

# Bulletin №66/June 2019

## CHILDREN'S RIGHTS



### NEW TREATIES NEEDED TO PROTECT CHILDREN'S RIGHTS IN EASTERN EUROPE AND CENTRAL ASIA

*On the eve of International Children's Day, FIDH member organization ADC Memorial announces the launch of its #CrossborderChildhood campaign. The campaign advocates for the rights of migrant children in Eastern Europe and Central Asia, who are frequently detained in prison-like conditions, calling for the replacement of an outdated regional treaty that regulates the movement of children with special treaties that are in line with current international law standards.*

Each year, hundreds of children become stranded in countries of Eastern Europe and Central Asia as a result of migrant flows. These might be children of migrant workers traveling with their parents, or those unaccompanied by adults as a result of the illness, death, imprisonment, or expulsion of their parents.

In States like Belarus, Moldova, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan, among others, the treatment of these children is governed by the 2002 Chisinau Agreement – Agreement of Cooperation of States-Members of the Commonwealth of Independent States (CIS) on the Return of Minors to their State of Residence – which calls for the return of the children to their countries of origin through “transit institutions” that are included in a special list.

These institutions are usually “closed institutions” or places of confinement. As a consequence, migrant children are often separated from their parents on arbitrary grounds, deprived of their liberty for extended periods, with no chance of pursuing their education, and are often deported to face similar circumstances in their countries of origin.

#### MIGRANT CHILDREN IN FORMER SOVIET COUNTRIES



Deprivation of  
liberty for not  
having documents  
is contrary to the  
UN Rights of the  
Child

#CrossborderChildhood

*“The placement of children in closed institutions, often behind bars, without a right to visits or education, causes these children great stress and threatens their psychological and physical well-being,” remarks Stephania Koulaeva, Director of ADC Memorial.*

The problem stems in large part from the absence of a human rights friendly legal regime surrounding the treatment of migrant children. The migration laws of countries of the former Soviet Union do not treat these children as independent rights holders, nor do these countries conclude special agreements that specifically provide for the rights of children in migration. The Chisinau Agreement only exacerbates this problem.

*“Considering the ongoing changes in the region, the antiquated regulations of the CIS must give way to more effective bilateral or multi-*

*lateral agreements that are in line with the updated legal standards of the UN, such as the recommendations of the UN Committee on the Rights of the Child, and the Council of Europe. Our #CrossborderChildhood campaign calls for the adoption of special treaties to regulate their return,” concludes Koulaeva, whose NGO also released a report in 2018 concerning this issue.*

The detention of children who have not committed any crimes in closed institutions is contrary to the more recent international human rights law standards on the treatment of migrant children, including those stipulated by the UN Committee on the Rights of the Child and the UN Committee on the Rights of All Migrant Workers and Members of Their Families, which view their deprivation of liberty as unacceptable.

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## #CROSSBORDERCHILDHOOD

*The migration laws of former Soviet countries do not treat children as independent rights holders. These countries do not have special agreements that specifically provide for the rights of children in migration. The main document that regulates the movement of children in the region is the outdated and heavy-handed Chisinau Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002).*

### WHAT'S WRONG WITH THE CHISINAU AGREEMENT?

#### It is not in line with international legal norms

Under the Chisinau Agreement, children are returned to their countries of origin through "transit institutions" that are included in a special list. These are closed institutions, regardless of whether they are reception centers operated by the Ministry of Internal Affairs, transit shelters, or juvenile adaptation centers, which are classified as social or educational institutions.

However, the placement of children who have not committed any crimes and only have problems with their documents in closed institutions is viewed by the UN Committee on the Rights of the Child and the UN Committee on the Rights of All Migrant Workers and Members of Their Families as deprivation of liberty and has been deemed unacceptable.

#### It is not in line with the changing realities of the region

The Chisinau Agreement was entered into by CIS countries in 2002. Much has changed in the region since then: Georgia left the CIS in 2008 and Ukraine left in 2018.

The list of transit institutions in the Chisinau Agreement has not corresponded to reality for quite some time: Armenia, Georgia, and Moldova have shut down reception centers; migrant children in Kazakhstan are placed in adaptation centers under the Ministry of Education; and police-run reception centers in Kyrgyzstan, Russia, and Ukraine now co-exist with social centers for migrant children.

These circumstances seriously complicate cooperation between states to return children.



**The special rights of migrant children are reflected in updated UN and Council of Europe documents. The Chisinau Agreement on the Return of Children, which is in effect in the CIS, is not in line with these norms of international law. Modern forms for regulating the return of children to their countries of origin must be created.**

### WHAT SHOULD THE CHISINAU AGREEMENT BE REPLACED WITH?

Special treaties between countries concerning the return of children should replace the Chisinau Agreement. These treaties must be based on the positions of the UN Committee on the Rights of the Child and the UN Committee on the Rights of All Migrant Workers and Members of Their Families concerning the special rights of children in migration.

#### The new treaties must include:

- a ban on the criminalization and immigration-related detention of children, i.e. their placement in Ministry of Internal Affairs institutions solely on the basis of their own or their parents' migration status;
- a ban on the separation of children from their parents solely due to the migration status of the children and/or their parents without sufficient grounds (if there is no threat to a child's life or health);
- transfer of the topic of "children in migration" from the police sphere to the social protection/educational sphere, provision of social services to children at all stages of their return to their countries of origin;
- a guarantee of the right to education of migrant children in the process of being returned to their countries of origin;
- the ability of children not to return to their countries of origin if this is not in their best interests;
- monitoring by social services of the situation of children who have returned to their countries of origin, social support and rehabilitation for children and their families;
- a guarantee of independent public monitoring of observance of the rights of migrant children during the process of their return to their countries of origin;
- improved coordination and cooperation between various countries relating to children in transit, as well as between agencies within one country.

## INTERNATIONAL GUIDELINES

*Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return. CMW/C/GC/4-CRC/C/GC/23.*

### Paragraph 5

Children should never be detained for reasons related to their or their parents' migration status and States should expeditiously and completely cease or eradicate the immigration detention of children. Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice.

### Paragraph 11

When the child's best interests require keeping the family together, the imperative requirement not to deprive the child of liberty extends to the child's parents and requires the authorities to choose non-custodial solutions for the entire family.

### Paragraph 15

All children, including children accompanied by parents or other legal guardians, should be treated as individual rights holders and not as criminals; their child-specific needs considered equally and individually and their views appropriately heard and given due weight. They should have access to administrative and judicial remedies against decisions affecting their own situation or that of their parents, to guarantee that all decisions are taken in their best interests.

