieving minors from criminal responsibility or from serving punishment, be reduced by half. Article 95 describes the periods for cancellation of Record of Conviction applicable to persons who have committed a crime before attaining eighteen years of age.

Another category of measures considered as socio-educational measures may be inflicted on a convicted child. They are as follows⁹⁶:

- 1) a time period of probing, applied to children who committed crimes of light and average harm to health (articles 73 and 90 of the Criminal Procedural Code);
- 2) consultative services are provided to children and their families (Federal law “About the task of lawyers in the Russian Federation”, articles 25 and 26);

96 - Please refer to the Third Periodic Report of the Russian Federation on the implementation of the Rights of the Child in the Russian Federation”, § 305.

3) the establishment of the patronage system specialised in providing education and social bringing up to the child;

4) individual programmes providing educational services to children are also initiated (“Instructions for the Organisation of work of the departments specialised in cases of minors of inner State departments”, article 39).

The Criminal Procedural Code (article 17) determines the rules and conditions of application of the punishment, without deprivation of freedom. The Code underwent modifications in 2001 in order to ‘humanize’ the conditions of those sentenced and serving this kind of punishment.

d) The penitentiary system

The penitentiary system of the Russian Federation gathers both the pre-trial institutions and the institutions for sentenced children.

The following premises welcome children who are waiting for their trial:

- a) military detention centres;
- b) police lockups; administrative “arrest” centre; special intake institution; IVS ((the

Russian abbreviation) of administrative detention centres for those suspected of committing a crime) and finally;

- c) SIZOs – a centre that regroups three categories of detainees: those awaiting trial; those in an investigation detention centre and those in an investigation isolator.

Sentenced children are detained in IU (Russian abbreviation of institutions where those who received prison sentences serve their terms). IUs include IUs of various types including VKs (Russian abbreviation for educational colonies for minors and prisons), IK (Russian abbreviation for correctional colonies for adult offenders), IU hospitals (for convicts who require serious treatment or examination), SPBs (Russian abbreviation for special psychiatric hospitals for convicts declared insane and those who are seriously mentally disturbed as well as for those who became mentally ill while serving their sentence term), disciplinary battalions (Russian abbreviation for special military detachments for servicemen who committed military crimes. This is a closed type institution), SSS (Russian abbreviation for half-open secondary schools for teenagers between 11 and 14 years of age), or SVS (Russian abbreviation for special half-open vocational schools for

juveniles between 14 and 18 years of age).⁹⁷

Prisons are penitentiary institutions for people convicted of serious crimes or who are sent to prison by the court from IKs for persistent violations of the colony's internal regulations. Convicts serving time in different security levels (minimum, medium, medium to maximum) are kept in separate blocks of the prison. There used to be special prisons for those who received prison sentence for serious offences and for persistent violators of internal IU regulations. There is a special block for disciplinary punishment in every prison.

6.2. Practice: deficiencies of the system

a) Inadequate implementation of the proceedings

According to official Russian sources⁹⁸, practice shows that in 75 % of cases, the court sentences a child to a formal sentencing,

without sentencing him to a deprivation of freedom. The organ specialised in applying an educational work to the child should strive to make the child develop a deeper sense of respect towards himself and others. However, deprivation of liberty awaiting trial is very often applied.

Moreover, arrest, as a measure of prosecution, is often applied unreasonably. As a rule, arrestees are not released until after their case has gone to court.⁹⁹

Practice also shows that judges often get familiar with cases without the presence of parents or guardians of children, which is a clear violation of the law. Most young offenders cannot afford to hire a skilled defence lawyer. They do not know their rights, do not understand the meaning of legal procedures, and do not know how to write a complaint or any other document relating their cases.¹⁰⁰

b) Conditions of detention of children

Conditions in pre-trial institutions

According to the report issued by Amnesty International "Russian Federation: Summary of concerns on the human rights of women and girls" of January 2002¹⁰¹, in

97 - For more detailed information, please refer to <http://www.prison.org/english/>

98 - Third Periodical Report on the Implementation of the rights of the child in the Russian Federation, pp. 57-58.

99 - Please refer to "Juvenile SIZO Prisoners" at <http://www.prison.org/english/rpovcj.htm>, p.1.

100 - Please refer to "Juvenile SIZO Prisoners" at <http://www.prison.org/english/rpovcj.htm>, p.1.

101 - Please refer to <http://web.amnesty.org/library/Index/>.

2001 the Russian Human Rights Commissioner described the conditions in Russian prisons as “horrible” and said that the pre-trial detention centres had become “hotbeds of epidemics”, while some judges “continue to be guided by the categories of the past”, which only exacerbates the conditions of detention in Russia’s prisons¹⁰².

Moreover, according to the Moscow Centre for Prison Reform, a local NGO,¹⁰³ the conditions in the penitentiary institutions of all types in Russia are worrisome. In general, in these institutions medical services are inadequate. Cases were reported of a considerable number of juveniles who had scabies and who didn’t receive any treatment for 23 weeks in spite of the fact that they asked to see a doctor. Women prisoners, as well as girls were not supplied with necessary sanitary material and toilet articles¹⁰⁴.

The number of staff working with minors is inadequate. In fact, it’s the existing lack of control over the detained minors that allows violence and suicide attempts to take place. Practice shows that girls file almost no complaints about conditions of detention or violations of their rights to governmental bodies or to non-governmental organisations because this is punished by other inmates, according to informal rules among prisoners.

For instance, the following case of violence was reported in girls’ cell: in the Butyrka pre-trial detention centre one girl, Marina R., was almost raped with a hot water boiler. It was by mere chance that the girl was spared – a prison official happened to be near the door and overheard a conversation. This official opened the door and let the girl out. The incident was under departmental investigation but the investigation brought no results. The reason for this was the fact that the investigation only started several months later.

It appears to be almost impossible to avoid violence and torment in juvenile cells, because according to the informal code of conduct inherent to these groups of prisoners, asking the prison administration for help is a disgraceful act; complainers are tormented in other cells, during transportation to a colony, and in the colony.

These inhuman conditions are accompanied by psychological ill-treatment: juvenile prisoners are not allowed to work, continue education, or receive books and newspapers from their relatives; books from prison library are not often available, on week days inmates receive only one newspaper per cell.¹⁰⁵

102 - Please refer to <http://web.amnesty.org/library/Index/>.

103 - Please refer to <http://www.prison.org/english/rpovcj.htm>, p.1.

104 - Please refer to <http://www.prison.org/english/rpovcj.htm>, p.1.

