



Alternative report on the implementation of the UN Convention on the rights of the persons with disabilities

On the occasion of the second state report review before the UN Committee on the Rights of Persons with Disabilities

About the author organization

The Citizens' Watch (CW)¹ (St. Petersburg, Russia) is a human rights NGO active since 1992 with extensive expertise in the field of access to justice. We pay special attention to the transparency and accessibility of justice, our experts took part in the development of recommendations to improve transparency of the courts, to lower the threshold of access to justice for disadvantaged groups. In addition to advocacy, our organization also provides free legal assistance to vulnerable groups and engages in human rights awareness and education.

Protecting the rights of persons with disabilities is part of the CW's scope of work, along with protecting the rights of other vulnerable groups. In 2019, we implemented a project that focused on protecting the rights of persons with disabilities to access justice, specifically monitoring the physical accessibility of court buildings for persons with disabilities. The methodology for this project was presented and approved by persons with disabilities.

Experts on the rights of persons with disabilities took part in the preparation of this report, namely Natalia Leonidovna Evdokimova, executive secretary of the Human Rights Council of St. Petersburg, and Olga Fedorovna Bezborodova, professional mediator, member of the public commission at the Federal State Medical Examination Department for St. Petersburg from Saint Petersburg Association for Parents of Children with Disabilities "GAORDI".

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¹ Web-site of Citizens' Watch. URL.: <https://citwatch.org/en/>.

Executive summary

In the alternative report, based on data from Russia's 2022 report, statistics, social surveys, court practice, and legislation, the Citizens' Watch shows that Russia has largely failed to heed the recommendations of the Committee on the Rights of Persons with Disabilities (CRPD), its general comments, and has not fulfilled its obligations. Russia continues to use the term "invalidi" in official documents and public discourse. Legislation adopted since the last review of the report does not enshrine the transition to a human rights model of disability. Russia rejects a medico-social model of disability and the use of the concept of supported decision-making instead of substitute decision-making.

Possibilities of persons with disabilities are limited because of the list of disabilities and diseases precluding a person to become a judge or a juror. Many court buildings remain inaccessible to persons with disabilities. The CW gives examples where involuntary hospitalization is used to pressure activists, and physical restraints are illegally used in psychiatric institutions. In places of detention, persons with disabilities face a lack of medical care, a lack of medication, individualized rehabilitation tools, and the absence of detention conditions that meet their needs.

Further, the CW draws attention to the continuing practice of segregated education and the lack of an accessible environment of educational institutions and kindergartens. Finally, the CW emphasizes the limited opportunities for monitoring and participation of NGOs in protecting the rights of persons with disabilities in light of the general restrictions on the activities of NGOs in connection with the foreign agents legislation.

The CW recommends the following list of recommendations:

- A. to use the term "person with a disability" instead of "invalid" in official documents and discourse;**
- B. to move to a human rights model of disability;**
- C. to take specific and effective actions to promote the employment of persons with disabilities;**
- D. remove from the legislation the grounds for an unjustified prohibition on participation in the judicial system;**
- E. to provide procedural guarantees allowing persons with disabilities to effectively participate in court proceedings, including in remote court hearings;**
- F. to strengthen measures to monitor compliance with the legislation on involuntary hospitalization and the procedure for applying physical restraints;**
- G. ensure conditions for persons with disabilities to stay in places of detention, amend the legislation and clarify to the courts in which cases persons should be released from detention due to their health condition;**
- H. provide effective remedies for violations of the right to liberty and security of person and the right to freedom from torture and degrading treatment and punishment, in particular to clarify to the courts how and the amount of fair compensation for their violation;**

- I. **abandon the practice of giving the priority of guardianship status to medical institutions, take measures to eliminate the possibility of abuse of guardianship rights by medical institutions, increase the level of openness of medical institutions to public scrutiny.**

General Principles and Obligations (Articles 1-4)

1. In Concluding Observations 2018 (CRPD/C/RUS/CO/1), the Committee on the Rights of Persons with Disabilities (CRPD, Committee) stated:
 7. The Committee notes that the official translation of the term “persons with disabilities” into Russian as “invalidi” does not reflect the human rights model.
 8. The Committee recommends that the State party amend the official translation of the Convention and use terms that fully reflect the human rights model.
2. In the latest Report 2022, Russia denies the problem with the use of term “invalidi”: In opinion of Russia, "Comparing the definition of the term 'invalid' in Russian legislation with the definition in international documents, it must be noted that the definition given in Federal Law No. 181-FZ ["On social protection of disabled persons in the Russian Federation"] corresponds in principle to the international understanding and approach" (paragraph 17). With reference to the opinion of "public organizations of disabled persons" and the Russian Federation Constitution (paragraph 19) Russia refuses to change the official translation and national legislation, Russia states that "The term 'invalid' has no negative perception, does not degrade human dignity, and is fully consistent with the human rights model of implementation of state policy in the sphere of disability" (Paragraph 18).
3. Most likely, the opinion of public organizations, to which the state refers, follows from the survey, mentioned in clause 302 of Russia's Report to the Committee for 2022: "In 2020-2021, the Federal State Budgetary Institution "Federal Research Center for the Rehabilitation of Persons with Disabilities, named after G. A. Albrecht, of the Ministry of Labor of Russia, conducted a survey of the opinions of representatives of all-Russia's public organizations of the disabled, including regional, on the observance of the rights of persons with disabilities. In the survey experts from non-governmental organizations like VOI, VOS, VOG and VORDI participated. In the course of this survey these NGOs were asked to rate certain statements from "difficult to answer" to 5 (completely agree) (see, in appendix: Rocheva Y.S., Svintsov A.A., Raduto V.I. The term "invalid" from the perspective of the modern model of disability // Social and pension law. 2021. N 2. pp. 38 - 44). The results are as follows:
 - a. The term "invalid" is the most familiar and understandable to indicate status (44.2% fully agree; 27.6% partially agree);
 - b. The term "invalid" violates the rights and discriminates against the disabled (14.6% fully agree; 15.3% partially agree);
 - c. The term "invalid" carries a negative attitude and prejudice from the population, strangers (13.3% fully agree; 11.6% partially agree);

- d. It is better to use the term "person with a disability" (48.6% fully agree; 16.0% partially agree).
4. Thus, the survey showed not what the state claims, that allegedly for Russian society the most understandable and common term is "invalid". The survey captures the current state of affairs: it is the term that was used in the USSR and is used in contemporary Russian legislation against the background of the absence of a broad state educational campaign to familiarize society with the human rights model of disability. The state ignored other survey data: 64.6% fully or partially agree that the use of the term "person with a disability" is preferable to the use of the term "invalid".
5. Moreover, many Russian NGOs publicly state that the term "invalid" reflects an outdated medical model of disability and corresponding stereotypes (see, for example, the regional non-governmental organization "Perspectives",² the association "Special Persons",³ the St. Petersburg Association of Public Associations of Parents of Children with Disabilities (GAORDI),⁴ the charity foundation "Life Way")⁵. Thus, the opinion of the Russian authorities on the inherent use of the term "invalid" in Russian society is shared by at least not all NGOs dealing with persons with disabilities.
- 6. We propose to recommend that Russia stop using the term "disabled" in legislation and official translations of international documents; train civil servants and educate Russian society about the medical and social approach to disability and about the reflection of these approaches in language and concepts.**

Continued segregation practices

7. The Committee stated in Concluding Observations, 2018:

9. The Committee notes that the State party continues to rely on medical care and rehabilitation and that there is still a focus on creating specialized services, which may lead to segregation. While noting the 2014 Federal Law No. 419 on the rights of persons with disabilities, the Committee is concerned about the insufficient efforts to harmonize legislation on persons with disabilities with the Convention, and the lack of mechanisms for the implementation of the existing legislation.