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*Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration. CMW/C/GC/3-CRC/C/GC/22*

### Paragraph 21

All children involved in or affected by international migration are entitled to the enjoyment of their rights, regardless of the children's or their parents', legal guardians' or family members' age, gender, gender identity or sexual orientation, ethnic or national origin, disability, religion, economic status, migration/documentation status, statelessness, race, color, marital or family status, health status or other social conditions, activities, expressed opinions, or beliefs. This principle is fully applicable to every child and his or her parents, regardless of the reason for moving, whether the child is accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or with any other status.



Detaining migrant children for administrative purposes increases their suffering, and can have serious and irreversible consequences on their mental health and development. Detention is therefore never in the child's best interest.

*Lilian Maury Pasquier  
President of the Parliamentary  
Assembly of the Council of Europe  
for The Parliamentary  
Campaign to End Immigration  
Detention of Children*



We need to repeat again and again and again; immigration detention is never in the best interest of the child. Unfortunately, detention is widely used.

*Tomáš Boček  
Special Representative  
of the Secretary General on Migration  
and Refugees for The Parliamentary  
Campaign to End Immigration  
Detention of Children*



It has been my position, however, that there are no circumstances in which the detention of a child for immigration purposes, whether unaccompanied or with family, could be in the child's best interest. For this reason, the complete abolition of the detention of migrant children should be a priority for all states.

*Nils Muižnieks  
Commissioner for Human Rights  
of the Council of Europe, 2017*



## THE GRAPHIC STORY "ALYONA" TO THE INTERNATIONAL ROMANI DAY

**This story about discrimination in a school is based on actual events recounted to us first hand**

Alyona, her little brother Shaban, and their cousins Elza and Grigorash are getting ready for school. They live in a "Roma settlement" or "tabor" that is home to about 200 Romani families. Most of the adults in the settlement can barely read, but their children dream of graduating from school. Alyona wants to be a teacher like her beloved Anna Petrovna, who was her teacher from first through fourth grades. Elza is going to school for the first time. She dreams of being a doctor. In the winter, Elza was at the district hospital. It was cold there in the separate "Romani ward," and the Romani children did not get much attention. Elza understands how important it is to heal sick children. Shaban wants to be a police officer—he thinks they are the most powerful people.



As they approach the school, they notice that the schoolchildren are being separated as they enter the yard. The non-Romani children are going into the large building of the real school, while the young Romani children are being sent to a one-story annex—the "Romani school." In this annex, over one hundred children study in two small classrooms. Only three teachers work with students from the "younger Romani classes" in two shifts. The older Romani children are not even allowed into the schoolyard.



The younger Elza and Shaban are about to head with the other children to the spacious "main" building, which has two dozen well-equipped classrooms, a gym, a library, a computer room, a cafeteria, a cloakroom, and modern bathrooms. But they are sent to the annex, which does not have special classrooms, equipment, or even a place for children to wash their hands. All of these conveniences are "not for Romani children"...

Alyona is very excited to start secondary school. She did very well in elementary school, and now she is finally supposed to move to the big building, where each subject is taught by a different teacher. The graduates of the "Romani elementary school" head towards the schoolyard, but the school's gates are slammed shut in their faces. The children remain on the street, listening to be bell, but they can't get in to their class. They do not want to give up their dream of an education, and they know that attending school is their right. The 11-year-olds protest under the windows of the locked school. The principal Zinaida Georgievna calls from behind the locked gate: "We do not have a 5th grade for Romani children, and no one will let you enter the general class. Go away!" The children understand that they will soon be picked up by the police, who are already on their way. Farewell, dreams of a profession!



*This story is based on actual events (names have been changed). Thousands of Romani children in Russia and hundreds in Ukraine, Moldova, Uzbekistan, and Tajikistan cannot get a complete secondary education. They are kept in separate elementary classes and simply never transferred to secondary school. When we ask "teachers" such as Zinaida Georgievna why none of the thousands of Roma children who attended elementary school under their leadership ever graduated, they say: "Well, the Roma themselves do not want to study."*

*Education is the right of every child regardless of race. It is the obligation of teachers and anyone who is responsible for school education to teach all children and provide them with equal opportunities to start their lives.*

Artist – HN, schoolboy



## ADC MEMORIAL SUBMITTED AN ALTERNATIVE REPORT TO THE UN CRC ON THE RIGHTS OF MIGRANT CHILDREN IN BELARUS

*For the upcoming 83rd session of the UN Committee on the Rights of a Child and the review of the situation of children's rights in Belarus (January 2020), ADC Memorial prepared an alternative report on the situation of migrant children in Belarus. It covers the problem of immigration detention of children.*

In Belarus, unaccompanied minor migrant children are placed, on the basis of a court ruling, in the Juvenile Reception Center run by the police system and located in Minsk, the capital of Belarus. Moving children between CIS countries is still regulated by the Chisinau Agreement of Cooperation of States-Members of the Commonwealth of Independent States on the Return of Minors to their State of Residence (2002), while this Agreement doesn't meet neither the changed reality of the region nor the modern Child Rights standards. The Agreement lists Minsk's Juvenile Reception Center as a "transit institution" used to return foreign children to the country of origin and Belarusian children from other countries to Belarus for placement in a family or children's institution.

While many CIS countries have humanized the entire process of children's transit, reformed children's transit institutions, or rejected them altogether since the time the Chisinau Agreement was signed, Belarus continues to place unaccompanied migrant children in the JRC—a closed institution under the Ministry of Internal Affairs, or, in other words, a detention facility.

As in many countries of the region, Belarusian law does not do a good enough job of representing children as independent agents, and the Chisinau Agreement does not fill in these gaps. The Law of the Republic of Belarus "On the Legal Situation of Foreign Citizens" does not contain special provisions on children.

In the alternative report, the following violations of migrant children's rights in Belarus are mentioned:

### CRIMINALIZATION OF MIGRANT CHILDREN AND DETENTION BASED ONLY ON THEIR MIGRATION STATUS

The reception center holds together in one place children who have committed crimes, possible victims of crimes, street children leading an asocial lifestyle, and foreign children who have not committed any violations but have been left without adult care. Thus, migrant children face de facto incarceration simply due to their migration status, which is inexcusable.

This contravenes contemporary human rights standards, in particular, two joint General Comments from the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and of the Committee on the Rights of the Child, which were adopted at the same time and supplement one another: No. 3 CMW/No. 22 CRC (2017) "On the General Principles Regarding the Human Rights of Children in the Context of International Migration" and No. 4 CMW/No. 23 CRC (2017) "On State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return." The CMW and the CRC speak out unequivocally regarding **the unacceptability of the immigration detention of children**—a situation where a child "is deprived of liberty because of their or their parents' migration status, regardless of the name and reason given to the action of depriving a child of his or her liberty, or the name of the facility or location where the child is deprived of liberty."