105 - Please refer to <http://www.prison.org/english/rpovcj.htm>, p.1.

Conditions for sentenced child prisoners

There is no separate juvenile justice system in Russia, and the situation of juvenile detainees remains particularly worrisome¹⁰⁶. In June 2001 officials from the Main Directorate for Execution of Punishment (GUIN) at the Ministry of Justice stated that over 17,000 sentenced juveniles were currently imprisoned in 64 special colonies for adolescents. According to official information, 10 colonies had recently opened in former army and Interior Troops barracks which had been transferred to the Ministry of Justice's jurisdiction. Officials also stated that 55 % of juveniles in the prison system had been convicted of theft and 10 % of robbery, which under Russian law is punishable by five to six years' imprisonment. According to figures from Amnesty International, there are of up to 3,000 cases in which petitions for clemency had been returned by the President of the Russian Federation without consideration – the majority of these cases referred to minor crimes and first-time offenders, including children.

Considering girl detainees in particular, there are only three prison colonies for girls in the whole of the Russian Federation, which makes it very difficult for the sen-

tenced girls to maintain links with their families or to receive material support from them.

The situation of another category of children that are children of women prisoners is also worrying since mothers with children under the age of three are held in separate facilities, some with very limited visitation rights. According to Amnesty report, the population of these detention facilities exceeds their capacity by 150%. In the facilities situated in the cities of Moscow and St. Petersburg the reported population to capacity is about 300%.¹⁰⁷

CASE OF CHILDREN'S ILL-TREATMENT AND TORTURE IN PRISON

► In 2002, OMCT denounced the serious ill-treatment of Andrei Victorovitch Osenchugov and Alexei Vladimirovitch Shishkin while they were detained in Nizhny Novgorod regional pre-trial detention centre.

The adolescents were arrested on 5 March 2002, together with two other minors, on suspicion of robbery, and were transferred two days later, on the order of the prosecutor of the Sormovski District of the City of Nizhny Novgorod, to the Nizhny Novgorod regional pre-trial detention centre IZ -52/1, in Novgorod.

106 - Amnesty International's report "Concerns in Europe: January - June 2001" at

<http://www.amnestyusa.org/children/document>, p.93.

107 - Please refer to <http://web.amnesty.org/library/Index/>.

In the pre-trial detention centre, Osenchugov was put in a cell together with other minors and an adult person, Mr. Mikhail Petrov Germanovitch. On the 27th and 28th July of 2002, allegedly following an order given by a prison guard, Petrov, joined by another adult named Sergei, severely ill-treated and tortured Osenchugov in order to force him to confess his involvement in several other robberies, which he finally did as a result of the treatment. On 30 July, Shishkin was moved into the cell where Sergei and Petrov were detained and was beaten until he confirmed Osenchugov's statements.

On 5 August 2002, the parents of Osenchugov and an aunt of Shishkin filed a complaint to the prosecutor of Sormovski district and to Mr. Topanov, chief officer of the pre-trial detention centre, alleging the ill-treatment of the two adolescents and calling for an investigation. On 12 August 2002, the families received a letter, signed by Mr Topanov, which informed them that the officers of the pre-trial detention centre IZ-52/1 checked the claim and found no reason to initiate an investigation.

A criminal procedure was opened by the Prosecutor's office regarding the serious ill-treatment of Osenchugov and Shishkin and an official investigation was launched. Finally, the two 17 year old adolescents and the two others were found guilty of robbery and sentenced on 21 October 2002 to 8 years in prison by the judge of the Sormovski district court of Nizhny Novgorod, Mr. Grigoriev. The official investigation, launched at the beginning of October by the prosecutor's office, has confirmed the fact that Andrei continued to be subjected to ill-treatment between August

and October 2002. Andrei was also forced to give false statements denying his ill-treatment.

According to the information received, on 13 November 2002, investigator Elena Valer'evne Zhebko, came to visit Andrei at the detention centre. Andrei requested her presence and assistance to write a statement explaining that he had himself asked Petrov and Sergei to torture him and that his previous declarations were all made up. Later Andrei declared that he had given this new statement of his own will and without his parents' consent. During a short conversation alone with his father, Andrei confessed that he decided to change his statement following threats of further violence. On 21 November 2002, Andrei's parents received a letter from their son, in which he strongly asked his father to address a petition calling for the end of further investigation to the Soviet District Department of Interior.

The case of the two teenagers was reopened by the Nizhny Novgorod Region Prosecution Office on 19 August 2003. The authorities investigating the case have clearly shown their desire to abandon further investigation of the case, and have even put pressure on Andrei Osenchugov's father to write a request to halt the investigation on behalf of his son.

On 19 September 2003 Andrei Osenchugov's father submitted a written statement to the NNCAI. In the statement he informed them that he had visited Andrei in the Arzamas juvenile correction facility, where Andrei had told him that on 16 September 2003 he and Alexei Shishkin had been visited by Major Martynov. Major Martynov

requested that Andrei Osenchugov and Alexei Shishkin write a request to halt the criminal procedure concerning this case. Andrei and Alexei both refused to do this, after which Major Martynov threatened them with being transferred

back to the Nizhny Novgorod Pre-Trial Detention Centre IZ -52/1, where they would be forced to sign a request to stop the procedure.¹⁰⁸

108 - See OMCT website at <http://www.omct.org/base.cfm?page=article&num=3604&consol=close&kwrd=OMCT&rows=2&cfd=1729546&cftoken=49997832>ies received, E/CN.4/2004/56/Add.1, 23 March 2004.

