



# The Situation of Children Belonging to Vulnerable Groups in Russia

*Alternative Report*

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*Anti-Discrimination Centre “MEMORIAL”*

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The NGO, Anti-Discrimination Centre “MEMORIAL”, was registered in 2007 and continued work on a number of human rights and anti-discrimination projects previously coordinated by the Charitable Educational Human Rights NGO “MEMORIAL” of St. Petersburg. ADC “Memorial’s mission is to defend the rights of individuals subject to or at risk of discrimination by providing a proactive response to human rights violations, including legal assistance, human rights education, research, and publications. ADC Memorial’s strategic goals are the total eradication of discrimination at state level; the adoption of anti-discrimination legislation in Russia; overcoming all forms of racism and nationalism; Human Rights education; and building tolerance among the Russian people. ADC Memorial’s vision is the recognition of non-discrimination as a precondition for the realization of all the rights of each person.

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# The situation on minority children in Russia

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## Executive Summary

This report has been prepared by Anti-Discrimination Center “Memorial” in response to Russia’s fourth and fifth periodic report that was submitted on 3 June 2011. ADC “Memorial” regularly works with people who face discrimination in the Russian Federation through its key programs, which include: Protection of Child Rights Programme, Protection of Roma Rights Programme and Defending the Rights of Ethnic Minorities and Migrants in the North-West Regions of the Russian Federation.

The report is largely based on first-hand empirical material that has been obtained through regular work of ADC “Memorial”. The authors of the report also cite research and other evidence that demonstrate significant areas where the Government of the Russian Federation has failed to meet its obligations under the CRC.

The report does not include information in relation to the implementation of all rights protected by the Convention. Instead, it focuses on some of the problematic areas on which ADC “Memorial” works on a regular basis and has an expertise. Therefore the major focus of the report is on the rights of the migrant children and children belonging to ethnic minorities, including first of all Roma.

The major finding of the report is that the situation of protection of the rights of minority and migrant children has not improved in the reporting period. Many of the legal and policy initiatives introduced by the Russian Government have further limited the rights of the child and contributed to the overall deterioration of their well-being. Some of the initiatives that have been mentioned in the State Party report have a rather formalistic character. An example of such initiative is the creation of the Child Rights Ombudsman both at federal and regional levels. As it is explained in the report the institution is ineffective due to the non-transparent practice of appointments of the ombudsmen, many of the candidates selected having law enforcement background, including prosecutors and individuals with KGB background.

The Government continued to turn a blind eye on high priority problems. For example a key policy document – National Strategy for Action for Children that covers the period of 2012-2017, failed to address one of the most pressing issues - discrimination against minority children. In 2010 a new law on protection of children from harmful information was introduced. The law goes beyond the aim of protection of children from harmful information and effectively limits the freedoms to receive information as protected by Article 13 of the Convention. Furthermore, in 2012 the Federal Ministry of Health

introduced a procedure of clinical examination of schoolchildren that legalized humiliating practice of full body examination of schoolchildren. Under the same regulation children can be subjected to regular checks for smoking and drug use.

Also in 2012 first at regional and later at federal level, series of legal initiatives targeting the LGBT people in the name of protection of children have been approved. This legislation indirectly legitimizes the hatred and violence against LGBT people. Furthermore, the law is not only against the LGBT community, but against the children who are deprived of regular information on this topic.

Arguably the most appalling legal initiative was so called Dima Yakovlev law, that entered into force on 1 January 2013 and that deprived thousands of Russian children, many of them in a need for immediate medical assistance, from the chance to be adopted by American parents. The law was introduced in response to adoption of the so called anti-Magnitsky law, that prohibited Russian officials implicated in the torture of Sergei Magnitsky, Russian lawyer who in prison in Moscow on November 16th, 2009, to travel to the United States.

The report contains numerous examples of abuses of the rights of minors by the representatives of law enforcement agencies. Searches and unlawful detentions, followed by violations of procedural rights have been frequent throughout Russian regions. Primary targets of such abuses are physically identifiable minority youth, including migrant children from Caucasus regions, Central Asia as well as Roma children. Likewise, government failed to effectively protect minority children from the racially motivated brutal attacks carried out by Nazi groups. Government response to such attacks is frequently inadequate, with no effective investigation being carried out.

Negative traditional practices that affect thousands of minors have also been left without attention. Particularly vulnerable are girls in the Northern Caucasus and in other parts of Russia where such practices are still common. The report explains why and how such practices lead to the violation of fundamental rights of the children protected by the convention. It also argues that immediate and effective government response is necessary to end such violations.

Another matter discussed in the report is the forceful separation of children from their parents. This dreadful practice starts in maternity hospitals where newborn children are involuntarily confiscated from mothers who do not have personal identification documents. Children are then sent to special centers for adoption. ADC "Memorial" practice contains examples of children being forcefully separated from their parent and deported to their country of origin due to minor violation of migration legislation.

Besides, the report describes inhuman living conditions that many of migrant children have to endure and the lifestyle and that leads to isolation, deterioration of health and to the spread of life-threatening diseases. One of the most affected groups that suffer

from unacceptable living conditions is Roma. The majority of Russia's Roma communities continue to live in settlements that do not have access to drinking water, sewage system and electricity.

The final chapter of the report is dedicated to the complex problem of lack of access to education by minority children as well as notorious practice of segregation of the Roma children at public schools.

## Summary of Recommendations

ADC “Memorial” urges the Government of the Russian Federation to:

1. Develop operative programs both at federal and regional levels, with the aim of tackling child discrimination and ensuring that children have unhampered access to basic social services;
2. Effectively investigate allegations of racially motivated attacks on minority children with the purpose of identification and punishment of those responsible;
3. Adopt the internal regulations for the police clearly describing the actions of police officers regarding minors in line with the child rights standards set by national and international law. Inter alia the instructions should include the regulation how a police officer should act in the case of doubts of the age of the detained person, and in the absence of documents, given that all doubts should be interpreted in favor of the detained person; Ensure observance of these instructions by all police officers;
4. Ensure an effective investigation of each case of child rights violations by the law enforcement officials. Remove those responsible for violations relating to children (including misconduct and violations of procedural rights of the child, not only administrative or criminal) from the work in the law enforcement agencies;
5. Ensure that detained children are guaranteed with procedural rights such as: right to immediately contact family members; right to unhampered access to defense counsel; right to silence and right to be free from all forms of pressure and ill-treatment; strictly ensure that children are not subjected to imprisonment without trial; outlaw use of administrative detention against children and ensure that such procedural rights are guaranteed for every child without discrimination;
6. Ensure that all children in the Russian Federation have access to decent housing, quality school education, including the possibility to study in one’s native language and culture;
7. Provide minority children with all the necessary assistance for studying native languages and cultures;
8. Improve the education of Roma population, by guaranteeing access to school for all children, including those who cannot compile the necessary documents; abolishing the practice of segregation of Roma children in “gypsy classes”, based on ethnicity and a poor command of the Russian language, as discriminatory; integrating all Roma children with other students; and by providing all Roma children with the high quality education according to standards adopted in Russia. For this purpose, the following measures should be undertaken:
  - Ensure the involvement of experts on integration, social workers and counsellors for parents, in schools with Roma pupils;



- Organize and fund preschool preparation of Roma children. Create a system of evening classes for those children, who for some reason have interrupted their education or have not been enrolled in school at the appropriate age;
  - Ensure that the qualifications of teachers working with Roma children include knowledge of Roma history and culture, as well as the ability to teach Russian to non-native speakers;
  - Ensure integration of Roma children with other children in all classes, as well as in in-school and out-of-school events (sport competitions, festivals, school trips, and so on).
9. End the practice of eviction of Roma families, destruction of their housing and property; in those cases where evictions are deemed as absolutely necessary, ensure that those families who have been subjected to eviction procedures receive adequate alternative housing;
10. Guarantee that the application of Federal Law of Russian Federation no. 436-FZ of 2010-12-23 “On Protection of Children from Information Harmful to their Health and Development” does not interfere with children’s right to receive information, protected by Article 13 of the Convention;
11. Ensure the opportunity for young people to receive useful information about the societal life, including politics, health, environment and youth affairs. In the same line the state should not hinder modern sex education. Instead it should guarantee children with the opportunity to express their views freely on all these issues, including in the form of participation in political campaigns, appearances in the media, and using social media without risk of persecution;
12. Substantially review the Federal Law N 272-FZ 'On Measures against Persons Involved in Violations of Fundamental Human Rights and Freedoms of Citizens of the Russian Federation' with the purpose of ensuring orphans living in Russia with the choice to be adopted by US citizens. In this relation, safeguard that the law does not affect the adoption procedures that have already been started before the law came into force on 1 January 2013. Depriving Russian children, especially the ones with serious illnesses, a chance to be adopted leads to multiple forms of violations of the Convention provisions and must not be permitted;
13. While respecting traditional cultures, devote proper attention to the elimination of some of the traditional practices that violate the fundamental rights of the child;
14. Guarantee that children are not separated from their parents due to formal reasons such as not having personal identity documents or work permits;
15. Remove the procedural and administrative barriers of stay of migrant children from countries with which Russia has visa-free regime, on the basis of a residence and work permits of their parents. This should as a minimum include creating an incentive for parents to send their children to school by granting a legal status to each pupil who comes from the

migrant workers family legally residing in Russia as well as abolition of the requirement to renew migration card every three months;

16. Consider setting up an effective system of monitoring for the purpose of protecting children from the negative traditional practices. Such mechanism should incorporate possibility by the victims to launch complaints while their identity is protected. Government should also consider setting up special shelters where victims could be hosted and offered necessary support;

17. Ensure that children are not separated from parents during mass detentions and create conditions for family stay in penitentiary institutions to let children spend quality time with their parents who are in detention;

18. Prevent the placement of children in deportation and transit centers in those cases when parents are in Russia;

19. Contribute to the preservation of families by prohibiting the practice of taking away infants from mothers and placing them in the so called "House of Babies" ("Дом Малютки");

20. In the prevention of child abandonment, support socially-weak families, especially single mothers, disadvantaged, prevent the termination of parental rights, introduce continuous monitoring of such families by relevant authorities; ensure that social workers and psychologists provide assistance to families that require such help; create the possibility of temporarily sending children to boarding school with the possibility of returning to the family as the situation at home improves;

21. Establish small boarding schools and children's homes that would recreate the family environment and provide sufficient financial support for functioning of such institutions;

22. Create institutional mechanisms for the prevention of domestic violence against children. Strengthen the work of local doctors to detect cases of child injuries resulting from domestic violence, provide schools and preschools social workers involved in work with disadvantaged parents with the possibility of introducing preventive sanctions in order to prevent physical and psychological violence in the family, and whenever possible retain children's links with parents;

23. Systematically collect the data on the number of children who do not attend schools with the purpose of minimizing the number of such cases;

