**JANUARY 2018**

**ALTERNATIVE REPORT OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS IN THE RUSSIAN FEDERATION TO THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD), 19th SESSION FEBRUARY 2018.**

**INFORMATION PROVIDED BY THE ACCREDITED NATIONAL HUMAN RIGHTS INSTITUTION OF THE RUSSIAN FEDERATION UNDER REVIEW IN FULL COMPLIANCE WITH THE PARIS PRINCIPLES**

The High Commissioner for Human Rights in the Russian Federation (hereinafter referred to as “the Commissioner”) acts in accordance with the Federal Constitutional Law “On the Commissioner for Human Rights in the Russian Federation” as of February 26, 1997 and the amendments to it adopted in 2006-2016. Date of the NHRI’s establishment is May, 1998.

The Commissioner is an independent non-judiciary body, which is not subordinate to the central authorities, local governments or any officials, regardless of the position they hold.

The primary functions of the Commissioner involve restoration of the rights and freedoms infringed by the state bodies, local governments, officials and civil servants; participation in the law-making process by preparing proposals for improving legislation on the rights and freedoms of individuals and citizens and bringing it into conformity with the universally recognized principles and norms of international law; carrying out legal education on questions of human rights and freedoms, as well as forms and methods of their protection.

Furthermore, the Commissioner facilitates the enhancement of international co-operation. Additionally, according to the Federal Law “On the International Treaties of the Russian Federation” as of 15 July, 1995, the Commissioner may submit recommendations on concluding international treaties of the Russian Federation, on the issues of his/her competence.

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There are more than one billion disabled people in the world, which is some 15% of the world’s population.

According to the data of the Federal State Statistics Service of the Russian Federation there are 12.314 thousand disabled people in the country (approximately 9 per cent of the total population of Russia) as of 1st January 2017. Out of this number, 5.264 thousand are men, 7.050 thousand are women and 628 thousand are disabled children. An estimated 3.6 million people of the working age are disabled while 8 million disabled persons are above the working age.

The Constitution of the Russian Federation (Art.39) guarantees social security at the expense of the State in case of disableness. The goal of the state policy in the field of social protection of disabled people in the Russian Federation is provision of equal rights for the disabled in realization of civil, economic, political and other rights and freedoms as well as provision of measures of social support with a view of overcoming and compensation for the limited ability to perform daily living tasks.

The Russian Federation took on commitments to promote the rights of the disabled when it ratified UN Convention on the Rights of Persons with Disabilities in 2012. The main piece of legislation which defines the legal status of the disabled is Federal Law “On Protection of Persons with Disabilities” with amendments introduced in December 2014 following the ratification of the Convention on the Rights of Persons with Disabilities.

It is worth noting that since the ratification of the Convention the legislative and executive branches of the Russian authorities have done a lot to bring domestic law and its implementation into line with the Convention. Thus in addition to the already existing notion of “rehabilitation” the legislation introduced a new term of “habilitation” which was defined as a set of measures to enable the disabled to engage in social, professional, educational and daily activities by developing new abilities which they had lacked before.

Support for people with disabilities is provided in the following areas:

* medical rehabilitation;
* vocational guidance;
* social adaptation;
* physical training and wellness promotion.

Despite significant achievements in the process of integration of the persons with disabilities into the life of the society there are still concerns about protection of their personal and social rights.

Annually the Commissioner receives more than 1000 appeals from the people with disabilities (in the year of 2014 – 1.284 appeals; 2015 – 1.300 appeals; 2016 – 1.299 appeals; 2017 – 1.546 appeals).

The majority of appeals include requests for assistance in relation to the official procedure of disabled person status recognition; reassessment of disability status; reassessment of disability causes; complaints against changes to the individual rehabilitation program or its unjust revision, which included refusal to provide sanatorium and health resort treatment. In the year of 2015, the Commissioner received 321 appeals of that category that constituted 24 percent out of the total number of complaints lodged by disabled persons; in 2016 – 250 appeals or 19,2 percent; in 2017. – 302 appeals, or 19,4 percent.