Recommendations by OMCT

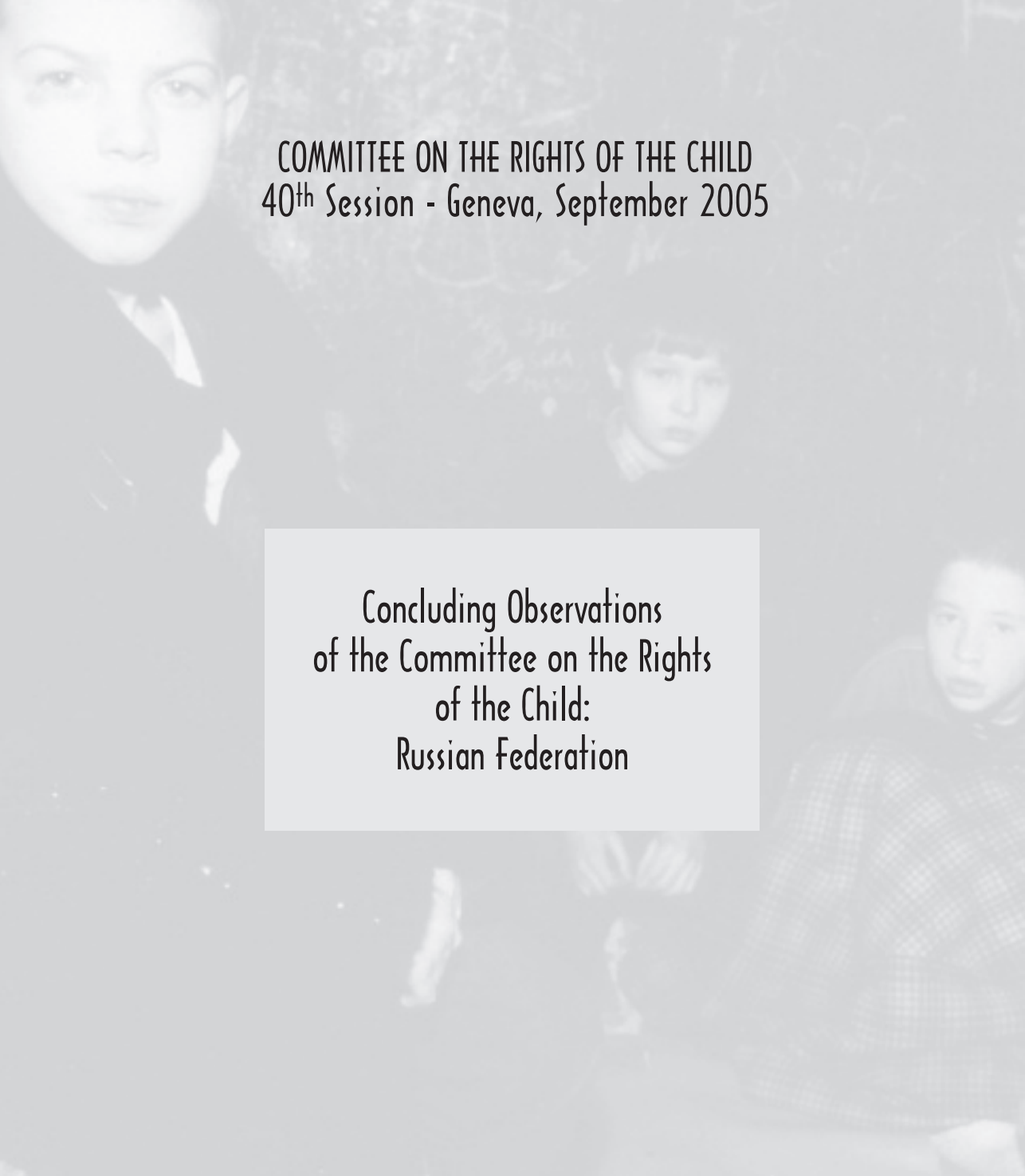
The World Organisation Against Torture (OMCT) would recommend the UN Committee on the Rights of the Child to ask the Russian Federation:

1. To ratify the Hague Convention on Co-operation in respect to Inter-country Adoption, to sign and ratify the Hague Convention on Jurisdiction, Applicable Law, Recognition in respect of Parental Responsibility and Measures for the Protection of Children and the Hague Convention on the Civil Aspects of International Child Abduction.
2. To properly implement the national and international legislation preventing discrimination whatever its purpose. In particular, the Russian Federation should protect with a careful consideration children living in State institutions, street children, HIV-infected children particularly by providing effective social welfare services for all children in need of care.
3. To protect children from the consequences of the war particularly the war in Chechnya in compliance with article 38 paragraph 1 of the Convention on the Rights of the Child.
4. To fight against child domestic violence through campaigns aiming to raise public awareness and educational programmes for the attention of both parents and children and through a more active prosecution of authors of violence against children.
5. To provide an effective protection of children which will function, for example, through the establishment of a system of local monitoring teams of State officials specialised in the repression of the illegal forms of child labour.
6. To protect all children, even those between 14 and 18, from lewd actions especially from the involvement in prostitution and in pornography. In this respect, Russian authorities should prosecute the procurer instead of young prostitutes who are generally forced. The creation of specialised police teams to fight against sexual exploitation

including pornography on internet and procuring as well as trafficking of minors.

7. Concerning trafficking, to define the status of the trafficking victims as well as elaborate mechanisms allowing to assist or protect these victims.
8. To modify the definition of torture laid out in the Criminal Code so that it is fully in compliance with the Convention Against Torture and with a specific broader definition in case of child torture.
9. To vote a provision specifically criminalising torture with more severe sanctions in cases where the victim is a person under 18 years of age.
10. To set up independent mechanisms with independent professionals specialised in child issues (doctors, lawyers, social workers, psychologists, etc.) in order to address the issue of torture and severe violence towards children in all State premises where children live, are detained or kept, etc. The aim of such mechanisms should be the prevention from torture as well as legal actions against the perpetrators.
11. To allow and facilitate the filing of complaints regarding the violation of child rights by the minor him/herself or by his/her representative(s) (parents or legal counsel) when the violation has been committed by a State agents or by the minor him/herself when s/he is victim of violence from a relative.
12. To reform the current juvenile justice system in compliance with the Convention on the Rights of the Child and other international standards such as the Beijing Rules and the Riyadh Guidelines and particularly introduce specialised juvenile courts and trained juvenile judges.
13. To provide effective legal assistance to the arrested minor from the first hours of his/her arrest. Adequate trained lawyers or paralegals should be available in all regions, including the smaller localities, to assist and defend the rights of the child involved in the judicial system.
14. To comply with article 40 paragraph 3 a) of the Convention on the Rights of the Child and article 4 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

15. To ensure that a person who has committed an offence being under 18 years old will not be deprived of his/her freedom for more than ten years and will not be detained in an adults' prison.
16. To ensure that no child is detained in a special block for disciplinary punishment and, in any case, to ensure that no child submits corporal punishment from the guards or other inmates.
17. To use deprivation of liberty only as a measure of last resort and particularly reduce the use of pre-trial detention of children to exceptional cases as well as the use of arrest as a measure of prosecution.
18. To ensure that judges properly apply the proceedings specific to minors in conflict with the law such as the presence of the parents or guardians of the child when dealing with his/her case.