24. Develop a system of crisis support centers for children, which could allow children to launch complaints without interference; Ensure that such crisis centers exchange relevant information with the prosecutor's office;

25. Ease conditions for mothers in prison to communicate with their children. Whenever appropriate, allow the serving of punishment with the children in conditions which among others offer possibility of physical and intellectual development of the children;

26. Create opportunities of frequent prison visits for the mothers with children under humane human conditions and enable unhampered access to mothers for under aged children who are in prisons with their mothers;

27. Do not allow reduction of the age of criminal responsibility of children, and avoid using deprivation of liberty as a measure of punishment in relation to young offenders; Instead use alternatives to imprisonment which have more emphasis on rehabilitation;
28. Change the system of appointment of child ombudsmen with view of making it more transparent; such positions should be occupied by individuals who have proof record of protection of child rights. Child ombudsmen's work should be guided by the Convention on the Rights of the Child, and should contribute to the systematic implementation of the Concluding Observations of the CRC;
29. Create conditions for protecting the lives and dignity of children from vulnerable groups, as well as create a safe environment for children with disabilities, ethnic, religious, linguistic and sexual minorities, and protect them from all forms of violence and abuse;
30. Pay special attention to the respect of gender equality among children in all spheres of life. Undertake special measures for preventing the violation of the rights of girls among the people of the North Caucasus, as well as among those communities that lead a traditional way of life that sometimes leads to violations of fundamental rights;
31. Nurture respect for other cultures, other countries and other peoples. Abandon the military-patriotic rhetoric in schools in favor of inculcating universal humanistic values such as human rights care for the environment etc.;
32. Recognize and respect the absolute right of the child to the cognitive understanding of the world; provide children with the opportunity to understand what they are taught and why they are taught;
33. Protect the inner world of children from violent incursion of adults; respect children's right to privacy; Avoid forced psychological testing and other forms of violent attempts to control the child's personality;
34. Do not allow mixing of public and religious education and exclude influence of church and other religious organizations on schools;
35. Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities that provides access to effective means to protect their rights for disabled children;
36. Ratify the Optional Protocol to the European Social Charter allowing possibility to make collective complaints.

## Overview of the legal and policy initiatives implemented in the reporting period

As a State Party to the Convention on the Rights of the Child (the Convention), the Russian Federation has an obligation to undertake all appropriate legislative, administrative, and other measures for the realisation of the rights recognized in the Convention. Other international instruments to which Russia is a party and which guarantee the rights of children residing under Russia's jurisdiction include two optional protocols of the Convention on the Rights of the Child: Optional Protocol on the Sale of Children and Child Pornography (2000) and Optional Protocol on the Involvement of Children in Armed Conflict (2000), Convention against Discrimination in Education (1960), European Convention for the Protection of Human Rights and Fundamental Freedoms (1950). Furthermore in June 2009 Russia ratified the European Social Charter (1996) and assumed obligation to respect the right of the family to social, legal and economic protection, to be ensured by means of social benefits, fiscal arrangements and other appropriate means.

In addition to international legal norms, there is a substantive body of domestic law that guarantee the rights of children. Some of the key normative acts include the Constitution of the country, the Family Code and the Federal law 'On Basic Guarantees of the Rights of the Child in the Russian Federation'. The system of social benefits and supports for children and families with children is enshrined in several federal laws. There have been some new initiatives within the reporting period that aim at further improving the legal framework for the protection of the rights of children. For example, in 2008 the Federal Act on Additional Measures of State Support for Families with Children was amended to give families the possibility of availing themselves of the right to use some or all of the maternal capital to repay the principal and interest on credit or a loan, including mortgage, regardless of the period which has elapsed since the birth or adoption of a second or third child. Moreover, in 2009 the Federal Education Act of 10 July 1992, was amended to extend the right of parents and legal guardians to receive partial compensation of parental fees to include parents whose children attend non-State educational establishments with a basic general preschool education programme; in 2013 the Government increased the amount of benefits for maternity leave and for child care. Rules for receiving social benefits at regional level are established by the laws which have local application.

A significant positive step undertaken during the reporting period was the establishment of the Children's Rights Commissioner (Child Rights Ombudsman) in 2009. Pavel Astakhov was appointed to the post on December 30, 2009 and for the time of writing he still holds

this position. By 2013 local child rights ombudspersons have been appointed in 83 regions of Russia. Nonetheless, the non-transparent practice of appointment of federal or regional ombudsmen makes the institution inefficient. There are no specific criteria for the appointment of ombudspersons neither are nominations discussed publicly. Often this leads to situation in which positions are held by individuals who do not have any experience in defending rights of children or working with them. For example, the Children's Rights Commissioner Mr. Astakhov is a graduate of the School of the KGB and had no experience of working on protection of child rights upon his appointment. He was appointed by the President's decision without public discussion. In the same line, many of the regional ombudspersons are former prosecutors, investigators or government official. For example, the Ombudsperson for Child Rights in the Tambov regions Evgeny Tamozhnik, before the appointment had worked as a regional prosecutor.<sup>1</sup> This non-transparent system of appointments on the positions of child ombudsman leads to a situation in which the ombudsmen act like law enforcement representatives and not as the child rights guardians. A representative example which reinforces this argument is a case of Svetlana Agapitova, Head of the Child Rights Division at Saint Petersburg Regional Administration (Ombudsperson for the Rights of the Child). ADC "Memorial" has approached Mrs. Agapitova on December 6, 2012, in order to discuss the situation on migrant children who have no access to primary education in Saint-Petersburg. In her response to ADC "Memorial" Mrs. Agapitova explained that such practice does not violate the rights of children since 'first and foremost migrant children should comply with the migration legislation' and a positive decision on admitting or keeping 'illegal child' at school can only be made in exceptional circumstances'.

The practice of ADC "Memorial" reveals that the Ombudspersons for the Child Rights are inefficient in cases that relate to alleged violations of the rights of children from state authorities. ADC "Memorial" repeatedly sends advocacy letters to the Ombudspersons for the Rights of the Child in the regions, concerning the rights of children from the Roma settlements (especially in relation to the cases concerning demolitions of their houses, as in Kemerovo and Tula). The standard response is a formal reply with no effective measures taken.

In 2012, a National Strategy for Action for Children for 2012 – 2017 was adopted. The strategy fails to address some of the key problems that children in Russia are experiencing. For example the document does not cover one of the key issues - discrimination against minority children. Instead, significant part of document deals with the issues that have nothing or very little to do with the interest of children. Thus, the introduction of the

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<sup>1</sup>Evgeny Tamozhnik biography can be viewed on the following web page: <http://tamdeti.ru/cmsdiv-biografia.html>)

document talks about “the modern programs of civic and patriotic education aimed at the formation of the Russian civic identity {...}and readiness to defend the homeland, and the positive attitude of young people to serve in the Armed Forces of the Russian Federation.”

Some of the legal initiatives that were passed during the reporting period in the name of protection of the rights of the child actually limit fundamental freedoms guaranteed by the Convention. The trend of imposing restrictions has been particularly visible from 2009 onwards. In 2009 Russian legislators approved a federal law, introducing a curfew for children. Persons under 18 were not allowed to appear from 11 pm to 6 am on the streets or in public places without being accompanied by their parents or close relatives. In St. Petersburg there were cases of detention of children by the police. Often they were kept in the police station for several hours without any objective.

In 2012 the Russian Ministry of Health approved a new procedure for conducting clinical examination of schoolchildren. According to the new circular, from 2013 all schoolchildren have to be subjected to full body examination. Such checks also include testing for smoking, using a method that is widely criticized for its lack of objectivity, and testing for drug use.

Federal Law of Russian Federation no. 436-FZ of 2010-12-23 “On Protection of Children from Information Harmful to Their Health and Development” is a content rating law that was passed in 2010 and amended in July 2012. The law classifies information it covers into five categories (indicated as 0+, 6+, 12+, 16+ and 18+) and prohibits its dissemination among children according to the category (as indicated, except for 12+ which can be disseminated to 6+ children under parent supervision). This law prohibits distributing information that could encourage inflicting harm or suicide, triggering a desire to use drugs, alcohol and cigarettes by children.

The definitions contained in the law allow for a broader interpretation and use of prohibitive measures. In practice it serves as a tool in the hands of the government to easily prohibit information which might seem undesirable. Amendments made in early 2013 also introduced fines for providing access to information protected by the law to children. ADC “Memorial” believes that the law provides a fertile ground for the violations of the children's right to access to information protected under the Article 13 of the Convention, according to which: the child shall have the right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. In its General Comment N 12 (The right of the child to be heard) the Committee clarified, that “freedom of expression relates to the right to hold and express opinions, and to seek and receive information through any media... As such, the obligation it imposes on States parties

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Case of Evelina Glinskaya is a demonstrative example of the brutality that Russian orphans have to endure in relation to the adoption of the so called Dima Yakovlev law. Evelina, who was born with HIV, has serious health complications that require immediate medical intervention. Yet, being in an orphanage that has no resources for her treatment, contributes to the gradual deterioration of her health. The Federal Law N 272 deprived Evelina the possibility to grow up with a loving mother – US citizen Gina Coleman, with whom she already developed a parental bond. Instead she is destined for the worst outcome that will eventually arrive in the absence of speedy medical support.

is to refrain from interference in the expression of those views, or in access to information, while protecting the right of access to means of communication and public dialogue”.

In 2010 there have been some initiatives to bring down the age of criminal responsibility for grave and particularly grave crimes to 12 years. Fortunately the initiatives did not receive enough support in State Duma and were eventually abandoned.

A Federal Law N 272-FZ 'On Measures Against Persons Involved in Violations of Fundamental Human Rights and Freedoms of Citizens of the Russian Federation' that came into force on 1 January 2013, prohibited adoptions of Russian children by United States citizens. Considering the high share of child adoptions by the US citizens the law plainly harms the interest of Russia's orphans by depriving them a chance for a better life. The introduction of this law caused outrage among the Russia's civil society. Even Human Rights Commissioner of the Russian Federation Vladimir Lukin stated that this law limited the right of orphans with diseases to find a family. According to Lukin's office, at the end of 2012 there were 660,000 orphans in Russia, many of them with serious illnesses and disabilities.

Certain regional administrations have responded to the introduction of the law 'proactively'. In February 2013, the Governor of the Pskov Region Andrey Turchak generally prohibited all adoptions of orphans from the region. Such politically motivated decisions clearly have a devastating impact on the most vulnerable children: orphans, especially the ones with serious illnesses. There have been numerous media reports concerning the murder of children born with disabilities by family members - a tragic situation which is often imposed by extreme economic hardship. In February 2013, Russia's Investigation Committee also recognized an increase in the number of cases of family violence

against children.