Adolescent foreigners over the age of 16 are particularly vulnerable because they can be prosecuted for administrative liability for violation of migration rules or illegal work activities (this violation is regulated by Article 23.55 of the Code of Administrative Offenses; punishment is a warning, a fine in an amount up to fifty basic units, or deportation). These juveniles can be placed in temporary detention facilities of local internal affairs offices or isolation

centers for offenders until the matter of their administrative prosecution and deportation is resolved, but not for a period of over 72 hours.

### EXCESSIVELY LONG TERM OF CONFINEMENT IN THE RECEPTION CENTER

Under the law, children cannot be held in the reception center for more than 60 days; in exceptional cases, this term may be extended by another 15 days under a court ruling. According to information known to this report's authors, this term is strictly observed. However, it is still unjustifiably long and does not include quarantine, possible illness, time spent considering an appeal, a prosecutor's protest of a sentence, or a court decision on a child's further placement in a specialized institution.

Meanwhile, the UN Committee on the Rights of the Child and the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families "emphasize the harm inherent in any deprivation of liberty and the negative impact that immigration detention can have on children's physical and mental health and on their development, even when they are detained for a short period of time or with their families."

### VIOLATION OF THE RIGHT TO EDUCATION

In the Reception Center, regular school education is not provided.

### LACK OF TRANSPARENCY FOR INDEPENDENT MONITORING

The JRC cannot be visited by independent observers, human rights defenders, or experts: unlike pretrial detention centers or prisons, the JRC is not on the list of institutions that can, in theory, be visited by public monitoring commissions. This means that any reports about the violation of the rights of children in the JRC, including reports about violence, cannot be checked or properly dealt with.

## ADC MEMORIAL RECOMMENDS:

- Stop the practice of incarcerating unaccompanied migrant/foreign children in closed institutions within the Ministry of Internal Affairs system, which includes the juvenile reception center, temporary detention centers, and isolation centers for offenders.
- Stop applying the outdated Chisinau Agreement (Agreement on the Cooperation of Member States of the Commonwealth of Independent States on the Return of Juveniles to their State of Residence (2002)) in cases where children are repatriated to Belarus and other countries; instead, bilateral agreements on the readmission/repatriation of children should be signed with specific countries. These agreements must make account for contemporary human rights standards, particularly foundational principles of the Convention on the Rights of the Child such as the principle of the best interests of the child, the principle of taking the child's opinion into account, and the right of the child to be in a family environment.
- Ensure independent monitoring of the situation of migrant children, including the trans-border nature of this problem, with the participation of human rights defenders, members of parliament, and ombudsmen from the children's country of origin. The reception center of the Department of Internal Affairs must be added to the list of institutions subject to independent monitoring by public monitoring commissions.

The state report will be under review at the 83rd session of the UN CRC in January, 2020.

## ADC "MEMORIAL" WELCOMES UN CMW RECOMMENDATIONS TO TAJIKISTAN

*On April 16, 2019, the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) published its concluding remarks and recommendations following consideration of the 2nd periodic report of Tajikistan at its 30th session (April 1-4, 2019).*

Recommendations of the Committee reflected on a number of important issues raised in the alternative report of the Anti-Discrimination Centre (ADC) "Memorial" on the situation of migrant workers from Tajikistan and the members of their families in the Russian Federation.

The Committee paid particular attention to the absence of measures for protection of the rights of migrant children, who face discrimination in education, risk of illegal detentions and separation from parents. The case of the tragic death of a five-month-old child Umarali Nazarov, who had died in 2015

in St. Petersburg after having been separated from his mother during an anti-immigration raid, was also mentioned. Referring to the joint general comments of the UN CMW and the UN Committee on the Rights of the Child (CRC) on children within the context of international migration (2017), the Committee recommended that the Republic of Tajikistan take all necessary measures to ensure the full protection of the rights of migrant children, including putting an end to the practice of separation of children from their families and detention of children based on their migration status or the migration status of their parents. The Committee called on the authorities of Tajikistan to step up interaction with the national authorities, human rights institutions and civil society actors in the countries of residence of Tajik migrants.

The next periodic report of Tajikistan is to be submitted to the UN CMW by May 2024

## UN CESCR CALLED ON KAZAKHSTAN TO RESPECT RIGHTS OF CHILDREN

*During its 65th session the UN Committee on Economic, Social and Cultural Rights (UN CESCR) has addressed a number of recommendations to the government of Kazakhstan.*

The official recommendations of the UN CESCR discussed the issues related to the situation of migrants, which had been raised in the alternative materials and the joint report "Invisible and exploited in Kazakhstan: the plight of Kyrgyz migrant workers and members of their families", which had been presented by ADC "Memorial", the International Federation of Human Rights (FIDH) and its affiliates – "International Legal Initiative (ILI)" public foundation and the Kazakhstan International Bureau for Human Rights and Rule of Law.

The members of the Committee, having noted the relevance of the problem of minors' labor in Kazakhstan, both involving the country's citizens and migrants, called on the authorities of the Republic of Kazakhstan to take effective measures to combat all forms of child exploitation.

The experts paid special attention to the problem of non-provision of education for migrant children due to lack of registration or identity documents, and recommended guaranteeing education to everybody without discrimination, following the general recommendation of the Committee No.13 (1999), in particular Article 13 ("Right to education").

## THE RIGHTS OF CHILDREN WITH DISABILITIES: DECLARATIONS IN PLACE OF REAL GUARANTEES

***Russian law and law enforcement practice still fail to live up to the country's obligations to create equal rights and opportunities for the self-realization of children with disabilities guaranteed by the Convention on the Rights of Persons with Disabilities, the law "On the Social Protection of Persons with Disabilities," and the Russian Constitution. Even though government representatives repeatedly proclaim their desire to bring legal guarantees for disabled children to participate in socio-economic and social activities closer to the Convention's standards, in practice amendments and improvements made to laws and social adaptation and medical assistance programs actually introduce a number of restrictions that violate the rights of these children and increase their isolation from society.***

In March 2019, the Russian Ministry of Health developed a new procedure for arranging medical rehabilitation for children with disabilities. Specialists had a scathing reaction to the draft immediately following the public hearings. Stating that the text did not correspond to reality and contained numerous contradictions in its terminology and semantics, they added that there could be dangerous consequences for children if the draft was adopted.

According to experts, the main problem is that the draft lacks special guarantees for children who do not have "the potential for rehabilitation." In this way, the new rules effectively leave out entire groups of children suffering from severe forms of ICP and other illnesses that are difficult to treat without support.

