



RECEPTION OF CHILDREN ON
THE MOVE
INTHE RUSSIAN FEDERATION

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TABLE OF CONTENTS

1.	Application of international law in domestic law of Russia.....	3
1.1.	Status of international treaties in domestic law:	3
1.2.	Ratified international treaties:.....	3
1.3.	How is the principle of “best interest of the child” interpreted in domestic law?.....	4
1.4.	Separated and unaccompanied children:	5
2.	Reception of children in Russia	6
2.1.	Initial evaluation	6
2.2.	Establishment of identity /Age assessment	7
2.3.	Migrant children victims of trafficking.....	9
2.4.	Application for international protection	10
2.5.	Migrant children’s access to justice.....	11
3.	Child protection system	14
3.1.	Guardianship system.....	14
3.2.	Appointment of guardians for migrant children	15
3.3.	Responsibilities and duties of guardians for migrant children.....	17
3.4.	Profile of guardians.....	18
3.5.	Child Bride	21
4.	Family reunification.....	22
4.1.	Family tracing:	22
4.2.	Reunification in Russia or resettlement:	23
4.3.	Reunification with other relatives:	23
5.	Placement of migrant children	23
5.1.	Temporary shelter/1 st reception centers.....	23
5.2.	Placement of migrant children	26
5.3.	Detention/Retention.....	26
6.	Access to fundamental rights	28
6.1.	Education	28
6.2.	Health care	30
7.	Expulsion.....	31
7.1.	Exclusion clauses.....	31
7.2.	Internal relocation/expulsion to country of origin	31
7.3.	Resettlement to a third country	31
8.	Data Collection	31
8.1.	Data regarding migrant children on the move collected by the public authorities: 31	
8.2.	Data protection:	32
9.	International relations*	32
9.1.	Foreign aid that addresses root causes of migration of minors (in particular of unaccompanied minors) in countries of origin and transit countries.....	32
9.2.	Cooperation with civil society:.....	32
9.3.	Visa policies	32
10.	Additional Remarks	33

1. Application of international law in domestic law of Russia

1.1. Status of international treaties in domestic law:

Pursuant to article 15(1) of the Constitution of the Russian Federation and article 5 of Federal Law No. 101-FZ "On Treaties of the Russian Federation" dated 15 July 1995, treaties are part of the legal system of Russia and in case of conflict with domestic law, treaties must prevail.

The Supreme Court of the Russian Federation reconfirmed generally that Russian courts must apply rules of a treaty in the event of their conflict with the respective rules of domestic law. It also emphasized, with reference to article 5(3) of Federal Law No. 101-FZ "On Treaties of the Russian Federation" dated 15 July 1995, that treaties must be applied directly if they do not require issuance of implementation acts of domestic legislation. But if they do, the legislative act adopted in order to implement the respective rule of the treaty into domestic legislation should be applied along with the rules of the treaty.¹

Russian courts give preference to international law in the event of conflict between domestic law and international treaties where rules of international law can be directly applied. Where an additional implementation act is required but not adopted yet, courts tend to refuse to apply directly a treaty and base their decisions on applicable Russian law.²

However, the Constitutional Court of the Russian Federation recently ruled that decisions of an international body, including, without limitation, judgements by the European Court of Human Rights, cannot be executed by the Russian Federation if interpretation of the treaty rule provided in such a decision or judgement conflicts with provisions of the Constitution of the Russian Federation.³ This was in relation to execution by the Russian Federation of judgements of the European Court of Human Rights and issued in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (the "European Convention on Human Rights").

1.2. Ratified international treaties:

Russia has ratified the following treaties relevant to children in migration:

- United Nations Convention on the Rights of the Child, New York, 1989, in effect for Russia as of 15 September 1990 (ratified by the USSR), without reservations;
- United Nations International Covenant on Civil and Political Rights, New York, 1966 in effect for the USSR (later – for Russia) as of 23 March 1976, without reservations affecting migrant children;
- United Nations Convention relating to the Status of Refugees, Geneva, 1951, in effect for Russia as of 1 February 1993, without reservations affecting migrant children;
- European Convention on Human Rights, 1950, in effect for Russia (with amendments by Protocol No. 11) as of 1 November 1998, without reservations affecting migrant children;
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection

¹ Resolutions No. 8 of the Plenum of the Supreme Court of the Russian Federation dated 31 October 1995 (clause 5) and No. 5 dated 10 October 2003 (clause 3).

² See, for example, Ruling No. 305-KG14-8966 of the Supreme Court of the Russian Federation dated 16 April 2015.

³ Ruling No. 21-П of the Constitutional Court of the Russian Federation dated 14 July 2015. By way of example, in respect of a judgement of the European Court of Human Rights in case Anchugov and Gladkov v. Russia, (nos. 1157/04, 15162/05, judgment of 4 July 2013), the Constitutional Court, in light of a rule of the Russian Constitution unambiguously denying individuals held in imprisonment according to a court's decision any election rights, recognized execution of the above judgement of the ECHR to be "impossible" as far as changes to Russian legislation allowing for denial of election rights only to some but not all people held in imprisonment were concerned. The Court reasoned that such changes would mean changes to the Russian Constitution, whereas the Russian Constitution has the "supreme legal force in the legal system of Russia which includes, as an inseparable component, international law acts" (Ruling No. 12-П of the Constitutional Court of the Russian Federation dated 19 April 2016).

of Children, The Hague, 1996, in effect for Russia as of 1 July 2013, reserving (among other things not affecting migrant children): (a) *the exclusive jurisdiction of the Russian authorities to take measures directed to the protection of property of a child situated on the territory of the Russian Federation, and (b) the right of the Russian Federation not to recognize any parental responsibility or any measure which is incompatible with any measure taken by Russian authorities in relation to that property*; and

- Convention on the Civil Aspects of International Child Abduction, The Hague, 1980, in effect for Russia as of 1 October 2011, with the reservation that *the Russian Federation shall not consider itself bound by the obligation to assume costs, as provided for in the second paragraph of Article 26 of the Convention, resulting from the participation of the legal counsel or advisers or from court proceedings, except for those costs that may be covered by its system of legal aid and advice.*

Russia signed the European Convention on the Exercise of Children's Rights in 2001 but has not ratified it to date.

Russia is also a party to Treaty on Cooperation of Internal Affairs Ministries on Return of Children to Countries of their Residence, signed on 24 September 1993 by the internal affairs ministries of the then CIS countries including Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine, in effect since 24 September 1993 (the "CIS Cooperation Treaty on Return of Children to Countries of their Residence").

1.3. How is the principle of "best interest of the child" interpreted in domestic law?

The principle of "best interest of the child" is not expressly provided for in Russian legislation. However, Russian courts widely use this concept with reference to the UN Convention on the Rights of the Child and/or to individual provisions of domestic legislation.

The domestic legislative provisions most often cited by Russian courts in support of the principle of "best interest of the child" include:

- care about children and their upbringing are equally the right and obligation of parents (article 38(2) of the Constitution of the Russian Federation);
- the rights of a child to: (i) life and upbringing in a family environment, to the extent possible; (ii) the right to know his or her parents and the right to parental care; (iii) the right to live together with his or her parents unless this contradicts the child's interests; (iv) the right to upbringing by his or her parents, respect for his or her interests, in-depth development and respect for his or her human dignity (article 54(2) of the Family Code);
- the right of a child to protection of his or her rights and legitimate interests, which must be exercised by his or her parents (or persons who replace them) and, in specific instances provided for by the Family Code – by guardianship and care authorities, prosecutors and courts (article 56(1) of the Family Code);
- the right of a child to express his or her opinions when the family make a decision on any matter affecting his or her interests and to be heard in the course of any judicial or administrative proceedings (article 57 of the Family Code);
- the parents' rights and obligation to bring up their children, responsibility for upbringing and development of their children and obligation to care about the children's health, physical, psychological, spiritual and moral development (article 63 of the Family Code);
- the protection of children's rights and interests is vested with their parents; the parents are representatives of their children by virtue of law; and the parents may not represent the interests of their children if guardianship and care authorities have established that such representation is in conflict with the children's interests (articles 64 and 65(1) of the Family Code);
- securing children's interests must be a primary focus of their parents; parents cannot exercise their parental rights by causing harm to the physical and psychological

health or by prejudicing moral development of children; upbringing of children must exclude denigrating, cruel, severe, humiliating treatment, insults or exploitation (article 65(1) of the Family Code); and

- right of parents (or persons who replace them) to medical, psychological, pedagogic, legal and social assistance in connection with the exercise of their parental rights (article 65(4) of the Family Code).

Specific examples of Russian courts' reliance on the principle of "best interest of the child" and corresponding decisions in which the respective dispute was resolved so that the child's interests were best respected include cases related to appointment of a guardian to a child,⁴ adoption,⁵ entry to and expulsion from Russian territory of a foreign citizen who previously committed administrative wrongdoings and whose spouse and children are Russian nationals,⁶ the right of a parent to regularly see the child who lives with the other parent as a result of divorce,⁷ challenging of a father's filiation (the best interest of a child was recognized to include the right to express an opinion regarding the claim),⁸ title to residential property where a child lives,⁹ installation of security equipment at schools,¹⁰ etc.

1.4. Separated and unaccompanied children:

Russian domestic law does not specifically define or single out into a separate category "separated" or "unaccompanied"¹¹ migrant children.

The procedures for entry to and exit from the territory of the Russian Federation set out in current Russian law (including, in particular, federal laws on the procedure for exit from and entry to the Russian Federation and on the legal status of foreign citizens in Russia¹²) are uniform for all categories of persons, including migrant children.

The federal law related to refugees does, however, expressly provide that the status of a refugee or another legal status on the Russian territory should be granted to a child who arrived in Russia *not accompanied* by parents or legal guardians on the basis of applicable laws and regulations, taking into consideration the child's interests and following receipt of information about the child's parents or guardians.¹³ The Law on Refugees also requires that the Russian Ministry for Internal Affairs (being currently the government authority responsible for control and supervision in the migration area) must assist such an

⁴ For example, Rulings No. 226-O and 227-O of the Constitutional Court of the Russian Federation dated 5 February 2015.

⁵ For example, Summary of court decisions issued in 2013 relating to adoption of children in Russia by foreign nationals, stateless persons or Russian citizens residing abroad, approved by the Presidium of the Russian Supreme Court on 2 July 2014.

⁶ For example, Appellate Ruling of Nizhny Novgorod Region Court in case No. 33a-2480/2017 dated 1 March 2017 and Resolution No. 4a-5361/2017 of the Moscow City Court dated 29 September 2017.

⁷ For example, Appellate Ruling of Novosibirsk Region Court in case No. 33-983/2017 dated 7 February 2017.

⁸ Item 8 of the Summary of court decisions by the Supreme Court of the Russian Federation approved by Supreme Court Presidium on 13 April 2016.

⁹ For example, Ruling of the Federal Commercial Court of the North Caucasus district in case No. A63-2190/2007 dated 13 September 2010.

¹⁰ For example, Ruling of Primorsky Region Court in case No. 33-11262/2015 dated 9 December 2015.

¹¹ In this overview, we rely on the following definitions of the Committee on the Rights of the Child set out in General Comment No. 6 (2005) "Treatment of Unaccompanied and Separated Children Outside Their Country of Origin" (CRC/GC/2005/6, 1 September 2005): "*Unaccompanied children (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so*" (section 7) and "*Separated children are children, as defined in article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members*" (section 8).

¹² Federal Law No. 114-FZ "On the Procedure for Exit from and Entry to the Russian Federation" dated 15 August 1996 and Federal Law No. 115-FZ "On Legal Status of Foreign Citizens in the Russian Federation" dated 25 July 2002 (the "Law on Foreigners").

¹³ Article 3 (5) of Federal Law No. 4528-1 "On Refugees" dated 19 February 1993 (the "Law on Refugees").

unaccompanied child who arrived in Russia and who applies for a refugee status or who was recognized as a refugee in obtaining information about his or her parents, other relatives or guardians, and about their location.¹⁴

Other than or in addition to being recognized as a refugee following an established statutory procedure and meeting criteria that is uniform for any foreign citizens or stateless persons arriving in Russia (including children), an unaccompanied child who arrived in Russia may be recognized as a "child in a difficult situation" and/or a "child in a socially dangerous situation."

A child in a difficult situation is a legal category of children embracing, among others (i) *children left without parental care*, (ii) *children who are victims of armed and ethnic conflicts, environmental, man-made or natural disasters*, and (iii) *children from families of refugees and displaced persons*.¹⁵

A child in a socially dangerous situation is defined as a child who, due to his or her state of being a neglected child (i.e. lacking control following breach or improper execution of duties to care, raise, or educate by the parents or other legal representative; in Russian – *beznadzorny rebenok*) or a vagrant child (i.e. a neglected child with no home; in Russian – *besprizorny rebenok*), (i) is found to be in an environment that is dangerous to his or her life or health, or which does not meet the requirements applicable to his or her upbringing or well-being, and/or (ii) commits a wrongdoing or demonstrates anti-social behavior.¹⁶

Russian law contains specific provisions regulating protection, assistance and/or rehabilitation measures in relation to each category of children, including, in particular, children in a difficult situation, children in a socially dangerous situation and children left without parental care.¹⁷

2. Reception of children in Russia

2.1. Initial evaluation

There are no detailed rules governing the examination of accounts by migrant children depending on whether they are accompanied, separated, or unaccompanied.