COMMITTEE ON THE RIGHTS OF THE CHILD
40th Session - Geneva, September 2005

Concluding Observations
of the Committee on the Rights
of the Child:
Russian Federation

Consideration of Reports submitted by States parties under articles 44 of the Convention on the Rights of the Child

1. The Committee considered the third periodic report of the Russian Federation (CRC/C/125/Add.5) at its 1076th and 1077th meetings (see CRC/C/SR.1076 and 1077), held on 28 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's third periodic report, which follows the guidelines for reporting and includes information on follow-up given to the Committee's previous recommendations (CRC/C/15/Add.110). The Committee also welcomes the State party's written replies to its list of issues (CRC/C/Q/RUS/3), which allowed for a better understanding of the situation of children in the Russian Federation, and notes with appreciation the informative and constructive dialogue with the delegation of the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the following legislative developments:

(a) The adoption in December 2001 of a new Labour Code which, inter alia, increased the protection of minors against harmful working conditions;

(b) The amendments made to the Criminal Procedure Code in July 2002 providing for a more humane approach in the procedure for trials of child offenders that focuses on the child's rights and provides guarantees that they will be respected, and which have resulted in a reduction in the number of minors brought before the criminal justice system and the number of minors sentenced to deprivation of liberty;

(c) The adoption in December 2003 of a federal law "On the introduction of changes and amendments to the Criminal

Code of the Russian Federation”, which defines torture;

(d) The recent introduction of norms prohibiting the trafficking of human beings in the Criminal Code of the State party;

(e) The amendments made to the Criminal Code (by Federal Law No. 162) which increases the degree of responsibility for using children in the production of pornography. This law also increased the penalties for the exploitation of minors in prostitution-related activities and increased the age of the consent from 14 to 16 years.

4. The Committee welcomes the introduction in the school curricula of the subject “Citizenship”, which also includes education on human rights.
5. The Committee welcomes the ratification in December 2003 of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
6. The Committee also welcomes the numerous specific measures and targeted

programmes for the implementation of the Convention on the Rights of the Child.

C. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Committee’s previous recommendations

7. The Committee regrets that some of the concerns it expressed and the recommendations it made (see CRC/C/15/Add.110) after its consideration of the State party’s second periodic report (CRC/C/65/Add.5) have not been sufficiently addressed, inter alia those concerning dissemination of information on the Convention, non-discrimination, protection from torture and corporal punishment, ill-treatment, neglect and abuse, review of placement of children, children with disabilities, children and armed conflict and their recovery, street children, sexual exploitation and abuse, and administration of juvenile justice.

8. The Committee urges the State party to make every effort to address the previous recommendations that have been only partly implemented or not implemented at all, and the list of recommendations contained in the present concluding observations.

Legislation and implementation

9. While the Committee notes that laws have been adopted and amended with a view to ensuring better implementation of the Convention in the State party, it is concerned about the negative impact Federal Law No. 122 could have on the enjoyment of the rights of children in the State party. The Committee welcomes the efforts of the State party to establish national minimum standards for the availability of and access to social services and benefits, but remains concerned at the lack of specific information on the effective implementation of these standards.

10. The Committee recommends that the State party:

- (a) Undertake a comprehensive analysis of the consequences of the decentraliza-

tion process and its impact on the provision of social services, evaluating roles and capacities at the different levels; and

- (b) Ensure that the minimal standards for the enjoyment of the rights of children are fully and effectively implemented in the context of the decentralization foreseen by Federal Law No. 122 in order to prevent disparities in the enjoyment and protection of children's rights.

Coordination

11. While the Committee notes that the Government has improved the coordination mechanisms relating to child rights through the creation of the Governmental Interdepartmental Commission on coordination of implementation of the Convention on the Rights of the Child, it notes with concern that this body was abolished in March 2004 and that recent decentralization under Federal Law No. 122 was not accompanied by the adoption of the necessary coordination instruments.

12. The Committee recommends that the State party strengthen its efforts to

improve the coherence and coordination of efforts on behalf of children and young people so as to ensure adequate cooperation among central and local authorities as well as cooperation with children, young people, parents and non-governmental organizations. It also recommends that a coordinating entity for the implementation of the Convention on the Rights of the Child be re-established for this purpose, which should be provided with the mandate and necessary human and financial resources to be able to ensure effective coordination between the federal and regional levels.

Independent monitoring structures

13. The Committee welcomes the establishment of the Federal Commission for Human Rights as well as 18 out of 38 regional Offices of Ombudsmen for Children's Rights. However, it notes with concern that a Federal Office of the Ombudsman for Children's Rights has yet to be established.
14. The Committee recommends that the State party continue its efforts to establish regional Offices of Ombudsmen for

Children's Rights in all regions and ensure that they are provided with sufficient funds and personnel to enable them to function effectively. It also recommends that the State party give further consideration to the establishment of a Federal Office of the Ombudsman for Children's Rights. In this regard, the State party should take into account general comment No. 2 (2002) on the role of independent human rights institutions.

National plan of action/coordination

15. The Committee notes with concern that since 2000 the State party has not had an overall national plan of action. It nevertheless welcomes the information that a national strategy, entitled "Basic directions for improving the situation of children in the Russian Federation", calling for the inclusion of national principles for the implementation of the Convention in various sectoral plans of action, has been established. It is concerned, however, about the integrated and coordinated implementation of this strategy via the various sectoral plans of action.

16. The Committee recommends that the State party ensure that the new national strategy and the related action plans cover all areas of the Convention and take into account the outcome document of the 2002 General Assembly special session on children, “A world fit for children”. The Committee also recommends that the State party ensure comprehensive and effective coordination of the implementation of the national strategy and the related plans of action at the federal and regional levels, inter alia with a view to preventing unjustifiable disparities. The Committee further recommends that the State party ensure that sufficient human and financial resources are allocated for the timely and effective implementation of the national strategy and that it promotes and facilitates the active involvement of children and youth, parents, NGOs and other interested and relevant bodies. It also recommends that indicators and benchmarks be developed for monitoring and evaluating the strategy.

Data collection

17. While taking note of the efforts made by the State party in the area of data col-

lection, the Committee remains concerned at the lack of an adequate data collection mechanism allowing for the systematic and comprehensive collection of disaggregated quantitative and qualitative data on all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies conducted with respect to children.

18. The Committee recommends that the State party strengthen its efforts to establish a comprehensive and permanent mechanism within the national statistical system to collect data, disaggregated by gender, age, and rural and urban area, incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those who are particularly vulnerable: children with disabilities, children in conflict with the law, refugees and trafficked children. The State party should also develop indicators to monitor and evaluate effectively progress achieved in the implementation of the Convention and assess the impact of policies that affect children.