10. The Committee recommends that the State party, in full and effective cooperation with persons with disabilities and their representative organizations, adopt all necessary measures to ensure the full compliance of legislation with the general principles and specific provisions in the Convention, and to ensure its effective implementation. In particular, the Committee recommends that it adopt

² Social model of disability, Regional Non-Governmental Organization "Perspectives". URL.: <https://perspektiva-inva.ru/organization/soczialnaya-model-invalidnosti/>.

³ "Disability is not a medical concept, but a social one." How to talk and write about persons with disabilities, January 22, 2018, I'MC. URL.: <https://itsmycity.ru/2018-01-22/kak-pravilno-govorit-i-pisat-o-lyudyah-s-invalidnostyu>.

⁴ Dictionary of Takie Dela, Illnesses and Limitations, (So It Goes), Takie Dela. URL.: <https://takiedela.ru/dictionary-words/invalid/>.

⁵ Support, normalization, independence for persons with mental disabilities, Life Way. URL.: <https://www.liferoute.org/>.

measures in matters relating to non-discrimination and to the full transition to a human rights-based approach to disability. The Committee also recommends that the State party mainstream the rights of persons with disabilities and their access to services within existing systems, for their inclusion in the community across all regions of the State party.

8. Russia, in the appendix to the Report 2022 to the Committee, lists the laws adopted (entered in force) in 2018-2022. None of these laws contain provisions indicating a transition to a human rights model of disability. The most important of the laws listed by the state are:
9. Federal Law of December 29, 2017 No. 476-FZ "On Amendments to the Law of the Russian Federation "On Employment of the Population in the Russian Federation" (support in facilitating the employment of persons with disabilities);
10. Federal Law of July 26, 2019 No. 245-FZ "On Amendments to the Federal Law "On the Development of Small and Medium Entrepreneurship in the Russian Federation" in terms of establishing the concepts of "social entrepreneurship", "social enterprise";
11. Federal Law No. 18-FZ of March 6, 2019 "On Amendments to the Federal Law "On the Fundamentals of HealthCare in the Russian Federation" concerning the provision of palliative care".
12. These laws are aimed at solving the problem of employment of persons with disabilities and providing palliative care. For instance, the status of social enterprise was introduced, which can be claimed by individual entrepreneurs and small and medium enterprises with at least 50% of their employees being persons with disabilities and/or single parents of children with disabilities, orphanage graduates, refugees and other vulnerable groups, subject to a number of strict conditions related to the production of certain products and services, and profit distribution.⁶ The law lists forms of support for social enterprises, including financial support.⁷ However, the problem of employment for persons with disabilities has not been solved, as evidenced by data from social surveys by the Russian Public Opinion Research Center (VCIOM) in 2018 and the Levada Center, recognized as a foreign agent, in 2019. According to the Levada Center, only 4% of respondents study or work in a team with persons with disabilities. According to VCIOM,⁸ for 21% of persons with disabilities surveyed, difficulties with employment are an important problem (according to the Levada Center,⁹ for 33%). This low integration of persons with disabilities into the labor and educational environment affects their financial well-being; the Levada Center points out that "the average monthly income [of families of persons with disabilities] is about 37 thousand

⁶ Federal Law of 24.07.2007 № 209-FZ ("On the development of small and medium-sized businesses in the Russian Federation", Art. 24.1, http://www.consultant.ru/document/cons_doc_LAW_52144/6bed0cbbbebe3fbadde4ef8d6aea6c8ff7ff383ce/ .

⁷ Ibid. Art. 24.1 (5).

⁸ Study on the topic: "Perception by the population of the Russian Federation of the situation of disabled people in Russia".

⁹ Public Attitude Towards Persons with Disabilities, Levada Center, October 25, 2020. URL.: <https://www.levada.ru/2019/10/25/otnoshenie-naseleniya-k-litsam-s-ogranichennymi-vozmozhnostyami/>.

rubles, which is lower by 4 thousand rubles than that of other families...Thus, almost every third family...barely enough for food and clothing (28%), among regular families this share is 21%.

13. We recommend that Russia take specific and effective actions to promote the employment of persons with disabilities, helping to end their segregation.

Equal recognition before the law (Art. 12)

14. The Committee stated in Concluding Observations, 2018:

26. The Committee notes with concern that the legislation of the State party, especially the Civil Code and the Civil Procedure Code, upholds the concept of substituted decision-making and that it does not provide for supported decision-making mechanisms for persons with disabilities.

27. The Committee recommends that the State party amend its legislation, in particular the Civil Code and the Civil Procedure Code, by introducing the concept of supported decision-making, fully harmonizing it with the provisions of article 12 of the Convention, as clarified in the Committee's general comment No. 1 (2014) on equal recognition before the law, and recognizing the full legal capacity of all persons with all types of disability.

15. In the 2015 report, Russia stemmed from the need to transition from the "medical-labor model of disability to the medical-social model" (see paragraph 2), but in 2022 Russia completely changed its rhetoric, declaring the superiority of the medical-labor model and its refusal to transition to the medical-social model of disability: "From the perspective of Russian theory and practice of legal regulation of the relations in question, resolving these issues with a supporting decision-making concept without compromising the rights and interests of such citizens, such as those with mental disabilities, is impossible because it affects an essential sphere of the realization of the property and non-property rights of the individual" (paragraph 99 of Report 2022). Russia does not explain why "affecting an essential sphere of the realization of the property and non-property rights of the individual" is an insurmountable obstacle to the transition to a generally recognized model of decision-making.

16. This position directly contradicts the CRPD's interpretation of Article 12 in General Comment No. 1 (CRPD/C/GC/1, 2014): "Historically, persons with disabilities have been denied their right to legal capacity in many areas in a discriminatory manner under substitute decision-making regimes such as guardianship, conservatorship and mental health laws that permit forced treatment. These practices must be abolished in order to ensure that full legal capacity is restored to persons with disabilities on an equal basis with others" (paragraph 7). "The Committee reaffirms that a person's status as a person with a disability or the existence of an impairment (including a physical or sensory impairment) must never be grounds for denying legal capacity or any of the rights provided for in article 12. All practices that in purpose or effect violate article 12 must be abolished in order to ensure that full legal capacity is restored to persons with disabilities on an equal basis with others" (paragraph 9).

“States parties must refrain from denying persons with disabilities their legal capacity and must, rather, provide persons with disabilities access to the support necessary to enable them to make decisions that have legal effect” (para. 16). “Support in the exercise of legal capacity must respect the rights, will and preferences of persons with disabilities and should never amount to substitute decision-making” (para. 17). “Substitute decision-making regimes can take many different forms, including plenary guardianship, judicial interdiction and partial guardianship. However, these regimes have certain common characteristics: they can be defined as systems where (i) legal capacity is removed from a person, even if this is in respect of a single decision; (ii) a substitute decision-maker can be appointed by someone other than the person concerned, and this can be done against his or her will; and (iii) any decision made by a substitute decision-maker is based on what is believed to be in the objective “best interests” of the person concerned, as opposed to being based on the person’s own will and preferences” (paragraph 27).