Among others the law also interrupted hundreds ongoing procedures of international adoption. Such international adoption has been a very complex process, requiring the completion of a home study, psychological evaluations, physical examinations, local and national background checks, more than 80 hours of specific adoption classes, acquiring immigration clearance, and the gathering of dozens of legal document all of which require

specialized notarization and apostils to be accepted by the Russian authorities. After completing these formal parts of the adoption process, and submitting Registration Dossier, parents waited many months for a response from Russia in order to receive a referral for a child to adopt. By the time when the law came into force on 1 January 2013, many of the potential adoptive parents have already established first contacts with the children and managed to develop a sensitive parental bond. The new law though, made it impossible to complete even these adoption cases leaving both parents and children devastated.

A number of regional laws, introducing administrative responsibility for the "promotion of homosexuality among minors" and "leveling the value of traditional and non-traditional families" were introduced from 2011 onwards. A number of cities like Ryazan, Kostroma, Arkhangelsk, Samara, St. Petersburg and Novosibirsk have also introduced appropriate implementing legislation and in 2013 a Federal law with the similar contents was passed in two readings by the State Duma.

In practice, the introduction of these restrictions means a ban on children to receive any information related to LGBT people. Children will be prohibited to attend events which raise the issues of gay and lesbian life, including exhibitions, film festivals, debates and any social events of similar character. There is no doubt that appropriately presented information on non-traditional sexual orientation can help educate young people as well as make them more tolerant. Nonetheless, providing people less than 18 years of age with such information is prohibited under the Russian law.

While non-traditional sexual orientation is widely condemned by the general public, teenagers often form negative attitudes in relation to their gay and lesbian peers. Psychologists have already indicated a high suicide risk of LGBT children who are deprived of objective information, community support and friends who are unable to form positive opinion about their LGBT peers.

In a number of schools in St. Petersburg, teenage pupils were surveyed by the psychologists after the adoption of the law against "propaganda of homosexuality among minors". Such 'surveys' were conducted with the intention of contributing to the formation of negative attitudes towards LGBT people. Groups of teenagers were collectively asked to answer the question: "How would you react if you found out that one of you was a gay?" "The question provoked sharp negative comments towards possible sexual minorities, as the psychologist concluded that 'being LGBT is a bad fashion'.



The adoption of such laws contradicts ideas of tolerance and human rights, lead to a suffering of adolescents who are already aware of their sexual orientation which differs from that of a majority and reinforces hatred, violence and bullying against minorities.

Laws banning sex education, including in relation to sexual minorities, directly contradict the rights of the child to freely receive and disseminate information and be protected from discrimination, as guaranteed by the Convention.

According to the Convention on the Rights of the Child, Russia shall respect and ensure the rights to each child within their jurisdiction “without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (Art. 2 of the Convention). In its last Concluding Observations the Committee recommended that the State party took all necessary measures to prevent and combat all forms of discrimination, inter alia via national and regional awareness campaigns and effective interventions in all incidents of discrimination, while paying special attention to the most vulnerable groups such as children belonging to religious and ethnic minorities, Roma children and children of parents without a residence permit. The Committee recommended that the State party strengthen its efforts to ensure that the general principle of the best interests of the child is understood and appropriately integrated and implemented in all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children.

In the same line the UN Committee on the Elimination of Racial Discrimination has in its Concluding Observations from year 2008 recommended the Russian Federation to carefully review the criteria by which children are allocated to special remedial classes and take effective measures to ensure that ethnic minority children, including Roma, are fully integrated into the general education system (par. 27). Furthermore the UN Committee on Economic, Social and Cultural Rights in its Concluding Observation of 2011 urged “the State party to strengthen its efforts to ensure that no child is deprived of the right to education in particular in the rural areas and among the disadvantaged and marginalized groups including the Roma, indigenous peoples, children with disabilities... to prevent children living in Chechnya and the Northern Caucasus from their voluntary recruitment into military units” (para. 32, 33).

These recommendations have not been fully implemented by the Russian Federation neither in legislation nor in practice. Despite the adoption of many laws that relate to the rights of children, the problem of discrimination of minority children has not been taken into account on a legislative level partly due to the lack of anti-discrimination laws in general.

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Reported crimes relating to the violence against minority children are left without effective investigation and investigative authorities are often failing to recognize ethnic hatred as a motive of the crime as it happened in the case of Mikhail Abduganiev, a 15 year old Tajik citizen who was killed in the street in disputable circumstance on 27 February 2013.

In practice, the children of migrant workers, stateless persons, and ethnic minorities in Russia are among the most vulnerable groups subject to dual discrimination. There is no sufficient legal framework in place for protecting children from ethnic minorities and migrant children against discrimination. Government efforts in the area are of a formalistic nature and do not lead to concrete results.

For example, in 2013 the Russian government adopted a plan for socio-economic and cultural development of the Roma ethnic community, to contribute to the integration of Roma into the modern Russian community. The plan though, the plan is of a general nature and does not provide for concrete measures. For example it contains general clauses on support of "traditional occupations", which does not help improve the situation with the Roma children and does not address the root causes of the problem, such as compulsory education for all Roma children and the system of support by social workers.

The children of migrants and stateless persons in Russia often are outside of any legal protection because their parents have no work or residence permits. Parents without documents are not able to obtain documents for their children and are afraid to apply to any state service because of the risk that their children will be taken away.

Minority children face discrimination at their places of living, at schools and when applying to social services. The conditions of living of minority children do not meet the minimum standards of living and have a negative impact on their development. Minority children often become victims of all kinds of violence. They suffer from domestic violence, violence by their peers and classmates. They are easy victims for planned racist attacks on the streets.

Furthermore, minority children often suffer from negative traditional practices that violate the rights of the child. Public authorities not only fail to take action against these practices, but their inactivity is often interpreted as a silent consent to such practices that interfere in the development of children. For example, the lack of state measures to enforce compulsory education of the Roma children in Russia contributes to preserve the negative tradition of early marriage, harmful to children. At the same time the so-called 'patriotic education' and traditional religious values are becoming more prominent component of the basic education system. For example, the Krasnodar province introduced a compulsory subject for the study of the Cossacks, a program that promotes traditional Orthodox Church values.

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Police officers frequently fail to determine immediately that the detained person is a minor, and do not consider special procedural guarantees applicable to minors.

Russian law provides for administrative liability from the age of 16 (art. 2.3, Code of Administrative Procedure). Therefore, being under the age of 16 is the criterion according to which an administrative offence cannot be committed.

In sum, the new legal and institutional framework did not help improve the daily life of Russian children, who continue to live in poverty, deprived of access to basic social services such as education and healthcare and subject to discrimination in relation to their ethnic background.

## Violations of the rights of children involving law enforcement agencies

Torture and ill treatment of minors by the representatives of law enforcement agencies persisted throughout the reporting period. In majority of the cases ill-treatment occurred in police detention or during the pre-trial proceedings. Ill treatment is often accompanied by the violation of procedural rights such as the right to be informed about the reasons of detention, the right to contact the family members, or the right to have unhampered meeting with the lawyer. Another particular trend which is visible throughout Russian regions is general discriminatory policies of the law enforcement bodies to which minorities, including minority children, fall victims.

Unlawful detention of minors frequently occurs in circumstances when there is no illicit behaviour on their part. Thus, on 9 May 2012, several minors, some of them younger than 16, were detained as they were hanging out in one of the city's squares in the city of Syktyvkar.<sup>2</sup> On 7 January 2013, in Saint-Petersburg, two minors who were participating in a game of snowball fight, were detained and accused of destroying the lawns<sup>3</sup>. More ruthless detention of three children aged 8, 12 and 15, took place on 25 January 2013, in the city of Berdsk (Novosibirsk Province). Three children were detained for playing a snowball fight in the courtyard of their house. The police officers threatened the children that they will be shot in the legs if they try to run from the police car, and in reply to the children's requests to call their parents, the officers threatened them with handcuffs. Besides unjustifiably bringing the children to the police precinct and violating the right to a phone-call, by refusing their contact with the parents, the police also failed to document the incident.

Another similar incident took place in Moscow, on 1 November 2011, when 6-year-old I. Aksenov was brought to the precinct and interrogated about his father's activity.<sup>4</sup>

On January 22, 2012 15-year-old Nikita Leontyev was detained by a police officer and severely beaten in the police station in Saint-Petersburg. He died on the way to the hospital. The fact that such serious crime against a child can be committed in a police department, demonstrates the vulnerability of children against police abuse.

Mass detention of minors during public protests is also a frequent phenomenon. Minors are being detained without a valid reason during public events in the framework of repressive measures against activists. The parents of the minors A. Kolodyazhnaya and K. Lisnyak,

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<sup>2</sup><http://progorod11.ru/news/2/70248.html>, <http://www.amic.ru/news/181418/>,

<sup>3</sup><http://www.utro.ru/news/2013/01/07/1093652.shtml>,

[http://frazza.ua/foto/08.01.13/158055/marazm\\_krepchaet\\_v\\_pitere\\_militsija\\_vvela\\_zapret\\_na\\_igru\\_v\\_snezhki.html](http://frazza.ua/foto/08.01.13/158055/marazm_krepchaet_v_pitere_militsija_vvela_zapret_na_igru_v_snezhki.html)

<sup>4</sup>[http://www.echomsk.spb.ru/news/kriminal/zaderzhanie\\_aksenov.html?sphrase\\_id=307839](http://www.echomsk.spb.ru/news/kriminal/zaderzhanie_aksenov.html?sphrase_id=307839),  
<http://izvestia.ru/news/523012>, <http://newsland.com/news/detail/id/944233/>

approached ADC “Memorial” for assistance reporting that the rights of their children were violated as they were detained during a mass event that took place on 1 May 2011.

In December 2011, during a mass protest in Saint-Petersburg, minors, including 14-year-old A. Krylov, who did not take part in the event but was returning home from music lessons, were detained.<sup>5</sup> In February 2012, two minors were arrested during their participation in the demonstration. In the mentioned cases, the detentions were executed with violations of the right to freedom and security of the person. Among the detainees there were a significant number of minors, including children younger than 16, who were brought to the police precinct and were held there for a several hours, without the police making any report on detention or registering them upon arrival to the police station. None of the minors were allowed to contact their legal representatives.

In some cases the police send information about the detention of the minors, to schools. This practice leads to negative consequences for the children. Moreover, the shame of having issues at school is used as a tool for the repression of expression of opinion by minors. Such repression is exclusively directed towards limiting their acts of expression in the future as being illegal and unreasonable, especially in relation to political issues and views. This leads to the violation of the right to freedom of expression protected by the Article 12 of the Convention.

One of the cases, where the opinion of the minors should and could have been considered, is the adoption of the law on “curfew” in 2009. The children were deprived of the possibility to express their opinion regarding issues that directly affect their interests.<sup>6</sup> When several teenagers showed up at a public event, dedicated to the introduction of the curfew, the organiser of the event was accused of extremism, allegedly based on the fact that he was conducting instigation of the minors, even though there were no slogans or actions during the event which had instigative character. This suggests that minors cannot take part, under any circumstances, in any public event, concerning any issue directly affecting their interests.