Resources for children

19. The Committee is concerned that with the introduction of Federal Law No. 122 the range of services available to children may vary considerably between regions of the State party. It is also concerned that insufficient resources will be allocated for child-related programmes and policies at the regional level. The Committee is also seriously concerned that widespread corruption, inter alia in the health and education sectors as well as in adoption procedures, is affecting children in full enjoyment of their rights.
20. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention and ensure a balanced distribution of resources throughout the country in order to prevent unjustifiable disparities in the availability of and access to social and other services for children. It should also prioritize budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups, “to the maximum extent of ... available resources and, where needed, within the

framework of international cooperation”. The State party should seriously address and take all necessary measures to prevent corruption.

Training/dissemination of the Convention

21. The Committee is concerned that despite measures taken by the State party in this area, awareness of the Convention among children and youth remains low and that not all professionals who work with and for children receive adequate training in children’s rights.
22. The Committee recommends that the State party establish a comprehensive policy with a view to strengthening its efforts to ensure that the provisions and principles of the Convention are widely known and understood by adults and children alike (for example, using radio and television). It also recommends that adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, teachers, health personnel, psychologists, social workers and personnel in childcare institutions, be strengthened.

2. General principles

Nondiscrimination

23. The Committee is concerned at reports of incidents of discrimination against children belonging to different religious and ethnic minorities. It is also concerned that children belonging to minorities, and in particular Roma children, are more likely to be restricted in the full enjoyment of their rights, in particular with regard to health and education services. The Committee is also concerned at the discrimination faced by children and families without residence permits.
24. The Committee recommends that the State party take all necessary measures to prevent and combat all forms of discrimination, inter alia via national and regional awareness campaigns and effective interventions in all incidents of discrimination, while paying special attention to the most vulnerable groups such as children belonging to religious and ethnic minorities, Roma children and children of parents without a residence permit.

25. The Committee also requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 (2001) on the aims of education.

Best interests of the child

26. While the Committee notes that the majority of laws and programmes in the State party refer to the principle of the best interests of the child, it is concerned that this principle is limited in practice owing to the lack of adequate financial resources and training courses as well as societal attitudes.
27. The Committee recommends that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood and appropriately integrated and implemented in all legal provisions as well as

in judicial and administrative decisions and in projects, programmes and services that have an impact on children.

Right to life

28. The Committee reiterates its previous concern about the incidence of infanticide in the State party, the number which has not declined.

29. The Committee urges the State party to undertake a study on the causes of infanticide in the State party and carry out all necessary preventive measures.

Respect for the views of the child

30. The Committee welcomes the efforts made by the State party to promote respect for the views of the child, but it remains concerned that article 12 of the Convention is not adequately applied in families, schools and other institutions and not fully taken into account in practice in judicial and administrative decisions and in the development and implementation of laws, policies and programmes.

31. The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child, including children who are members of vulnerable and minority groups, to participate in the family, at school, in other institutions and bodies and in society at large. This right should also be incorporated in all laws, judicial and administrative decisions, policies and programmes relating to children. The State party should also ensure that adults who work with children and young people show them respect and are trained to ensure that children are effectively able to express their views and that their views are taken into account. The State party should also provide a toll-free, three-digit telephone service available 24 hours a day, to receive calls relating to the needs of children.

3. Civil rights and freedoms

Torture and other cruel, inhuman or degrading treatment or punishment

32. The Committee is concerned that persons under 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or during the pretrial stage of legal proceedings. Access to legal counsel and/or medical services and to their families also seems to be limited for young persons in police custody. The Committee is also concerned that the procedures for complaining about these abuses may not be child sensitive, do not allow children to file complaints without the consent of their parent/legal representative, and have not proven to be efficient.

33. The Committee recommends that the State party:

(a) Take all necessary measures to prevent acts of torture or inhuman or degrading treatment or punishment, in particular through training of the police forces;

(b) Take measures to investigate, prosecute and punish those who commit acts of torture or inhuman or degrading treatment or punishment against children and young persons;

(c) Establish programmes for the recovery and social reintegration of the victims;

(d) Strengthen the mechanisms for children to file complaints and enable children to do so without requiring the authorization of their parent/legal representative.

34. The Committee is also concerned about the use of torture and other cruel, inhuman or degrading treatment or punishment in boarding and other educational institutions in the State party.

35. The Committee urges the State party to ensure that educators and other professionals working in institutions are informed of the prohibition on subjecting children to acts of torture and other cruel, inhuman or degrading treatment or punishment.

Corporal punishment

36. The Committee is concerned that corporal punishment is not prohibited in the family and in alternative care settings. It is also concerned that corporal punishment of children remains socially acceptable in the State party and is still practised in families and in places where it has been formally prohibited, such as schools.

37. The Committee urges the State party:

(a) To explicitly prohibit by law all forms of corporal punishment in the family and in alternative care settings;

(b) To prevent and combat the practice of corporal punishment of children in the family, in schools and other institutions by effectively implementing legislation;

(c) To conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory forms of discipline.

4. Family environment and alternative care

Children deprived of their family environment

38. The Committee is concerned at the increasing number of children in institutional care and that efforts to implement a national policy on deinstitutionalization have not been successful. The Committee is also concerned that not enough effort is being made to promote alternative family care arrangements.

39. In light of article 20 of the Convention, the Committee recommends that the State party:

(a) Adopt a comprehensive strategy and take immediate preventive measures to avoid the separation of children from their family environment and to reduce the number of children living in institutions, inter alia by providing assistance and support services to parents and legal guardians in the performance of their child-rearing responsibilities, including through education, counselling and community-based programmes for parents;

(b) Ensure that the placement of children in alternative care is always assessed by a competent, multidisciplinary set of authorities and that the placement is for the shortest period of time and subject to judicial review, and that it is reviewed in accordance with article 25 of the Convention;

(c) Take measures to create an environment that would allow for fuller development of the child and the protection of children against all forms of abuse. Contacts with the family while the child is institutionalized should also be further encouraged, when this is not contrary to the best interests of the child;

(d) Strengthen its efforts to develop a traditional foster care system and other family-based alternative care, by paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child, and strengthen the measures aimed at building the capacities of guardianship and trusteeship agencies;

(e) Ensure that children participate in the evaluation of alternative care programmes and that complaint mechanisms are

created that allow children to submit their complaints.