17. Russia stipulates that: "the basis for limiting legal capacity is not disability, which is established by institutions of the MSE [medical and social expert assessment], but the presence of a mental disorder (established by psychiatrists) and the absence of the ability to understand the meaning of one's actions or to direct them, or the ability to do so with the assistance of others (established by the court)" (paragraph 102). "A guardian provides support to a disabled person, performing legally significant actions on his behalf (article 29 of the Civil Code of the Russian Federation (hereafter, the Civil Code of the Russian Federation). The guardian's assistance consists of giving consent to certain transactions (Article 30 of the Civil Code of the Russian Federation) and thus keeping the person from taking ill-considered actions" (paragraph 103).
18. Russia develops the idea: "The implementation of these provisions in Russian legislation finds expression in the fact that a person with limited legal capacity has the freedom to exercise his will in practically all areas of legal regulation, with the exception of civil relations, where the consent of a guardian is required for the performance of certain transactions. A legally incapacitated person has a number of rights in the sphere of civil proceedings, has the right to consent to medical intervention (if he can do so)¹⁰, and can enter into labor relations. A guardian performing transactions on behalf of an incapacitated person must take his or her opinion into account" (paragraph 105).
19. In Report 2022, Russia rejects the need to change the current legal regulation of the status of persons with disabilities, insisting that the substitutive model of decision-making is optimal for Russia. Russia interprets the Convention in such a way that, being a "universal instrument," it does not oblige the state to ensure the implementation of a supportive concept of decision-making. **We propose recommending that Russia adopt a human rights model of disability and change legislation in accordance with it.**

20. Access to justice (art. 13)

¹⁰ Law from July 2, 1992 No. 3185-1 On Psychiatric Care and Guarantees of the Rights of Citizens in the Provision of Psychiatric Care, Articles 11, 12, 23, 28, 41, 44; Federal Law No. 323-FZ of November 21, 2011 "On the Fundamentals of Health Protection in the Russian Federation" (Articles 20, 47, 56, 57).

21. In Concluding observations 2018 CRPD stated:

30. The Committee is concerned that the State party has not formulated policies to empower persons with disabilities to participate in the justice system as direct or indirect participants, such as lawyers, court officers or law enforcement officials.

31. The Committee recommends that the State party increase its efforts in order to empower persons with disabilities to participate in the justice system as direct or indirect participants, such as lawyers, court officers or law enforcement officials.

a. Direct and Indirect Participation in the Justice System

22. Russia in paragraph 119 of the 2022 Report indicates that Russian legislation prohibits persons with disabilities, who are legally incapacitated or of limited legal capacity, from becoming judges, prosecutors, lawyers and jurors. Persons with "other illnesses preventing them from exercising the powers of a judge" cannot also become judges¹¹. The list of such illnesses is established by the Decision of the Council of Judges of the Russian Federation from 26.12.2002 № 78 "On Approval of the List of Diseases Preventing Appointment to a Judge". It uses a vague wording "with the exception of those who have almost recovered" which gives too much discretion to the enforcer. Moreover, there are cases in which a judge's powers were terminated due to the judge's obtaining a disability that allows him or her to work subject to workplace accommodation: For example, in 2014 in Smolensk Oblast the powers of a judge were terminated due to the judge obtaining the first disability group, establishing a second degree of restriction of ability to work and a third degree of mobility; the Supreme Court obliged the judge to prove that he or she was able to continue working, stating that "any other documents confirming that Ryazanov G.V. can exercise the powers of a judge due to his health condition".¹²

23. A person prosecutor may not become a person who has a disease that prevents him from entering the service in the bodies and organizations of the prosecutor's office and the performance of official duties of a prosecutor.¹³ The diseases are listed in the Decree of the Government of the Russian Federation No. 733 of 26.08.2013 "On medical examination of persons for the presence (absence) of a disease that prevents them from entering the service in the bodies and institutions of the Prosecutor's Office of the Russian Federation and the performance of official duties of a prosecutor's employee". We were unable to find court practice or statistics reflecting the participation of persons with disabilities in the prosecutor's office.

24. Persons registered in a narcological or psychoneurological dispensary due to treatment for alcoholism, drug addiction, substance abuse, chronic and long-lasting mental disorders are

¹¹ Law of the Russian Federation of 26.06.1992 No. 3132-1 "On the Status of Judges in the Russian Federation", par. 1 Art. 4.

¹² Appellate Decision of the Appellate Board of the Supreme Court of the Russian Federation of 26.02.2015 N APL15-39.

¹³ Federal Law of 17.01.1992 № 2202-1 "On the Prosecutor's Office of the Russian Federation", para. 1 Art. 40.1.

not allowed to become jurors.¹⁴ There are cases in which a verdict passed by the jury has been overturned because of information discovered after it was passed about epilepsy in one of the jurors. Obviously, the diagnosis did not prevent that person from serving jury duty.¹⁵ However, the court disqualified him from jury duty solely on the basis of his diagnosis without evaluating his ability and capacity to perform jury duty. In another case, one of the grounds for overturning a 2016 jury verdict was that one juror failed to say he was on an alcoholism treatment registry in 2001 and was removed from the dispensary in 2016 due to a lack of knowledge.¹⁶ In deciding to overturn the verdict, the court did not evaluate whether the person was capable of performing jury duty or whether he suffered from addiction during the trial, but automatically considered the information about the thirteen year old registration as grounds for overturning the verdict.

25. The state cites statistics on the employment of persons with disabilities in "law and accounting" and in providing "security and investigations" (paragraph 120 of Report 2022), while accounting obviously does not relate to the justice system; the sphere of security and investigations includes "services related to security, such as conducting investigations and activities of security guards, patrol and guard services, collecting and transporting money, payments or other valuables, using personnel and equipment to protect such property in transit, the installation of alarm systems, such as burglar and fire alarms, where activities focus on the remote monitoring of these systems, but often also include the sale, installation and repair services of such systems".¹⁷ Russia does not specify which occupations in the cited statistics belong to the sphere of law, but due to the above legislation they do not include judges, lawyers, and prosecutors. Thus, the statistics cited by Russia do not reflect the number of persons with disabilities involved in the judicial system.

a. Ensuring procedural and age-appropriate conditions in all court proceedings

26. The Human Rights Committee noted in paragraph 13 of General Comment No. 32 (CCPR/C/GC/32) that "same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant." In the report of the Office of the United Nations High Commissioner for Human Rights "Right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities"(A/HRC/37/25) from 27 December 2017 it is stressed that "Access to justice requires enabling rights for persons with disabilities, in particular equal recognition before the law (art. 12), and accessibility, including multiple means of communication and access to information (arts. 9 and 21)" (paragraph 15) and that "...access to justice is most often denied as a result of lack of accessibility of and access to information, procedural accommodations, the right to claim justice and stand trial, respect for presumption of innocence and legal aid" (paragraph 19).

¹⁴ Federal Law No. 113-FZ of 20 August 2004 "On jurors of federal courts of general jurisdiction in the Russian Federation," para. 4 ч. 2 Art. 3.

¹⁵ Decision of the Presidium of the Supreme Court of the Russian Federation of 29.05.2013 N 83-III13IIIP.

¹⁶ Appeal determination of the Judicial Board for Criminal Cases of the Supreme Court of the Russian Federation of 21.04.2016 N 35-АПУ16-2ср.

¹⁷ ОК 029-2014 (КДЕС Ed. 2). All-Russian Classifier of Types of Economic Activities, approved by Order of Rosstandart of 31.01.2014 N 14-ст, para. 80.

The OHCHR made the following examples of procedural accommodations: “the provision of sign language interpretation, legal and judicial information in accessible formats for, multiple means of communication, easy read versions of documents, Braille and video link testimony, among others: (paragraph 24).