Under the current procedure, "patients with marked functional impairments who are fully dependent on outside assistance for self-care, movement, and communication and have no chance of recovering functions (potential for rehabilitation) confirmed by the results of an examination" are offered measures to maintain their existing level of health. Under the new procedure, "children undergo medical rehabilitation on the basis of main categories of illness and nosological classification...if there is potential for rehabilitation (with the

exception of children with no potential for rehabilitation who have been ill for less than one year)." This clause of the program is not in line with Article 40 of the federal law "On the Framework for Protecting the Health of Citizens of the Russian Federation," under which medical rehabilitation is a complex of medical and psychological measures aimed at full or partial restoration of impaired functions, maintenance of bodily functions, prevention, early detection and correction of possible functional impairments, prevention and reduction of possible disability, improvement in quality of life, and retention of the patient's ability to work and integrate into society. The text of the law makes it clear that the goals of medical rehabilitation are not simply full or partial restoration of impaired functions, but support of these functions even for a person whose bodily functions cannot be rehabilitated. Therefore, even if we ignore the moral aspects of refusing to provide assistance to children suffering from incurable diseases, we can say that the new procedure is, at a minimum, discriminatory in nature and is not in line with the foundational legal document in the sphere of health protection.

Specialists also have questions about the way in which potential for rehabilitation is assessed. For children, the possibility for "socialization and re-socialization" is assessed, but the program does not specify who will assess these possibilities, how they will be assessed within the framework of medical rehabilitation, and what the absence of these possibilities will entail.

Another novelty which has been found unacceptable by medical workers and human rights defenders is the introduction of the course-based rehabilitation of children. The course approach envisages that the full or partial restoration of lost or impaired functions to the organism or to an individual organ is possible with temporary assistance. However, children with serious mental or motor impairments are in need of a constant process of rehabilitation and the new program does not take their needs into account.

In addition to this, the first two courses of rehabilitation can only be provided at in-patient facilities or not at all. This rule violates the right of a child to rehabilitation at home, limits and vi-

olates guarantees to rehabilitation, and forces parents to refuse rehabilitation in cases where children do not want to or cannot go to the hospital for certain reasons.

Several years ago, the concept of "abilitation" was introduced as part of a drive to bring all the foundational laws for protecting the rights of disabled persons in Russia into line with Convention on the Rights of Persons with Disabilities. This concept encompasses the system and processes of shaping the abilities of people with disabilities to participate in everyday, social, public, and other activities. This term was also added to the name of individual rehabilitation programs offered to persons with disabilities, which is now known as "individual program of rehabilitation and abilitation" instead of "individual program of rehabilitation." The introduction of this term into Russian laws and medical programs assumes the creation of special conditions under which a child can develop the functions and abilities that have not been developed in that child since birth. However, Russia has very few specialists who can conceive of developing and implementing these kinds of programs, so their application remains on paper.

To a certain extent, this approach characterizes Russia's principles for implementing the Convention: it introduces the Convention's standards and terminology, but it lacks any real potential for their application. For example, it does not provide for the training of specialists capable of implementing these standards in Russian medical institutions.

The authors of the new procedure for organizing the medical rehabilitation of children with disabilities went even further by not even mentioning abilitation in the draft document, even though it is abilitation and not rehabilitation that is particularly important to children. Instead, under the proposed rules children with congenital disabilities will be categorized as "without the potential for rehabilitation." No measures for rehabilitation are envisaged for these children.

Some specialists see these as an intentional attempt by officials to reduce financing for expensive and extended procedures for children with compli-



cated diagnoses. The need to introduce a new procedure is comparable to the tightening of procedures for recognizing disability groups in 2015, when medical committees started assigning disabled persons to less serious groups at their own discretion with the full understanding that this would result in a reduction in benefits and a poorer quality of life for the disabled person. The new rehabilitation rules follow the same logic: instead of providing additional guarantees for children, these rules create the ability to deny assistance.

On April 3, 2019, 21 field-specific NGOs send Dmitry Medvedev a collective letter asking him to postpone approval of the new procedure for organizing medical rehabilitation for children with disabilities. The letter notes that “if the procedure is approved in its proposed version, this will set Russia back decades, mark a return to pointless and outdated techniques, and lead the country further away from effective occupational therapy, physical rehabilitation, and kinesiotherapy, from evidence-based medicine, and from accessible treatment.”

The draft document has already been presented at public hearings, which resulted in significant amendments to the text. Representatives from the Ministry of Health made assurances that “zero potential for rehabilitation” will be removed from the draft and that the rehabilitation process will be family oriented.

In addition to the violations of the rights of children with disabilities to medical care, which is only one part of the rehabilitation process, similar complexities arise with other types of rehabilitation, including in the area of education, that are guaranteed by the Convention.

Because most Russian institutions cannot offer special conditions or qualified personnel, children with disabilities are not accepted at daycare centers or schools. To make matters worse, the administrations of schools and pre-schools rarely create these conditions, so parents have no other choice than to prepare and educate their children on their own. For example, daycare centers do not have specially trained pedagogues capable of communicating with disabled children and can only offer parents the opportunity to transfer to specialized children's institutions. In most cases, regular daycare centers do not accept children who cannot move or care for themselves unaided, or they accept these children but refuse to take

responsibility for their support, upbringing, and education. Instead, they require parents to come to the center and work independently with their children. In addition, most daycare centers still do not provide the special food that children with various illnesses require, so they make parents to come to daycare centers during meal hours with the food their children need and feed them.

Directors of daycare centers do not officially have the right to refuse parents and institute these rules because they are obligated to create all the necessary conditions for children with disabilities, but in reality parents have to face the fact that the absence of proper conditions may have a negative impact on a child's health.

The only option for parents who have received these rejections is to search for specialized daycare centers, which may not exist in small towns, or keep their children at home because they do not want to risk registering their child at an institution that could bring harm to the child.

A similar problem exists in schools. Even though the laws “On Education” and “On the Social Protection of Disabled Persons in the Russian Federation” guarantee that the required conditions for education must be created for disabled persons, the right of children with disabilities to inclusive education in Russian schools is often violated.

Parents who have a doctor's note about a disability and try to enroll their children at regular schools are regularly rejected due to lack of special conditions (ramps, elevators, bathrooms, and so forth) and qualified tutors trained to handle the educational process for children with disabilities. In these cases, school principals often try to persuade parents to transfer their children to so-called “correctional” schools or to home schooling, even though a child's diagnosis may not contain grounds for transfer to home schooling, since this form of instruction is only used in extreme cases (presence of infectious diseases, serious mental impairments, and so forth).

Generally, school principals only tell parents about the positive aspects of homeschooling, which includes an individual study plan and workload that give children the chance to learn at their own pace. However, they make no mention of the consequences of isolating children and adolescents from society or of the poor quality of education, which is handled by teachers who are not properly prepared and are not capable of skillful-

ly and professionally planning out psychological and pedagogical support for children with disabilities. In many cases these children, particularly seriously ill children, are taught following the simplest program, which does not give them the opportunity to master skills for even the most basic professions and, accordingly, find work in the future.

There are also cases where parents themselves want to transfer their children to homeschooling, but decisions on this, like decisions to refuse to allow a child to enroll at a school, are not in line with the law and also contradict the child's best interests by violating the procedure for a child's socialization and by increasing their isolation from society.