In Saint-Petersburg, there is a practice of school checks performed by the organs of the Federal Security Bureau (FSB). In particular, in one of the schools after views in favour of monarchism surfaced, there was a ‘discussion’ with the teachers and the students, for the purpose of explaining to the children that praising the tsarist regime should be avoided not only in school but also outside it. This type of actions, combined with the imposition of certain ideology, such as patriotism and orthodoxy violate the right to freedom of expression of minors.

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<sup>5</sup><http://www.novayagazeta.spb.ru/2011/90/1>, <http://www.gazeta.ru/social/2011/12/07/3863478.shtml>

<sup>6</sup><http://www.kavkaz-uzel.ru/articles/155497?print=true>, <http://www.ikd.ru/node/12631>

Joint measures taken by the government are directed at limiting the rights, enshrined in the Convention, in particular, at limiting the right to expression of opinion, including the opinions that differ from the ideas recognized by the government.

Roma children often suffer from abuses by the police, including illegal detentions and searches. During the frequent anti-Roma campaigns in the compact Roma settlements all over Russia, all children from the settlement suffer from the unlawful actions of the police. The persecution of the settlements with Roma-migrants is frequently done under the framework of Federal Migration Service raids and police special operations with characteristic names such as “Migrant” or “Illegal migrant”. They are accompanied by destruction of property of the Roma-Mugat people. For example, in the summer of 2009, immediately after a visit by law enforcement officers, the camp of Tajik Roma-migrants, situated in the Gorelovo village, (outskirt of St.Petersburg), was burned by unknown individuals. A criminal case was not opened due to the “absence of complaints from the victims”.

Another example is the organisation by law enforcement agencies of an anti-Roma campaign in Bryansk (Central Russia) in March 2012, when the entire Roma population of the city fell under suspicion regarding the disappearance of a 9-month-old girl, an incident widely publicised in the local and federal media. A harsh campaign of operational-investigative actions was initiated against the Roma. Between 19 and 23 March 2012, ADC ““Memorial”” staff members who were in Bryansk Province conducting human rights monitoring, provided legal assistance to the Roma population and witnessed the actions of the police officials. The residents of the Roma settlement, including children, were primarily targeted. Squads of police surrounded Roma homes, entered without warrants, and conducted searches with specially trained dogs, causing fright among the children. All children were photographed. The operation continued for four hours. On 22 March 2012, additional searches were conducted in another compact settlement in Bryansk Province, located in the village of Timonovka. According to the Roma, permission to search had only been granted in respect of one home, however all homes were checked. Thus, procedural actions toward Roma took place without legal grounds and led to gross violations of the community members’ rights.

On 7 February 2013, a settlement of Tajik Roma-migrants “was discovered” in the same Gorelovo village in St.Petersburg during a police raid. According to media reports, 16 adults and more than 28 Mugat children were detained. The children were initially brought to hospitals with suspected helminthiasis and other infectious diseases, and then they were transferred to the orphanage “Tranzit” (17 persons). Their parents were fined for violating

the migration laws and were eventually released. In spite of the parents requests to have their children returned, according to the existing procedures they have to be repatriated to their country of origin – Tajikistan, under the supervision of the national guardianship organs and their relatives.

Ilona Fontosh, born in 1995, an undocumented migrant from the Trans-Carpathian region of Ukraine, lived in a Magyar settlement. On 16 February 2009 she was detained by police officers on suspicion of theft of a mobile phone with the value of 1400 RUB, together with a group of 13 Magyar girls. The mobile phone was returned to the owner, and Ilona Fontosh became the subject of a criminal investigation. Due to her lack of relevant identification documents and her inability to speak or understand Russian, Ilona fearing being transferred to the shelter for minors “Tranzit”, identified herself as Dierdi Malvina Aleksandrovna, born in 1990. At the time of the incident Ilona was seven months pregnant. The police, without making an effort to determine her age (14), believed that she was an adult. Eventually she was sentenced to deprivation of liberty for theft. In total, Ilona Fontosh spent 5 months and 7 days in the Women’s Detention Centre No 5 in the city of Saint-Petersburg, where she was sent without any medical examination. The criminal case against her was investigated 5 months and 12 days and was eventually terminated.

On February 8, 2013, violations against children were committed during the raid against migrants in Apraksin Dvor in St. Petersburg. The raid took place during the worship in the mosque with the mass presence of the believers. Hundreds of migrants were subject to document checks, physical abuse and detention in search of ‘extremists’. One of the victims applied to ADC “Memorial” with complaints that the law-enforcement officials who raided the mosque, where he prayed with his children, beat him and his older sons in the presence of his youngest 10-year-old son, who consequently got psychologically traumatised.

The cases of unlawful detention of foreign underage citizens in the absence of personal documents) is another common practice. ADC “Memorial” is repeatedly approached by relatives of foreign underage citizens, with complaints about unlawful detention, or detention in conditions not corresponding to recognised international standards applicable to minors.

**Zhahongir Ermatov**, born in 1995, citizen of Uzbekistan, was detained on 27 October 2012 for three days in the police station No 45(Rybatzky Prospekt, Nevsky district of St.Petersburg). Police failed to document the detention and the legal representatives of the minor were not contacted. Ermatov was detained on the grounds of breaking the migration law (expiration of registration period) and was transferred to a detention centre for minors, after spending three days in the police station, in conditions, which were recognised by the ECHR as inhumane and degrading. This happened with the police’s awareness that they

were dealing with a minor.

**Maruf Abdudjalilov**, a citizen of Tajikistan born in 1994, was detained by the police officers of precinct 45 in the Nevsky District, Saint-Petersburg, on 9 November 2012. A police report was not compiled, and the document confirming the identity of the foreign citizen (a copy of the passport) was destroyed by the officers of the precinct 45. The representative of ADC “Memorial” was informed by an officer on duty that the foreign minor will be sent to the temporary detention centre for juvenile offenders. After the representative of ADC “Memorial” addressed the Central Dispatch Center of the Ministry of Internal Affairs (MIA) Maruf Abdudjalilov was released from the precinct 45 without any charges.

**Didor Nazarmamadov**, a Tajik citizen born in 1996, was detained by the police officers of the Krasnoselsky district of St.Petersburg, on 3 November 2012 in relation to the expiry of his registration. Nazarmamadov was sent to the temporary detention centre for juvenile offenders of the main department of MIA without a court decision. He spent 3 out of 8 days in detention in solitary confinement due to quarantine. According to Nazarmamadov and his lawyer detention conditions at the centre did not meet minimum standards of detention. The only furniture in the cell was three beds. The window of the room was barred and covered up. The beddings, mattresses and the covers were old and in poor condition. The light was on only until 9pm; Nazarmamadov could not turn on the light himself, since the light-switch was on the outside of the cell where it could be turned off only by the guards. There was no drinking water in the cell. A sink with only cold water was in another room, as well as the toilet – going to the bathroom was only possible after calling the guards. During three days spent in solitary confinement, he had no access to a bathroom or a shower. Didor’s relatives were not allowed to see him, being told that visits were not allowed. He was taken out for a walk only once for 15 minutes. The food was of very poor quality, and in very little quantities. For example, lunch consisted only of a piece of black bread, a cup of tea and milk porridge. Nazarmamadov was held in complete informational isolation for three days, since books, magazines, newspapers were not provided, and the cell did not contain a TV or radio. There was a TV in the larger cell, where he was transferred after the three-day quarantine.



## Hate crimes against minority children and lack of adequate government response

Violence against children on grounds of national hatred continues to be one of the predominant problems of Russian society. The targets of the violence are children of national minorities as well as minors, thought to be part of the anti-fascist and anti-racist movement. In most cases the victims of the attacks are identified by their appearance, such as the colour of their skin, the shape of their eyes, etc. In the attacks 'by association', the victims are chosen due to belonging to a certain subcultures easily determined by elements of their appearance, such as a certain clothing style, haircut, piercings or by certain type of entertainment for the environment dominated by anti-fascist or anti-racist views.

As grani.ru, a Russian web based news agency reported Darya Bolina, the daughter of Enets<sup>7</sup> activist Aleksey Bolin, was attacked on 9 February 2013. On the evening of the same day, teenagers appeared at the activist's house and started breaking into his apartment. They beat the door with their fists and feet, shouting 'I'm a Slav!' and gesturing with their hands in the Nazi salute. When Bolin opened the door, the visitors requested that he give up his daughter to them for punishment. In this case, the reason for aggression was the origin of the girl, which was clearly visible by her distinctive signs to be belonging to the minority indigenous people of the North. There have been many other attacks of similar character in Russia since the beginning of 2000.<sup>8</sup>

The investigation concerning the notorious case of the Nazi group Borovikov-Voevodin, who were responsible for the deaths of several minors, was recently completed. According to the evidence, one of the victims, 9-year-old Hursheda Sultonova, was killed on 9 February 2004. The girl died due to 11 stab wounds.

In September 2003, near the Dachnoye platform in Saint-Petersburg, unknown individuals attacked two Roma women and their children. 6-year-old Nilufar Sangboeva died as a result of a skull fracture, open fracture of the parietal bone and closed fracture of the ribs.

On 14 February 2009, an immigrant from Dagestan, Tagir Kerimov, was attacked with his friend, near the school, by a group of 25-30 boys. Beating up the teenager, the attackers were calling out - 'murder to Khach people' (Khach is a term commonly used to negatively classify members of ethnic and cultural groups of the Caucasian peoples). According to witness accounts, several of the boys were dressed as skin-heads. Tagir became an invalid as a result of the attack.

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<sup>7</sup>The Enets people (Russian: энцы; singular: энец), or Yenetses, Entsy, Entsi, Yenisei, Yenisei-Samoyed, Yenisey Samoyeds or Yeniseian people are a traditionally nomadic people who live on the east bank, near the mouth, of the Yenisei River. Many live in the village of Potapovo in Krasnoyarsky Krai in western Siberia near the Arctic Circle.

<sup>8</sup>Source: <http://grani.ru/Events/Crime/m.211604.html>

In March 2006, Lilian Sissoko, a 9-year-old mulatto girl, was viciously attacked in Saint-Petersburg. Following her inside the building as the girl was returning home, the attackers accosted her on the staircase and stabbed her several times in the neck. Thanks to the quick intervention of the parents and an ambulance Lilian was rescued.

As noted, the attacks are not performed only on persons with obvious signs of belonging to a certain nationality, but also on young people who, by their appearance, are thought to be part of sub-cultures with anti-fascist and anti-racists views.

On 31 March 2007, as a result of an attack by a Nazi group using iron fixtures, glass bottles and bladed weapon 17-year-old Stanislav Korepanov died in Izhevsk. On 27 March, Stanislav was brought to the neurosurgical department (MCЧ) No 17 with a diagnosis of open head trauma, brain contusion, basal skull fracture, contused wounds of the parietal and occipital regions of the head, and final-stage coma, Stanislav died after four days without regaining consciousness. On the day of the attack, Stanislav was with his skateboarding friends, against whom the crime was intended.