27. The Criminal Procedural Code of the Russian Federation (RF CCrP) provides for the mandatory participation of a defense attorney in criminal proceedings "if the suspect or accused due to physical or mental disabilities cannot independently exercise their right to a defense" (paragraph 3, part 1, article 51). Russian courts interpret this guarantee in a way that deprives persons with disabilities of their procedural rights. For example, the Constitutional Court of the Russian Federation recognized as constitutional the refusal of the courts to provide the defendant, who had lost his sight and learned to read Braille in the course of court proceedings, with a copy of the verdict in Braille, on the grounds that the defendant was represented by a lawyer, which means, according to the CC of the RF, the defendant was not deprived of the opportunity to familiarize himself with the content of the sentence by various alternative means provided for by law.¹⁸ Thus, the right to be acquainted with the verdict in the case, established by the RF CCrP, is unreasonably restricted for persons who have lost their sight.

a. Access to Justice: Participation in Remote Hearings via Videoconferencing and Web Conferencing

28. Russia in paragraph 116 of Report 2022 indicates that the possibility of participation in a court hearing via videoconferencing has been provided by the Code of Arbitration Procedure of the Russian Federation and the Civil Procedure Code of the Russian Federation since 2010 and 2013 respectively. Also on 30 December 2021, Federal Law No. 440-FZ "On Amendments to Certain Legislative Acts of the Russian Federation" was adopted, providing for the possibility to participate in a court hearing in civil, administrative and arbitration cases by web-conference. None of the laws provide for obligations for judges and court staff to take into account the special needs of persons with disabilities.

a. Physical Accessibility of Court Buildings

29. On December 31, 2015 Order No. 406 of the Justice Department of the Supreme Court of the Russian Federation approved the "Procedure for Ensuring Accessibility for Disabled Persons of the Federal Courts of General Jurisdiction, Federal Arbitration Courts and the Justice Department of the Supreme Court of the Russian Federation". Public monitoring of physical accessibility of courts in St. Petersburg showed that none of the 50 court buildings surveyed could be called fully accessible to persons with disabilities.¹⁹ Part of the district courts of St. Petersburg can be characterized as partially accessible according to physical parameters, but information and services remain inaccessible. There is no reason to believe that in other regions of Russia the situation with the physical accessibility of court buildings is better.

¹⁸ Ruling of the Constitutional Court of the Russian Federation of 28.12.2021 No. 2650-O "On the complaint of citizen Grigoryev Vadim Vsevolodovich on violation of his constitutional rights by part three of article 18 of the Criminal Procedural Code of the Russian Federation.

¹⁹ Map of accessibility of courts of St. Petersburg for persons with disabilities. URL.: <https://courtmonitoring.org/ru/projects/karta-dostupnosti-sudov-sankt-peterburga-dlya-lyudej-s-invalidnostyu/>.

- 30. We propose to recommend Russia to exclude from the legislation the grounds for an unreasonable ban on participation in the judicial system; to provide the obligation to provide the defendant, the person brought to administrative responsibility with documents in a language he understands, including those made in Braille; with the participation of organizations of persons with disabilities to provide procedural guarantees for participation of persons with disabilities in web-conferencing and video conferencing; to ensure the physical accessibility of court buildings.**

Liberty and security of the person (art. 14)

31. In Concluding observations, 2018 CRPD stated:

32. The Committee notes with concern that persons with disabilities, particularly with psychosocial disabilities, may still be deprived of their liberty in psychiatric hospitals or other institutions based on their impairment, under the provisions of the Criminal Code and the Code of Criminal Procedure.

33. The Committee urges the State party to amend its Criminal Code and Code of Criminal Procedure, and fully harmonize their provisions with article 14 of the Convention and the Committee's guidelines on article 14 of the Convention (see A/72/55, annex).

32. The Committee called upon States parties to protect the safety and security of persons with disabilities deprived of their liberty, including by avoiding the use of isolation and various methods of restraint in medical settings, including physical, chemical and mechanical restraint. The Committee has found that these practices are inconsistent with the prohibition of torture and other cruel, inhuman or degrading treatment or punishment of persons with disabilities, in accordance with article 15 of the Convention.

33. In Report 2022 Russia concludes: "the analysis of the provisions of the legislation of the Russian Federation shows that Russian legislation regulating the legal, organizational and economic basis of social services for citizens in the Russian Federation does not contain norms and conditions allowing the possibility of forced placement of citizens suffering from mental disorders in psychoneurological residential institutions on grounds contrary to the provisions of Article 14 of the Convention" (para. 130). However, not only the Criminal Code and Criminal Procedural Code of the Russian Federation, which caused the Committee's concern, but also the Law of the Russian Federation from 02.07.1992 N 3185-1 "On Psychiatric Assistance and Guarantees of the Rights of Citizens in Providing It" and other laws are applied with violations of the right to liberty and inviolability of the person.

34. Involuntary hospitalization is used as a means of pressure on activists, for example, a person was hospitalized on the grounds that he "is engaged in violent public activity aimed at criticizing the existing social order; has repeatedly held solitary pickets; violated public order; was filming on his cell phone; has been held administratively liable; during his detention he

resisted police officers. On the day of his hospitalization, he was outside the Administration of the President of the Russian Federation.²⁰

35. During involuntary hospitalization and forced treatment, measures of physical restraint are applied to persons with disabilities: "fixation with cloth bandages on the bed due to being in an excited state".²¹ When appealing the legality of such measures, plaintiffs encounter difficulties in proving violations of the established procedure for applying physical restraints, since the court may not shift the burden of proof of the legality of their application to the defendant.²²
36. Moreover, if the court finds the involuntary hospitalization illegal, it is unlikely that it will award proportionate compensation for the harm, for example, for 37 days of illegal deprivation of liberty in a psychiatric hospital the court awarded compensation in the amount of 10,000 rubles (about 160 euro).²³ There are examples of a larger amount of compensation, which is nevertheless not commensurate with the suffering endured, for example, for 7 days of illegal deprivation of freedom - 70 000 rubles (about 1 000 euro).²⁴ For comparison, the ECHR in its judgment in the case *Sukhonosova v. Russian Federation* (3945/10) from January 21, 2020 determined the amount of compensation in the sum of 3 000 Euro for one day of the illegal deprivation of liberty.
37. Russia needs to strengthen measures to monitor compliance with the legislation on involuntary hospitalization and the procedure for applying physical restraints, to provide effective remedies for violations of the right to liberty and security of the person, in particular to clarify to the courts the amount of just compensation for their violation.

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

38. In Concluding observations, 2018 CRPD stated:

34. The Committee notes with concern the reported ill-treatment of persons with disabilities in institutions, which may amount to torture or cruel and degrading treatment. The Committee is also concerned about the reported use of drugs to "control the sexual behavior" of persons with disabilities, especially those with intellectual or psychosocial disabilities.

35. The Committee recommends that the State party ensure that persons exposed to ill-treatment have access to complaint mechanisms, and that victims of torture and ill-treatment are entitled to and provided with redress and adequate compensation, including

²⁰ Ruling of the Second Court of Cassation of General Jurisdiction of December 9, 2020 No. 88A-26647/2020.

²¹ Ruling of the First Court of Common Pleas in case No. 88-29055/2021 dated December 15, 2021.

²² Ruling of the Second Court of Cassation of General Jurisdiction on September 27, 2022 in case No. 88-21380/2022.

²³ Ruling of the Second Court of Cassation of General Jurisdiction of February 13, 2020 in case No. 88-3995/2020.

²⁴ Ruling of the Sixth Court of Cassation of General Jurisdiction of November 23, 2021 in case No. 88-22777/2021.

rehabilitation. The Committee further recommends that the State party review its legislation on the forcible administration of drugs in institutions.