According to information from the Education Committee, approximately 50 general education schools are operating in Saint Petersburg that can provide conditions for inclusive education. However, NGOs working on the rights of disabled persons believe that this number is inflated. A section on educating children with disabilities can be found on the websites of most schools, but this does not mean that these schools accept all children. There have been cases where visually impaired students and wheelchair users have been accepted, while children with serious mental impairments (for example, forms of autism) are rejected for the abovementioned reasons: lack of conditions and specialists.

Only several schools in Saint Petersburg are currently fully inclusive. This means that, in spite of existing guarantees, the right to education for all children with disabilities is declarative in nature and not practiced in reality.

*Sergey MIKHEEV*

## INTERNATIONAL DAY OF EDUCATION WAS PROCLAIMED BY THE UNITED NATIONS GENERAL ASSEMBLY

*January 24, 2019 marked the first celebration of International Day of Education, which was proclaimed by the United Nations General Assembly. In her message, Audrey Azoulay, Director-General of UNESCO, stressed that without undertaking bold political obligations in education, "countries will not succeed in breaking the cycle of poverty that is leaving millions of children, youth and adults behind."*

The situation with access to education is shocking: according to the UN, 262 million children and young people do not attend school; 617 million children and adolescents do not have basic reading and math skills; less than 40 percent of girls in sub-Saharan Africa attend school and even then only receive an incomplete secondary education; and almost four million children and young people who are refugees are being deprived of access to school.

In Russia and the former Soviet Union, problems with education are particularly acute. Access to education is particularly difficult for members of vulnerable groups: ethnic minorities, indigenous peoples, migrants and refugees, and disabled persons.

Discrimination against the Roma people and similar groups (Mughat, Lyuli) in the area of education is especially pronounced in Russia, Ukraine,

Moldova, Georgia, and the Central Asian countries. This discrimination includes segregation of children in special classes, classification of children as "lagging in development," absence of special support measures (including native languages in the school program), and official indifference to the fate of children evicted from their demolished homes, leading to expulsion from school or nonattendance.

A controversial law to exclude indigenous languages from the mandatory school program was adopted in Russia in 2018. This law essentially deems these languages "without prospect" in comparison to the state language of Russian and will have negative consequences for languages spoken by small-numbered peoples: leaving these languages, many of which are on the brink of extinction as it is, out of the school program will further narrow their range of use.

Thousands of children affected by the processes of labor migration in the former Soviet Union experience difficulties trying to obtain a quality education because of discrimination during the admissions process, the constant risk of interruptions to education, and the lack of any help learning a new language or adjusting to a new school program. Migrant children taken from their families during police raids are placed in orphanages and transit institutions that cannot offer conditions for an adequate education. Chil-

dren left in their home countries by their migrant parents must frequently work at the expense of their education and face the risk of various forms of exploitation.

In many traditional societies, children's right to education is violated, and this is especially true for girls. Comprehensive measures must be adopted to overcome harmful traditional practices so that all children regardless of gender, religion, origin, or place of residence can obtain a modern education.

Even though several countries in the former Soviet Union have adopted the UN Convention on the Rights of Persons with Disabilities, people with special health care needs—both children and adults—must overcome major barriers to gain access to secondary and higher education. An enormous number of people are screened out at various stages because excessively strict medical commissions simply do not allow them into academic institutions. Even when faced with court decisions favoring people with disabilities, academic institutions delay meeting their obligations to create conditions for these students to attend classes.

A quality education is a human right, and ensuring that all children have access to a quality education is a state's obligation. There is no place for discrimination on any grounds in matters of education, and positive measures to support especially vulnerable groups are needed.

# EDUCATION IS A RIGHT

The right to education is enshrined in the Universal Declaration of Human Rights, yet many children and young people are deprived of access to education:

**CHILDREN OF MIGRANTS**

**CHILDREN FROM ETHNIC MINORITIES**

**CHILDREN FROM TRADITIONAL SOCIETIES**

**CHILDREN WITH SPECIAL HEALTH CARE NEEDS**



## SEXUAL EDUCATION – QUESTION OF MORALITY OR A HUMAN RIGHT?

*The United Nations Educational, Scientific and Cultural Organization, together with other international organizations such as the World Health Organization, with one assent state that: "Comprehensive sexuality education1 plays a central role in the preparation of young people for a safe, productive, fulfilling life..."*

ADC Memorial asked Edyta Jasinska, pedagogue, psychologist and socio-therapist, to explain the importance of compulsory sex education in school curriculum:

"The goal of sex education at school is to help young people build and maintain satisfying, safe relationships. Sex education promotes pro-health behavior taking into account prophylaxis and normalization of human sexuality, contributes to the development of personality, helps in the self-definition and understanding of one's sexuality.

Parents or guardians are extremely important in learning about interpersonal relationships and sexuality, especially from an early age. As indicated by the psychosexual development of men, sexual education should start before the age of four, because the child is a sexual being from birth. We should however remember that parents are not professional sex educators and that the youth who reached sexual maturity often don't want to talk to their parents about sex. It is much easier for them to ask people with whom they are not in close contact. On the other hand, some parents avoid talking about sexuality with their children, because it is too difficult for them, shameful and no one taught them how to do it either. The consequence of this behavior is that children search for information on the internet, which is often false and creates a false image of sexuality.

That is why I believe that school should provide students with access to sex education, which is conducted by educators who know how to talk about relationships and sexuality in a professional and positive way."

The international human rights community recognized the importance of sex education too. A number of inter-

national human rights conventions and agreements constitute a solid base for the right to sexual education, such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), Convention on the Rights of the Child (1989 - the scope of the Convention regarding sexual education was confirmed and extended by various conferences, such as the Fourth World Conference on Women in 1995 and the World Summit on Children in 2002) and the Convention on the Rights of Persons with Disabilities (2006). Moreover, their treaty bodies continuously call to make sexual education a compulsory component of learning and to widely promote it and recognized that the state is obliged to ensure sexuality education at school.