In 2015 there was introduced a new system of eligibility criteria (numeric ratings for health impairment evaluation; definitions of four types of permanent disability; definitions for limitations in basic activity functioning) to qualify a person as disabled. The new system, though introduced in line with the international model of disability, caused some controversy among those citizens who had been eligible for the disability status before but experienced difficulties with obtaining it according to newly introduced criteria.

The new system introduced in compliance with the Convention is not mature enough what results in technical mistakes and inaccuracies made by experts of medical and social assessment boards. Furthermore, the new system of assessment has not been popular among the disabled themselves. Therefore, the Commissioner investigated on an individual basis the complaints submitted by disabled persons about refusals to establish the disability group issued by medical and social assessment boards or obstructions to have medical examinations. The rights of more than 50 percent of those who applied to the Commissioner have been restored as a result.

Thus, an applicant K. of Moscow was denied by the medical and social assessment board of the decision review to refuse him the recognition of the disability based on submitted documentation. After the Commissioner approached the Main Bureau of the medical and social assessment board with petition to verify the grounds brought forward by the applicant, the board re-examined the applicant in person and established that individual’s impairment met conditions set for the third disability group.

Applicant A. of Simferepol, who had stayed for a long time in the Simferopol 1st Clinical Hospital due to severe injury, bed-ridden applicant G. of Orenburg Region and applicant T. of Bryansk Region, were referred (with the Commissioner’s assistance) to the medical and social assessment board while applicant A. of Budennovsk was assisted by the Commissioner to have her disability status requalified for more serious disability group.

The Commissioner believes that the establishment of an independent body of medical and social assessment could resolve the controversy over the disability eligibility process and, consequently, protect the rights of the disabled.

The Commissioner petitioned to the Government of the Russian Federation and to the Ministry of Labour and Social Protection of Russia in 2016 and 2017 on the questions of improvement of the social and medical assessment system what included proposals to amend both the current Federal Law as of November 24, 1995 “On Social Protection of Persons with Disabilities” and Order No. 95 as of February 20, 2006 of the Government of the Russian Federation “On the Procedure and Conditions for Recognizing a Disabled Individual” to ensure the right of a citizen to invite any specialized doctor (with the consent) to participate in the procedure for recognizing a disabled individual in an advisory capacity.

On March 28, 2017, the Commissioner, being a member of the Commission on Disabled Persons under the auspices of the President of the Russian Federation, called on the Commission to ensure the prompt establishment of an independent medical and social assessment body; to involve public organizations into the discussion on the questions of improvement of the work of medical and social assessment bodies and to introduce modern technology (online queue and electronic document management) to the work of those bodies. The Commissioner also noted the importance of friendly and respectful attitude towards the disabled on the part of the staff of the medical and social assessment bodies. The Commissioner’s recommendations were accepted and were reflected in the decisions of the Commission.

The Ministry of Labour and Social Protection of the Russian Federation has developed the Road Map, including through the efforts of the Commissioner, to improve the medical and social assessment system in the period up to 2020. The Road Map seeks to amend the current legislation with the aim to establish an independent medical and social assessment system, to prepare new methodology for expert evaluation procedure, and to create conditions necessary to conduct such a procedure.

It remains a matter of some urgency to provide the disabled with the technical aids necessary for individual medical rehabilitation plans. In 2016 and 2017 the Commissioner received 42 and 64 petitions of that category, respectively. More than a half of those who applied to the Commissioner had their petitions successfully upheld. The disabled complained about the delays with provision of the technical aids for rehabilitation, their quality, the red tape to receive monetary compensation and its amount to purchase rehabilitation aids independently as well as about failures in the work of the social insurance system.

In 2016-2017, on the basis of the analysis of the complaints lodged by disabled persons, the Commissioner repeatedly petitioned to the Ministry of Labour and Social Development of the Russian Federation, the Social Insurance Fund and the Government of the Russian Federation. The Commissioner presented proposals on the measures for improvement of medical rehabilitation industry to provide the disabled with quality rehabilitation equipment and to evolve new mechanisms to ensure implementation of the state obligations on the provision of the technical aids and services funded from the federal budget.

In 2015-2017, following concerted consultations the Ministry of Labour and Social Protection of the Russian Federation pilot-tested implementation of a special certificate enabling the disabled to purchase some rehabilitation aids in a number of the Russian regions. There were also drafted amendments to the current legislation on electronic certificate which would enable disable persons to purchase a rehabilitation aid for themselves from the producers of their own choice without waiting for the state social insurance body to go through the public tendering procedure.