39. People in detention facilities are particularly vulnerable to arbitrary interference with their right to liberty and security of person, where involuntary hospitalization and forced treatment are used for pressure and punishment.²⁵ Also, places of detention neglect the duty to provide adequate working conditions, leading to work-related injuries and disabilities.²⁶ At the same time, people deprived of their liberty, including persons with disabilities, often complain about the non-provision of medications, medical care,²⁷ individual rehabilitation devices,²⁸ and about the unsuitability of places of detention for the needs of persons with disabilities.²⁹ In such cases, persons with disabilities cannot always rely on the assistance of the court. For example, in one case the court agreed with the defendant's argument that no special conditions need to be created for a person using crutches during his confinement in a colony with strict conditions because he has the third disability group (i.e. the "lightest one").³⁰

Conditions in places of detention

40. The construction of buildings of places of detention (remand facilities (SIZOs) and correctional institutions (CIs) and conditions in them are regulated by the Order of the Ministry of Construction of Russia from 20.10.2017 N 1454/pr "On approval of the set of rules "Correctional institutions and centers of the criminal executive system. Design Rules" (in two parts)", Order of the Ministry of Construction of Russia from 15.04.2016 N 245/pr "On approval of the set of rules "Detention facilities of the penal and correctional system. Design Rules", sanitary rules and norms SanPiN 2.1.3684-21 "Sanitary and epidemiological requirements for the maintenance of urban and rural settlements, for water objects, drinking water and potable water supply, atmospheric air, soils, residential premises, operation of industrial, public premises, organization and conduct of sanitary and anti-epidemic (preventive) measures", approved by the Decree of the Chief State Sanitary Doctor of the Russian Federation from 28. 01.2021 N 3; the Rules of Internal Regulations for Detention Facilities of the Penal and Correctional System, the Rules of Internal Regulations for Correctional Facilities and the Rules of Internal Regulations for Correctional Centers of the

²⁵ See, e.g., Ruling of the Second Court of Cassation of General Jurisdiction in Case No. 88a-3174/2022 from February 16, 2022.

²⁶ Ruling of the Seventh Court of Cassation of General Jurisdiction in case No. 88-17873/2021 from November /25, 2021; Ruling of the Eighth Court of Cassation of General Jurisdiction in case No. 88A-19339/2022 from October 13, 2022

²⁷ Ruling of the Second Court of Cassation of General Jurisdiction in case No. 88a-9340/2022 from May 12, 2022; Ruling of the Seventh Court of Cassation of General Jurisdiction in case No. 88-13580/2021 from September 14, 2021.

²⁸ Ruling of the Eighth Court of Cassation of General Jurisdiction in case No. 88-3488/2020 from February 18, 2020; Ruling of the Fourth Court of General Jurisdiction Cassation in case No. 88-6541/2021 from February 25, 2021; Ruling of the First Court of General Jurisdiction Cassation in case No. 88-12168/2021 from May 19, 2021.

²⁹ Ruling of the Eighth Court of Cassation of General Jurisdiction in case No. 88-3488/2020 from February 18, 2020.

³⁰ Ruling of the Eighth Court of Cassation of General Jurisdiction in case No. 88-3488/2020 dated February 18, 2020.

Penal and Correctional System, approved by Order of the Ministry of Justice of Russia from 04.07.2022 N 110 (hereinafter, the Internal Regulations).

41. The Code of Design Rules for SIZOs and correctional institutions refers to people with limited mobility, which may include persons with disabilities, and requires that they be located (mostly) on the first floors in rooms equipped with two-way communication systems (Code of Design Rules for SIZOs, paragraph 4.3, Code of Design Rules for Correctional Institutions, paragraph 4.3), requires that corridors be wide enough for wheelchair movement in one direction (ibid.), and that elevators and other systems of movement between floors be provided for people with limited mobility (Code of Design Rules for SIZOs, par. 4.7, Code of Design Rules for Correctional Institutions, par. 4.7). The Internal Regulations add that disabled persons shall be accommodated only on the first level of a bunk bed (paras 28.1, 379, 465 of Internal Regulations), and "The sanitary facilities in the cells with disabled persons shall be equipped with regard to their use by disabled persons" (paras 379, 465 of Internal Regulations).
42. The Internal Regulations offer a special regime: persons with group I and group II disabilities do not have to be on cell duty in the SIZO (par. 9.12.10 of the Internal Regulations), they are provided with an increased food allowance (paras 377, 464 of the Internal Regulations), they are allowed to have technical rehabilitation devices in the SIZO (paras 381 of the Internal Regulations). They are granted time to implement an individual rehabilitation or habilitation program (par. 380, par. 466, 467 of the Internal Regulations), they are released from the obligation to go out for exercises in the correctional institution (par. 411 of the Internal Regulations), are involved in work in the correctional institution only at will (par. 427 of the Internal Regulations), and can move around the correctional institution outside the line (par. 471 of the Internal Regulations). Persons with disabilities in correctional institutions "may have technical rehabilitation equipment with them, including when they are placed in a punishment cell, transfer to solitary confinement, or a safe house. The weight of technical means of rehabilitation is not included in the total weight of things, items and food that prisoners may have with them" (paragraph 469 of the Internal Regulations). In pre-trial detention facilities, they are searched by a medical officer (paragraph 307 of the Internal Regulations).
43. The aforementioned norms and regulations do not fully take into account the needs of persons with disabilities, for example, they partially meet the needs of persons with limited mobility, but ignore the needs of persons with other forms of disability, such as the visually impaired: design codes, SanPin and the Internal Regulations do not provide for Braille inscriptions or tactile tiles, and so forth.
44. A person who is held in a detention facility with a serious illness, which implies a group I, II or III disability, is usually unable to comply with the internal regulations of the detention facility or correctional institution due to his health condition, which leads to his violation of these internal regulations, which in most cases results in his placement in a punitive confinement cell. Article 117 of the Penal Enforcement Code of the Russian Federation, which regulates the procedure for imposing penalties on prisoners sentenced to imprisonment, exempts from placement in a punishment cell only disabled persons of group I, convicted women with

children under the age of three in the nursery of the penal institution, and convicted women released from work on account of pregnancy and childbirth. Thus, only a formally confirmed group I disability will be an obstacle to placing a prisoner in the isolation ward (SHIZO).

45. In April 2021, the Government of the Russian Federation approved a Conception on the Development of the Penal and Correctional System until 2030 (Order No. 1138-r of the Government of the Russian Federation of April 29, 2021), which provides for improving the conditions of detention for persons with disabilities and creating an accessible environment, including for visitors to places of detention. However, there are no specific actions to implement the provisions of the Concept. For example, the new Internal Regulations adopted in July 2022 contain, like the previous version of the Internal Regulations, a section titled "Special conditions for the detention of suspects and accused persons with disabilities". However, practically no changes were made to this section. The only change concerning persons with disabilities is the expansion of the list of technical means of rehabilitation, where wheelchairs were added.

a. Lack of effective remedies to improve conditions of detention

46. People in places of detention do not have effective remedies to improve their conditions of detention. The ECtHR considered this to be a systematic violation of human rights in places of detention and pointed out to Russia the need to create effective remedies. Russia should create preventive and compensatory remedies.³¹ Preventive means of protection - an administrative claim to change the conditions of detention - despite the explanations of the Resolution of the Plenum of the Supreme Court of the Russian Federation of 25.12.2018 № 47 "On some issues arising for courts when considering administrative cases related to violation of conditions of detention of persons in places of detention" is not effective: there are examples when the courts do not shift the burden of proof and do not help people in detention to collect evidence.³² The Committee of Ministers of the Council of Europe did not find the preventive remedy effective.³³ As for the compensatory remedy, according to the ECtHR, the legal regulation makes the compensatory remedy potentially effective.³⁴ However, in practice, there are serious reasons to doubt its effectiveness, since courts do not take ECtHR practice into account when considering claims and assign disproportionately small amounts of compensation.³⁵

47. For example, a person with amputated legs complained to the court about the failure of the administration of a place of detention to implement his rehabilitation program; when

³¹ *Ananyev and others v Russia* (42525/07 60800/08), Judgment (Merits and Just Satisfaction), ECtHR, January 10, 2012.