Examination of accounts of migrants is generally regulated within a set of rules governing the application for the status of a refugee or for temporary asylum.¹⁸ Based on these rules, accounts of children accompanied by their parents, previous legal or customary caregivers, or other adult family members who have voluntarily assumed responsibility for such children are examined together with the accounts of the relevant accompanying adults.

According to the same set of rules governing applications for obtaining the status of a refugee and/or temporary asylum, accounts of unaccompanied children are to be examined individually following the receipt of information about the parents and/or appointment of a legal guardian/caregiver.¹⁹

The right of a child to make claims that are independent from claims of an adult traveling with him or her is not expressly envisaged. However, the Family Code expressly provides for the right of any child to express his or her opinion on a matter affecting his or her

¹⁴ Article 17(2-5) of the Law on Refugees.

¹⁵ Article 1 of Federal Law No. 124-FZ "On Main Guarantees of the Rights of the Child in the Russian Federation" dated 24 July 1998 (the "Law on the Rights of the Child").

¹⁶ Article 1 of Federal Law No. 120-FZ "On Foundations of the System of Prevention of Children's Vagrancy and Delinquency" dated 24 June 1999 (the "Law on Prevention of Children's Vagrancy and Delinquency").

¹⁷ Key legislative acts include the Family Code, the Law on the Rights of the Child, the Law on Prevention of Children's Vagrancy and Delinquency, and Federal Law No. 159-FZ "On Additional Guarantees of Social Assistance to Orphans and Children Left without Parental Care" dated 21 December 1996 (the "Law on Additional Guarantees to Children Left without Parental Care").

¹⁸ Articles 7 and 12 of the Law on Refugees; Russian Government Regulation No. 274 "On Granting Temporary Asylum on the Russian Territory" dated 9 April 2001 and the Administrative Regulation of the Russian Ministry for Internal Affairs regarding the consideration of applications for the status of refugee and for a temporary asylum approved by Order No. 838 of the Ministry of Internal Affairs dated 7 November 2017.

¹⁹ Articles 3(5) and 7(7) of the Law on Refugees.

interests, and it requires taking into consideration an opinion of a child aged 10 or older, unless this conflicts with the child's interests.²⁰ On this basis, independent claims of the child should be heard and respected.

There are no specific rules on the conduct of interviews involving migrant children. The interviews must generally be carried in Russian with the assistance of interpreters.²¹

2.2. Establishment of identity /Age assessment

There are no specific rules governing the age assessment of accompanied or unaccompanied migrant children.

It follows from available regulations that age assessment is to be undertaken in the course of a mandatory medical examination of children left without parental care. Age assessment is performed in case information about the date of birth of the child is not available.

Specifically, the guardianship and care authorities must create a personal file of a child left without parental care (within one month since information about the child reached the guardianship and care authorities), and such a file must include, among other things, a personal identity document of the child or, *in its absence, a medical expert opinion certifying the age of the child.*²²

Information about the age of a child left without parental care is not required when he or she is provisionally placed (i.e. either brought by an official or any person who found a neglected or vagrant child in the street or if the child showed up him or herself) in: (i) social rehabilitation centers, social asylums for children, and centers for assistance to children left without parental care for the purpose of urgent social assistance established within the social service system of the executive bodies of the constituent entities of the Russian Federation or municipalities to accommodate children left without parental care aged between 3 and 18 years old²³ (they go to Institutions for Children in Need for Urgent Rehabilitation), or (ii) medical institutions within the state or municipal healthcare system accommodating children left without parental care or found in a difficult situation who are aged under 3 years old²⁴ (

²⁰ Article 57 of the Family Code.

²¹ Clauses 66-70.3 of the Administrative Regulation regarding the procedure for rendering of a public service consisting in review of applications for recognition as a refugee or for granting of a temporary asylum in the territory of the Russian Federation approved by Order No. 838 of the Ministry of Internal Affairs dated 7 November 2017.

²² Item 6(a) of of Government Resolution No. 481 dated 24 May 2014 approving regulations for organizations for orphans and children left without parental care ("Government Resolution No. 481 dated 24 May 2014") and item 2(a) of the Rules for Keeping of Personal Files of Children Placed Under Guardianship or Care approved by Government Resolution No. 423 dated 18 May 2009.

²³ Government Resolution No. 896 dated 27 November 2000 approving sample provisions of institutions for children in need for social rehabilitation ("Government Resolution No. 896 dated 27 November 2000") and Recommendations on organization of institutions for children in need for social rehabilitation approved by Order No. 25 of the Ministry for Labor and Social Development of the Russian Federation dated 29 March 2002 ("Order No. 25 of the Labor Ministry dated 29 March 2002").

²⁴ Children aged under 3 year old left without parental care or otherwise found to be in a difficult situation may be placed by a decision of the guardianship and care authorities under supervision of: (1) a "baby care house" ("*dom rebenka*"), a medical organization within the state or municipal health care system, if the child's state requires medical assistance or (2) an organization providing social and/or educational services which are appropriate for the stay and upbringing of children of such an age group (Article 54(3) of Federal Law No. 323-FZ "On Foundations of Healthcare in the Russian Federation" dated 21 November 2011 (the "Healthcare Law") and items 20 and 21 of Government Resolution No. 481 dated 24 May 2014.

While there are no specific regulations applicable to Baby Care Institutions providing social and/or educational services, so Government Resolution No. 481 dated 24 May 2014 and other general regulations would apply, the activities of a "medical" Baby Care Institution are specifically governed by:

- (i) Order No. 343H of the Healthcare and Social Development Ministry of the Russian Federation dated 11 April 2012 approving the procedure for accommodation by medical organizations of children found in a difficult situation until they reach 4 year old ("Order No. 343H of the Healthcare Ministry dated 11 April 2012");
- (ii) Order No. 344H of the Healthcare and Social Development Ministry of the Russian Federation dated 12 April 2012 approving template regulations on "baby houses" ("Order

they go to Baby Care Institutions²⁵)(in Russian – *dom rebenka*).

When a child is placed within an Institution for Children in Need for Urgent Rehabilitation (“**ICNUR**”), information about his or her name and the parents/legal guardians is registered upon admission of the child based on his or her words (or words of officials/other persons who brought the child to such an institution). In the event that rehabilitation of the child requires his or her placement in a longer stay group, a file on the child must be created to include, among other documents, a birth certificate of that child or, in its absence, a report by a medical commission certifying the child’s age.²⁶

A medical card must be created for each child placed within Baby Care Institutions (“**BCI**”) to record information identifying the child like name and age, and detailed information about the child’s health background, including prenatal history, state of health and overall development.²⁷ There are no publicly available rules on how the age of a child is to be assessed in BCI in the absence of the child’s identity documents.

A medical examination of the child must be performed by a state or municipal medical organization in accordance with a statutory list of required medical examinations,²⁸ in case a child is placed by the guardianship and care authorities within *a specialized institution providing social, educational and/or medical services where children left without parental care are placed* (“**Specialized Institution**”) (which must be done if the guardianship authorities are unable to find any other form of placement within 30 days when a child left without parental care is found - see 2.5 for more detail).

A request initiating such a medical examination should explicitly note if the name and/or age of the child is not known in the child’s case information.²⁹ This way the medical examiners know to establish the child’s age in the course of the medical examination and to include their finding in the medical examination report issued after the procedure.³⁰

There is no requirement under Russian law to appoint a guardian prior to undertaking a child’s age assessment and relevant medical examination (see 2.5 for more detail on the “guardian” concept under Russian law).

In the case that age assessment is undertaken once a child left without parental care is placed under supervision of a Specialized Institution (as discussed earlier in this section and in 2.5), the respective organization will perform the functions of a guardian in respect of that child. This organization acts in the capacity of the child’s legal representative and, via its authorized representative, will be solely authorized to provide informed and specific consent to a medical examination of the child (which is required for a child under 15) (see 2.6 below for

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- (iii) No. 344H of the Healthcare Ministry dated 12 April 2012”);
Order No. 2 of the Healthcare Ministry of the Russian Federation “On Improvement of Functioning of Baby Care Institutions dated 24 January 2003 (“Order No. 2 of the Healthcare Ministry of the Russian Federation dated 24 January 2003”); and
 - (iv) Order No. 286 of the Healthcare Ministry approving a medical card form for a baby placed within a Baby Care Institution dated 28 July 2000 (“Order No. 286 of the Healthcare Ministry of the Russian Federation dated 24 January 2004”).

²⁵ Note that in practice certain institutions may combine the functions of a Baby Care Institution and an ICNUR, in which case it would be an institution for children left without parental care aged 0+. The authorities and functions of a particular institution will be determined in its constitutional documents.

²⁶ Annex 1 and clause 21 of Order No. 25 of the Labor Ministry dated 29 March 2002.

²⁷ Clause 6 of Order No. 343H. of the Healthcare Ministry dated 11 April 2012, annex 2 to Order No. 2 of the Healthcare Ministry dated 24 January 2003 and Order No. 286 of the Healthcare Ministry dated 28 July 2004.

²⁸ Government Resolution No. 481 dated 24 May 2014, Government Resolution No. 170 dated 26 February 2015 approving the rules for medical examination of children left without parental care who are placed under supervision of the relevant specialized organizations (“Government Resolution No. 170 dated 26 February 2015”), Order No. 711H of the Healthcare Ministry of the Russian Federation dated 13 October 2015 approving a template prescription for medical examination and a list of required medical tests and a template report on medical examination results (“Order No. 711H of the Healthcare Ministry dated 13 October 2015”), annex 1 and clause 21 of Order No. 25 of the Labor Ministry dated 29 March 2002.

²⁹ Annex No. 1 to Order No. 711H of the Healthcare Ministry dated 13 October 2015.

³⁰ Annex No. 2 to Order No. 711H of the Healthcare Ministry dated 13 October 2015.

more detail on the medical examination consent requirement), including child age assessment if their date of birth is unavailable.

There are no specific rules on exactly what medical specialists should be specifically involved in establishing the child's age. However, the applicable rules do list required medical laboratory tests and specialists to be involved in the medical examination as a whole. The specialists must include a pediatrician, neurologist, ophthalmologist, child surgeon, laryngologists, gynecologists, child urologist, trauma specialist, child/teenager psychiatrist, dentist and, additionally, for children over 5 years old – endocrinologist.³¹

In relation to medical examinations performed at BCIs, it is provided that a medical commission performing a medical examination may include a pediatrician, neurologist, psychiatrist, therapeutic pedagogics specialist, medical psychologist, and senior teacher.³²

As age assessment is to be part of a medical examination, informed and voluntary consent to it (like in respect of any type of medical examination) is required personally from a child aged more than 15 (with a few specific exceptions) and from a parent or a legal representative (including guardian, caregiver, or authorized representative of a Specialized Institution) in case the child is aged less than 15 (and, apparently, in the instances where it is not immediately evident that the child has reached 15).³³

Note that, in case of a child younger than 15, consent to a medical examination is provided on behalf of the child by his or her legal representative, but the child's personal opinion on this matter should be heard and taken into consideration³⁴ (see comments in 2.1).

There are no formal consequences of refusal to undergo the relevant medical examination involving an age assessment. From a practical point of view, such a refusal may delay issuance of necessary identity documents to a child and, accordingly, delay in awarding him or her a particular legal status.

The law is silent on the matter of uncertain age assessment results and whether or not the child is granted the benefit of the doubt.

Pursuant to the general rules regarding the rights of a child set out in the Constitution of the Russian Federation³⁵ and federal laws,³⁶ a child is entitled to respect of their human dignity, even when staying in ICNUR or specialized detention centers. This right is generally guaranteed by the right and, equally, obligation of any person who learns about a violation of the child's rights and legitimate interests to file claims in connection with such violation with the guardianship and care authorities, the prosecutor's office, or court (see 2.5 below for more detail).

There is no procedure for accelerating an identity document to unaccompanied and separated children. But Russian law expressly provides that a child who is located in the Russian territory for 6 months and whose parents remain unknown over that period acquires Russian citizenship.³⁷

2.3. Migrant children victims of trafficking

The Law on the Rights of the Child generally provides that the federal, regional and municipal authorities must take measures to provide necessary educational, psychological, medical, and legal assistance to any children victims of trafficking (i.e., not only to migrant children but to any other categories of such children) and to their parents or persons who replace parents.³⁸ No specific mechanisms are envisaged for the implementation of such a

³¹ Annex 2 to Order No. 711H of the Healthcare Ministry dated 13 October 2015.