On 2 August 2010, a Nazi group under the leadership of Evald Raatz (previously convicted for brutal murder), attacked a teenager in the neighbourhood of Lenin street in Omsk. Brutally beating the victim, the attackers, dissatisfied with the result, ripped out the teenager's piercing and burnt his hair. In this case, the reason for the attack most probably was the unconventional appearance of the young man, who had piercings and long hair.

In the case of the murder of 9-year-old Hursheda Sultonova, the court acquitted the main defendant, and in the case of 6-year-old Nilufar Sangboeva, a few years after the investigation was closed, new circumstances were found, which created doubt regarding the results of the original investigation and the guilt of the convict. The attack on the daughter of Aleksey Bolin is another demonstration of government inactivity, where law enforcement authorities did not even initiate a criminal case. Such attitude reinforces the feeling of impunity and creates welcoming environment for the future recurrence of similar crimes.

The law enforcement representatives regularly fail to recognize hatred as the real reason behind these crimes. In the case of Tagir Kerimov, the victim's lawyer tried to prove this by conducting examinations and asking the experts to explain the expression 'beat the Khach', which has been perceived for a long time as an instigation for violence against migrants from the Southern regions or from Asian countries. Similarly, in the case of Korepanov, the court did not take into account the circumstances brought forward by the victim's representative, and the killers were convicted for murder and hooliganism, although the motive of the attack was evident.

## Negative traditional practices involving violence against children

Under Article 24 (3) of the Convention State Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. Traditional practices are defined as reflecting values and views, adopted by a certain social group across generations, and maintained since they represent an integral part of the identity of the members of that social group, are not questioned by them and those who abide them and are considered highly moral.<sup>9</sup>

Obligations of the Russian Federation stemming from the Convention also include ‘taking all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s)’ and the necessity to elaborate measures that shall ‘include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment and, as appropriate, for judicial involvement’.

While efforts undertaken by the authorities with the view of protecting children from negative traditional practices and ensuring the best interests of the child are not sufficient or as it is the case of many Russian regions entirely absent, the use of some traditional practices could lead to a violation of the child’s right to life, non-discrimination, health, human dignity and personal integrity, education, leisure and recreation.

Many of the traditional practices that are upheld by certain minority groups in Russia have a particularly negative influence on the rights of women and children. Some of these practices include: favouring boys to girls, early marriages and pregnancies legitimised through religion, strict gender prejudices, preservation of the custom regarding blood feuds and bride kidnapping, honour crimes and violence against girls and women.

In Caucasian communities, men have traditionally higher status than women, and are entitled to ‘control’ the behaviour of younger female relatives. Girls, especially underage girls, are expected to follow traditional and religious norms of conduct, dominating all areas of their personal and social lives. Their clothing, appearance, occupations, manners and behaviour in public, especially in communicating with the opposite sex, are strictly regulated; any deviation from either religious or traditional prescriptions (regarding clothing, behaviour, etc.) are severely criticised by the community and cruel punishments for such deviations are encouraged.

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<sup>9</sup> See for example: <http://www.ohchr.org/Documents/Publications/FactSheet23ru.pdf>

The tradition of blood feuds and gender subordination, on one side, and Islamic propaganda, on the other side, lead to an increase in the number of early marriages and honour crimes in certain regions of Russian Federation. More and more women and children become victims of such practices, fact which attracts the condemnation of international and Russian human rights organisations.

Federal and local authorities do not pay sufficient attention to solving the problem, considering the compliance with common law and respect for the religion of ethnic groups as a priority. Thus, the propaganda directed against early marriages expanded by Chechen leadership, shifts its focus on the instability of early marriages which often end in divorce, while the focus should be on their criminal character caused by physical abuse of children. The main goals of special tutorials, carried out in Chechen schools, are “formation of knowledge and views about the responsibility of youth in creating a family during adolescence”, as well as “diminishing the number of divorces which occur due to hasty and impulsive marriages and decrease of infant mortality”. Meanwhile, religious leaders and official authorities continue the policy of introducing Islamic forms of etiquette as mandatory for underage girls, hence, condoning “honour crimes”. At federal level no actions are taken for counteracting negative traditional practices, and separate cases of violations of rights and interests of the child, including bride kidnapping, do not receive any attention from the authorities. Such conflicts are exclusively solved by traditional leaders of the communities, without the involvement of guardianship agencies and other government bodies. Therefore, it can be said that the authorities of the Russian Federation, practically, recognise the right to survival as a negative traditional practice, ignoring the necessity of providing appropriate care and protection of the interests of the child.

Women and girls in Chechnya for example are forced to wear Islamic clothing with long sleeves and skirts, and to cover their heads with scarves. By the order of the Chechen leader Ramzan Kadyrov, the Islamic dress-code for women is established as mandatory in all government institutions, including schools, universities and public places. Human Rights Watch drew attention to the increasing cases of persecution, public humiliation and even attacks by Islamic and youth activists on Chechen girls, dressed against the traditional “standards”. Thus, in the summer of 2010, in the centre of city Grozny, girls not wearing scarves on their heads, were being shot from a paintball gun, while some of the shooters were actually officers of law enforcement agencies. The reaction of the Chechen president R. Kadyrov, to such incidents is revealing: “Even if this was done with my approval, I would not feel ashamed. It seems that the girls, before being shot, were warned several times. After such cases the girl must simply disappear from the face of the earth, lock herself in her house and not go out anywhere, since she behaved herself in such an inappropriate manner.”<sup>10</sup>

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<sup>10</sup> Source: <http://groztrk.ru/obichai-i-traditsii/chechnya-prinujdaet-jenschin-nosit-pravilnuyu-odejdu>

Girls, including underage girls, in the republics of North Caucasus, increasingly become victims of “honour crimes” – violent acts against “offenders of morals” guilty of “shaming the honour” of the family. Any girl can be a victim, if her behaviour or appearance is considered by the members of the community as objectionable and deserving punishment in the form of humiliation, beatings and even killings. In this case, the guilt is placed on the victim and there are no effective measures taken for the punishment of the perpetrators.

The bodies of six women, shot dead from a Kalashnikov rifle and a Makarov pistol, were found in the Chechen Republic in November 2008. As the Human Rights Commissioner of the Chechen Republic, Nurdi Nuhazhiev stated, “unfortunately, we have women who are starting to forget the code of conduct. In regard to such women, their male relatives, considering themselves insulted by such behaviour, naturally perform lynch trials.”<sup>11</sup>

According to HRW, such statements from persons in high positions, including R. Kadyrov, “encourage brutal violence of this kind, which is equal to open instigation to physical harassment and public humiliation of women.”<sup>12</sup>

Often, the “disgraceful behaviour” becomes the reason for “blood feuds”, in which children are involved. In August 2012, ADC “Memorial” was approached by the mother of 16-year-old Zainap, native of the village Novyi Kumuh, Buinakski Region of the Dagestan Republic. Since she was 12-years-old, Zainap was being blackmailed for years by another teenager, Azamat Aliev, who threatened her with spreading montaged photographs of pornographic character. In return of not making such photographs public Aliev asked for money. When Zainap’s parents found out about the story, there was a fight which led to death of both Zainap’s and Azamat Aliev’s fathers. Despite the fact that the tragedy occurred by the fault of the blackmailer-boy, the population of the village accused Zainap of “vicious behaviour” and placed the guilt for the bloodshed on her shoulders. Zainap and her mother received continuous threats, which forced them to leave their home village and to ask for refuge in another place. Zainap’s life is constantly in danger even in other regions of the country; she can at any moment become victim of revenge and be lynched. “My life and the life of my sons became unbearable in our home. Neighbours and even relatives blame us that we raised such a bad daughter, and we were forced to leave” told Zainap’s mother to ADC “Memorial”.

The UN Human Rights Committee also expressed its concern in relation to increasing early marriages in the Caucasus, performed through the will of the parents. Early marriages are concluded by using the Muslim rite “nicoh”, after which the children are considered man and wife, against Russian legislation. According to Sharia law, the marriage age for girls starts from 13-14 years-old. Early marriages lead to complications during birth, and unwanted pregnancies often end up in illegal abortions.

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<sup>11</sup> Source: <http://newsru.com/russia/27nov2008/chechnia.html>

<sup>12</sup> Stop Forced Dress Code for Women in Chechnya – Harassment on the Rise Against Women, HRW, August 24, 2010

Based on the accounts of the women's rights organisation "Sintem", based in Grozny, early marriages with the average age of the spouses between 15-16 years-old are commonplace in Chechnya. Such early marriages normally lead to girls abandoning their education. According to the statements of Leila Razzaeva, Head of the Maternity Department of the Ministry of Healthcare of the Chechen Republic, 120 births have been recorded to patients younger than 17 during 2012 in the central maternity ward of the Grozny. 61 out of 120 births resulted in severe complications. The lethal outcome of such birth-givers is 5-8 times higher compared to adult women. Young mothers more often experience toxicosis, anaemia, suffer miscarriages, premature births which often lead to the birth of dead infants. The low weight of new-borns and other negative indicators are the main reasons of subsequent problems such as mental deficiencies of the children, cerebral paralysis, epilepsy, neurological diseases. As a result, more than half of young mothers try to terminate unwanted pregnancies.<sup>13</sup>

Another widely spread adverse traditional practice of the Caucasus people is the custom of 'bride kidnapping'. Despite the fact that the 'kidnapping' of a girl by a young man can take place with the prior consent of the girl, cases of forced kidnappings of underage girls with the purpose of 'marriage' are becoming more frequent in the regions of North-Caucasus as well as in other regions of Russia including large cities.

On 19 February 2013, in the Frunzensky district of Saint-Petersburg, a massive fight took place between immigrants from Azerbaijan, representing three belligerent families. The cause of the conflict was the kidnapping of a 16-year-old girl, with the purpose of marriage, by a representative of one of the families. The parents of the girls spoke against the kidnapers. As a result of the conflict, at least 5 people were wounded, and 28 people were detained.<sup>14</sup>

Authorities ignore such conflicts, leaving the dealings to the elders and leaders of the Diasporas. According to traditions, the opinion of children and the necessity to respect their rights are not considered.

On 24 February 2013, elders from the Shamkir region of Azerbaijan arrived with the purpose of settling the case of kidnapping of the 16-year-old 'bride' in Saint-Petersburg. Through mediation by the general consul of Azerbaijan in Saint-Petersburg and the administration of the national-cultural autonomy of Azerbaijan, the elders reconciled the warring families, ruling that the 16-year-old bride must get married to her kidnapper. A particularly worrisome aspect of the situation is the inactivity of the child rights authorities of Saint-Petersburg who did not react in any way to the case.<sup>15</sup>

In Roma communities, there are also traditional practices that influence negatively the rights

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<sup>13</sup> Source: <http://smartnews.ru/regions/sevkav/3100.html#ixzz2M6uJlItt>

<sup>14</sup> Source: <http://www.fontanka.ru/2013/02/20/063/>

<sup>15</sup> Source: <http://www.fontanka.ru/2013/02/24/040/>

of the children, and the maintenance of which contributes to the unfavourable socio-economic situation and discrimination of Roma.