³² Ruling of the First Court of Cassation of General Jurisdiction No. 88-12168/2021 from 19.05.2021.

³³ Decision CM/Del/Dec(2019)1348/H46-23, 1348th meeting, 4-6 June 2019 (DH). URL.: <https://hudoc.exec.coe.int/ENG?i=004-14142>.

³⁴ *Shmelev and others v Russia* (41743/17 1249/18 14988/18), Decision, ECtHR, March 17, 2020.

³⁵ Compensation for improper conditions in the places of confinement: analysis of the court of cassation case law, 2022, Report Citizens' Watch, <https://citwatch.org/en/conditions-in-the-places-of-confinement-court-of-cassation/>; Compensation for poor conditions in the places of confinement: evaluating the effectiveness, 2022, Report Citizens' Watch, <https://citwatch.org/en/compensation-for-poor-conditions-in-the-places-of-confinement-evaluating-the-effectiveness/>.

considering the claims, the court did not shift the burden of proof and found the actions of the defendant lawful, since the latter had applied for additional budgetary funding to ensure the implementation of the plaintiff's rehabilitation program.³⁶ Thereby the court actually established the fact that the plaintiff's rehabilitation program was not being implemented, at least not in full, but, in the court's opinion, this did not violate the plaintiff's rights.

48. People deprived of their liberty also often complain about the prolonged failure to send them to a medical and social expert evaluation for the purpose of establishing a disability or re-certifying them.³⁷ Because of this, they cannot receive the necessary treatment and/or are deprived of social payments for disability.

a. Release for health reasons

49. The right to submit an application to release on the grounds of a state of health is stipulated by Article 81 of the Criminal Code of the Russian Federation. The consideration of these applications presents a problem. The Decree of the Government of the Russian Federation from 06.02.2004 No. 54 "On Medical Examination of Convicts Represented for Release from Serving the Punishment Due to Illness" approved the list of diseases that prevent serving the punishment.

50. In the first half of 2022, the courts reviewed 4,059 such applications, of which 985 (24%) were granted and 1,191 (29%) were denied. The number of applications considered and the percentage of satisfied and unsatisfied applications have not changed for several years: 7,839 applications were considered in 2021 (25% satisfied and 30% unsatisfied) and 7,325 applications were considered in 2020 (30% satisfied and 29% unsatisfied).³⁸

51. Such a low percentage of satisfied applications can be explained by deficiencies in legislative regulation and judicial discretion. First, a prisoner who does not have an illness from the list named in the Decree of the Government of the Russian Federation from 06.02.2004 No. 54 cannot expect to be released.³⁹ However, even with such an illness, a prisoner cannot always be assured of release due to illness, as courts check whether the illness meets the severity of the course and degree of functional impairment provided by the list of diseases that prevent prisoners from serving their sentences. If in their opinion, based on the opinion of the medical board, it does not, then no release occurs.⁴⁰ Second, the courts assess not only

³⁶ Ruling of the First Court of Cassation of General Jurisdiction in case No. 88-12168/2021 from May 19, 2021.

³⁷ Ruling of the Sixth Court of Cassation of General Jurisdiction in case No. 88-11220/2021 from May 25, 2021; Ruling of the Third Court of Cassation of General Jurisdiction in case No. 88a-12086/2022 from July 20, 2022; Ruling of the Third Court of Cassation of General Jurisdiction in case No. 88a-21603/2021 from December 15, 2021.

³⁸ See, court statistics of the Justice Department under the Supreme Court of the Russian Federation: <http://www.cdep.ru/?id=79> (Section 4 "Consideration of submissions, motions and complaints (by number of persons)". Summary statistics on the activities of federal courts of general jurisdiction and justices of the peace for the first half of 2022, 2021 and 2020, Report No. 1 on the work of courts of general jurisdiction in hearing criminal cases at first instance").

³⁹ Appeal decision of the Yaroslavl Regional Court from November 29, 2021 in the case No. 22-2319/2021; Appeal decision of the Supreme Court of the Republic of Karelia from November 8, 2021 No. 22-1735/2021; Appeal decision of the Murmansk Regional Court from October 5, 2021 in the case No. 22-1196/2021.

⁴⁰ Appeal decision of the Ivanovo Regional Court of November 18, 2020 in case No. 22-2357/2020.

whether the illness prevents a prisoner from serving his sentence, but also other factors that should not be considered, such as whether the illness was acquired before the conviction (the court indicated that "in such a case the illness was not an obstacle to the commission of a new crime and does not reduce the social danger of the prisoner").⁴¹ Judges also take into account the existence of penalties;⁴² the likelihood that release will "significantly improve the health" of the convicted person;⁴³ "the behavior of the convicted person during the period of serving the sentence, his attitude toward the treatment conducted, his compliance with medical recommendations, the regime requirements of the penitentiary institution, as well as data about the personality of the convicted person, the availability of a permanent residence, relatives or close persons who can and agree to care for him."⁴⁴

52. Such practice is formed despite the explanations of the Plenum of the Supreme Court of the RF that "if a convicted person has a serious illness that prevents him/her from serving the appointed punishment, serving a minor part of the punishment, or a negative characteristic of the administration of the correctional institution or absence of encouragement during serving the sentence, or absence of a permanent place of residence or social connections should not be an obstacle to release".⁴⁵ The judicial practice was criticized by the Commissioner for Human Rights of the Russian Federation.⁴⁶

a. Public Monitoring of Conditions of Detention

53. Public monitoring commissions (PMCs) consist of candidates nominated by non-governmental organizations and appointed by the Public Chamber of the Russian Federation and are tasked with visiting places of detention to monitor detention conditions. The PMC are not an effective means of preventing torture, cruel and degrading treatment in places of detention, as they are not independent, the work of PMC members is not paid, the procedure for appointing PMC members is not transparent⁴⁷ and discriminatory, since 2018 foreign agents organizations have been deprived of the right to propose nominees to the PMC (part 3 of article 10 of Federal law № 76-FZ from 10.06.2008 "On public control over ensuring human rights in places of forced detention and on assistance to people in places of forced detention"). People who are not nominated, but are otherwise associated with foreign agents, are also deprived of the right to participate in public control over places of detention.⁴⁸

⁴¹ Appeal Ruling of the Murmansk Regional Court of August 27, 2019 No. 22-1131/2019; see also Appeal Ruling of the Saratov Regional Court of August 11, 2022 No. 22-2264/2022.

⁴² Appeal decision of the Ryazan Regional Court of December 13, 2021 No. 22-1160/2021.

⁴³ Appeal decision of the Saratov Regional Court of August 18, 2022 No. 22-2349/2022.

⁴⁴ Decision of the Presidium of the Astrakhan Regional Court of May 17, 2016 No. 44y-34/2016.

⁴⁵ Resolution of the Plenum of the Supreme Court of the Russian Federation from April 21, 2009 No. 8 "On court practice of release on parole from serving the sentence, replacement of the unfulfilled part of the sentence with a milder type of punishment", paragraph 24.

⁴⁶ Annual Report of the Commissioner for Human Rights for 2021, p. 291.