³² Annex 2 to Order No. 2 of the Healthcare Ministry dated 24 January 2003.

³³ Articles 20 and 54(2) of the Healthcare Law.

³⁴ Article 57 of the Family Code.

³⁵ Pursuant to article 21 of the Constitution of the Russian Federation, human dignity is protected by the state.

³⁶ Including article 54(2) of the Family Code, articles 6 and 7 of the Law on the Rights of the Child and articles 8 and 8.1 of the Law on Prevention of Children's Vagrancy and Delinquency.

³⁷ Article 12(2) of Federal Law No. 62-FZ "On Citizenship of the Russian Federation" dated 31 May 2002.

³⁸ Article 14.2 of the Law on the Rights of the Child.

requirement at the federal level.

Certain constituent entities of the Russian Federation like the republic of Altai, the Khanty-Mansy autonomous region, the Jewish autonomous region, the Astrakhan region, and the Penza region have adopted laws and regulations expressly entrusting their regional executive bodies with protection of the rights of children victims of trafficking. The powers related to assistance of child victims of trafficking are allocated (with a varying degree of detail) among several regional ministries or agencies usually responsible for labor, social protection, education, healthcare and youth matters (in the Jewish autonomous region – also, the guardianship and care authorities and the department for ensuring the operation of justice of peace and for interaction with law enforcement authorities).³⁹

Certain constituent entities of the Russian Federation including the Yamalo-Nenets autonomous region, the Arkhangelsk region and the Lipetsk region guarantee free legal assistance (financed from the respective regional budgets) to children victims of trafficking and their parents (or persons who replace the parents) in addition to free legal assistance guaranteed at the federal level to orphans and children left without parental care⁴⁰ (see 2.5).

There are no specific rules at the federal level and no publicly available rules at the regional level on provision of information to migrant children victims of trafficking or on the scope of such information to be provided.

However, generally, the federal and regional authorities must provide, within their respective competence, a child with adequate information concerning their rights, obligations, and available remedies⁴¹ (see 2.5).

Additionally, the administration of a Specialized Institution where orphans and children left without parental care are placed by a decision of the guardianship and care authorities (see 2.5 for more detail) must ensure that children who are placed within such an institution must receive in accessible form information about their rights, information and contact details (addresses and emergency hotlines for instance) of the authorities that protect their rights, and they must enjoy unrestricted access to such authorities and officers.⁴² These authorities would include the guardianship and care authorities, police, prosecutor's office, courts, and child rights commissioners.

There are no specific rules requiring verification of the legal nature of responsibility of adults accompanying migrant children.

2.4. Application for international protection

There are no rules or practice on the possibility to grant refugee status to the social groups of children described in section 1.4.

Court practice regarding migrant children's claims for refugee status or temporary asylum is apparently non-existent. In a few recent cases concerning adult foreigners, Russian courts rejected claims of Ukrainian nationals against the Russian migration authorities in connection with the authorities' refusal to grant refugee status/extend temporary asylum to the claimant. The courts considered that the possibility of being recruited in the regular armed forces of

³⁹ The applicable regulations include: *for the Republic of Altai*, regional government resolutions No. 314 dated 15 November 2013, No. 88 dated 18 May 2006, and No. 160 dated 16 July 2009; *for the Khanty-Mansy autonomous region (Yugra)* – the regional law regarding measures on implementation of the Law on the Rights of the Child dated 3 July 2009; *for the Jewish autonomous region*, regional government resolutions No. 557-нн dated 29 October 2013, No. 601-нн dated 18 November 2014, No. 245-нн dated 20 May 2014, No. 373-нн dated 29 July 2014, No. 152-нн dated 17 April 2012, and No. 248-нн dated 24 June 2010; *for the Astrakhan region*, regional government resolutions No. 4-П dated 1 March 2005, No. 17-П dated 16 March 2005, and No. 405-П dated 11 November 2005; and *for the Penza region* – regional law No. 2477-3ΠO dated 28 November 2013 and regional government resolution No. 485-нΠ dated 5 August 2008.

⁴⁰ Article 4 of regional law No. 23-3AO of Yamalo-Nenets autonomous region dated 24 May 2012; article 5.1 of regional law No. 113-9-O3 of the Arkhangelsk region dated 15 December 2009; and article 2(5) of regional law No. 132 of the Lipetsk region dated 1 March 2013.

⁴¹ Article 7(1) of the Law on the Rights of the Child.

⁴² Clause 27 of Government Resolution No. 481 dated 24 May 2014.

Ukraine could not amount to a threat of becoming a victim of persecution for any reason.⁴³

There is no existence of a legal system, effective investigation, sanctions or otherwise for protecting victims in child asylum claims when the persecutor is not the state the child is originating from. Generally, under Russian law a foreign national or stateless person may be granted temporary asylum even if they do not qualify as refugees if they cannot be expelled from Russian territory for humanitarian reasons.⁴⁴ The existence of such humanitarian reasons must be justified but remains at the authorities' discretion.

There are no rules or practices in Russia that put deprivation of economic, social, and cultural rights on an equal footing with the deprivation of civil and political rights in the assessment process. Generally, refugee status cannot be granted if foreign nationals or stateless persons have left the country of their origin or usual residence for economic reasons or due to famine, plagues, or natural or man-made emergencies.⁴⁵

2.5. Migrant children's access to justice

Free legal assistance on matters related to protection of rights and legitimate interests of the relevant category of recipients is guaranteed at the federal level to (among others):

- (i) orphans, disabled children, children left without parental care and their legal representatives; and
- (ii) children placed in detention centers or juvenile penitentiary institutions (excluding legal assistance on matters related to criminal proceedings).⁴⁶

As the federal law allows supplementing of the list of recipients of free legal assistance with additional categories at the regional level, 41 out of 85 constituent entities of the Russian Federation⁴⁷ have supplemented the above list with "persons in a difficult situations" to

⁴³ See, for example, Appellate Ruling No. 33a-13590/2017 of the Sverdlovsk regional court dated 17 August 2017 and Appellate Ruling No. 33a-6775/17 of the Nizhny Novgorod regional court dated 28 June 2017.

⁴⁴ Article 12(2) of the Law on Refugees.

⁴⁵ Article 2(2) of the Law on Refugees.

⁴⁶ Article 20 (1-4) and (1-6) of Federal Law No. 324-FZ "On Legal Assistance Free of Charge Provided in the Russian Federation" dated 21 November 2011; article 10 of the Law on Additional Guarantees to Children Left without Parental Care; and article 8(2) of the Law on Prevention of Children's Vagrancy and Delinquency.

⁴⁷ Law No. 97/2013-O3 of the Moscow region (*note that the Moscow region does not include the city of Moscow*) dated 27 July 2013; Law No. 474-80 of the city of Saint-Petersburg dated 11 October 2012; Law No. 10-P3 of the Republic of Altai dated 26 March 2013 and resolution No. 204 of the government of the Republic of Altai dated 17 July 2013; Law No. 638-з of the Republic of Bashkortostan dated 24 December 2012; Law No. 3081-IV dated 22 December 2012 of the Republic of Buryatia; Law No. 32 of the Republic of Dagestan dated 14 June 2012; Law No. 12-P3 of the Republic of Ingushetia dated 6 June 2013; Law No. 1664-3PK of the Republic of Karelia dated 28 December 2012; Law No. 59-3PK of the Republic of Crimea dated 1 September 2014; Law No. 14-3 of the Republic of Mordovia dated 30 March 2012 and resolution No. 507 of the government of the Republic of Mordovia dated 24 December 2012; Law No. 73-3PT of the Republic of Tatarstan dated 2 November 2012; Law No. 70-P3 of the Republic of Udmurtia dated 17 December 2012; Law NO. 82-3PX of the Republic of Khakasia dated 5 October 2012; Law No. 20 of the Republic of Chuvashia dated 30 March 2012; Law No. 2697-K3 of the Krasnodar region dated 23 April 2013; Law No. 5-1990 of the Krasnoyarsk region dated 19 December 2013 and resolution No. 392-n of the government of the Krasnoyarsk region dated 9 September 2014; Law No. 81- O3 of the Amur region dated 11 September 2012; Law No.536-33-O3 of the Arkhangelsk region dated 24 September 2012; Law No. 164-OД of the Volgograd region dated 27 November 2012; Law No. 2744-O3 of the Vologda region dated 25 April 2012; Law No. 117-O3 of the Voronezh region dated 17 October 2012; Law No. 194 of the Kaliningrad region dated 26 December 2012; Law No. 3-O3 of the Kemerovo region dated 7 February 2013 and resolution No. 434 of the Kemerovo regional administration dated 14 October 2013; Law No. 248-5-3KO of the Kostroma region dated 18 June 2012 and resolution No. 207-a of the Kostroma regional administration dated 15 May 2014; Law No. 06 of the Kurgan region dated 6 March 2012 and resolution No. 205 of the government of the Kurgan region dated 14 July 2015; Law No. 106-3KO of the Kursk region dated 27 November 2012; Law No. 132-O3 of the Lipetsk region dated 1 March 2013; Law No. 1560-O3 of the Magadan region dated 10 December 2012 and resolution No. 91-na of the Magadan regional administration dated 7 February 2013; law No. 144-3 of the Nizhny Novgorod region date 2 November 2012; law No. 252-O3 of the Novosibirsk region dated 28 September 2012; law

whom free legal assistance can be provided “in extreme cases” and they either have defined in the respective regional laws what those extreme cases could be⁴⁸ or refer for such definitions to regional regulations or individual legal acts (usually to be adopted by particular regional executive bodies).

The Yamalo-Nenets autonomous region, the Arkhangelsk region and the Lipetsk region have additionally included in their lists of recipients of free legal assistance child victims of trafficking (see 2.3 above).

Accordingly, depending on the contents of the respective regional legislation, regulations, individual legal acts, and specific circumstances of migrant children (to be analyzed on a case by case basis), migrant children may in certain cases fall under the category of a “person in a difficult situation” found in an “extreme case” and/or “children victims of trafficking” and benefit from free legal assistance.

The authorities and institutions which accommodate and provide social services to children left without parental care (for example, ICNURs or Specialized Institutions) are entitled to be provided with urgent legal assistance and must accommodate visits to children placed within them by the children’s legal counsel, guardians, notaries, representatives of civil and other organizations, clergy, and family members both at day and evening time.⁴⁹

According to the federal legislation, all social services provided to children and victims of emergencies or armed ethnic conflicts (including, among others, assistance in provision of legal counsel⁵⁰) are generally given for free.⁵¹

There is no legal requirement to provide a legal counsel or a guardian/caregiver to migrant children as soon as the authorities detect them.

Generally, in respect to children left without parental care, officials of any organizations (including educational, medical and other organizations such as border authorities, police, ICNUR, BCI, etc.) and any individuals who possess knowledge about children left without parental care have the legal obligation to inform the guardianship and care authorities about such children.⁵²

No. 420-O3 of the Omsk region dated 27 December 2002 and resolution No. 181-n of the government of the Omsk region dated 28 June 2017; law No. 111-ПК of the Perm region dated 7 November 2012; Law No. 1017-O3 of the Rostov region dated 24 December 2012; law No. 51-ГД of the Samara region dated 13 June 2012 and resolution No. 527 of the government of the Samara region dated 16 October 2012; law No. 79-O3 of the Sverdlov (Yekaterinburg) region dated 5 October 2012 and resolution No. 173- ПП of the government of the Sverdlov region dated 14 February 2013; law No. 68-30 of the **Tver region** dated 24 July 2012 and resolution No. 761-нн of the government of the Tver region dated 11 December 2012; law No. 41-э of the **Yaroslavl region** dated 1 October 2012 and resolution No. 1518-n of the government of the Yaroslavl region dated 26 December 2012; law No. 105-O3 of the **Jewish autonomous region** dated 27 June 2012 and resolution No. 204-нн of the government of the Jewish autonomous region dated 19 May 2015; law No. 119-O3 of the **Nenets autonomous region** dated 29 December 2012; law No. 113-03 of the **Khanty-Mansy autonomous region (Yugra)** dated 16 December 2011 and resolution No. 514-n of the government of the Khanty-Mansy autonomous region (Yugra) dated 29 December 2011; and law No. 23-3AO of the **Yamalo-Nenets autonomous region** dated 24 May 2012 and resolution No. 629-П of the Yamalo-Nenets autonomous region dated 3 August 2012.

⁴⁸ For example, Law No. 97/2013-O3 of the Moscow region dated 27 July 2013 defines: (i) “extreme cases” as cases which include a situation which has occurred as a result of circumstances (including an accident, emergency, disaster, terrorist act, dangerous natural phenomenon, act of God) threatening life and health of a human being or having caused damage to human health or considerable property damage and (ii) “difficult situation” as a situation objectively disrupting the life of a person (like disability, lack of mobility due to senior age, illness, orphanage, the state of being neglected or having low income, unemployment, lack of place of living, conflicts or family abuse, solitude and other) which the person cannot cope with on his or her own.