One of such practices is the tradition of early marriages which are concluded between 11 and 17 years-old and which are still sustained. The bride is chosen by the parents of the groom, with the young people not even knowing each other. After the wedding, the children usually leave school since it is considered inappropriate for a married man/woman to go to school. Thus the education of the majority of the inhabitants of the tabor is limited to 4-7 years and very few consider pursuing a higher education. Boys are forced to participate in the collection and sale of scrap metal, or they take up heavy construction work or other similar occupations. The lack of government efforts about the mandatory education of Roma children, contributes to the maintenance of these traditions.

The influence of negative traditional practices on children is worsened by the double discrimination and even more difficult socio-economic conditions of the Roma-Magyars from Ukraine and Roma-Mugat from Tajikistan. Girls and boys in these groups do not attend school and are forced to lead a traditional life. Boys and young men have to collect scrap metal, and are compelled to go begging. Early marriages and early pregnancies are also widespread.

Measures for the prevention of negative traditional practices and for the provision of the Roma children with access to education and healthcare are rarely taken or have an exclusively repressive character (raids, quarantines, etc.). Social work in compact Roma settlements is not carried out, while statements about early marriages and failure to attend school by the Roma children are ignored by the social services. The federal action plan for Roma, adopted at the beginning of 2013, the text of which is known only through statements of media outlets does not contain any provisions on countering negative traditional practices.

As a consequence of the extremely unfavourable social situation and the traditional patriarchal system, children of the Roma-Magyar people fall victims of constant domestic abuse that leads to serious body harm and fatal outcomes. For example, around 21 January 2013, a 1.5-year-old boy named Maxim passed away in a settlement of Roma-Magyar people in the Nevsky district of Saint-Petersburg. Maxim's mother, 33-year-old Kristina Sabova, was arrested in December for pocket theft. Her friend, 22-year-old Zhanna Lakatosh was left to take care of her child. She was noticed to be mistreating the boy. According to the settlement inhabitants she beat Maxim and left him out in the freezing cold. Several days before his death, the members of the tabor noticed that Maxim was walking like a 'drunk'. Lakatosh by that time has already left the settlement. She was arrested for theft on 18 January 2013. There was a criminal investigation initiated in relation to the murder. During the police raid, the Magyar settlement was burnt, the adults were brought to the office of the Federal Migration Service, and 6 children were sent to hospitals and shelters.

## **Forced separation of children from their parents**

The Roma are not only confronted with the lack of support or social assistance for their children and mothers, but also with discrimination, directed towards the dissolution of their families. The discrimination starts from the moment when a child is born in a hospital. Often, the mother, not having personal identification documents, or only having a non-Russian passport, is discharged from the hospital already after 2-3 days, being prevented from taking her child with her. As a consequence, the mother cannot take her child who is eventually transferred to a special institution – “Dom Malyutki” – for eventual adoption. Maria Fontosh, Anastasia Ivanova, Sharlotta Tovt and many others have been victims of this practice, not knowing the fate of their own children. Although there is a possibility for mothers without identification documents to receive their children, according to the Roma-Magyars, the release of the child from hospital No 16 in Saint-Petersburg, costs 8,000 Roubles. More often the Roma-migrants do not have the ability to legally earn such amounts of money; in such cases, there are always wealthy people willing to adopt the new-born ‘orphan’.

In those cases when the Magyars succeed to reunite their families, they face difficulties to obtain a certificate of birth for the child, especially if the parents themselves do not have all the required documents in order. The only document that the hospital issues in regard to the birth is a certificate regarding the sex of the baby and his or her weight and height. This way, the children of Roma-Magyars acquire illegal status from the first months of their life. Undocumented children are in constant danger of being separated from their parents during police raids. For example, in March 2010, during the demolition of the Roma-Magyar camp in the Moscow suburbs, 44 children were separated from their parents and sent off to different hospitals and special centres.

In North-Western Russia, the undocumented migrant children are placed in the government institution “Tranzit”, which is situated in Saint-Petersburg and specialises on working with migrant children, orphans, and children from vulnerable families, separated from their parents, and those who are unregistered at the place of residence of their parents. Despite the fact that one of the goals of the shelter is “to facilitate the return of the child to their parents or their legal guardians”, the child, being in “Tranzit” without documents, who officially does not have parents or has parents who are stateless persons, will be sent to a Russian orphanage or deported to the country of origin, if such can be established, or ends up in a social institution.

The fear to lose their children forever, experienced by the Roma-migrants, is the pressure point used by the police officers and the officers of the Federal Migration Service, who use



the children as hostages. At the beginning of 2009, children of undocumented Roma-migrants were detained by law enforcement agents. The parents were forced to come to the precinct to take their children, but were eventually accused of breaching the migration laws, arrested and transferred to a detention centre where they spent more than a year. This is another example of how the government agencies, tasked to provide security and support to families regardless of their citizenship, put the Roma-migrants live under constant threat of separation from their closest relatives.

According to the information gathered by ADC “Memorial”, as well as according to communications from guardianship agencies and workers of the “Tranzit” shelter, settlements of Mugat-migrants from Tajikistan and Magyar-migrants from Ukraine, have been existing around Saint-Petersburg for 10-15 years. During this time the guardianship agencies in Saint-Petersburg - the Saint-Petersburg Committee on Social Policy, and the Saint-Petersburg Committee on Education, did not take measures for the provision of the right to adequate standards of living in violation of Article 3 (2) of the Convention, which states that ‘State Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures’ and which applies to all children, ‘within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. According to Article 6 paragraph 2 of the Convention, the State, ‘shall ensure to the maximum extent possible the survival and development of the child’.

The practice of deportation of Mugat and Magyar children back to their country of origin cannot be considered as an effective measure for the protection of their right to adequate standards of living and social guarantees, due to the absence of such appropriate living conditions in the countries of origin, including exceptionally high unemployment, lack of social benefits, and poor health conditions. Thus, almost half of the Trans-Carpathian Roma according to the data of the State Statistics Committee of Ukraine is suffering from bronchial-pulmonary diseases. One fifth suffers from gastro-intestinal diseases, and 16% suffer from tuberculosis. The mortality rate among infants aged less than one is 11%, and the unemployment level in the Roma settlements fluctuates between 69% and 100%. According to the data of the human rights organisation “Nashe Pravo”, in the Osh Province of Kyrgyz Republic, there are more than 3,500 Roma-Mugat, and the level of unemployment among them has reached 90%, while 50% of the families of Central Asian Roma do not receive social benefits due to the absence of personal documents. This data indicates comparably difficult situation for all Roma-Mugat even in their countries of origin such as Tajikistan and Uzbekistan.

In order to rectify the above described situation the authorities of the Russian Federation must undertake to protect the rights of children of Roma-migrants from CIS countries, with the purpose to fulfilling its obligations steaming from the ratification of the Convention.

## **Adequate standard of living of minority children in Russia**

According to the Article 6 of the Convention on the Rights of the Child, the 'State Party shall ensure to the maximum extent possible the survival and development of the child'.

The right to an adequate standard of living, which includes a number of basic conditions necessary for human existence, entails derived rights such as the right to adequate housing, the right to social security, and the right to safe and clean drinking water and sanitation. Rights in the area of health care, such as access to medical assistance, free emergency medical assistance, and the right to sanitation are also guaranteed by international law and are particularly important for children, living in poor conditions. These rights are enshrined in the International Covenant on Economic Social and Cultural Rights.

In its last round of Concluding Observations with respect of the Russian Federation the Committee has already expressed its concern that poor living conditions seriously limit children's enjoyment of their rights in the family, in schools, and in peer and cultural activities.

Nevertheless, minority children remain to be one of the most vulnerable groups of Russian society. The vast majority of Roma children and children of labor migrants in Russia grow up and live in an environment that does not meet the adequate standards of living, putting Russia in violation of its international obligations, stemming, inter alia, from the International Covenant on Economic Social and Cultural Rights.

Children of migrant workers often live with their parents in places that do not meet the adequate standards of living. Moreover, since migrant workers often work seven days a week with unacceptable overtime working hours, their children are deprived of parental attention. The fact that children of migrant workers often do not attend school at all, combined with the unacceptable living conditions, result in an extremely negative impact on the development of these children and their integration into society.

Migrant workers, especially families with children, often cannot find accommodation, due to high prices and the unwillingness of landlords to rent their property to migrants, particularly to those who do not have the appropriate documentation. As a result, migrant families are forced to live in places not designed for living, especially for living with children. Companies, who are happy to employ cheap migrant labor, and to save on their accommodation, are often facilitating this process.

ADC "Memorial" has documented such case of families of migrant workers from Kyrgyzstan and Tajikistan, who live in the Nevsky district of Saint-Petersburg with children aged between 4 and 17, in evacuated houses deemed unsafe for living. Since the houses are evacuated they have been also disconnected from utilities, therefore the children do not have access to clean drinking water, heating or electricity. The food is cooked on fire. The state of

the housing is unsafe the floors and the ceilings are at risk of crashing at any moment and as such they are not fit for living. These conditions are life-threatening and do not correspond to established sanitary regulations.

The extreme poverty in which migrant families live leads to the undernourishment of their children, negatively impacting their health and contributing to the occurrence and spreading of life-threatening diseases.

At the same time, getting access to medical assistance for migrant children is extremely difficult. As testified by the migrants, even in the case of emergency medical assistance, which by the laws of the Russian Federation should be accessible free of charge to everyone, including the foreigners, doctors usually refuse to make home visits to patients who live in evacuated homes. Practically, medical assistance for migrant children is only provided for a certain fee, which usually exceeds the total income of migrant workers.

It is common that migrant children do not attend school and, since migrant workers often work overtime, without having breaks during the weekends, their children are exposed to precarious surroundings without supervision, or under the supervision of older children.

Frequent raids carried out in such homes by the officers of the Federal Migration Service and Ministry of Internal Affairs, create an atmosphere of fear and negatively influence the psychological state of the children, who cannot feel safe at home. Furthermore, the children are deprived of information since they do not have radio, television, books or access to internet in their homes.