⁴⁷ Overview of National Mechanisms of Prevention of Torture In Norway, Latvia, Sweden and Russia, HR NGO Citizens Watch, 2019. URL.: <https://citwatch.org/obzor-nezavisimyh-mehanizmov-predotvrashheniya-pytok-v-mestah-prinuditelnogo-soderzhiya-v-rossii-litve-shveczii-i-norvegii/>.

⁴⁸ For example, Alexander Kholodov, deputy chairman of the Commission on Security and Cooperation with PMCs of the Public Chamber of the Russian Federation, believes: "The criticism of rotation is related to the critics themselves not getting into the PMC ranks...a person could be

54. Russia should provide conditions for persons with disabilities to reside in places of detention, change the law and clarify to the courts when people should be released from detention for health reasons, with the courts taking into account the ability of the particular place of detention to provide adequate treatment, medication and conditions of detention, and awarding commensurate compensation in the event that rights of people in places of detention are violated.

Living independently and being included in the community (art. 19)

55. In Concluding observations, 2018 CRPD stated:

40. The Committee is deeply concerned about the large number of persons with disabilities living in institutions and about the limited opportunities for persons with disabilities, in particular those with intellectual and/or psychosocial disabilities, to gain access to services and participate in their local communities. It also notes with concern the lack of a strategy for deinstitutionalization, and that not all persons with disabilities are aware of the support services available to them or the ways in which they can claim assistance in their local community.

41. In line with its general comment No. 5, the Committee recommends that the State party adopt a strategy to:

(a) Promote the rights of persons with disabilities to live independently and be included in the community;

(b) Develop accessible support services in local communities for persons of all ages with all types of disability;

(c) Systematically provide information to persons with disabilities and their families on how they can claim support services and assistance that would enable them to live independently and as part of the community, in accordance with their own choices.

56. In Report 2022 Russia points to two forms of deinstitutionalization operating in Russia: first, the provision of services by social service organizations providing social services at one's home (2,500 organizations in total, of which 2,000 are state and 500 non-state (paragraph 153) and second, so-called accompanied living (paragraph 160), which involves several people living in a dwelling (apartment or separate house), including several people in one room and receiving social services. According to information from Russia, 600,000 persons with disabilities receive social services at home (paragraph 154). 5,249 persons with

nominated to the PMC by an outside organization, while heading a foreign agent organization in the same time. Now is not the time to be ceremonious with such people" in The observers got out to the commissions, Kommersant, 2019. URL.: <https://www.kommersant.ru/doc/5583344?query=%D1%85%D0%BE%D0%BB%D0%BE%D0%B4%D0%BE%D0%B2%20%D0%BE%D0%BD%D0%BA>.

disabilities use assisted living services (paragraph 161). Thus, a total of 605,249 persons with disabilities receive social services at home and use the service of assisted living.

57. Assisted living apartments and homes, as a rule, are opened and run by non-profit organizations with the support of business.⁴⁹ Assisted living services are implemented not on the basis of the law, but on the basis of an order of the federal executive authority, namely Order No. 847 of the Russian Ministry of Labor of December 14, 2017 "On approval of methodological recommendations on organizing various technologies of assisted living for disabled persons, including such technology as assisted living shared by small groups of disabled persons in separate living premises. Due to the absence of clear legislative regulation of what constitutes an assisted living facility, facilities with this name are opened in psycho-neurological residential facilities, although located in separate buildings, but in essence they are regular rehabilitation units,⁵⁰ which does not correspond to the right to live independently and be included in the community.
58. According to the Ministry of Health,⁵¹ there are 1,237 residential social service organizations for the elderly and adults with disabilities in Russia for 2021, with 256,000 residents, and 228 residential facilities for children with disabilities, with 31,000 residents. That is a total of 1,465 residential organizations housing 287,000 people. In 2015, there were 267,000 adults and children with disabilities living in 1,437 organizations. Thus, the number of people and the inpatient facilities themselves have increased since 2015. This trend is not consistent with the right to live independently and be included in the community.
59. Inpatient facilities such as psycho-neurological residential facilities (PNIs) are often the guardians and custodians of incapacitated and persons with disabilities placed there. Cases in which employees of PNIs have been held criminally⁵² and civilly⁵³ liable for corruption and for the improper provision of services are not uncommon.
60. The tendency of the PNI system to be non-transparent and closed off from public scrutiny and visitors poses a risk to the rights and freedoms of people held in PNIs. PNIs are not considered by Russian legislation as places of compulsory detention, so they cannot be visited by members of Public Monitoring Commissions. The COVID-19 pandemic became a

⁴⁹ St. Petersburg Perspectives opened a new home for young persons with severe disabilities, Agency of Social Information, April 14, 2022. URL.: <https://www.asi.org.ru/news/2022/04/14/mihajlova-peterburgskie-perspektivy-otkryli-novyj-dom-prozhi-vaniya-dlya-svoih-podopechnyh/>.

⁵⁰ The first state center for assisted living for persons with disabilities opened in St. Petersburg, Government of St. Petersburg, October 22, 2021. URL.: <https://www.gov.spb.ru/press/governor/224535/>.

⁵¹ See Federal Service of Statistics. URL.: <https://rosstat.gov.ru/folder/13721#>.

⁵² Cassation Ruling of the First Court of Cassation of General Jurisdiction of June 23, 2020 in case No. 77-933/2020; Appeal Ruling of the Supreme Court of the Republic of Komi from March 12, 2020 in case No. 22-371/2020.

⁵³ Cassation Ruling of the Third Court of Cassation of General Jurisdiction of December 8, 2021 in case Np. 88-21185/2021; Cassation Ruling of the Sixth Court of Cassation of General Jurisdiction of October 13, 2021 in case No. 88a-22438/2021; Cassation Ruling of the Seventh Court of Cassation of General Jurisdiction of June 1, 2022 in case No. 88-8078/2022; Cassation Ruling of the Ninth Court of Cassation of General Jurisdiction of July 18, 2022 in case Np. 77-1421/2022; Cassation Ruling of the Ninth Court of Cassation of General Jurisdiction of November 12, 2020 in case No. 88-8761/2020.

pretext for the *de facto* closure of the PNIs from visitors,⁵⁴ and thus depriving persons with disabilities of the right to communicate with their loved ones; at least one case has gone to court.⁵⁵

61. Moreover, being in a PNI creates a risk that a person loses the right to receive the social housing necessary for independent living. In court practice there are cases when municipal authorities refuse to provide social housing to an orphan child living in a residential care facility,⁵⁶ regarding residence in a PNI as grounds for the loss of the right to improve housing conditions⁵⁷ and the right to receive social housing.⁵⁸
62. Further, there is at least one example of a court decision that found it impossible for a daughter to have custody of her incapacitated mother in shared custody with a PNI because of the daughter's infrequent visits to her mother and the lack of evidence that "maintaining the rights of the plaintiff as custodian would be most beneficial to the rights and interests of incapacitated H";⁵⁹ the Court chose to grant full custody to the PNI. This approach speaks to the judges' bias that PNIs are better guardians than relatives.
63. At the same time, an author who publicly criticizes the work and conditions at PNI in the media may face a lawsuit for the protection of business reputation and a claim for financial compensation; there is at least one case where a nonprofit organization has been held liable for publishing about conditions at PNI by court.⁶⁰
- 64. Russia should abandon the priority granting of guardianship status to medical institutions, take measures to eliminate the possibility of abuse of guardianship rights by medical institutions, and increase the level of openness of medical institutions to public scrutiny.**

Education (art. 24)

65. In its 2018 Concluding Observations, the Committee expressed concern about the continuing practice of segregated education, non-transparent financing, and regional disparities that impede the implementation of the principle of equality in education (para. 48). The

⁵⁴ PNIs in Moscow began closing to visitors again and pandemic, Novaya Gazeta, September 26, 2020.