⁴⁹ Article 15(7) of Federal Law No. 48-FZ "On Guardianship and Care Giving" dated 24 August 2008 (the "Guardianship Law"); article 10 of the Law on Additional Guarantees to Children Deprived of Parental Care and articles 9(8), 12(1-11), 21(2) and 22(1) of Federal Law No. 442-FZ "On Foundations of Social Services Provided to People in the Russian Federation" dated 28 December 2013 (the "Social Services Law").

⁵⁰ Articles 12 (1-8), 21 and 22 of the Social Services Law.

⁵¹ Article 31 of the Social Services Law.

⁵² Article 121(1) and 122(1) of the Family Code, Government Resolution No. 896 dated 27 November

Following receipt of information about a child left without parental care, the guardianship and care authorities must:

- (i) within 3 business days from the receipt of such information, examine the living conditions of the child and, if the fact of absence of parental care is established, ensure protection of the child's rights and interests before a decision on the child's placement is made⁵³ (for example, temporarily place the child under supervision of an ICNUR or a BCI, as appropriate, if the child does not happen yet to be accommodated by such an institution); and
- (ii) within 30 days from receipt of such information, make a decision on the placement of the child using one of the forms provided for in the law, including (1) adoption, (2) appointment of a caregiver (in Russian – *opekun*) (to child under 14) or a guardian (in Russian – *popechitel*) (to a child between 14 and 18) (for more details on appointment of a caregiver or guardian, see 3.2 below), (3) placement in a foster family or, absent anything of the above, ensure (4) temporary placement of the child in a Specialized Institution until it becomes possible to place the child in a family (i.e. using one of options (1) to (3) mentioned above).⁵⁴

The placement decision should take into account the ethnic origin of the child, his or her religious and cultural background, mother tongue and chances for ensuring continuous education and upbringing.⁵⁵

Until the guardianship and care authorities ensure the placement of the child referred to in (ii), the guardianship and care authorities are considered to perform guardianship and care functions in respect of the child.⁵⁶ The guardianship and care authorities are also vested with the guardianship and care functions in respect of a child in case he or she leaves a Specialized Institution (other than by options (1), (2), or (3) referred to in (ii) above) before he or she turns 18.⁵⁷

If and once placed within a Specialized Institution (i.e. option (4) referred to in (ii) above), and until another type of placement is found for a child left without parental care, the Specialized Institution is vested with the guardianship and care giving functions in respect of the child.⁵⁸

While the child stays within a Specialized Institution, no individual guardian or caregiver is appointed for him or her.⁵⁹ An employee of a Specialized Institution or an employee/officer of the guardianship and care authorities cannot qualify on his or her own as a guardian or caregiver.

Urgent legal assistance must be provided as soon as the child, the relevant authority, or organization (like, for example, border control authorities, a temporary accommodation center, an ICNUR, or a BCI) request it.⁶⁰

Migrant children and/or their guardians and caregivers have access to the same legal remedies against decisions affecting them as Russian children and their guardians and caregivers should their rights be violated. There are no separate remedies specifically provided for migrant children and/or their guardians and caregivers.

Specifically, in the event of violations of any of their rights, children aged 14 or older, their parents or guardians, or parents or caregivers of children younger than 14, may file claims and complaints with the guardianship and care authorities, with the prosecutor's office, or with superior authorities about the relevant violations of the child's rights and freedoms (including violations caused by any relevant decision) and/or file a claim with a court for protection of the child's rights, compensation of moral harm, and/or damage caused to the

2000 approving sample regulations for Institutions for Children in Need for Urgent Rehabilitation.

⁵³ Article 122(1) of the Family Code.

⁵⁴ Articles 122(1) and (3) and article 123(1) of the Family Code.

⁵⁵ Article 123(1) of the Family Code.

⁵⁶ Article 123(2) of the Family Code.

⁵⁷ Article 155.1(4) of the Family Code.

⁵⁸ Article 155.2(2) of the Family Code

⁵⁹ Article 155.2(2) of the Family Code and articles 1(2) and 11(5) of the Guardianship Law.

⁶⁰ Article 21 of the Social Services Law.

child's health or property.⁶¹

Children younger than 14 years old cannot file claims with court on their own but may independently request protection from the guardianship and care authorities.⁶²

Generally, any person who learnt about a threat to life or health of a child or about any of his or her rights or legitimate interests (including, among others, authorities and institutions responsible for prevention of children's vagrancy and delinquency) must notify about it the guardianship and care authorities at the location of the actual whereabouts of the child or the prosecutor's office.⁶³

Civil society and other non-governmental organizations (including international organizations) dealing with children in a difficult situation are expressly allowed by the law to file claims related to protection of a child's rights against any officials, organizations or individuals with Russian courts⁶⁴ (see 9.2).

Free interpreters are expressly envisaged in the procedures governing the application for refugee status and/or temporary asylum.⁶⁵

Access to free interpreters and free pedagogic specialists can be requested on the basis of general rules guaranteeing free social assistance to migrant children (see 2.5).

Generally, the federal and regional authorities are bound, within their respective competence, by the obligation to provide adequate information to the child, clarify his or her rights and obligations and notify about available remedies taking into account the child's age and degree of legal capacity.⁶⁶

3. Child protection system

3.1. Guardianship system

The guardianship and care authorities are generally responsible for the education, upbringing, and financial support of children left without parental care and for protecting such children's rights and interests.⁶⁷

Guardianship and care functions are vested with executive authorities of constituent entities of the Russian Federation and, where a law of a constituent entity so provides, with municipal authorities.⁶⁸

Regulation and control over the guardianship and care authorities in Russia are allocated among the following federal bodies:

- (i) the Ministry of Education is competent to issue methodological recommendations and guidance to the guardianship and care authorities;
- (ii) the Federal Service for Supervision in the Area of Education and Science is competent to exercise control over the guardianship and care authorities; and
- (iii) the Ministry of Labor and Social Protection is competent to issue professional standards to employees of the guardianship and care authorities.⁶⁹

⁶¹ Article 56 (2) of the Family Code; article 7 of the Law on the Rights of the Child; articles 15(2) and (3) and 24(3) and (4) of the Guardianship Law; article 10 of the Law on Additional Guarantees to Children Left without Parental Care; and articles 8 (2) and 9(1) of the Law on Prevention of Children's Vagrancy and Delinquency.

⁶² Article 56(2) of the Family Code.

⁶³ Article 56(3) of the Family Code, article 24(4) of the Guardianship Law and article 9(2) of the Law on Prevention of Children's Vagrancy and Delinquency.

⁶⁴ Article 15(3) of the Law on the Rights of the Child.

⁶⁵ Administrative Regulation of the Russian Ministry for Internal Affairs regarding the consideration of applications for the status of refugee and for a temporary asylum approved by Order No. 838 of the Ministry of Internal Affairs dated 7 November 2017.

⁶⁶ Article 7(1) of the Law on the Rights of the Child.

⁶⁷ Articles 121(1) and 145 of the Family Code and article 4 of the Guardianship Law.

⁶⁸ Article 121(2) of the Family Code and article 6(1), (1.1) and (1.2) of the Guardianship Law.

⁶⁹ Articles 6 (5) and 27 of the Guardianship Law and Government; Resolution No. 466 dated 3 June 2013 approving the regulation on the Ministry for Education and Science of the Russian Federation; clause 2 of Russian President Order No. 215 "On the Structure of Federal Executive Authorities" dated 15 May 2018; Government Resolution No. 594 approving the Regulation on the Federal Service for Supervision in

The Law on the Rights of the Child provides for the creation of the position of a child rights commissioner (i.e. a *child ombudsman*) at the federal level (he or she is appointed by an order of the Russian President) and for the possibility to create regional child *ombudsmen* at the level of a constituent entity of the Russian Federation.⁷⁰

The federal child ombudsman may, to the extent necessary for the protection of children's rights and interests, request and obtain clarifications from any government or municipal authorities, reviews activities of the authorities, circulate reports to the authorities including analysis of violations of the rights of children and issue recommendations for curing of such violations.⁷¹

Complaints and requests addressed to the federal child ombudsman (presently, the federal ombudsman is Mrs. Anna Kuznetsova) can be left at this website: <http://deti.gov.ru/> (available only in Russian). The website also provides for links to the websites of regional child ombudsmen.

Migrant children have the rights to the same complaint mechanisms as any child in the Russian Federation (see comments in 2.5).

3.2. Appointment of guardians for migrant children

There is no special procedure for appointment of individual guardians for migrant children.

Based on the general rules equally applicable to any children left without parental care, officials or individuals who become aware of children left without parental care must notify the guardianship and care authorities about such children who then must ensure further placement of the children. Appointment of a guardian (in Russian – *popechitel*) for a child between 14 and 18 or caregiver (in Russian – *opekun*) for a child under 14 is the next preferred form of placement of a child left without parental care after adoption⁷² (see 2.5 for detail).

Recruitment, placement and supervision over persons appointed as guardians and caregivers is generally performed by the guardianship and care authorities.⁷³ Medical or educational organizations or organizations performing social services may perform the functions of the guardianship and care authorities related to recruitment and training of individuals willing to become guardians or caregivers pursuant to a decision by the guardianship and care authorities on delegation of the relevant functions.⁷⁴

Only an adult individual can become a guardian or caregiver.⁷⁵ If a child is placed by the guardianship and care authorities in a Specialized Institution, the Specialized Institution performs the functions, and have the rights and obligations of, a guardian/caregiver. When a child left without parental care is not assigned any form of placement (like being adopted, appointed a guardian or caregiver, being placed in a foster family or a Specialized Institution), the guardianship functions are considered to be performed by the guardianship and care authorities⁷⁶ (see 2.5 for detail).

In order to become a guardian or caregiver, as appropriate, an individual must:

- (i) undertake psychological, pedagogic and legal training based on the programs approved by the competent authorities (or analogous programs in his or her

the Area of Education and Science; and Government Resolution No. 13 regulating the procedure for development and approval of professional standards dated 22 January 2013.

⁷⁰ Article 16.1 of the Law on the Rights of the Child.

⁷¹ Order No. 986 of the President of the Russian Federation dated 1 September 2009.

⁷² Articles 122(1) and (3) and article 123(1) of the Family Code.

⁷³ Article 7 of the Guardianship Law and clause 2 of Regulations for recruitment, recording and training of individuals willing to become guardians or caregivers approved by Government Resolution No. 423 dated 18 May 2009 (the "Government Regulations for Guardians' Recruitment and Training").

⁷⁴ Article 6(4) of the Guardianship Law and Regulations regarding performance of certain functions of the guardianship and care authorities by medical organizations, educational organizations and organizations performing social services or other organizations including organizations for orphans and children left without parental care approved by Government Resolution No. 423 dated 18 May 2009.

⁷⁵ Article 146(1) of the Family Code and article 2 of the Guardianship Law.

⁷⁶ Articles 123(2), 155.1(4) and 155.2(2) of the Family Code.

- country);⁷⁷
- (ii) pass a medical examination to exclude the diseases which prevent him or her from being a guardian or caregiver;⁷⁸ and
 - (iii) submit an application to the guardianship and care authorities located at the place of his or her residence containing information about financial and family status of the applicant, close relatives living with the applicant and consent of such close relatives including opinion of children aged 10 and more and confirmation of completion of conditions (i) and (ii) above and of absence of circumstances preventing the individual from becoming a guardian or caregiver (see 3.5 below).⁷⁹

The guardianship and care authorities then verify the accuracy of the information contained in the application and, once this is confirmed, examine the applicants' living conditions, personal qualities and motivation, ability to raise a child and relations with his or her family members. Based on the results of such an examination and review of the application package and taking into account statutory requirements and restrictions applicable to the right to be a guardian or caregiver (see 3.5 below), the guardianship and care authorities make a decision to appoint the individual as a guardian or caregiver or allow them to become a guardian or caregiver, or deny the application.⁸⁰

The guardianship and care authorities must arrange for training of an individual willing to become a guardian or caregiver, which they may do either themselves or via medical or educational organizations or organizations performing social services based on a decision by the guardianship and care authority on delegation to such organizations of the relevant functions. Those in charge of training must:

- (i) inform the individual about the rights, obligations and liability of guardians/caregivers;
- (ii) arrange for workshops and training on pedagogical, psychological and basic medical matters;
- (iii) subject to the individual's consent, ensure his or her psychologic testing for evaluation of psychological readiness to become a guardian or caregiver; and
- (iv) inform about possible forms of placement of a child left without parental care and assist in preparation of the relevant documentation.⁸¹

Once a child left without parental care is appointed guardian or caregiver, placed in a foster family, or put under supervision of a Specialized Institution, the guardianship and care authorities must supervise over the child's living conditions, respect for their rights and legitimate interests by the guardian or caregiver, compliance with any individual obligations of the guardian or caregiver regarding the child as may be set by a decision on appointment of the guardian or caregiver (or other form of placement), and over the safety of the child's property.⁸²

The guardianship and care authorities exercise such supervision by way of regular visits to the place where the child lives. Such visits must take place once during the first month of the child's residence with the appointed guardian, caregiver, foster family, or Specialized Institution, then once every 3 months until after the first year when it changes to once every 6 months.⁸³

The report issued following regular or extraordinary visits, which may take place at any time if the guardianship and care authorities are notified about potential breach of the guardian

⁷⁷ Article 146(1) and 127(6) of the Family Code.