What rights are these conventions actually about? How do they build a legal base for the right to sex education? Firstly, one of the fundamental rights, recognized in a number of international conventions, is the right to education. The state should fulfil everyone's right to education by making a primary education compulsory and making secondary education accessible to everyone. Article 26 of the Universal Declaration of Human Rights states: "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms." Taking into account how important sex education is in the development and well-being of children, sexuality education based on educational and scientific standards undoubtedly belongs to the scope of the knowledge which children should have guaranteed. The right to (sex) education is also ensured, but at the same time "undermined", by article 2 of Protocol No. 1 of the European Convention on Human Rights, highly disputed in the case of the sex education:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

Exactly the 'rights of parent' is here disputed. The European Court of Human Rights actually confirmed that the state has the right to deny faith-based withdrawal of children from the compulsory sex-education in order to honor its obligation to provide children with autonomous decision making skills, ensure their safety and avoid the formation of "parallel societies". Secondly, sexuality education is a necessary means to fulfill other human rights, such as the right to health. Furthermore, in 1994 the International Conference on Population and Development in Cairo classified the sexual and reproductive health as a fundamental human right, crucial for growth and well-being. In order for people to fully enjoy this right, they need to possess reliable information, which sexuality education offers. Thirdly, an easy access to information in order to fully develop one's own potential and raise the quality of life, what the sexuality education offers, is a human right on its own too. This is contained in multiple documents, like for example prepared in the framework of the World Summit of the Information Society in Geneva in 2003. Furthermore sex education offers a preventive and transformative tool towards gender equality and non-discrimination which are global mandates set up in numerous human rights agreements. Therefore, in short, the lack of it in the educational institutions is seen as a human rights violation.

### THE SEXUALITY EDUCATION IN PRACTICE:

Despite scientific evidence and urging of the international human rights community, the sexual education in many countries is still very limited. In addition, a wave of conservatism overflowing Europe and parts of the world does not help in improving the situation and even poses a danger to this very minimum existing now, even within the European Union. A perfect example is Poland.

Poland is a member of the WHO, has signed numerous international agreements and has domestic legislation covering a sexuality education in school.



In Poland, sex education is carried out mainly during non-mandatory classes called Family Life Education. Despite the fact that the majority of school-age children are taking part in the classes, it seems like these classes do not accomplish their role to provide children with necessary information.

Edyta Jasinska: 'According to the report of the Sexual Educators Group «Ponton» about 86% of people had the subject of Family Life Education. Young people want to talk about the subject of human sexuality. Unfortunately, one of the most frequent reasons why they give up is a lack of teacher's competence. The report confirms that sex education is often conducted by catechists, a librarian or a science teacher, generally people who have nothing to do with sexual education. As a result, it leads to the duplication of many stereotypes, the presentation of information incompatible with science, such as «homosexuality is a disease», «oral sex leads to sinusitis», «a boy cannot know about women's menstruation, because he will be disgusted and will not want to have contact with a girl», «AIDS is spreading among blacks and homosexuals», «early sexual initiation can lead to prostitution», «contraception is bad», «when a husband forces his wife into sex, it is not a rape». Materials used by teachers often present sexuality in a negative light, focusing their attention on promoting sexual abstinence. There is lack of reliable knowledge about contraception. Discussions about relationships are often presented only from the heteronormative point of view, promoting the traditional family model, a consequence of which is the difficulty in accepting homosexual, bisexual or pansexual orientation. Unfortunately, too often, the transmitted knowledge barely touches the subject and is non-substantial, which is why young people prefer to seek answers to bothering questions on the internet. Equality and anti-discrimination issues are ignored.'

This image of the state of the sex education in the European country, after 15 years in the European Union, is worrisome. Even more alarming is that the very minimum that Poland offers in terms of sexual education is in danger. 'Hands off from our children!', screamed Jaroslaw Kaczynski - a chairperson of the currently governing Polish party Law and Justice (Prawo i Sprawiedlowosc) and de-facto the most influential politician in the country. The nationalistic, conservative Law and Justice and other conservatives (political and religious) groups, of which

present-day Poland is not in short, do everything to ensure that the standards of sex education stay at a low level or even negate the very necessity of the sex education in Polish schools. Not to mention the WHO's recommendations, which Kaczynski called an attempt of sexualization of children, an attack on family and a not closely-specified sociological technique to change the human being. Pawel Kukiz, deputy and leader of the parliamentary club Kukiz' 15 warns that implementation of the WHO's guideline will lead to masturbation of preschoolers instead of nap time in kindergarten and extenuating of pedophilia. Chief education officer Barbara Nowak (Law and Justice) claims that the WHO's standards of sex education are the promotion of pedophilia and child abuse. It is no wonder that the Ministry of Education chooses people for the commission responsible for the preparation of core curriculum of the Life Family Education who are completely not appropriate for that function. Such as professor Urszula Dudziak, who claims that contraception is worse than human trafficking, using condoms causes breast cancer, a woman deprived of the beneficial influence of male semen is sick, non-church marriage does not have any sense and that the vocation of a women is virginity or motherhood.

The topic of the sex education, widely disputed on multiple occasions, recently reappeared in the public discussion as a result of the LGBT declaration signed in January by the mayor of Warsaw Rafal Trzaskowski (Civic Platform), which goal is to support the rights of LGBTI youth in the Polish capital and ensure that school is a safe place for them. Parliamentary Team for Pro-family Policy and Culture (built by all conservative politics, in majority from Law and Justice) invited in the beginning of April experts to debate the introduction of the LGBT declaration. It is doubtful whether this can be called a debate since the experts represented just one, catholic and very traditional point of view. Konstanty Radziwill (Law and Justice), ex-health minister in this government and a candidate to EP said: „some people allow themselves to believe that the classes of sex education are needed'. Other 'experts' warned that children will go to school for porno screening and that teachers during this classes will present physionomic reactions on their own body, and so on.

In October the last year, a civil rights group Campaign Against Homophobia planned to organize 'Rainbow

Friday' in more than 200 Polish schools. The goal was to teach tolerance and make a safe space for non-heterosexual students, because at the very moment they are discriminated and experience bullying. Ombudsman Adam Bodnar draws the attention to the bad situation of LGBTI youth in Polish schools, who are an especially vulnerable group. Violence which they experienced significantly influences their well-being and development and even could result in suicide. Despite this well-known tragic situation of the part of the students, the minister of education Anna Zalewska (Law and Justice) was outraged by the idea of Rainbow Friday and warned school principles that organizing the event would have consequences. At the same time she encouraged parents to report if the event would take place. The action was boycotted also by Catholic authorities, nationalists, right wing media and conservative organizations quasi-officially cooperating with Ms. Zalewska. The attitude of the Ms. Zalewska encourages ultra-right organizations, like All-Polish Youth, in their homophobic activity. On social media this organization announced launching 'extensive activities to ensure that the deprivation of young people by directors and teachers does not go unpunished'. Some schools withdrew from the initiative because of the safety of children.

Paradoxically, this absurdity causes that parents write to sex educators and invite them to schools, which helps to stay a bit more optimistic. A poll published in oko.press, shows that Polish society is much more liberal than a few years ago. In February 2019, 56% of interviewees support civil partnership. The upcoming national election though puts a question mark to this optimism. Recent history shows that the public opinion can easily be altered. And one way to collect more votes during an election campaign, is to make the people scared, create an imaginary enemy and play a defender. This tactic is well-known to Law and Justice. The party used it during the last campaign, during which in just half a year they doubled the percentage of people opposed to receiving refugees. In the current campaign Kaczynski seems to have chosen LGBTI as the new national enemy.