Adoption

40. The Committee notes with concern that the right of an adopted child to know his or her original identity is not protected in the State party.

41. The Committee encourages the State party to protect the right of the adopted child to know his or her original identity, establishing appropriate legal procedures for this purpose, including recommended age and professional support measures.

42. The Committee takes note that in 2000 the State party signed the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (No. 33). The Committee equally notes that the federal authorities do not exercise sufficient control of foreign adoption agencies with respect to documentation required for adoption, undue payments, and allowing prospective adoptive parents to select the child they will adopt. The Committee notes with concern that in 2003 the

number of intercountry adoptions exceeded the number of domestic adoptions for the first time.

43. The Committee recommends that the State party ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. In the meantime, it recommends that the State party reach agreements with the authorities of receiving countries so as to ensure the suitability of adoptive parents and post-adoption follow-up. The Committee also recommends that the State party establish a system for the accreditation and control of foreign adoption agencies and develop and implement measures to promote domestic adoption.

Periodic review of placement

44. The Committee is concerned about the inadequacy of periodic review of placements of children in institutions and foster homes. It is also concerned that independent inspection mechanisms are not yet in place in children's institutions.

45. The Committee recommends that the State party ensure adequate supervision of the situation of children placed in foster homes or institutions. It should also develop, in coordination with civil society, mechanisms for independent public inspections of children's institutions.

Abuse and neglect, maltreatment, violence

46. The Committee is concerned at reports that a large number of children in institutions are subjected to abuse by their educators. The Committee is also concerned that abused children who are exposed to violence within the family and in institutions do not always receive sufficient care and assistance and that not enough is being done with regard to prevention (and preventive interventions) and awareness-raising in this area.
47. The Committee recommends that the State party continue to strengthen its efforts to provide adequate assistance to children who are exposed to violence within the family and in institutions, including by:

(a) Undertaking a study to assess the extent of violence in institutions and taking measures to punish those responsible for these acts;

(b) Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;

(c) Establishing procedures for reporting and effective investigation of complaints from children of cases of physical and emotional abuse;

(d) Strengthening the legal framework for preventive interventions;

(e) Providing adequate protection to child victims of abuse in their homes; and

(f) Conducting public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline.

48. In the context of the Secretary-General's in-depth study on the question of violence against children and the related questionnaire to Governments, the

Committee acknowledges with appreciation the written replies of the State party to this questionnaire and its participation in the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005. The Committee recommends that the State party use the outcome of this regional consultation as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

5. Basic health and welfare

Children with disabilities

49. The Committee notes with concern that insufficient efforts are being made to include children with disabilities in the mainstream system of education as they are more often than not sent to corrective "auxiliary schools" and "correcting classes". It is also concerned at the significant overrepresentation of

children with disabilities in boarding schools.

50. The Committee recommends that the State party take all necessary measures:

(a) To address the issue of discrimination against children with disabilities;

(b) To ensure that children with disabilities have equal access to services, taking into consideration the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96);

(c) To review the placement of children with disabilities in boarding schools with a view to limiting such placements only to those cases where they are in the best interests of the child;

(d) To provide equal educational opportunities for children with disabilities, including by abolishing the practice of “corrective” and “auxiliary schools”, by providing the necessary support and by ensuring that teachers are trained to educate children with disabilities in regular schools.

Basic health and welfare

51. The Committee notes the information on the numerous programmes and measures taken to improve children’s health, but remains concerned at the standard of health in the State party. However, and notwithstanding the decline in the incidence of tuberculosis, it remains concerned that the number of tuberculosis cases remains high. It also remains concerned about the number of iodine deficiency disorders and the low incidence of breastfeeding in the State party.

52. The Committee is also concerned that the services and programmes established under the reformed system are not fully in compliance with article 24 of the Convention, in particular with regard to the development of primary health care.

53. The Committee encourages the State party:

(a) To enhance preventive interventions in primary health care;

(b) To increase public expenditure on health;

(c) To pass the law on universal salt iodization and ensure its full implementation;

(d) To continue efforts to reduce morbidity due to tuberculosis;

(e) To consider creating a national breastfeeding committee, training medical professionals and improving breastfeeding practices.

Adolescent health

54. While acknowledging measures and new legislation to address the high levels of alcohol and tobacco consumption, the Committee is concerned at the level of tobacco and alcohol consumption among adolescents and notes that there is insufficient promotion of good health practices in the State party, with little targeting of nutrition, smoking, alcohol, fitness and personal hygiene.

55. The Committee is also concerned at the insufficient information concerning adolescent health, in particular with regard to reproductive health. The Committee is also concerned that

contraceptives are not within the financial reach of all, thus limiting their use in the State party, and that there is a high incidence of teenage pregnancies and abortions.

56. The Committee recommends that the State party pay close attention to adolescent health, taking into account general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child; and strengthen its efforts to promote adolescent health, including by providing sexual and reproductive health education in schools and introducing school health services, including youth sensitive and confidential counselling and care. In order to decrease tobacco smoking and alcohol consumption among adolescents, the Committee recommends that the State party initiate campaigns designed especially for adolescents on healthy behavioural choices.

57. The Committee reiterates its concern at the high suicide rate among adolescents in the State party and that no significant effort has been made to prevent suicide among adolescents.

58. The Committee urges the State party to strengthen the health service's resources and improve mental health services, and to take all necessary measures to prevent suicide.

HIV/AIDS

59. The Committee is seriously concerned about the HIV/AIDS epidemic in the State party and that high-risk behaviour among young people (i.e. injecting drug use and risky sexual behaviour) may further increase the number of persons with HIV/AIDS in the future. The Committee is also concerned that little attention is being given to preventive measures.

60. The Committee is also concerned at the increase of mother-to-child transmission of HIV in the State party. It also expresses its concern that children of HIV-infected mothers are persistently discriminated against, whether they are infected with HIV or not, and that they are often abandoned by their mothers and hospitalized for extended periods.

61. The Committee recommends that the State party:

(a) Increase its efforts to prevent the spread of HIV/AIDS, taking into account the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights;

(b) Strengthen measures to prevent mother-to-child transmission;

(c) Guarantee antiretroviral treatment to newborns whose mothers are infected with HIV as well as post-natal monitoring of HIV-positive mothers;

(d) Pay particular attention to children infected by HIV or who have become orphans due to the death of their parents from AIDS, by providing adequate medical, psychological and material support that fully respects the principle of non discrimination;

(e) Undertake a study on the practice in the State party of segregating children of HIV-positive mothers in hospital wards or separate orphanages and of HIV-positive children being refused access to regular orphanages, medical care and educational facilities;

(f) Provide adequate support to HIV-positive mothers to prevent them from abandoning their newborns and allowing them to care for their children;

(g) Launch campaigns and programmes to raise awareness about HIV/AIDS among adolescents, particularly those belonging to vulnerable groups as well as the population at large, so as to reduce discrimination against and stigmatization of children infected with and/or affected by HIV/AIDS; and

(h) Seek technical assistance from, inter alia, UNAIDS, WHO and UNICEF.