An alternative housing option for migrant families is the self-made houses outside the cities, the living conditions of which are also utterly inappropriate for children. For example, ADC Memorial's activists discovered in October 2012 an industrial area on the boundaries of Saint-Petersburg that hosts a small settlement of Uzbek citizens originating from Khorezm city. On an area of 60 m<sup>2</sup>, the Uzbek residents built several small huts out of wooden beams, plywood, iron sheets and other scrap materials. For maintaining heat during the winter period, small self-made stoves were installed inside the huts. Such stoves, due to their high level of fire-hazard, are extremely dangerous for the life of the children, since the children are left alone in these huts for entire days without adult supervision. Each of these huts is inhabited by one or two families with children. There is no sewage or water supply system in these 'houses'. The electricity is wired by the residents themselves, without prior permission from the power supply companies, which increases the danger of power failure, short circuits, etc. The families use water from the water supply of a nearby construction site for drinking, cooking and for personal hygiene. One of the main issues of this settlement, as in the case of the Magyar-Roma settlements, is the organization of garbage pits. The household waste is thrown out directly on the street and with time the entire area around the huts is scattered with garbage that is never collected. Moreover, as in the case of the Magyar-Roma, in case of emergency, ambulances cannot reach these settlements, due to their remote

location and difficult accessibility. The four children living in this settlement are practically isolated from the rest of the world. They do not attend school or kindergarten since neither they nor their parents have the papers for temporary registration or the necessary financial means. Thus, the deplorable domestic, sanitary and socio-economic living conditions of these children are affecting their lives much more than the lives of the adults.

### **Living conditions of Tajik-Roma children**

The living conditions of Mugat-migrants do not correspond to elementary sanitary norms and requirements for security and hygiene. In Mugat settlements, which usually have several hundred inhabitants, there is no water supply, heating or electricity. Improvised settlements are spread on the boundaries of big towns, near household waste dumps, forest strips, industrial areas, where there is practically no infrastructure water supply, electricity and sewage system.

The houses of the Roma-migrants, usually look like square buildings made out of plywood and oilcloth, with the length of about 5-6 meters and width of 2-3 meters, and are often equipped with handmade iron stoves. Roma-Mugat families as a rule have many children.

According to the report of the police captain E.S. Yunina, dated 12 February 2013, the family of Tajik Roma-Mugat, living in the Volodarka village, Saint-Petersburg, has 13 underage children, aged between 1 month and 16 years-old. The family lives in a shed with the total surface of 18 square meters, divided into three rooms, and heated by a handmade stove situated in the middle of the dwelling. Sanitary situation of the space is deemed “extremely unsatisfactory”; it does not contain sanitary facilities or furniture. The children are forced to sleep on the ground. Moreover, the place does not have access to natural light.

Regular nutrition of the Central Asian Roma-migrants is very low in calories, and is characterized by the low quality of products. Frequently the food is made out of the waste found in the waste dumps. In such conditions, the spreading of diseases such as tuberculosis, hepatitis, intestinal disorders, and helminthiasis often reaches the stage of an epidemic affecting virtually all inhabitants of the settlement.

### **Living conditions of Roma-Magyar children**

One of the largest Roma-Magyar settlements is situated in the industrial area on the outskirts of Saint-Petersburg. It borders the Saint-Petersburg-Moscow railway line and the household waste dump.

Small huts made out of plywood polyethylene, linoleum, iron sheets and other scrap materials are lined up at a distance of 0.5-2 meters from each other. Each of these ‘buildings’ is inhabited by between 2 and 10 people. Household amenities such as water and electricity supply, heating, or sewage are absent. For the household needs, cooking and drinking they

use the water from a broken pipe on the territory of an unsanctioned waste dump; for personal hygiene the inhabitants use the swamp water.

An important issue is the organization of garbage and waste pits. Often the household garbage is simply thrown out of the hut into the street, and the area of the settlement quickly gets filled with waste.

Small children play and go to the toilet in the same place while adults go away from the settlement for a few meters in the direction of the swamp to satisfy physiological needs. Littering also occurs due to the regular raids, accompanied by destruction of the huts and the property of the Magyar, right on the territory of their settlement.

The Magyar-migrants eat rarely and irregularly, at best 1-2 times per day. Their homes are heated by handmade stoves, which during the winter time, are constantly on. Usually the fire is made with household plastic, rubber tires, plywood, etc. The food is cooked also on these stoves. During the summer cooking takes place outside the huts. The problem of fire safety is acute for the camp, especially during the winter, when the fire needs to be maintained day and night. Repeatedly, as a result of fires families become homeless.

The basis for the ration consists of the cheapest semi-finished products, as well as herring, potatoes and bread. An important problem for the Magyar is inability to purchase products for the children including nursing babies who practically consume the same food as the adults.

## **Access to education for minority children**

Art. 28 of the Convention on the Rights of the Child provides the right of the child to education, including free primary education for all, measures to encourage regular attendance at schools and all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity. The Committee recommended Russian Federation to take the necessary measures to ensure that all children have access to primary and secondary education, strengthen efforts to bridge the racial disparity in education, giving special attention to promoting education of minority-language people.

The Constitution of the Russian Federation guarantees the right to education as a right of everyone, but there are the groups of children who have difficulties with access to education for various reasons. The Roma children from the compact Roma settlements face segregation and low level of primary education and generally have no access to secondary education. Children of migrants or stateless persons often do not have access to primary and secondary education due to the migration laws and applicable administrative procedures.

Monitoring held by ADC “Memorial” has shown that the segregation of Roma children in the form of separate classes and schools is widespread throughout Russian regions and is often approved and supported by local authorities and school administrations. This practice includes segregation in so-called ‘special schools’ for Roma, segregation in ‘Roma classes’, and denial of enrolment in mainstream schools. The segregation is solely based on ethnic grounds and no measures are undertaken by the government for the proper integration of the Roma children into the basic education system. Efforts to protect Roma children from segregation through legal proceedings proved to be ineffective and providing protection of children’s rights in local courts is often practically impossible.

## **Lack of measures to encourage regular attendance at schools and promoting education for minority children**

Despite certain improvements in some of the regions, actions at local level do not sufficiently guarantee Roma children’s right to education. Some affirmative actions are intended for Roma children, but are ineffective due to the general socio-economic living conditions in Roma communities and the overall discriminatory system of relations between the Roma population and the state agencies, local authorities and school administrations. Local and regional government bodies responsible for organizing the education system in constituent

territories often do not keep up with their responsibilities towards Roma children, including with the need for positive measures for supporting the most vulnerable groups.<sup>16</sup>

In certain schools administrations provided some measures for inclusion of Roma children, but improvements have been fragmentary and depend mostly on the intervention of NGOs and the “goodwill” of the local authorities (e.g. the case in Nizhniye Vyazovye settlement (Tatarstan Republic): “Roma from the settlement requested help in ensuring their children’s rights to education and complained about poor results (4th and 5th grade children still had difficulties with reading and basic arithmetic). Roma students from the school in the Nizhniye Vyazovye settlement have complained that after several years of schooling they cannot even read and that they are kept separate from the other students”).

In August 2009, ADC “Memorial” officially requested the administration of Zelenodolsky District to focus on the implementation of the right to education, and to ban segregation in the Nizhniye Vyazovye School. On September 4, 2009, the school administration called a meeting of the Roma parents; the parents unanimously voted for separate classes. In so doing, the school administration has attempted to legitimize illegal segregation of Roma children, not taking into consideration the fundamental nature of children’s right to equal education, and the government’s and parents’ obligation to provide secondary education in compliance with federal rules and regulations.

Since the school and the Zelenodolsky District administration have not taken any effective measures by January 2010, ADC “Memorial” addressed a complaint to the district’s public prosecutor’s office about violations of children’s rights and legitimate interests. The prosecutor’s inspection confirmed the violations: children were still studying in a small separate classroom and were not receiving a proper education and an opportunity to continue their education. Because of the importance of the problem and the continued violation of the children’s rights, ADC “Memorial” filed a second complaint, calling for an independent examination of the children’s academic results and for the introduction of specific measures to ensure protection of children’s rights. In response to the second complaint, the public prosecutor’s office has informed ADC “Memorial” that children will be studying together as of the new 2010/2011 school year. A reply to an inquiry addressed to the school also stated that the classes would be integrated. According to the latest reports from Roma parents, their children are actually studying in common classes, attend school on a regular basis, and their educational level has risen significantly.

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<sup>16</sup>For example, a report entitled “Analysis of the School of *Verhniye Oselky* village for the 2009-2010 academic year and objectives for the new academic year” sets out a variety of measures “to create conditions for the socialization and integration of Roma children in the Russian system of rural school” and “to educate Roma children and parents”, but in practice these measures are rarely efficiently implemented.



Roma parents often do not understand the importance of education for their children, being themselves illiterate and facing the lack of support from the state. Likewise, Roma children are deprived of the possibility to protect their own right to education in cases when parents are unwilling to ensure their school attendance. This is often combined with the reluctance of public and school authorities to intervene in the best interests of the children.

Discriminatory conditions in Roma schooling make it impossible for Roma students to reach an educational level that meets government standards. This was verified and confirmed in an independent examination of the level of subject knowledge among Roma students that was carried out by ADC “Memorial” experts in Roma settlements, in different regions of Russia: Tatarstan Republic, Tambov, Bryansk and Leningrad Province. The expertise aimed to determine the level of knowledge and skills of Roma pupils and showed that the academic results of Roma pupils do not correspond to the level set by state education standards and requirements.

For example, an expertise on the level of education, received by Roma pupils from segregated classes in Verkhniye Oselky village (there is a school with segregated classes for Roma children from Peri Roma settlement, Vsevolozhsk district of Leningrad Province), took part in October 2010. This expertise has identified a “low level of knowledge and poor level of skills” of all Roma pupils.

Because of the low level and the poor quality of the primary education, children from the Roma settlements do not actually have access to secondary education.

### **Lack of access to education for migrant children**

Despite general guarantees that are spelled out in the relevant legislation, the practice of discrimination against migrant children, in the process of admission into schools, is widespread. No comprehensive anti-discrimination legislation has been introduced to eliminate the problem of discriminatory treatment in the process of school admission, nor were any measures, to improve education for groups that are subjected to discrimination, implemented during the reporting period. The new bill “On Education in the Russian Federation”<sup>17</sup> which was exposed for public discussion does not provide any specific rules prohibiting discriminatory practices. Replacing the term “citizen” with the term “student” (and therefore formally eliminating the requirement to provide proof of citizenship when enrolling a child in the school) will almost certainly not lead to a change in the schools’ current practice. School administrations continue to demand personal documents for both parents and children, as well as permanent and temporary registration documents, since there is still no formal ban on refusing applications from children without such documents,

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<sup>17</sup>Federal Law "On Education in the Russian Federation", shall enter into force September 1, 2013.

and since the educational institutions are free to decide which additional documents are required for enrolment. ADC “Memorial” has documented several cases in which children were not admitted to schools because their parents were labor migrants.

Moreover, school administrations are under threat of administrative and criminal prosecution if they admit migrant children whose parents have document-related problems. Schools with high concentration of migrant children are subject to regular checks from the office of the prosecutor.