Over the past four years the Commissioner has been concerned with the situation when those disabled persons who have been entitled for free health-resort treatment have been unable to use this service within a calendar year. The right of the disabled to use the service has been limited because the financial assets allocated by the state have been insufficient to meet the demands. The situation when the eligible persons had to wait for their turn to receive free health-resort treatment caused dissatisfaction among the disabled. The Commissioner received 80 such complaints in 2016-2017 (30 and 50 respectively). Unfortunately, despite the Commissioner’s best efforts, the service was rendered to only 6 entitled individuals.

On 14th December, 2017, due to the urgency of the problem, the Coordinating Council of Russian human rights commissioners under the auspices of the Federal Commissioner for Human Rights in the Russian Federation petitioned to the State Duma Committee for Labour, Social Policy and Veterans' Affairs with request to amend the Federal Law as of July 17, 1999 “On the State Public Assistance”. The proposed amendments seek to change periodicity of the service; to insure the right of citizens to purchase the service at their own expense as well as to ensure the monetary compensation if free service is not provided during a set period of time.

In line with the Convention the disabled are entitled for the same free or low-cost services rendered to other individuals as well as services rendered to the disabled by virtue of disability. The legislation also outlaws any discrimination against the disabled in the matters of medical and life insurance.

It is also important for the disabled to have quality medical care in accessible formats.

In 2016 and 2017 the Commissioner received 40 and 76 complaints (respectively) about their right of access to health care. The analysis of the complaints demonstrates that the right of the disabled to the accessible health care is not always fully respected. Often the disabled with limited mobility have to deal with indifference of the medical personal who refuse to see disabled individuals at home. There are also difficulties for the disabled to see specialized doctors. The system of home visits for the disabled is not well-organized. In addition, disabled persons have to wait their turn for hospitalization for a long period of time, including for high-tech medical care at the federal specialized medical centers.

As a rule the Commissioner’s petitions in protection of the rights of disabled persons in need of the medical care are reviewed favourably by the state health-care bodies. The result is that approximately 80 percent of the Commissioner’s petitions to the state health-care bodies were resolved positively.

Some of the disabled persons complained to the Commissioner that free medication was not provided in a timely manner. It is especially hard for those disabled individuals who cannot live without specific essential medication what could lead to severe health deterioration, even lethal consequences. In 2016 and 2017 the Commissioner received 40 and 45 complaints (respectively) about the insufficient provision of usually costly medication. Approximately 80 percent of those complaints were resolved positively after the Commissioner’s petitions to the regional bodies of the state health-care system.

The reasons for inadequate provision of the disabled with essential medication are not only the lack of funding from the state or organizational failures on the part of the authorized medical bodies. Over the past two years the Commissioner has regularly received the complaints of the disabled cancer patients who, due to the lack of the specific medication, were refused to be prescribed with the necessary medication or were prescribed with some generic medication which the patients found useless.

In 2017 the Commissioner for Human Rights in the Russian Federation along with the regional human rights commissioners organized a number of events on promotion of the rights of people with disabilities. Thus, on 14th 2017, the Commissioner held the meeting of the Coordinating Council (including all 85 regional human rights commissioners) with the agenda on urgent problems of coordination and cooperation among the state bodies, local authorities, businesses and civil organizations on the matter of establishment of decent living conditions for the disabled in the Russian Federation.

To implement the Convention on the Rights of Persons with Disabilities the Government of the Russian Federation has developed a range of federal programs and subprograms to improve living standards of the disabled and people with limited mobility and to enable them to live independent and productive lives.

At the present the large-scaled state program on “Approachable Environment”, 2011-2010, is being implemented, which is forming the basis of the social policy to promote equal opportunities for disabled people in all fields of life.

Since 2015, with assistance of the Commissioner, a considerable amount of work has been done to ensure easy access for the disabled to facilities, services and information.

Nevertheless, it is worth noting that there are still many unsolved problems in the field of establishment of approachable environment for the disabled in the Russian Federation.