## POST- SOVIET AREA

If the situation can be so critical in one of the European countries that last month had a 15th anniversary in the European Union, how then does it look further to the East, where the idea of the sex education is relatively new?

The answer can be found among other in the report 'Sexuality Education in Europe and Central Asia. State of the Art and Recent Developments' (2018) conducted by the German Federal Centre for Health Education and the International Planned Parenthood Federation European Network. Among 28 countries evaluated in this report, post-soviet countries were represented by Ukraine, the Russian Federation, Kazakhstan, Tajikistan and Kyrgyzstan. There is undoubtedly a progress regarding implementation of issues covered by sexual education in schools compared to the situation a few years ago, when barely someone thought about this issue. However, these countries lag behind in the implementation of the WHO recommendations and there is a huge gap between countries of the region and the leading countries. There is also a gap between legislation and practice.

The constitutions of all of these countries give everyone the right to education which already constitutes a base for claiming the rights of children for sexual education. Additionally, countries such as Ukraine and Tajikistan have a legal basis supporting sexuality education. In Kyrgyzstan and Kazakhstan though there is a legislation containing 'laws regulating reproductive rights and access to education on it', but there is no law explicitly supporting of introduction of sexuality education in school curriculum. In the Russian Federation there is no law or even policy ensuring the sexual education in the educational institutions. Only preventative education regarding HIV is guaranteed. However, at the same time there are two famous laws 'On Protection of Children from Information Harmful to Their Health and Development' and prohibiting 'propaganda of non-traditional sexual relations among minors'. Both these laws significantly hinder youth access to knowledge about non- heteronormativity and may also limit their access to information about human sexuality in general.

Ukraine is the only country from the above- mentioned where topics regarding sexuality education are man-

datory. However, still some topics are introduced only briefly (such as contraception, gender roles, domestic and sexual violence, mutual consent to sexual activity) or even omitted (sexual orientation, sexual pleasure). The Russian Federation obliges students only partly and covers very limited scopes of topics, mostly concentrating only at the HIV prevention. In the rest of the countries the classes covering sex education are (still) just optional (healthy lifestyle – Kyrgyzstan & Tajikistan, 'valeology' Kazakhstan) and do not cover all issues. However, it is noteworthy that they touch upon some important topics such as early marriages or brides kidnapping. In all of this countries, deliverance of the sex education topics depends on the preparation and willingness of the teachers and the school administration, financial possibilities and the religiosity of the region.

Except of the Russian Federation, there is some political will to prioritize sexual and reproductive health and a number of steps had been taken towards integration of sex education into the school curriculum. However, providing children with sex education faces social resistance and is still a very sensitive topic: in some countries heavily disputed, in others being a taboo. Opponents of the school sex education, as in European countries, are conservative politicians, religious groups (Orthodox as well as Islam), some teachers and parents. The reasons why they resist are also similar like these among West traditionalist. They see sexual education as a threat to their traditional societies and social relations. It is believed, contrary to scientific knowledge, that sexuality education will deprive children, spoil their morality and will cause early onset of sexual behavior. As the report illustrates, approximately 10 years ago, a scandal took place in Kyrgyzstan, when some public figure saw booklets on sex education as a 'sex propaganda' and therefore a threat to moral, family relations and 'a gene pool of the nation'. The report stated that it began a public discussion which brought a few methodological directives. Nevertheless during these 10 years fears and arguments remained the same. Female sexuality and self-determination is still restricted. Non-heteronormativity is less than welcome. Local authorities kidnap brides. In March, during the Women's Day march in Bishkek (which was almost banned), a raising of a rainbow flag (probably by random participant of the march, not planned by the organizers) triggered an alarm among the defenders of the Kyrgyz nation. Some

people demand to recall the mayor of the city and punish the organizers of the march. They motivated their action by a threat of the extinction of the nation if the homosexual relations would be promoted. So far, the RF is the only country of the region who ban the access of 'harmful' information, but there are numerous attempts to introduce this law in some form in other countries of the region too.

UN Special Rapporteur Vernor Muñoz in the report on the right to education (July 2010) states that "(t)here is no valid excuse for not providing people with the comprehensive sexual education that they need in order to lead a dignified and healthy life. Enjoyment of the right to sexual education plays a crucial preventive role and may be a question of life or death....". All the more, there is no place for making from sexual education an issue of morality instead of science. It should be repeated that denying children and youth integral sexuality education appropriate to their age, due to any reason, is a clear human rights violation and failure of the state to comply with the obligation to protect a large group of citizens. Restricting knowledge about human sexuality will not keep youth from sexual intercourse and will not turn homosexual youth in heterosexual. What it can do, is to harm youth by not allowing them to fulfill their needs, to grow. It is limiting their wellbeing and not teaching how to not allow to be exploited and how not to hurt others. It will not teach tolerance. In this way the harmonized, modern society with equality principles and non-discrimination cannot be built.

*Patrycja POMPALA*

## THE FIGHT FOR FREEDOM AND PERSECUTION FOR LOVE

***In mid-May, human rights defenders again came out “in support of the new generation” of young people subjected to repressions for their political activism. The anti-fascists in the Network Case and the young people from New Greatness being prosecuted are approximately 20 years of age, and here we have adults, many of them elderly, picketing “for our children.”***

This is not the case for two very young boys (18 years of age)—the “Navalnytes” Vladimir Kazachenko (who is also an activist in the Spring democratic movement) and Vadim Tishkin, who are sitting in a pretrial detention facility in Saint Petersburg. Unfortunately, few are coming out in support of them. Only their comrades in arms have recorded a video in Kazachenko's defense.

Vladimir Kazachenko was arrested on his way to court and accused that time of violating public order in connection with an action to support Anastasia Shevchenko, an Open Russia participant who was arrested in Rostov. During this action, Petersburg activists managed to block Nevsky Prospekt for several minutes with a banner reading “Open Russia instead of Putin” and Kazachenko shouted into a bullhorn and was then arrested and beaten (as seen in photographs published by Spring). After leaving the police precinct, traces of a beating were recorded, and Kazachenko announced plans to file a complaint...

What were they thinking, these children, when they fearlessly spoke out against torture, censorship, and political repressions, when they unfurled banners wishing the president “long years in prison” or hung these banners from a bridge on the day of the World Cup championship?

Here is their convoy coming out onto Nevsky Prospekt in quilted jackets embroidered with camp numbers, their arms and legs in shackles, with signs hanging on their chests. The first in line is 17-year-old Vladimir Kazachenko, whose sign reads “To elect a president, we lock people up.” This statement was a reaction to information about a prepared list of political activists subject to detention and arrest in the run-up to the 2018 presidential election. Other young participants in the action follow behind Kazachenko, including Ilya Gantvarg, who was wearing a sign bearing his own name, which was on the list of people marked for preventive arrest. Ilya says: “Even if all of us walking here are locked up, I am convinced that other good kids will come along...”