⁷⁸ Article 146 (1) and 127(1) of the Family Code.

⁷⁹ Clause 4 of the Government Regulations for Guardians' Recruitment and Training.

⁸⁰ Clause 8 and 9 of the Regulations for Guardians' Recruitment and Training.

⁸¹ Clause 14 of the Regulations for Guardians' Recruitment and Training.

⁸² Article 148.1 (8) of the Family Code, article 24 (2) of the Guardianship Law and Rules for performance by the guardianship and care authorities of checks of the living conditions of the child who is appointed a guardian/caregiver, of the respect for the child's rights and legitimate interests, safety of the child's property and compliance with individual obligations of the guardian/caregiver in respect of the child approved by Government Resolution No. 423 dated 18 May 2009 (the "**Rules on Regular Checks of the Child's Conditions**"). Similar powers of the guardianship and care authorities are set out in relation to adopted children by Government Resolution No. 275 dated 29 March 2000.

⁸³ Clauses 2 to 5 of the Rules on Regular Checks of the Child's Conditions.

or caregiver's obligations in respect to the child, must document results of the checks, the guardianship and care authorities' relevant conclusion and recommendations to the guardians or caregiver regarding the child, a list of identified breaches (if any), and deadlines for their cure.⁸⁴

Additionally, guardians and caregivers must provide annual reports regarding the management of the child's property and related expenses attaching relevant documented evidence.⁸⁵

The guardianship and care authorities may impose on the guardian the obligation to cure specific violations of the rights and legitimate interests of the child and, if the guardian does not abide by such obligation, the guardianship authorities may terminate the guardian or caregiver's guardianship over the child and ensure placement of the child under supervision of another guardian, caregiver, foster family, or Specialized Institution.⁸⁶ Additionally, relatives of the child may go to court for the protection of the child's interests. Failure to perform the court's decision which must be issued based on the interests' of the child and take into account the child's views, is a ground for termination of the guardian or caregiver's authority over the child.⁸⁷

There is no automatic appointment of an accompanying adult as the child's guardian/caregiver. Such a person can be appointed as a guardian or caregiver by the guardianship and care authorities following the usual procedure described in 3.2 above.

In the event of urgent need to appoint a guardian or caregiver, including to prevent the child from being placed in a Specialized Institution, the guardianship and care authorities may expeditiously take decision on the *preliminary* appointment of a guardian or caregiver. In order to make such a decision, the guardianship and care authorities verify the identity of the candidate to make sure he or she is an adult having full legal capacity and examine the candidate's living conditions. A decision on preliminary appointment as guardian or caregiver does not require verification of the candidate's compliance with other applicable requirements and restrictions discussed in 3.5. However, such decision expires after 6 months if within that period the individual is not appointed as guardian or caregiver based on such applicable requirements and restrictions and in accordance with a regular procedure described in 3.2 above.⁸⁸

3.3. Responsibilities and duties of guardians for migrant children

The rights and obligations of guardians are not specifically defined for migrant children.

Based on the general definition provided in the Family Code and the Guardianship Law, the guardian and caregiver has both the right and obligation to raise the child, care about his or her health, physical, psychological, spiritual and moral development and he or she must assist the child in the exercise of his or her rights and obligations and to protect the child from third party abuse.⁸⁹

To take into account the child's interests, the guardianship and care authorities can impose individual requirements regarding the performance of guardianship or caregiving obligations and/or exercise of rights in a decision on appointment of a guardian or caregiver depending on the child's needs.⁹⁰ This might in theory include obligations related to assisting the child with establishing their status and long-term solutions that ensure the child's well-being.

The guardian may request medical, psychological, pedagogical, legal, and social assistance. The guardianship and care authorities must provide help in procuring such assistance in accordance with the Social Services Law (see 2.5 above).⁹¹

⁸⁴ Clauses 6, 8, 9, and 10 of the Rules on Regular Checks of the Child's Conditions.

⁸⁵ Articles 24 and 25 of the Guardianship Law.

⁸⁶ Clauses 13 and 14 of the Rules on Regular Checks of the Child's Conditions.

⁸⁷ Article 148.1(3) of the Family Code.

⁸⁸ Article 12 of the Guardianship Law.

⁸⁹ Article 148.1 of the Family Code and article 15 of the Guardianship Law.

⁹⁰ Article 148.1 (8) of the Family Code and article 24 (2) of the Guardianship Law.

⁹¹ Article 15(7) and 8(1-13) of the Guardianship Law.

There are no specific rules on interactions between the guardian and the child's lawyer.

Certain responsibilities from the UN Guidelines are more specifically attuned to the needs of migrant children than the general responsibilities of guardians in relation to children left without parental care under Russian law.

Some specific responsibilities from the UN Guidelines include, for example, the obligation to ensure that the child has access to legal and other representation where necessary, to consult the child so that the child's views are taken into account by decision-making authorities, to advise and keep the child informed about his/her rights, to contribute to the identification of a stable solution in the best interests of the child, and to assist the child in family tracing.

3.4. Profile of guardians

Guardians and caregivers are defined in the Family Code and the Guardianship Law as adult individuals (i.e. individuals aged 18 or older) having full legal capacity and appointed as such by the guardianship and care authorities. Guardians are appointed to children aged between 14 and 18, and caregivers to children under 14⁹² (see 2.5 for detail).

There is no accreditation procedure for individuals willing to become a guardians and caregivers. Decisions on an individual's appointment as guardian or caregiver is taken by the guardianship and care authorities. The appointment as a guardian or caregiver is possible if the candidate meets relevant Russian law requirements and restrictions verified by the guardianship and care authorities, such as:

- (i) A guardian/caregiver must be an adult individual having full legal capacity who:
 - a. has not been previously deprived of parental rights;
 - b. has not been convicted for certain serious crimes;
 - c. is not in a homosexual relation registered as a marriage in a country where homosexual marriages are officially allowed or, in case a candidate for appointment as guardian or caregiver is not married, such person cannot be appointed as guardian or caregiver if he or she is a citizen of a country which recognizes homosexual marriages; and
 - d. is not ill with certain diseases or is not an alcohol or drug addict.⁹³
- (ii) A person can be appointed as guardian or caregiver only after passing training on pedagogical, psychological and basic medical matters (see 3.2 above), except for close relatives or persons who have already adopted children or already have been guardians and/or caregivers.⁹⁴
- (iii) Appointment of the guardian will be based on assessment of his or her moral and other personal qualities, his or her capacity to perform the guardianship or care obligations, attitude to him or her by the child, and attitude to the child by members of his or her own family.⁹⁵
- (iv) Opinion of the child on the appointment of a guardian or caregiver for them must be sought, and if the child is more than 10 years old, appointment will be subject to the child's consent.⁹⁶
- (v) Appointment of different guardians to siblings is not allowed unless it is in the interests of the children.⁹⁷
- (vi) Grandparents and adult siblings enjoy priority in becoming the child's guardian or caregiver.⁹⁸
- (vii) Appointment of several guardians or caregivers to a child is possible if this is in the child's interests.⁹⁹

⁹² Articles 122(1) and (3) and article 123(1) of the Family Code.

⁹³ Articles 146 (1), 147 (3) and 127 (6) of the Family Code and article 10 (1) of the Guardianship Law.

⁹⁴ Article 146 (1) of the Family Code.

⁹⁵ Article 147 (2) of the Family Code.

⁹⁶ Article 145(4) of the Family Code.

⁹⁷ Article 145 (5) of the Family Code and article 10 (6) of the Guardianship Law.

⁹⁸ Article 10 (5) of the Guardianship Law.

⁹⁹ Article 10 (7) of the Guardianship Law.

Organizations which accommodate children left without parental care, including ICNURs, BCIs, and Specialized Institutions do not fall under the definition of a guardian/ caregiver, but they are deemed to perform the guardianship and care functions in relation to a child left without parental care once the child is placed there further to the relevant placement decision taken by the guardianship and care authorities¹⁰⁰ (see 2.5 for detail).

There are no accreditation requirements applicable to natural persons appointed as guardians or caregivers other than the procedure for recruitment, placement, and supervision of guardians or caregivers and the required verification and examination actions that the guardianship and care authorities must comply with and perform in order to appoint a natural person as guardian or caregiver (see 2.5 and 3.5 above for detail).

There are no specific accreditation requirements applicable to entities that may carry out the guardianship functions (which will happen if a child cannot be placed under any other type of care), including Specialized Institutions, BCI, and ICNUR.

However, to the extent a BCI, ICNUR, or Specialized Institution performs medical or education activities, it must have the respective medical license (issued by the Federal Service for Supervision in the Healthcare Area)¹⁰¹ or educational license (issued by the Federal Service for Supervision in the Area of Education and Science).¹⁰²

The applicable law and regulations¹⁰³ do not expressly require that a Specialized Institution, a BCI or an ICNUR must be a governmental or municipal institution. However, in practice almost all such institutions are effectively established and financed by the regional and municipal authorities.¹⁰⁴

Generally, all Specialized Institutions, BCI, ICNUR, regardless of whether they provide social, medical and/or educational services, must ensure necessary conditions for accommodation, education and upbringing of children that comply with Russian legislative rules. This includes, without limitation, sanitary requirements to the premises where children live and surrounding territory; food, clothes, medical support, physical education, specific requirements regarding the premises and territory; addressing special needs of children with disabilities; and providing access to information about children's rights, hot lines, and other contacts that can be used for complaints, protection of rights, etc.¹⁰⁵

Control over compliance with applicable requirements must be performed by the guardianship and care authorities by way of regular and extraordinary visits and checks¹⁰⁶ (see 3.2 above for detail).

Information about the operation of a Specialized Institution, including annual reports about its activity must be made publicly available by its founders and the guardianship and care

¹⁰⁰ Articles 155.1(1) and 155.2(2) of the Family Code and articles 1(2) and 11(5) of the Guardianship Law.

¹⁰¹ Articles 2(11) and 88 (2-2) of Federal Law No. 323-FZ "On Principles of Healthcare of Citizens in the Russian Federation" dated 21 November 2011 and Regulations on Licensing of Medical Activity approved by Government Resolution No. 291 dated 16 April 2012 and Regulations on the Federal Service for Supervision in the Healthcare Area approved by Government Resolution No. 323 dated 30 June 2004.

¹⁰² Articles 2(18) and (19), 6(1-7), 7(1-2), 91 of Federal Law No. 273-FZ "On Education" dated 29 December 2012 (the "Law on Education"), Clause 9 of the Recommendations for Organization of Operation of Specialized Institutions for Children in Need for Social Rehabilitation approved by Resolution No. 25 of the Ministry for Labor and Social Development of the Russian Federation dated 29 March 2002

¹⁰³ Including, most importantly, articles 155.1 to 155.3 of the Family Code and Government Resolution No. 481 dated 24 May 2014.

¹⁰⁴ See this media report (information is available only in Russian as of 18 June 2018) <https://miloserdie.help/svyato-sofiyskiy-detskiy-dom-dlya-detey-invalidov/> containing information (as of early 2015) on a single private "social house" for children and adults with disabilities in Russia (apparently owned by a non-commercial organization created under the auspices of the Russian Orthodox Church).

¹⁰⁵ Clauses 5 and 25 of Government Resolution No. 481 dated 24 May 2014. Key requirements are set out by Government Resolution No. 481 dated 24 May 2014 and Sanitary and Epidemiological Standards of Organization, Accommodation and Operation of Organizations for Orphans and Children Left Without Parental Care approved by Resolution No. 8 of Chief Sanitary Officer of the Russian Federation dated 9 February 2015.

¹⁰⁶ Clauses 2 to 5 of the Rules on Regular Checks of the Child's Conditions.

authorities at the Specialized Institution's location.¹⁰⁷

A guardian who is a natural person must pass training on pedagogical, psychological, and basic medical matters, except for close relatives and persons who have already adopted or have been appointed as guardians or caregivers to children left without parental care¹⁰⁸ (see 2.5 and 3.5 above).