Thus, since flats in old apartment buildings are accessible only by stairs, the disabled persons cannot freely go outside and back, so their access to the public infrastructure is restricted. The installation of special equipment (ramps and lifts) is required to improve accessibility of old apartment buildings but there are still no legal regulations for that.

On 21 June, 2017, in her address on the promotion of the rights of people with disabilities, the Commissioner states, firstly, that it is important to focus on prevention of building code violations to ensure easy access to the public facilities for the people with limited mobility and, secondly, to adjust the residential buildings to the disabled persons to ensure that they do not become shut-ins and socially isolated in their own flats.

In 2016 and 2017 the Commissioner received 38 and 32 complaints (respectively) about the problems of accessible environment. One third of those petitions were resolved positively. For example, the Commissioner helped two female wheelchair users of Krasnodar Region to be referred to the hospital which had facilities for people with limited mobility. Wheelchair user K. complained that he was not allowed into a restaurant by the staff in the city of Rostov-on-Don. After the Commissioner’s petition to the Prosecutor’s Office of the Rostov Region the violations were corrected and those individuals responsible for the violation of the disabled person’s right were reprimanded.

The state municipal bodies and commercial enterprises do not always comply with the regulations to provide free parking places for the disabled at every parking (or stop) including near the objects of social infrastructure and public transportation facilities.

Thus, the Commissioner petitioned to the Department for Transport and Transportation Infrastructure of Moscow and the State Inspectorate for Road Traffic Safety in Moscow with request to review the traffic rule of no parking or standing near the Moscow Infectious Clinic Hospital № 2 on Sokolinaya Gora Street. After the consideration of the Commissioner’s petition there were provided parking places on the territory near the public health facility.

For a long time, due to the loopholes in the legislation, the private and public enterprises were not subjected to misdemeanor liability for dereliction of duty (Administrative Code of Russia, Art. 9 para 13) to provide easy access for the disabled to the objects of social infrastructure and public transportation facilities. The Commissioner took actions to fill the gaps in legislation and proposed the Government of the Russian Federation to draft a piece of legislation to empower the local authorities, which are in charge of the matters of social protection, with the right to draw up reports of administrative offences on violation of regulations concerning the approachable environment for the disabled individuals.

The Ministry of Labour and Social Protection of the Russian Federation took into account the proposal made by the Commissioner and drafted the Federal Law №17161-7 “On Amendments to the Federal Law on Social Protection of Persons with Disabilities” which was presented by the Government to the State Duma on November 1, 2016. The draft law empowered the bodies of the federal and local executive authorities with some functions of control over provision of easy access for disabled persons. The draft law was adopted by the State Duma and has been in force from January 1, 2018 (Federal Law №116-FZ).

Moreover, following the meeting of the Coordinating Council of the Russian commissioners for human rights (held on December 14, 2017) there was lodged a proposal to the Government of the Russian Federation to amend Art. 15 of the Federal Law №181-FZ “On Social Protection of Persons with Disabilities” as of November 24, 1995. The proposal seeks to introduce a differentiated approach to the provision of a number of parking places for specialized vehicles owned by the disabled near the objects of social infrastructure and public transportation facilities, depending on the general number of available parking places.

**Access to the education**

The Federal Law as of December 29, 2012 №273-FZ «On Education in the Russian Federation” enshrines the right of disabled children to special education on the basis of equal access to education for all students, given the variety of the special educational needs and individual abilities. The law also introduced the notion of the individualized education.

The inclusive approach in education implies the methodology which approaches children as individuals with various needs in education while each child is entitled to education to the extent permitted by his/her abilities.

The legislation provides the state support for various forms of education and self-education including an opportunity to receive free higher education within the set quotas for the different categories of the disabled.

The number of secondary schools intended for the disabled children is constantly rising (there were 9.600 such schools in 2016). The prioritized national program “Education” foresees a whole range of measures to develop distance learning at home for the disabled children.

The educational curriculum developed for the students with special needs is defined by the corresponding specially adapted educational program. In 2018 individuals with disabilities can submit applications to five higher educational establishments for three professional specializations in each, that is, they have the same rights as the able-bodied prospective students.

The Commissioner has received few petitions lodged by disabled people on the problems of accessibility of education (2016 – 4 petitions; 2017 – 8 petitions). All those appeals were resolved favourably.