6. Social security and childcare services and facilities/standard of living

Adequate standard of living

62. The Committee notes with concern the large number of children living in households with low incomes, and the information provided in the written replies that budgetary allocations for citizens with children have decreased signifi-

cantly. The Committee is concerned that poor living conditions seriously limit children's enjoyment of their rights in the family, in schools, and in peer and cultural activities.

63. The Committee recommends that the State party take all necessary measures to provide support and material assistance to economically disadvantaged families, including targeted programmes with regard to the most vulnerable groups of families, in order to guarantee the right of all children to an adequate standard of living.

7. Education, leisure and cultural activities

Education, including vocational training and guidance

64. Despite some recent encouraging developments, such as measures to decrease the number of children dropping out of school, the Committee remains concerned that different charges for primary school continue to be levied despite the legal guarantee of free primary education.

It is also concerned that Federal Law No. 122 no longer guarantees financial and material support for preschool children and that it cancelled some incentives for teachers working at rural schools. Although the Committee commends the State party for the decrease in the number of adult illiterates and the decrease in the proportion of women illiterates, it is concerned about the number of adolescent illiterates and the increase in the proportion of girls among them. The Committee is also concerned about the lack of transparency in the vocational training system.

65. The Committee recommends that the State party:

- (a) Take the necessary measures to ensure that all children have access to primary and secondary education;
- (b) Take all appropriate measures to ensure that primary education is free, taking into account all direct and indirect costs, such as textbooks, renovations and security arrangements;
- (c) Strengthen efforts to bridge the racial disparity in education, giving special

attention to promoting education of minority-language people;

- (d) Strengthen efforts at teacher training (before and during their service), and address the issue of teachers' salaries and working conditions (in particular in light of Federal Law No. 122);
- (e) Expand and better organize the system of vocational training;
- (f) Fully implement measures to eliminate youth illiteracy, inter alia by providing informal educational opportunities.

8. Special protection measures

Refugee and internally displaced children

66. While the Committee welcomes the access to education provided to refugee children and asylum-seekers in the Moscow region, it is concerned that the remaining regions do not offer such access. It is also concerned that unaccompanied minors do not have access to the national refugee status determination procedure because they lack a

guardian. The Committee is also concerned that the issuance of birth certificates to children born to refugees and asylum-seekers is often made contingent upon being registered.

67. The Committee recommends that the State party:

(a) Take the necessary legislative and administrative measures to ensure that refugee, asylum-seeking and internally displaced children enjoy access to education in all parts of the Russian Federation;

(b) Ensure that unaccompanied and separated minors have access to the national refugee status determination procedure and subsequent assistance by establishing specific and clear procedures;

(c) Assign clear administrative responsibilities to a specific State authority for the appointment of a legal guardian for unaccompanied or separated children;

(d) Introduce specific administrative regulations or directives providing for automatic birth registration of, and issuance of birth certificates to, children born to

refugees and asylum-seekers residing in the Russian Federation, and take the necessary measures to ensure that birth certificates are issued to all internally displaced persons in Chechnya for their children born in Ingushetia.

Children affected by conflict

68. The Committee remains concerned that children living in Chechnya and the Northern Caucasus (and in particular internally displaced children) remain very deeply affected by the conflict, in particular with regard to their rights to education and health. The Committee is also concerned about reported cases of arrests and disappearances by security agents of young persons suspected of being associated with insurgency groups. The Committee is concerned that there has been limited identification and marking of mined areas, or efforts to clear mines, notwithstanding the recent ratification by the State party of Protocol II, as amended, to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

69. The Committee recommends that the State party strengthen the measures taken to protect children from the consequences of the conflict in Chechnya and in the Northern Caucasus, in compliance with article 38, paragraph 1, of the Convention on the Rights of the Child, in particular with regard to their rights to health and education. It also urges the State party to take measures to ensure that abuses committed by the security forces against the personal security of children cease. The Committee further recommends that the State party further its efforts to clear mines and ratify the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

70. The Committee is also concerned at the regulation “On enrolling underage citizens of the Russian Federation as wards of military units and providing them with essential allowances”, which permits boys between the ages of 14 and 16 to be voluntarily recruited and attached to military units.

71. The Committee urges the State party to review the regulation “On enrolling

underage citizens of the Russian Federation as wards of military units and providing them with essential allowances” to ensure that it complies fully with the Convention on the Rights of the Child, in order to prevent the recruitment of children who have not completed their regular education for military units.

Child labour

72. The Committee welcomes the ratification by the State party of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, with a view to extending special protection to children. However, it also notes reports that children in the State party work in the streets, within the family, or elsewhere in exploitative situations or to such an extent that regular school attendance is impeded.

73. The Committee recommends that the State party, in accordance with article 32 of the Convention and ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment and No. 182, which the State party has ratified:

(a) Take steps to ensure the implementation of article 32 of the Convention and ILO Conventions Nos. 138 and 182, taking due account of the ILO Minimum Age Recommendation, 1973 (No. 146) and the Worst Forms of Child Labour Recommendation, 1999 (No. 190);

(b) Strengthen efforts to establish control mechanisms to monitor the extent of child labour, including unregulated work, address its causes with a view to enhancing prevention and, where children are legally employed, ensure that their work is not exploitative and is in accordance with international standards;

(c) Seek cooperation from ILO International Programme for the Elimination of Child Labour in this regard.

Street children

74. The Committee expresses its concern at the increasing number of street children and their vulnerability to all forms of abuse and exploitation, as well as the fact that these children do not have access to public health and education services.

The lack of a systematic and comprehensive strategy to address the situation and protect these children is also of concern to the Committee.