There is no requirement to take any specific pre-qualification training for employees of Specialized Institutions, so it should be an obligation of the head of a Specialized Institution to hire sufficiently qualified personnel (including teachers, medical staff, psychologists, etc.) who can ensure that the Specialized Institution performs required functions and complies with applicable regulatory requirements.¹⁰⁹

Employees of the guardianship and care authorities must meet the criteria of a professional standard approved by the Ministry for Labor and Social Protection following contributions from a group of experts including (i) practicing specialists from specialized institutions involved in the care for children left without parental care and in providing professional assistance to guardians, caregivers, adopting parents and foster families, (ii) officials from competent executive authorities at the federal and regional level, (iii) researchers from higher education institutions and (iv) representatives of non-governmental organizations. The standard criteria includes higher education in the area for which the employee is responsible, at least one year of relevant work experience, absence of prior criminal conviction, etc. The standard also outlines job functions and required competencies for the relevant employees.¹¹⁰

Continued professional training for employees of the guardianship and care authorities must be provided on the basis of approximate professional training program developed and approved by the Ministry of Education taking into account the professional standard approved by the Ministry for Labor and Social Protection referred to in 3.5.¹¹¹

Russian law does not provide for any rules requiring guardians and caregivers appointed by the guardianship and care authorities to undergo any continuing education training in the course of their guardianship or care giving. However, they are entitled to all kinds of professional assistance from the guardianship and care authorities and specialized organizations providing social services¹¹² (see 3.4).

In relation to employees of Specialized Institutions, there is a generally worded requirement for a Specialized Institution to: (i) ensure that its employees are trained on up-to-date methods and best practices of complex rehabilitation of children, protection of their rights, and prevention of child abuse, and (ii) arrange for psychologic support and consulting for such employees on children's education, rehabilitation, health matters, protection of rights and related services.¹¹³

The recommended time for the training program for employees of the guardianship and care authorities is 72 academic hours. The training addresses a wide range of topics, from a legal framework applicable to children left without parental care to the practical aspects of the protection of the rights and legitimate interests of the child when the child is placed under a certain type of care, in the course of that placement, and following the child's becoming an adult. The program does address various aspects of guardianship and care over children in difficult situations but does not expressly refer to migrant children and children seeking refugee status or temporary asylum. Following the training, an employee must undertake a

¹⁰⁷ Clauses 60 to 62 of Government Resolution No. 481 dated 24 May 2014.

¹⁰⁸ Article 146 (1) of the Family Code.

¹⁰⁹ Annex 2 to Order No. 25 of the Labor Ministry dated 29 March 2002 provides for a tentative list of staff (by specialization/ job function) for an Institution for Children in Need for Social Rehabilitation.

¹¹⁰ Order No. 680H of the Ministry of Labor and Social Protection of the Russian Federation dated 18 November 2013 approving Professional Standard "Specialist of the Guardianship and Care Authorities in relation to Children".

¹¹¹ Order No. 121 of the Ministry of Education and Science of the Russian Federation dated 24 February 2015 approving approximate professional upgrading program for employees of the guardianship and care authorities.

¹¹² Article 15(7) and 8(1-13) of the Guardianship Law and article 22 of the Social Services Law.

¹¹³ Clause 55 of Government Resolution No. 481 dated 24 May 2014.

test.¹¹⁴

Organizations providing more training to employees of the guardianship and care authorities are accredited by the competent executive authorities of constituent entities of the Russian Federation (for example, in Moscow, it is the Department of Education of the City of Moscow). Experts involved in the accreditation must meet qualification requirements approved by Russia's Ministry of Education (including higher education, relevant experience of at least 5 years, knowledge of applicable law and professional standards approved by the competent authorities), have a number of competencies in examinations of methodological materials, assessment of the knowledge of trainees, etc. Accredited experts and expert organizations are included in electronic registers maintained by the relevant authorities which must be available on the official web-page of the relevant executive authority of the relevant constituent entity.¹¹⁵

The law does not provide for any referral mechanism to ensure timely appointments of guardians. Please see comments in 2.5 and 3.2 for a procedure and timing requirements provided for by the law.

3.5. Child Bride

Legal age for marriage in Russia is 18 years. Local authorities at the place of residence of persons aged 16 to 18 who are willing to marry may at such persons' requests allow their marriage. Laws of constituent entities of the Russian Federation may provide conditions and procedure for allowing marriage where one or both spouses are less than 16.¹¹⁶

Laws of 18 constituent entities¹¹⁷ of the Russian Federation¹¹⁸ allows marriage for children of at least 14 years old, and laws of 5 other constituent entities¹¹⁹ allow marriage for children of at least 15 years old. All of these laws require the occurrence of "exceptional circumstances" such as pregnancy, giving birth to a common child, or immediate threat to life.

If a child is legally married, he or she is considered to acquire full legal capacity as an adult. The child will not lose full legal capacity even if he or she is divorced before turning 18.¹²⁰

Russia recognizes marriages between foreign nationals registered in another country in compliance with such country's laws,¹²¹ subject to the public order of the Russian Federation.¹²²

The contents of foreign law must be established by a court or another competent authority in compliance with its official interpretation, case law, and doctrine in the relevant country. The Ministry of Justice of the Russian Federation is normally competent in the area of exchange of legal information with authorities of foreign states and international organizations. Interested parties may provide documents confirming the contents of the

¹¹⁴ Order No. 121 of the Ministry of Education and Science of the Russian Federation dated 24 February 2015 approving approximate professional upgrading program for employees of the guardianship and care authorities.

¹¹⁵ Article 92(15) of Federal Law No. 273-FZ dated 29 December 2012 "On Education in the Russian Federation" and Order No. 556 of the Ministry of Education and Science of the Russian Federation dated 20 May 2014 approving qualification requirements applicable to expert and expert organizations, accreditation procedure, maintenance of experts' registers, and selection of expert for performance of accreditation expertise.

¹¹⁶ Article 13 of the Family Code.

¹¹⁷ Republic of Adygea, Republic of Tatarstan, Chukotsky Autonomous Region, Khanti-Mansiysky Autonomous Region, Jewish Autonomous Region and regions of Tyumen, Sakhalin, Samara, Orel, Veliky Novgorod, Nizhny Novgorod, Magadan, Kaluga, Vologda, Moscow (i.e. Moskovskaya Oblast, excluding the city of Moscow), Belgorod, Tambov and Tula.

¹¹⁸ According to article 65 of the Constitution of the Russian Federation, the Russian Federation currently comprises 85 constituent entities.

¹¹⁹ Republic of Kabardino-Balkaria and regions of Chelyabinsk, Tver, Ryazan and Murmansk.

¹²⁰ Article 21(2) of the Civil Code.

¹²¹ Article 158(2) of the Family Code.

¹²² Article 167 of the Family Code.

rules of foreign family laws to which they refer.¹²³

If it is impossible to establish contents of foreign law, then Russian law will apply.¹²⁴

There is no clear guidance as to what are the public order rules which may prevent marriages between foreign nationals from being recognized in Russia. It appears from certain academic comments¹²⁵ that these are likely to include:

- (i) marriages involving a child who did not clearly reach the legal age for marriage in Russia (according to the comments above, this could be a child who is 1 or 2 years younger than the legal age for marriage in Russia);
- (ii) homosexual marriages; and
- (iii) marriages between parents and children or grandparents and grandchildren.

According to the same comments, if polygamy marriages are recognized in a foreign country, marriages between foreigners registered in such countries might be recognized in Russia.

This matter is not expressly regulated by Russian law. Arguably, Russian law will recognize the marriage between the child and his or her adult spouse, subject to comments in 3.6 above, but enforcement in Russia of a legal status that is unknown under Russian law is unlikely.

4. Family reunification

4.1. Family tracing:

The Law on Refugees generally provides that recognition of an unaccompanied child as a refugee or attribution to him or her of another legal status in the Russian territory takes into account the interests of the child and takes place after receipt of information about parents or guardians of the child.¹²⁶

The Ministry for Internal Affairs and its territorial departments (specifically, departments within the police departments authorized to control and supervise over migration matters) is vested with the obligation to assist an unaccompanied child who applied for a refugee status or has been granted such status with obtaining information about his or her parents.¹²⁷ There are no explicit rules on how the tracing should be carried out nor do court decisions address this matter.

Based on media reports, obtaining information about the parents of an unaccompanied migrant child and their location may in practice require the effort of many authorities and social services institutions, including, primarily, the police and migration departments of the Ministry for Internal Affairs and Institutions for Children in Need for Urgent Rehabilitation. In most cases, once it is established what country a child comes from (usually this is found either by the police or by an ICNUR where a child is bought from the street), this information is communicated by the police, a medical institution or an ICNUR to the relevant country's embassy or consular service and/or to the respective country's diaspora in Russia who in turn liaise with the authorities or community of the country where the child comes from (there is no formalized mechanism, however, on liaising with embassies, consular services or country diasporas). The police also normally check whether a child or his or her parents are officially on look-out.¹²⁸

If a child's country of origin is a CIS country, the police may also liaise with the respective departments of internal affairs ministries of the relevant country on the basis of article 5 of the CIS Cooperation Treaty on Return of Children to Countries of their Residence in order

¹²³ Article 166(1) of the Family Code.

¹²⁴ Article 166(2) of the Family Code.

¹²⁵ See http://www.edit.muh.ru/content/mag/trudy/11_2009/04.pdf (reference is provided as of 18 June 2018; the text is available only in Russian).

¹²⁶ Article 3(5) of the Law on Refugees.

¹²⁷ Article 17(2-5) of the Law on Refugees and Order No. 699 of the Russian President dated 21 December 2016.

¹²⁸ See, for example, media reports (available only in Russian – as of 18 June 2018) on Kyrgyz children who either arrive in Russia for search for their mother (both parents) who earn money in Russia or are left unaccompanied by their parents when already in Russia: <https://rg.ru/2017/06/08/v-kirgiziiu-vernuli-svyshe-60-detej-broshennyh-migrantami-v-rossii.html> and <https://rg.ru/2017/03/09/kazhdyy-piatyj-rebenok-v-kirgizii-razluchen-s-odnim-ili-oboimi-roditeliami.html>.

to “timely establish the identity of a child, his or her citizenship, place of residence or place of studies.”

4.2. Reunification in Russia or resettlement:

Russia does not generally allow family reunification as a ground for entry into or stay in the Russian territory, although facilitating the migration of foreign citizens into Russia for the purpose of family reunification is declared to be an area of development in the migration policy of the Russian Federation until 2025.¹²⁹

There are certain instances where the family reunification reason may be considered. Specifically, if an adult member of the family does not meet the refugee criteria while other adult members of the family do, such an adult must also be recognized as a refugee upon his or her consent for the purposes of family reunification.¹³⁰

Furthermore, Russian courts tend to consider family reunification as a humanitarian reason due to which a person cannot be expelled or denied a residence permit (and, accordingly, can be awarded a temporary asylum). For example, courts considered in several cases that due to the humanitarian reason of family reunification, a foreign national with a spouse and children residing in Russia cannot be banned entry into Russia on the formal ground of previously committing minor violations of the Russian migration laws.¹³¹

4.3. Reunification with other relatives:

Given the absence of general family reunification procedures, such cases are dealt with individually. For example, in the child bride case, to the extent Russian law may recognize her marriage with the relevant adult foreign citizen as valid (see comments in 3.6), a temporary asylum in Russia might be solicited for the relevant spouse for "humanitarian reasons" (see comments in 2.4).

5. Placement of migrant children

5.1. Temporary shelter/1st reception centers

Although the Law on Refugees conceptually provides for temporary shelter centers by defining a “temporary stay place” (in Russian – *mesto vremennogo soderzhanija*) as a *place located near a border checkpoint where a person applying for a refugee status for him/herself and members of his/her family are accommodated*,¹³² the earlier adopted specific regulations applicable to such places governing the respective requirements to accommodation and stay in such places have effectively been annulled.¹³³

Another type of temporary shelter center provided by the Law on Refugees is a temporary accommodation center for individuals applying for a refugee status (in Russian – *tsentrvremennogo razmescheniya*), which, unlike the “temporary stay places” should not necessarily be

¹²⁹ Item 24 of the State Migration Policy Program of the Russian Federation until 2025 approved by the Russian President.

¹³⁰ Article 3(4) of the Law on Refugees.

¹³¹ See, for example, Appellate Ruling of the Kaliningrad region court dated 19 March 2014 in case No. 33-1100/2014 and Appellate Ruling of Tula region court dated 4 September 2014 in case No. 33-2220.

¹³² Articles 1 (1-4) of the Law on Refugees.