At the same time, the Coordinating Council of the Russian human rights commissioners under the auspices of the Federal Commissioner for Human Rights recommended to the Ministry of Education and Science of the Russian Federation to develop an exemplary module on the problems of the disabled for further use in the preparation and fulfillment of the main professional educational programs by the Russian educational institutions.

The disabled are provided with guaranteed employment according to Article 20 of the Russian Federal Law “On Social Protection of People with Disabilities”. When the state procurement system seized to exist, and the economic crisis came along with redundancy, the decrease in a number of jobs and bankruptcies of enterprises which used to employ the disabled – that made the problem of employment urgent for the people with disabilities. Nowadays, the share of employed people with disabilities is just 16,9 percent. That is why at the level of the constituent entities of the Russian Federation and at the federal level there were taken special steps to increase employment rate among people with disabilities. The job centers are obliged to cooperate with employers to equip workstations for people with disabilities and to assist the disabled persons with placing the job.

**Protection the rights of the disabled living in residential establishments or social service institutions including psychoneurologic care hostels**

There are 1.400 social service residential establishments in the Russian Federation where reside 160 thousand individuals, including 7.500 children.

As of July 1, 2017, the waiting list of those awaiting to be placed in the care houses contained 9.200 individuals.

In 2016 and 2017, the Commissioner assisted 5 and 6 disabled persons respectively, who did not have any relatives and critically needed care, to be placed in the care hostels for the disabled.

In 2016 and 2017, the Commissioner received 11 and 15 complaints respectively from the residents of those establishments. The investigations conducted by the Commissioner and her representatives revealed violations of the rights of the disabled persons to receive social services.

Thus, the investigation of the complaints about Kineshma psychoneurologic care hostel “Novinki”, conducted by the Office of the Commissioner for Human Rights in November 2017, found the following infringements of the rights of the residents: the wards were too small and did not comply with the set norms; the residents did not have sufficient amount of outerwear and footwear to have a walk during cold seasons; three disabled persons had their wheelchairs broken; there was no internet access. It is worth noting that the Department of social protection of the Ivanovo Region promptly took steps to correct the violations.

The situation with the disabled persons residing in psychoneurologic care hostels is presented in the annual reports of the Commissioner of 2016 and 2017. The Commissioner has long argued about the necessity to reform the system of those establishments.

We should note that under reform of the establishments we mean the de-institualization of the system of psychoneurologic care hostels and development of the system of “accompanying residing” and “accompanying employment”. The Russian legislation lacks such notions as “accompanying residing”, “accompanying daytime employment” and “accompanying employment”. There are no trainings for the specialists in these areas. The pilot programs are being implemented in a few Russian regions at the expense of extra-budgetary funding.

The existing system of psychoneurologic care hostels is more interested in a in-flow of patients than in development of the measures to restore independent daily life skills of the residents. Even individuals with partially limited physical abilities residing in psychoneurologic care hostels cannot leave the establishments to live independently.

Therefore, the institutional system is the obstacle on the way to develop independence, employment, and socialization.

**Protection of the rights of the disabled in the establishments of the Federal Service of the Execution of Punishment (FSEP)**

There are 20 thousand of disabled persons held in the establishments of the FSEP. The Commissioner for Human Rights in the Russian Federation initiated the changes to the Concept of Development of the System of Penal Correction Facilities of the Russian Federation up to 2020. The changes were endorsed by the Government of the Russian Federation by its decree № 1877-r as of September 23, 2015. The Commissioner’s proposals include provision of medical and social services and improvement of the detention conditions for the inmates who cannot or partly capable to care for themselves.

Unfortunately the said requirements are not being fully implemented.

There are no barrier-free environment in the FSEP facilities, no any specially equipped toilets and showers for the disabled, no ramps, railings for the wheelchair users at the entrances of health centers, bathhouses, canteens, etc. The inmates who cannot care for themselves are in the most difficult situation. There is no adequate provision of sign language translation for the disabled with hearing impairment. The daily provision of the disabled is hardly different from the conditions provided for the rest mass of inmates.