Based on the information provided by S. Agapitova, Head of the Child Rights Division at Saint Petersburg Regional Administration, from December 6, 2012, regional migration services are requesting the schools to report on children who are ‘illegal residents’ in Russia. In order to keep up-to-date information on residence permits and places of registration, school representatives have to make regular visits to the homes of the pupils. Failure to carry out regular checks can result in administrative procedures against the school administration. Through this mechanism schools are closely involved in the migration control system, which also results in turning down the applications for admission from those children whose residence-related documentation is not entirely in compliance with the requirements of Russian law.

In the same letter to ADC “Memorial”, S. Agapitova explained that such practice does not violate the rights of children, since ‘first and foremost, migrant children should comply with the migration legislation’ and a positive decision on admitting or keeping an ‘illegal child’ at school can only be made in exceptional circumstances’.

Paragraph 504 of the Report submitted by the Russian Federation states: “In accordance with Federal Act No 115 of 25 July 2002 on the Legal Status of Foreign Nationals, foreign nationals in the Russian Federation enjoy the same right to education as Russian citizens”. According to the observations of ADC “Memorial” neither applicable laws, nor the practice that is implemented by the relevant authorities correspond to this statement. Based on the Federal Act No 115, the right of a family member of the foreign national to reside in Russia does not depend on the residence right of such foreign national. The only exception from this rule are the high skilled workers, whose family members have the right of residence within Russian Federation that corresponds to the duration of the employment contract of the person in question. Therefore, this regulation gives the right to reside with their parents only to children of high skilled workers, while children of those migrant workers, who are not classified as high skilled, cannot enjoy the same rights.

On November 27, 2012, ADC “Memorial” was approached for assistance by the Uzbek nationals Davron T. (born in 1974) and Yulduzkhon A. (born in 1977). According to the couple their three children Mardjon (born in 1998), Sitora (born in 2000) and Ulugbek (born

in 2002) were experiencing problems with admission into school. The couple and their children have been legally residing in Russia (Saint-Petersburg) since September 14, 2012.

From the day of arrival the couple unsuccessfully tried to have their three children registered to the schools No 3 and No 73 of the Petrograd District. Their requests for admission were also turned down by the District's regional authorities. Eventually, after continued efforts, all three children were admitted by School No 3, on October 18th, 2012. Soon after admission, the children received a notice from the local migration authorities, which explained that according to Russian law their continuous stay in Saint-Petersburg (despite the fact that their parents have the right to stay for one year) should not exceed 90 days. As a result, the family is forced to leave the country every three months in order to get new migration cards for their three children, which restart the 90 day count automatically.

Thus, both Federal Act No 115 and the administrative practice of admitting children of migrant workers into schools violate basic child rights standards.

It is evident that differential treatment of children, based on social status or national identity of their parents is unacceptable, and the right of every child to live together with his/her own parent must be unconditional. Such are the requirements under the European Convention of Human Rights and Fundamental Freedoms to which Russian Federation is also a party. In accordance to the well-established case law of the European Court of Human Rights – the creation of conditions, under which, children will be forcefully separated from their parents, is in violation of Article 8 of the Convention (right to privacy and family life). The requirements of Russian law which do not guarantee the right of residence to the children of migrant workers are such 'conditions', and they need to be immediately brought in line with Russia's international legal obligations.

The list of documents required for school admission is defined by relevant provisions of the "Law on Education" and by the statute(s) of the school. For the admission to the municipal educational institutions the list of documents, necessary for the admission, is defined by the local self-governance authorities. Therefore, the existing legal framework effectively decentralizes the decision-making regarding the admission process, which, among others, includes setting the exhaustive list of required documentation.

According to Order N: 1674 r of the Education Committee of Saint Petersburg, dated July 7, 2012, parents (legal representatives) of the child, who is not a citizen of Russian Federation, are requested to submit the following documentation upon application for admission to school: a. personal identity document of the child of a foreign national, or personal identity document of a stateless child who resides within the territory of the Russian Federation; b. documents that could prove the legality of residence on the territory of the Russian Federation by a child who is national of another state, or for a stateless child – a visa or a migration card.

The parents (legal representatives) of a child, who is not a citizen of the Russian Federation, are also required to present duly certified copies of the documents, proving the relationship of the applicant (or legal representation rights of child), and proof of the applicant's right to reside in the Russian Federation.

Order N: 1674 effectively creates conditions under which access to education is relative to the migrant status of the child, as well as the migrant status of the parents of the applicant child. Such requirements are in contradiction to the spirit of the recommendation 27 of the Committee.

After two years of failed attempts to have her daughter admitted to school, Farida Z., Uzbek national (born in 1974), mother of Shakara A. (born in 2003), approached ADC “Memorial” for assistance. It appears that the official reason for failing to have her daughter admitted by the school is Shakara’s migration card, which expires every three months without crossing the border of Russian Federation. As a consequence, and despite the fact that both of Shakara’s parents are legally residing in Russia, she is unable to attend the school.

In Russia, only legitimate representatives of the children (parents or guardians) may apply to the court. Children may apply on their own only in cases where their rights are violated by their parents. The opportunity to defend children's rights is provided to state prosecutors, but in cases where the defendant is a public agency, this mechanism is obviously inefficient.

Many children of migrants do not even have a real opportunity to attend school due to their living conditions, as in the case of the Roma migrants, living in the camp near St. Petersburg. Roma parents do not have the opportunity to send a child to school or to kindergarten, since the children, like their parents, often lack identity documents and have to take part in the ensuring the survival of the camp. Moreover, the closest school is more than a kilometer away from the camp. In this situation, the Russian authorities take no measures to ensure that education for the children of the Roma migrant camp is available and acceptable.

## Addendum - Background on Roma in Russia

The courtiers of the Commonwealth of independent States (CIS) are inhabited by numerous sub-ethnic groups of Roma. For example, in Ukraine, according to the 2001 census there were 47,600 people identified as Roma. Being members of an isolated and discriminated group, with historically lower level of income and education compared to the rest of the population, Roma have been actively migrating. In this migration processes from the post-Soviet countries Russia was often the country of destination. Yet, in their struggle for improving living outside the country of origin, the Roma-migrants have been confronted with difficulties of complex nature.

Two of the most notable Roma groups living in Russia are Mugat people and Magyar people. The Mugat people are one of the most populous Roma-migrant groups in the Russian Federation. Central Asian Roma self-identify as Mugat, Lyuli in Uzbekistan and Djugi Tajikistan. Ancestors of Central Asian Roma even in the Middle Ages have settled on the territory of current Tajikistan, Uzbekistan, Kazakhstan and the Kyrgyz Republic, creating villages (mahala) at the boundaries of rich towns. Leading a seminomadic lifestyle, for centuries they have remained uneducated and lived on the edge of extreme poverty. Traditionally, the men were involved in small crafts making, while women mostly did fortune-telling and begging.

A notable characteristic of Roma population is their relative young age. A significant part of the Roma-Mugat group, in Central Asian countries as well as in the Russian Federation consists of children. In these communities the practice of home-birth is predominant, and in most cases, the mothers and their children are not supervised by medical institutions, neither do they receive medical assistance. The new-borns are not registered with the relevant state bodies and do not have the possibility to eventually receive personal identification documents, which eventually leads to inability to obtain citizenship and to receive education. Thus, in an information letter from the state institution City Centre for the Prevention of Child Neglect and Juvenile Drug Addiction ‘Kontakt’, that was handed over to ADC “‘Memorial’” on 27 November 2006, it was stated that on the revealed settlement of Mugat-migrants in Saint-Petersburg there are 50 underage children living “without relevant identification documents, not attending schools, and in inadequate living conditions”.

Another vulnerable Roma-migrant group are the Hungarian-speaking Roma, natives of the Trans-Carpathian region of Ukraine. Large parts of this group Roma are named “Magyars”. Their attempts to resettle from the Trans-Carpathian region to Saint-Petersburg started in 1994, the same year when the natives of the towns Beregovo and Mukachevo have started their permanent and temporary settlements (families Tovt, Lakatosh, Tonto, Gorvat, Varga, Fontosh, Forkosh, Pap, Balog), and their numbers have increased significantly after the floods in 1998 and 2001.

Uneducated illegal Roma-Magyars have several ways of earning their living, some of which include collecting metals for selling to private dealers, or working as part-time workers on the industrial complexes around the settlement.

The Roma settlements are often located in the vicinity of industrial and household waste dump, and earnings are frequently made from collecting scrap metal (especially during the warm weather). The 'work' in the waste dump is done by men as well as women. Other, often more profitable activities are petty thefts, robberies and begging. Adult Magyars also involve children, especially girl-teenagers in the activity of theft "bands". Constant practices among the Roma-Magyars include early marriages and cohabitation.

The living conditions in most Roma settlements all over Russia are extremely low and Russian authorities do not take positive measures for improving them. In many of the Roma settlements, there are problems with access to water, gas and electricity. For example, in the settlement near Krasnoyarsk, Roma children had no access to drinking water for a long time.

In early 2013 the Russian government adopted a plan for the socio-economic and cultural development of Roma ethnic community, to contribute to the integration of Roma into the modern Russian society. However, due to the absence of allocation of corresponding resources required for the implementation of this plan, it appears that the plan was developed for formal purposes, and will not actually improve the situation of Roma children's living conditions.

Besides the fact that the authorities did not play a positive role in improving the living conditions for Roma children, the authorities themselves contributed directly to the further deterioration of their housing conditions. For example, in 2012, after 3 years without cases of evictions of Roma, local authorities re-started practice of demolishing Roma houses. In October 2012 in the village of Topki, Kemerovo Province (Siberia), 5 Roma houses were demolished. The demolition was executed on the basis of a decision issued by the local court, as a result of an application submitted by the local administration in 2011. The demolition took place just before the Siberian winter, during which the temperature goes down to -45 degrees Celsius. It left 35 individuals, including under-aged children, without shelter. None of the affected families were offered alternative accommodation, nor were child welfare authorities interested in the fate of the children who became homeless.

Medical assistance is provided inadequately with Roma often denied medical care on discriminatory grounds. For example, Roma are often prevented from benefiting from public medical services. Inhabitants of Roma compact settlements often complain that they are refused emergency medical assistance, which sometimes leads to fatal outcomes. In certain cases, such as the hospital of Toksovo in Leningrad Province, Roma children and their accompanying parents are segregated from the rest of the hospital patients and endure much worse conditions of accommodation and lack of basic hygiene norms. Roma patients are

strictly prohibited to enter 'Russian sections' of the hospital and are obligated to remain in the wing of the building especially designated for them.

The conditions for Roma children in schools, where they are taught separately from other children, also do not meet the established standards of sanitary maintenance and safety of school buildings. For example, in the Roma settlement Kalinichi near Tambov (Central Russia), for a long time, Roma children were taught in a building, where the ceiling was frail and could fall at any time, while the school authorities did nothing to resolve the situation.