¹³³ Government Resolution No. 1677 dated 28 December 2017 annulled Government Resolution No. 679 dated 30 June 1998 approving General Provisions on Temporary Stay Places for Individuals Applying for Refugee Status (assigning the organization of those “places” to the competence of the migration authorities and generally providing for their key functions and obligations (regarding accommodation, access to food and medical assistance etc. for applicants for refugee status)). As a result, the old standard regulations on first reception centers which were approved by the head of the Federal Migration Service (order No. 2776) on 25 November 1993 also became redundant and are no longer in force. Similarly, Government Resolution No. 1021 dated 8 September 1994 governing the procedure for receipt, registration, temporary accommodation and determination of legal status of migrants (including at border check points) was annulled by Government Resolution No. 231 dated 16 March 2000, without adoption of any analogous replacement rules.

located near the border.¹³⁴ Technically, the right to be accommodated at such temporary shelter centers belongs to: (i) applicants for a refugee status as soon as they get a certificate of an applicant for a refugee status (within a term that is unlikely to be shorter than 8 business days if the application is filed in Russia)¹³⁵ and (ii) individuals who are granted temporary asylum (according to a separate procedure that may take up to 3 months).¹³⁶ Accordingly, it is not immediately clear whether asylum seekers are entitled to be accommodated at such temporary accommodation centers, until they are actually granted temporary asylum.

According to a media report,¹³⁷ as of early 2017, there were 3 temporary accommodation centers for migrants operating in Russia, including the centers in the town of Krasnoarmeysk (Saratov region), Serebryaniki village (Tver region) and Peresypkino village (Tambov region).¹³⁸ All of these centers were organized as federal state institutions (in Russian – *federalnoye kazennoye uchrezhdeniye*) established and operated by the federal migration service (presently, this service is a structure of the Russian Ministry for Internal Affairs). There are few publicly available regulatory rules governing the operation of such temporary accommodation centers.¹³⁹

Applicants for a refugee status and individuals who are granted temporary asylum can apply for compensation for expenses related to travel inside Russia either from the place of first registration to a temporary accommodation center or from a temporary accommodation center to a new place of stay (the compensation can be provided only once).¹⁴⁰ These rules suggest that temporary accommodation centers are not designed as first reception centers and can be available only to those migrants who have obtained a certain legal status in Russia.

In practice, individuals lacking a lawful ground to enter and stay in Russia (like visa, work permit, refugee status, etc.) appear to be placed in most cases in “special institutions” (in Russian – *spezialnie uchrezhdeniya*) for accommodation of individuals subject to deportation from Russia. Such special institutions are established by the Ministry for Internal Affairs and its territorial departments in accordance with the Law on Foreigners and rules approved by the Russian government.¹⁴¹

The applicable rules allow such special institutions to also accommodate children in case their parents or other close adult relatives are placed there.¹⁴² However, there are no publicly available mandatory rules *requiring* such institutions to accommodate children together with their parents or close relatives.

According to media reports,¹⁴³ as of early 2017, Special Institutions operated in 76 out of 85 constituent entities of the Russian Federation. Many of them were over-crowded and only 60% of the institutions met the living conditions requirements.¹⁴⁴ Other media reported that

¹³⁴ Article 1(1-4) of the Law on Refugees.

¹³⁵ Article 4 (3), (4), (5-2) (6) and (7) and article 6 (1-6) of the Law on Refugees.

¹³⁶ Article 12 of the Law on Refugees and items 2 and 13 of the Procedure for Granting of Temporary Asylum in the Territory of the Russian Federation approved by Government Resolution No. 274 dated 9 April 2001.

¹³⁷ There is no immediately available official statistical data on this matter.

¹³⁸ See (available as of 18 June 2018; only in Russian) <https://www.kommersant.ru/doc/3211704>.

¹³⁹ We have managed to locate only Government Resolution No. 448 dated 7 June 2001 “On Receipt of Nutrition and Use of Facilities in Temporary Accommodation Centers for Individuals Applying for Recognition as Refugee” (Government Resolution No. 448 dated 7 June 2001).

¹⁴⁰ Government Resolution No. 595 dated 18 June 2012 approving rules for assistance to foreign nationals and stateless persons who have obtained certificate of applicant for a refugee status in Russia or who are granted temporary asylum in ensuring travel to place of stay in Russia and related baggage allowance.

¹⁴¹ Articles 31(9) and 35.1(5) of the Law on Foreigners and Government Resolution No. 1306 dated 30 December 2013 approving the Rules for Accommodation (Stay) in Special Institutions of the Ministry for Internal Affairs of the Russian Federation or its Territorial Department of Foreign Nationals and Stateless Persons Subject to Deportation from the Russian Federation (“Government Resolution No. 1306 dated 30 December 2013”).

¹⁴² Clause 14 of Government Resolution No. 1306 dated 30 December 2013.

¹⁴³ There is no immediately available official statistical data on this matter.

¹⁴⁴ See (available only in Russian; as of 18 June 2018)

https://life.ru/t/%D1%8D%D0%BA%D1%81%D0%BA%D0%BB%D1%8E%D0%B7%D0%B8%D0%B2%D1%8B/978489/nielieghalnykh_mighrantov_vyliechat_pieried_dieportatsiiei

there are cases where children are separated from their parents on the grounds that there were no adequate conditions for accommodation of children at the respective special institution where the parents were placed.¹⁴⁵ According to applicable law, a child in this case should be placed in an ICNUR or a BCI until their mother or both parents can be deported from Russia or leave the special institution on a different ground.

As to unaccompanied migrant children, they are likely to qualify as "children in a difficult situation" and, until they are found a guardian or caregiver (or as a measure of last resort are placed in a Specialized Institution), they are likely to be placed for "social rehabilitation" in an ICNUR if over the age of 3, or in a BCI if under the age of 4 (see 2.2).

Unlike the rules applicable to standards of living at ICNURs and BCIs,¹⁴⁶ the rules regulating "special institutions" for individuals waiting for deportation from Russia do not govern in detail how the needs of children should be addressed except for:

- (i) the norm for the size of a room for accommodating a family including parents, children, adopted children, siblings, grandparents and grandchildren that must be at least 15 square meters;¹⁴⁷ and
- (ii) nutrition norms and food products that must be made available for a child depending on his or her age.¹⁴⁸

The rules applicable to temporary accommodation centers only generally provide that individuals placed there must be provided with free accommodation, facilities and nutrition 3 times a day (access to free nutrition is guaranteed only to people without earnings or income).¹⁴⁹

Russian law does not contain specific rules on child-safeguarding policies applicable to temporary shelters other than referred to in this section 5.1 above.

There are no specific rules under Russian law on disabled children's accessibility in temporary shelters.

Special institutions for individuals subject to deportation from Russia are not open centers. Individuals placed there cannot leave such institutions at their discretion. They are subject to 24-hour supervision through use of audio, video, and other technical means of which the individuals must be notified. They must comply with such institution's regulations that may restrict, for example, use of mobile telephones outside a specifically defined time. They may receive goods and products and, with doctor's permission, medicines from their relatives and acquaintances but are not expressly allowed to receive visitors.¹⁵⁰

There are no general restrictions regarding the openness of temporary accommodation centers.

A federal human rights commissioner (human rights ombudsman) may visit temporary accommodation centers and special institutions for individuals subject to deportation from Russia and may talk with persons accommodated at such centers and institutions in person provided that a representative of a center or institution can see but cannot hear their talk.¹⁵¹

There are media reports showing that human rights organizations and non-governmental organizations like International Red Cross and Russian Red Cross and representatives of local migrants' associations (see <http://migrant.ru/> as an example (available only in Russian)) can obtain permission to visit "special institutions", can talk to individuals placed there and

¹⁴⁵ See <https://refugee.ru/materials/eto-sistemnaya-problema-otbiranie-detej-u-migrantov/> (available only in Russian; as of 18 June 2018).

¹⁴⁶ Order No. 2 of the Healthcare Ministry of the Russian Federation "On Improvement of Operation of Baby Care Houses" dated 24 January 2003 and Order No. 25 of the Ministry for Labor and Social Development of the Russian Federation dated 29 March 2002 approving the Recommendations on Organizations of Specialized Institutions for Children in Need for Urgent Rehabilitation.

¹⁴⁷ Item 11 of Government Resolution No. 1306.

¹⁴⁸ Item 15 and annex No. 4 of Government Resolution No. 1306.

¹⁴⁹ Government Resolution No. 448 dated 7 June 2001 "On Access to Nutrition and Facilities for Applicants for Refugee Status Placed in Temporary Accommodation Centers".

¹⁵⁰ Articles 35.1 to 35.3 of the Law on Foreigners and items 2, 3, 10, 36, 37, and 40 to 43 of Government Resolution No. 1306.

¹⁵¹ Article 32.1 of the Law on Foreigners.

the administration of the institution, and that they help resolve some of the problems on the spot.¹⁵²

5.2. Placement of migrant children

A framework law governing measures to prevent and address homelessness among children is the Law on Prevention of Children's Vagrancy and Delinquency. The law allocates the functions related to prevention of homelessness among authorities and institutions, including commissions on minor's affairs set up by regional executive authorities; municipal authorities for social protection of people; federal, regional, and municipal authorities in the area of education, youth and health; guardianship and care authorities; internal affairs authorities; penitentiary institutions; and other organizations like federal and regional commissioners for the child's rights.¹⁵³

A key measure of immediate assistance to homeless children, children left without parental care, or children found in difficult situations is placement into an ICNUR.¹⁵⁴

Technically, the child's views must always be taken into account when a decision affecting his or her interests is made. However, Russian law does not contain legally binding rules requiring that the child's views be taken into account when a placement is offered to them. So, in practice the child may well be placed in the nearest ICNUR that can provide the appropriate accommodation and assistance to the child.

The types of possible placement that may be offered to a child left without parental care under Russian law include adoption, appointment of a caregiver or a guardian, foster family, or, absent anything of the above (adoption being the most preferable option), placement in a Specialized Institution (see comments in 2.5 for more detail).

The law expressly prohibits separating siblings unless such separation is in their interests (see 3.5).

Migrant children who reach the age of 18 are treated as adult migrants. There are no special rules on the transition process for such children nor is there an informal care system in Russia.

5.3. Detention/Retention

The rules for detention of children are the same for migrant and non-migrant children.

Generally, children who have committed a wrongdoing, demonstrated anti-social behavior, and/or vagrant or neglected children may be detained by the police at a police office for up to 3 hours.¹⁵⁵

At the discretion of an authorized police officer, children who have committed a wrongdoing or demonstrated anti-social behavior¹⁵⁶ can be placed in special detention centers (on a limited list of grounds discussed in this section) for up to 48 hours by the end of which a court must decide on release or extension of detention.¹⁵⁷

A child can stay in a detention center while a decision is made regarding further placement no longer than 30 days. However, in exceptional cases, a judge can extend this period for up to 15 additional days (excluding quarantine periods, time when a child is ill or cannot be returned to his or her family or placed to the respective institution or a time required for

¹⁵² See (available as of 18 June 2018; only in Russian) <http://migrant.ru/moskva-centr-vremennogo-soderzhaniya-migrantov-v-saxarovo-nespokojnye-budni/>

¹⁵³ Article 4 of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁵⁴ Article 13 of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁵⁵ Article 21(2-1) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁵⁶ Children who have not done anything wrong will be taken by the police to an Institution for Children in Need for Social Rehabilitation simultaneously with the respective notice to the guardianship and care authorities who then must decide on their further placement (article 13(15) of Federal Law No. 3-FZ "On Police" dated 7 February 2011 (the "Law on Police") (see more detail in 2.5).

¹⁵⁷ Article 22(4) of the Law on Prevention of Children's Vagrancy and Delinquency.

review of a prosecutor's appeal of the child's placement at the detention center).¹⁵⁸

There is an exhaustive list of grounds on which children can be detained in special detention centers. Specifically, detention can be considered for:

- (i) children who are being sent by a court's decision to a "special closed reform school" (which is an educational institution for children older than 11 who have committed a crime, but are either not subject to criminal liability because of their age or mental retardation, or released from criminal liability by a court's decision);
- (ii) children awaiting a court's decision on their placement to a special closed reform school for reasons mentioned in (i) above, in case a court has decided that: (1) there is a threat to their life or health, (2) this is needed to prevent repeated anti-social action, (3) the child does not have a place of living or stay, or (4) the child's willful refusal to appear in court or to undergo a mandatory medical examination;
- (iii) children who have left at their will a special closed reform school; and
- (iv) children who have committed a crime or an administrative wrongdoing (for which they cannot be held liable due to their age or mental retardation) or an administrative wrongdoing for which they can be held liable, in each case, if: (1) the identity of such children cannot be established or if they do not reside in a place where they have committed the relevant crime or wrongdoing, (2) if it is necessary to secure their life and health or to prevent repeated commitment of a crime; or (3) because of a long distance to the place where their parents or other legal representatives are located, the children cannot be returned to their parents or other legal representatives within three hours for which they can initially be detained by the police.¹⁵⁹

Detention centers are specially designed for children.¹⁶⁰ Accordingly, children are separated from adults (except for police offices where children can initially be taken for a maximum of 3 hours due to a lack of specific requirements¹⁶¹).