There are also problems with the conditions of transportation of the suspects and convicts by trains and roads which are not suitable for people with disabilities. In this regard the Commissioner for Human Rights in the Russian Federation petitioned to A.B. Konovalov, the Minister of Justice of Russia, on the matters of legal regulation for transportation by train and road of the wheelchair users and other individuals suffering from mobility loss. The Ministry of Justice supported the proposals made by the Commissioner and presented the drafted regulations to the Ministry of Interior of the Russian Federation.

One of the most significant questions is about releasing from prison inmates due to serious illnesses since the situation of seriously ill inmates is of systemic character. The analysis made by the Commissioner’s staff demonstrated that there were 3.497 appeals sent to the courts to release seriously ill convicts. The courts ruled in favour of 1.688 such appeals. Out of this number, 749 individuals had died before the start of the court hearings and 119 individuals had died before the court decision came into force.

Almost every forth from the amount of convicted persons with disabilities who have applied to the Commissioner (941 persons) and who have diseases confirmed by the medical reports, which impede serving of their sentences, were denied release, as the established list of diseases is not binding on the court.

In accordance with the pro humane principle exercised towards this category of the disabled inmates, the Commissioner set up interministerial working group with participation of the representatives of the Ministry of Health, Ministry of Justice, Federal Service of the Execution of Punishment, nongovernmental organizations, and the academia. The working group drafted a law “On Amendments to Article 81 of the Criminal Code of the Russian Federation”, which envisages obligatory release from prison of seriously ill inmates. For that purpose the wording “could be released by court” is proposed to amend to “is released by court”. The Commissioner presented the law to the President of the Russian Federation with request to consider it for the presentation to the State Duma (Parliament) of Russia.

The Commissioner successfully appealed in favour of 28 years old convict M., (a disabled from childhood of the first disability group, suffering from loss of muscle control, unable to move, eat and live without someone’s assistance) who had been sentenced to four-year prison term. Despite of his disability court put him into custody without any conditions suitable for the disabled. After the Commissioner interviewed M.’s father she petitioned to the head of the FSEP with request to transfer M. to the hospital for medical examination and to the chairman of Moscow city court asking to use measures of constraint not related to deprivation of liberty. The Commissioner’s appeal was upheld and M. was released and following the appeal examination the sentence was re-qualified by court and M. was imposed a fine.

**The situation of the disabled women** in the Russian Federation is regulated by the legislation on the protection of the disabled and by pieces of legislation on the protection of the rights of women. The main state program documents do not contain a notion of “a female disabled person”. For example, the National Strategy in the Interests of Women, 2017-2020, approved by the decree of the Government of the Russian Federation on March 8, 2017 № 410r, is of general character. The social and legal guarantees for disabled women could be found in various pieces of legislation, regulating different fields of the social life, which guarantee full integration of women in the social life based on equality with men.

The disabled women of reproductive age may have children and are provided with medical and social assistance during the period of pregnancy and childbirth as well as state support in the rising of their children. In order to allow women with disability to have a family and children the Government of the Russian Federation removed from the list illnesses (which prevent a person from adopting a child or taking a child under guardianship) the disability status of the second group. It should be noted that this list of illnesses (drafted by the Government of Russia) to some extent towards is a discriminatory document against the disabled persons of the first disability group. This category of the disabled is not allowed to become foster or adoptive parents. This is contrary to the well-established practice when the disabled individuals with the 1st disability group become excellent biological parents.

The Commissioner has never received complaints about sexual abuse, violence against disabled women, discrimination of the disabled women or about violations of the rights to maternity of the disabled women.

There are a few all-national public organizations of the disabled persons in the Russian Federation; the All-Russian Society of the Disabled, the Union of Disabled Persons of Russia, the All-Russian Society for the Blind, the All-Russian Society for the Deaf. There are also regional sections of the all-Russian organizations of the disabled people, which help the disabled to fulfill their potential as well as to protect the rights of the disabled.

The Coordinating Council of the Russian commissioners for human rights adopted a resolution, which recommends the Government of the Russian Federation (according to Article 33 of the Federal Law “On Social Protection of the Disabled”) to define a list of questions on which the state bodies or other organizations take decisions in conformity with the views of civil associations of the disabled.

The Commissioner for Human Rights in the Russian Federation supports the draft law on the establishment of the institution of ombudsman for the disabled which was introduced to the Parliament in the end of 2017.