Shortly thereafter, Ilya was detained for 10 days. After leaving the detention center, he gave an interview to Fontanka in which he partially responded to the question of how people like him view the obvious risks of their battle with the regime and the possibility of serious repressions, actual prison sentences, and torture. “We

know about how the FSB tortured the anti-fascists. I just don't understand how that's possible. It's abhorrent, it's barbarity. But, still, they do try to follow some rules of the game in relation to democracy activists.” Then he went on to give a touching explanation of his motives for participating in unauthorized meetings and demonstrations: “In 50 years, I will be able to open a history book and tell my granddaughter: you know, on March 26, 2017, I stood on that monument and chanted, and we were not afraid.”

That is probably what each of these young people felt—pride for not being afraid and certainty that nothing worse could happen to them. But misfortune has been nipping at their heels. I think Vladimir Kazachenko has already accumulated a critical mass of these detentions—at meetings (against falsification of election results, against corruption, and against pension reforms), during pickets (in defense of political prisoners and in memory of the victims of Soviet terror), while preparing actions (for lack of a better charge, he was once written up “for unauthorized exit from his home”), for having the inscription “Navalny” on his raincoat (in this case the administrative violation received the elegant name of “arbitrary behavior”)...

Frequently found next to him during these pickets are his friends—his girlfriend Zhenya and his friend Vadim Tishkin and his young girlfriend. His mother said that Vladimir and Zhenya are planning to marry. The father of Tishkin's girlfriend also knows about their relationship and approves of his daughter's boyfriend. Everything would probably have turned out well for everyone if not for the surveillance that they failed to consider as they lived recklessly in their own world. After Kazachenko and Tishkin were arrested “for lewd acts,” the yellow press let slip that “These kids have ruined their lives by protesting.” Specifically by protesting and not because of their relationships with girls, which, of course, no one would have cared about had the political police not had the task of “finding an article.” And look eagerly they did. As the same media outlet admitted, citing its sources in law enforcement, drugs or any other reason would have been just as good: when conducting their search, officers “looked for anything that could be of interest to law enforcement bodies. They did not find any banned substances, but they did find piles of leaflets and items with symbols of the opposition and the protest movement.”

But they did not bother to lock the young men up for these piles of leaflets. Instead, they were able to uncover a very different kind of damaging material—photos and videos from the phone of Tishkin's girlfriend. This young woman was stopped on the street and forced to reveal the contents of her phone. The photos and videos showed the “targeted” activists with their

girlfriends, and they were all naked. The young men were already adults, although just barely, but the girls weren't and the youngest was not even 16 yet. As the young men explained, they made these photos and videos “for kicks” and they each had a serious relationship with their respective girlfriends. The “victim” explained to journalists, who had no qualms about publishing these photos, that she was only “simulating” sex: “‘We didn't have anything like that just the two of us would do,’ she said.”

The cynicism of the people who wanted to “protect” this young woman from her love was vividly manifested in the fact that the naked photographs of the “victim” turned up online immediately after the police gained access to the phone and were soon appearing widely in online media and even on billboards on the streets of Saint Petersburg!

So what will cause harm to a child? Love for a young man, albeit a young man of age, or publications of this nature? The laws of European countries have different definitions of the “age of consent,” and many countries allow voluntary sex at the age of 14. Even in places where the law requires minors to wait until they are 15 or 16, it is basically universally acknowledged that this restriction does not apply to adolescents, that is people close in age (after all, the word “teenager” covers people up to the age of 19!). In addition to this, in its General Comment No. 20, the UN Committee on the Rights of the Child (2016) noted that “States should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity.” Taking European courts and the factor of being in love into account, relationships of young people in love are rarely deemed criminal, even when one of them is very young. I think this is extremely important. The threatening Criminal Code article on “lewd acts by previous concert” (from seven to 10 years in a camp!) was not written about people like Tishkin and Kazachenko, but about actual adult philanderers who choose young victims. But in this situation, which one of these young men and women was psychologically older? Love, a common battle, and a few naked photos taken on a whim...

On May 14, Tishkin was again left in custody, even though both the “victim” and her legal representative asked for his release. Tishkin and Kazachenko are currently being checked by forensic psychiatrists at a hospital. This brings to mind their action in defense of Yury Dmitriev and their banner “Who needs a psychiatric expert opinion?”

Poor children!

**Stefania KULAEVA**

*First published in Russian on the blog of Radio Svoboda*

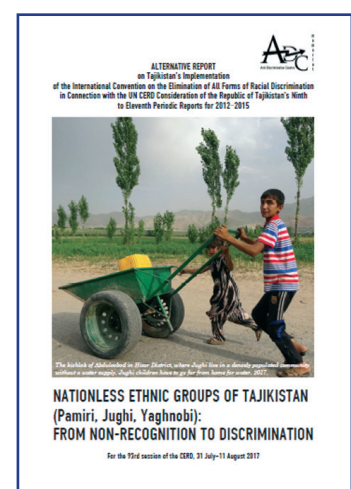
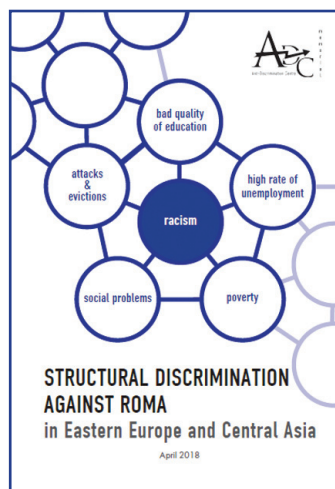
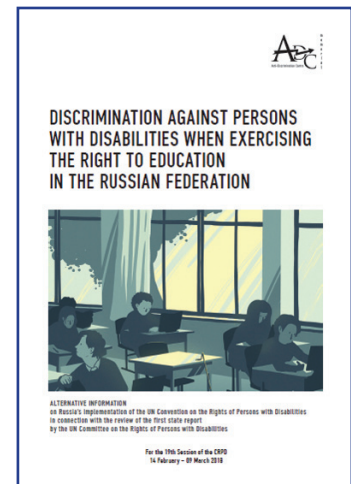
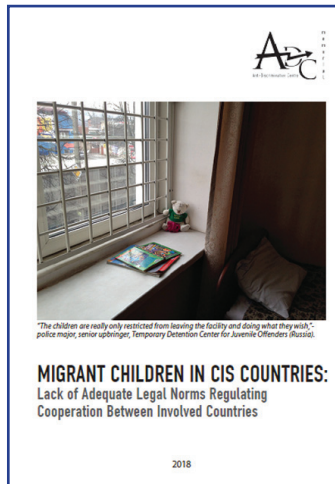


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