75. The Committee recommends that the State party:

(a) Undertake a comprehensive national survey of the number, composition and characteristics of children living and working in the streets in order to design and implement comprehensive strategies and policies to prevent and combat all forms of abuse and exploitation;

(b) Promote and facilitate the reunification of street children with their parents and other relatives or provide alternative care, taking into account the children's own views; the State party should ensure that local Governments are given sufficient resources to provide these services;

(c) Ensure that street children are provided with adequate nutrition and shelter, as well as with health care and educational opportunities, in order to support their full development, and provide these children with adequate protection and assistance;

(d) Raise awareness about children living in the streets in order to change negative public attitudes about them; and

(e) Collaborate with non-governmental organizations working with street children in the State party and with children themselves, and seek technical assistance from, among others, UNICEF.

Drug abuse

76. The Committee welcomes the various measures taken to prevent and combat drug abuse among children, resulting in a decrease in drug addiction, but remains concerned at the still high number of children who consume drugs in the State party. It is also concerned that children are involved in drug trafficking.

77. The Committee recommends that the State party:

(a) Provide children with accurate and objective information about the harmful consequences of drug abuse and take measures to prevent their involvement in drug trafficking;

(b) Ensure that children who use drugs are not treated as criminals but as victims, and are provided with proper assistance and counselling;

(c) Undertake a study to carefully analyse the causes and consequences of this phenomenon and use the outcome of the study to increase its efforts to prevent the use of drugs;

(d) Develop recovery and reintegration services for child victims of drug abuse.

Sexual exploitation and sexual abuse

78. The Committee is concerned about the large number of children and young people being sexually exploited in the State party. It is concerned that teenage prostitution is an acute problem in the State party. It is also concerned that children aged 14 to 18 years old are not legally protected from involvement in prostitution and pornography.

79. In light of articles 34 and other related articles of the Convention, the Committee recommends that the State party:

(a) Strengthen measures to prevent and combat sexual exploitation and abuse of children;

(b) Ensure that reports of cases of sexual exploitation and sexual abuse be investigated (taking due account of the rights of victims) and that perpetrators are prosecuted and punished appropriately;

(c) Ensure that children's testimonies are recorded in an appropriate way and that the persons conducting the hearing have the necessary specialist qualifications;

(d) Take measures to ensure that children aged 14 to 18 are legally protected from involvement in prostitution and pornography; and

(e) Conduct a comprehensive study to assess the causes, nature and extent of abuse of children with a view to developing strategies to tackle sexual exploitation, trafficking and the use of children in pornography.

Sale, trafficking and abduction

80. While welcoming the recent introduction in the Criminal Code of norms prohibiting the trafficking of human beings, the Committee is concerned that not enough is being done to implement these provisions effectively. The Committee also expresses its concern that protection measures for victims of trafficking of human beings are not fully in place and that reported acts of complicity between traffickers and State officials are not being fully investigated and sanctioned.

81. The Committee encourages the State party to increase its efforts to ensure effective institutional coordination in the full implementation of the new provisions relating to trafficking of human beings. It should ensure that victims of trafficking are protected and that their status and rights are further defined. It also encourages the State party to focus more of its programmatic activities on prevention work, as well as to investigate reported acts of complicity between traffickers and State officials.

82. The Committee takes note that the State party has signed, although not yet ratified,

the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

83. The Committee encourages the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings.

Administration of juvenile justice

84. The Committee is concerned that the State party, notwithstanding several legislative attempts, has not yet established specific federal procedures and courts for juvenile offenders to be dealt with separately under the justice system.

85. The Committee is also concerned at:

(a) The inadequate research, studies and evaluation mechanisms on prevention

activities or on the adequacy of existing measures;

(b) The stigmatization of children in conflict with the law;

(c) The lack of alternative measures of detention and forms of reintegration for children in conflict with the law;

(d) The lack of appropriate places for persons under 18 who have been deprived of their liberty, who are often detained together with adults;

(e) The poor material conditions of detention of persons under 18 deprived of their liberty;

(f) The inadequate access to education for persons under 18 in detention;

(g) The inadequacy of measures to monitor the situation of minors in conflict with the law but who have not been sentenced to deprivation of liberty and who do not benefit from adequate curative and educational measures.

86. The Committee recommends that the State party ensure that juvenile justice

standards are fully implemented, in particular articles 37, 40 and 39 of the Convention and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, and in the light of the Committee's 1995 discussion day on the administration of juvenile justice. In this regard, the Committee encourages the State party, as a matter of priority:

- (a) To ensure that children under the age of criminal responsibility are not treated as criminals;
- (b) To expedite its work on reform of the system of juvenile justice to allow for those under 18 to be tried by a specific juvenile justice system and not by the ordinary justice system;
- (c) To develop an effective system of alternative sentencing for persons under

18 in conflict with the law, such as community service or restorative justice, with a view to ensuring that deprivation of liberty is used as a measure of last resort;

- (d) To guarantee that all children have the right to appropriate legal assistance and defence;
- (e) To apply the provisions of the Criminal Procedure Code regarding pre-trial detention;
- (f) To take the necessary measures to make the deprivation of liberty as short as appropriate, inter alia by using suspended sentences and conditional release;
- (g) To ensure that persons under 18 are separated from adults in detention;
- (h) To ensure that persons under 18 remain in regular contact with their families while in the juvenile justice system;
- (i) To provide ongoing training for judges and law enforcement officials;
- (j) To ensure that persons under 18 in detention benefit from education and reintegration programmes,

(k) To develop and implement standards and monitoring mechanisms for living conditions in juvenile detention centres which also include visits by independent bodies;

(l) To provide all sentenced children with access to counselling and other social assistance measures, if necessary;

(m) To seek assistance from relevant United Nations bodies and agencies, inter alia, UNDP, UNODC and UNICEF.

9. Optional Protocols to the Convention

87. The Committee welcomes the State party's signature and planned ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict and notes that the State party is considering signing the Optional Protocol on the sale of children, child prostitution and child pornography. The Committee urges the State party to pursue and complete its plans in this respect and to ratify the two Optional Protocols to the Convention.

10. Follow-up and dissemination

Follow-up

88. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Council of Ministers or the Cabinet or a similar body, the Federal Assembly and to provincial or local Governments and Parliaments, when applicable, for appropriate consideration and further action.

Dissemination

89. The Committee further recommends that the third periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

90. The Committee invites the State party to submit its next periodic report before the due date established under the Convention for the fifth periodic report, i.e. 14 September 2012. This report should combine the fourth and fifth periodic reports. However, owing to the

large number of reports received by the Committee every year and the consequent significant delay between the date of submission of a State party's report and its consideration by the Committee, the Committee invites the State party to submit a consolidated fourth and fifth report 18 months before its due date, that is on 14 March 2011.