URL.: <https://novayagazeta.ru/articles/2020/09/26/164521-stolichnye-pni-vnov-nachali-zakryvatsya-dlya-posetiteley-na-fone-pandemii>.

⁵⁵ Cassation Ruling of the Eighth Court of Cassation of General Jurisdiction of 08 November, 2022 in case No. 88-15049/2022.

⁵⁶ Cassation Ruling of the Eighth Court of Cassation of General Jurisdiction of November 11, 2022 in case No. 88-15049/2022; Ruling of the Constitutional Court of the Russian Federation of 22.12.2015 No. 2949-O "On refusal to accept for consideration the complaint of citizen Medvedev Alexander Andreevich on violation of his constitutional rights by part ten of Article 17 of the Federal Law "On Social Protection of Disabled Persons in the Russian Federation".

⁵⁷ Cassation Ruling of the Third Court of Cassation of General Jurisdiction of December 12, 2020 in case No. 88a-20070/2020.

⁵⁸ Cassation Ruling of the Seventh Court of General Jurisdiction in case No. 88-7829/2020, May 15, 2020; Cassation Ruling of the Seventh Court of General Jurisdiction in case No. 88-16710/2021, November 10, 2021.

⁵⁹ Cassation Ruling of the Third Court of General Jurisdiction in case No. 88-14437/2020 from September 23, 2020.

⁶⁰ Cassation Ruling of the First Court of General Jurisdiction in case No. 88-18511/2021, August 12, 2021.

Committee recommended that Russia apply in practice the concept of inclusive education, adopt a roadmap and establish appropriate indicators (para. 49).

66. In Report 2022, Russia indicates that the realization of the right to education of persons with disabilities is achieved by developing inclusive education and "supporting and developing the existing network of selected general educational organizations" (Report 2022, paragraph 203). Russia names two measures taken, first, the creation of an accessible environment in 21.8% of kindergartens and 28% of schools (paragraph 206) and second, the creation of 142 basic professional educational organizations ("BPEO") in 85 subjects of the Russian Federation (paragraph 207). Russia does not provide information on specific measures for the future.
67. Meanwhile, inclusive education must be provided at all levels, including at the level of vocational and higher professional education (General Comment No. 4 (2016) on the right to inclusive education, CRPD/C/GC/4 (2016), paragraph 8). Data provided by Russia show that almost 80% of kindergartens and more than 70% of schools in Russia are inaccessible to persons with disabilities. Russia does not provide any data on secondary and higher vocational education institutions, which is indirect evidence of their inaccessibility.
68. The second measure taken by the state should work on the problem of inaccessibility of education and segregation of persons with disabilities. The regulation on the creation and activity of BPEO was approved by the Ministry of Education of Russia only on August 30, 2021. Apparently, this explains their small number. BPEO is a status assigned to educational organizations by the decision of the highest state executive body of the subject of the Russian Federation (clause 1.2 of the Regulation on BPEO). They are financed at the expense of the federal budget, as well as regional and local ones (par. 6.1). The Federal Methodological Center for Inclusive Education coordinates the BPEO at the federal level (clause 1.4). Their main goal is to coordinate the development of inclusive secondary vocational education and vocational training in the subject of the Russian Federation, ensuring their accessibility for persons with disabilities (clause 3). Higher education does not belong to the sphere of activity of the BPEO. It is too early to assess the results of the work of BPEOs, however, it is obvious that they will not be able to significantly increase the inclusiveness of Russian education, as their activity is limited, first, to the coordination of educational organizations and consulting with persons with disabilities and, second, to the sphere of secondary vocational education and training.
69. Another subject of concern is the shortcomings of legal regulation in the sphere of education. The Ministry of Education⁶¹ and the Russian Government⁶² planned in 2018-2022 to develop proposals for amendments to the Federal Law "On Education" regarding the implementation of the right to education for persons with disabilities and inclusive

⁶¹ Plan of measures to create special conditions for general and additional education for students with disabilities and students with disabilities for 2018-2020, approved by the Minister of Education on June 19, 2018, point 1; Plan of activities of the Ministry of Education of Russia for 2021, approved by the Minister of Education of Russia on April 21, 2021, No. CK-10/02ВН, point 46.

⁶² Interdepartmental comprehensive plan of measures to develop inclusive general and supplementary education, children's recreation, the creation of special conditions for students with disabilities, with limited opportunities for health in the long term (until 2030), December 22, 2021, № 14068p-P8, approved by the Deputy Prime Minister of the Russian Federation, paragraph. 1.

education, but this work has not been done. Thus, the basic elements of inclusive education are not enshrined at the legislative level.

- 70. Russia should ensure that all kindergartens, schools, and educational institutions are physically accessible to persons with disabilities, and should take measures of positive discrimination to ensure that persons with disabilities have a real opportunity for inclusive education in accordance with their interests and needs.**

National implementation and monitoring (art. 33)

71. In its 2018 Concluding Observations the Committee states:

66. The Committee is concerned about the lack of an explicitly identified coordination mechanism, as outlined in article 33 (1) of the Convention. It also notes with concern the insufficient involvement of the representative organizations of persons with disabilities in monitoring the implementation of the Convention. The Committee further notes insufficient and ineffective monitoring at the regional level of the State party.

67. Taking into account the guidelines on independent monitoring frameworks and their participation in the work of the Committee (2016), the Committee recommends that the State party:

(a) Appoint focal point(s) to improve the harmonized implementation of the Convention in the State party, with particular regard to competencies at the regional level;

(b) Ensure the full and effective participation of persons with disabilities in the monitoring process through their representative organizations, including by providing the necessary funding.

72. The freedom of activities of Russian NGOs is considerably limited by the legislation on foreign agents. This legislation appeared in 2012 in connection with amendments to the Law on Public Associations,⁶³ with the Federal Law "On the Control of Activities of Persons under Foreign Influence"⁶⁴ coming into force on December 1, 2022, which consolidates already existing and adds new grounds for recognizing individuals and legal entities as foreign agents, restrictions on their activities and obligations. For example, the implementation of legislation on palliative care is hindered by the legislation on foreign agents, as sometimes public organizations involved in palliative care are recognized as foreign agents.⁶⁵ The ECtHR in its judgment in the case *ECODEFENCE and Others v. Russia* (9988/13) of June 14, 2022

⁶³ Federal Law No. 121-FZ of July 20, 2012 "On amendments to certain legislative acts of the Russian Federation as related to regulation of activities of non-profit organizations performing functions of a foreign agent".

⁶⁴ Federal Law of July 14, 2022 No. 255-FZ "On the control of activities of persons under foreign influence".

⁶⁵ The Ministry of Justice added two more organizations helping HIV-positive people to the registry of foreign agents, Rusfond, December 28, 2020. URL.: <https://rusfond.ru/news/1009>.

recognized that the restrictions imposed by the legislation on foreign agents violate Art. 11 taken in place of Art. 10 of the ECHR, and "the cumulative effect of these restrictions - whether by design or by effect - constituted a legal regime that had a significant 'chilling effect' on the choice to seek or accept any amount of foreign funding, however small, in circumstances where the possibilities for domestic funding were rather limited, especially with regard to politically or socially sensitive topics". Thus, the legislation on foreign agents significantly restricts the activities of human rights defenders, both organizations and individuals and unregistered associations, including in the sphere of protecting the rights of persons with disabilities.

73. Russia should repeal legislation on foreign agents and ensure equal opportunities for all to receive funding from the budgetary system of the Russian Federation.