There are no separate detention centers for migrant children.

Detention centers (for any children) must accommodate children in separate sleeping rooms taking into account the relevant child's age, gender, and the gravity of the wrongdoing committed. Children who are placed there are entitled to free food, clothes, shoes, unlimited number of phone calls and meetings with their relatives, and access to school classes based on an educational program according to a federal educational standard corresponding to their age. They also enjoy other guarantees provided for in the Constitution, treaties of the Russian Federation, and Russian federal and regional laws.¹⁶²

Neither the Law on Prevention of Children's Vagrancy and Delinquency nor Order No. 839 dated 1 September 2012 governing the stay of children in detention centers set out specific requirements regarding the qualifications and special experience for personnel.

Parents or legal representatives of the child must be informed within 12 hours of the child being placed in a detention center. In the absence of information about the address of the parents or legal representatives, the police and/or administration of the detention center must notify the guardianship and care authorities at the last place of living of a child within 3 days since the child is placed in the detention center.¹⁶³

Like any person detained by the police, a child placed in a detention center is entitled to have access to legal counsel and, if needed, a translator from the time of their detention.¹⁶⁴ Legal

¹⁵⁸ Article 22(6) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁵⁹ Article 22 (2) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁶⁰ Article 22 (*Police Temporary Detention Centers for Juvenile Offenders*) of the Law on Prevention of Children's Vagrancy and Delinquency and Order No. 839 of the Ministry for Internal Affairs "On Improvement of Functioning of Detention Centers for Juvenile Offenders" dated 1 September 2012 ("Order No. 839 of the Ministry for Internal Affairs dated 1 September 2012").

¹⁶¹ Article 21(2-1) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁶² Article 8(1) and (2) of the Law on Prevention of Children's Vagrancy and Delinquency and items 25, 26 and 27 of Order No. 839 dated 1 September 2012.

¹⁶³ Article 14(8) of the Law on Police, article 8(2) of the Law on Prevention of Children's Vagrancy and Delinquency and item 24 of Order No. 839 of the Ministry for Internal Affairs dated 1 September 2012.

¹⁶⁴ Article 14(5) of the Law on Police.

assistance is provided to a child for free.¹⁶⁵

Children placed in a detention center are entitled to have access to information about the purpose of their detention, their rights and obligations, and local rules of the detention center.¹⁶⁶

Any children may request and maintain correspondence which cannot be censored (subject to few exceptions) with his or her legal counsel, prosecutors, court, relevant ombudsmen.¹⁶⁷

A child may challenge the legality of deprivation based on the general rule that any decision affecting his or her rights can be challenged (see 2.5).

The law does not govern disabled children's accessibility in detention centers.

6. Access to fundamental rights

6.1. Education

Children who have received the status of refugees are expressly guaranteed the right to assistance in obtaining access to primary, secondary, and higher education on an equal foot with local children.¹⁶⁸

Parents who qualify as refugees (along with other parents in a difficult situation like victims of natural disasters, single parents, jobless persons or displaced persons) are expressly granted the right to temporarily place their children with a Specialized Institution (usually for no more than 1 year) to ensure the children's accommodation, upbringing, and education.¹⁶⁹

As to other categories of migrant children, they must have the same access to education as children having Russian citizenship based on the following constitutional and/or legislative provisions:

- (i) foreign citizens or stateless persons have the same rights and obligations as Russian citizens unless otherwise provided by federal laws or treaties of the Russian Federation;¹⁷⁰
- (ii) each person is guaranteed the right to education in the Russian Federation irrespective of sex, racial and ethnic origin, language, background, financial, social or public status, place of living, attitude to religion, beliefs, belonging to a civil associations or other circumstances;¹⁷¹
- (iii) the Russian Federation guarantees publicly available and free primary and secondary education and, on a competitive basis, free higher education (in case the higher education is received for the first time), in state and municipal institutions in accordance with federal educational standards;¹⁷² and
- (iv) basic secondary education is mandatory; parents or persons replacing them must ensure that their children receive secondary education.¹⁷³

In 2015, the Supreme Court of the Russian Federation explicitly confirmed, with reference to article 67(4) of the Law on Education, that the parents' and/or children's lack of registration at the place of living in Russia or the parents' failure to submit evidence of their right to stay in Russia cannot be a ground for refusal by an educational organization to accept a child provided that such an organization has vacant places for children to study.¹⁷⁴

There are media reports (which are based on experiences of non-governmental organizations

¹⁶⁵ Article 8(2) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁶⁶ Article 8(2) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁶⁷ Article 22(7.1) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁶⁸ Article 8(1-11) of the Law on Refugees.

¹⁶⁹ Article 14(3-2) of the Law on Prevention of Children's Vagrancy and Delinquency.

¹⁷⁰ Article 62(3) of the Constitution of the Russian Federation and article 4 of the Law on Foreigners.

¹⁷¹ Article 43(1) of the Constitution of the Russian Federation and article 5 (1) and (2) of the Law on Education.

¹⁷² Article 43(2) and (3) of the Constitution of the Russian Federation and articles 5(3) and 70(5) of the Law on Education.

¹⁷³ Article 43(4) of the Constitution of the Russian Federation and article 44 (4-1) of the Law on Education.

¹⁷⁴ Ruling No. АКПИ15-694 of the Supreme Court of the Russian Federation dated 27 August 2015.

providing assistance to migrants in Russia), that notwithstanding the applicable rules guaranteeing non-discriminated access to education for all children regardless of their status or the status of their parents, certain schools continue refusing to accept migrant children on a ground that the parents have not provided a document confirming their registration and (or) the right to stay in Russia. In such cases, such non-governmental organizations recommend that migrants should seek the help of lawyers (including those from the relevant non-governmental organizations) in communicating with the school administration and/or filing complaints with the respective regional authority responsible for education, the prosecutor's office, the Investigative Committee of the Russian Federation, and/or court for a higher chance of success.¹⁷⁵

Special disabilities, health condition and other needs of *children left without parental care* placed in Specialized Institutions must be addressed in the educational process in accordance with applicable standard requirements (see 6.2).¹⁷⁶

Rules applicable to ICNURs and BCIs generally provide that the children's special needs should be identified and addressed by a number of measures, including medical, psychological and educational assessment and individual and group assistance programs to be developed based on such assessment, control over implementation of such programs, etc.¹⁷⁷

Key legislative and regulatory rules governing the operation of Specialized Institutions include:

- (i) Articles 155.1 and 155.3 of the Family Code;
- (ii) Government Resolution No. 481 dated 24 May 2014;
- (iii) Government Resolution No. 170 dated 26 February 2015; and
- (iv) Sanitary and Epidemiological Standard Requirements for Organization, Accommodation and Operation of Organizations for Orphans and Children Left without Parental Care approved by Resolution No. 8 of Chief Sanitary Officer of the Russian Federation dated 9 February 2015.

For a list of key regulations applicable to ICNURs and BCIs, please refer to 2.2.

The rules governing the functioning of temporary accommodation centers¹⁷⁸ do not address access to education for children who stay there (see 5.1).

Access to primary and secondary school education (i.e. for children aged 7 to 18 years old) in accordance with the Law on Education must be ensured for children placed in detention centers¹⁷⁹ (see 5.3). There are no regulatory indications as to the type of facility where such education classes must take place.

Based on other media reports, “special institutions” where foreigners subject to deportation from Russia are placed do not provide for necessary conditions allowing for children to stay there (which might well include access to education) although technically, the rules governing such special institutions allow for accommodation of families with children (see 5.1 for more detail).

Some links with practical information on most vibrant issues which migrants face in Russia include (most of them have either all or almost all information in the Russian language):

- (i) <https://refugee.ru/> (maintained by Civil Assistance, a non-governmental organization specialized in assistance to migrants; there are also English and French

¹⁷⁵ See, for example, <http://www.fergananews.com/articles/9846> and

<https://refugee.ru/projects/dostup-k-obrazovaniyu-i-adaptatsiya/> (available as of 18 June 2018; only in Russian).

¹⁷⁶ Clauses 5, 24, 25, 39, 41, 43 and 48 of Government Resolution No. 481 dated 24 May 2014 and section XII of the Sanitary and Epidemiological Standard Requirements for Organization, Accommodation and Operation of Organizations for Orphans and Children Left without Parental Care approved by Resolution No. 8 of Chief Sanitary Officer of the Russian Federation dated 9 February 2015.

¹⁷⁷ Clause 12 of Order No. 25 of the Labor Ministry dated 29 March 2002; clauses 3 and 6 of Order of Order No. 344H of the Healthcare Ministry dated 12 April 2012; clauses 6, 10, 17, 18 etc. of Order No. of Order No. 343H of the Healthcare Ministry dated 11 April 2012.

¹⁷⁸ Government Resolution No. 448 dated 7 June 2001.

¹⁷⁹ Item 27 of Order No. 839 of the Ministry for Internal Affairs dated 1 September 2012.

- language pages, with less information, however);
- (ii) <http://www.родмир.рф/> (the web-site of Migration and Law (in Russian - *Миграция и закон*) a regional non-governmental organization specialized in practical assistance to migrants in Russia);
 - (iii) <https://memohrc.org/ru/content/migraciya-i-pravo> (the web-site of a migration network program of the Memorial, a Russian non-governmental human rights organization);
 - (iv) <http://www.redcross.ru/?pid=48> (the web-site of Russian Red Cross organization);
 - (v) <http://unhcr.ru/uvkb-oon-v-rf.html> (the web-site of UN High Commissioner for Refugees in Russia (the most informative part is in Russian, limited information is also available in English);
 - (vi) <http://www.unrussia.ru/en/agencies/international-organization-migration-iom> (the web-site of the International Organization for Migration); and
 - (vii) <http://kidsarekids-center.com/> (the web-site of an education and integration center for migrant children organized by Mosaic of Happiness charity fund in Russia).

6.2. Health care

Children (like adults) who received the status of refugees are expressly guaranteed the right to medical assistance on an equal foot with Russian citizens.¹⁸⁰

Migrant children falling under the category of *children left without parental care* (see 1.4 for applicable statutory definitions) will benefit, like any children left without parental care, from free medical assistance (including the right to receive high technology medical aid, take regular medical examinations and check-ups, medical treatment abroad (as may be necessary and subject to rules to be established by the Healthcare Ministry of the Russian Federation) and free trips to and stay in health resorts and medical treatment centers. Caregivers and guardians of such children are entitled to compensation for the children's trips to health resorts and medical treatment centers in accordance with regulatory acts of the respective constituent entity of the Russian Federation or municipality.¹⁸¹

As to other categories of migrant children, like any foreign nationals, they will be entitled to: (a) free emergency medical assistance in cases where there is an immediate threat to their life, and migrant children who are nationals of the member countries of the Eurasian Economic Union¹⁸² also get access to free emergency medical assistance in cases where there is no immediate threat to their life; and (b) paid medical assistance or medical assistance on the basis of mandatory or voluntary insurance in other cases in accordance with the following legislative provisions:

- (v) According to the Constitution of the Russian Federation, foreign citizens or stateless persons have the same rights and obligations as Russian citizens unless otherwise provided for by federal laws or treaties of the Russian Federation,¹⁸³
- (vi) According to the Healthcare Law, the right to medical assistance to foreign nationals who arrive and stay in Russia is provided for by federal laws and treaties of the Russian Federation and the procedure for providing of medical assistance to foreigners is to be established by the Government of the Russian Federation,¹⁸⁴
- (vii) According to the Rules for providing medical assistance to foreign nationals in Russia approved by Government Resolution No. 186 dated 6 March 2013, foreign nationals are entitled to free emergency medical assistance - in case there is an immediate threat to their life and to other forms of medical assistance – on a

¹⁸⁰ Article 8(1-7) of the Law on Refugees.

¹⁸¹ Article 7 of the Law on Additional Guarantees to Children Left without Parental Care and Order No. 72Н of the Healthcare Ministry of the Russian Federation dated 15 February 2013 approving the procedure for regular check-ups of children placed in Specialized Institutions.

¹⁸² These are the Republic of Armenia, Republic of Belarus, Republic of Kazakhstan and Republic of Kyrgyzstan and Russia – based on the Eurasian Economic Treaty signed in Astana on 29 May 2014 and ratified to date by all member countries.

¹⁸³ Article 62(3) of the Constitution of the Russian Federation and article 4 of the Law on Foreigners.

¹⁸⁴ Article 19(3) and (4) of the Healthcare Law.

- contractual basis or on the basis of voluntary or medical insurance;¹⁸⁵ and
- (viii) According to Protocol No. 30 to the Eurasian Economic Treaty, nationals of member countries of the Eurasian Economic Treaty are entitled to receive free emergency medical assistance not only when there is an immediate threat to their life but also without such immediate threat even in the absence of a medical insurance policy.

It generally follows from applicable regulations, but there are no explicit rules on how special needs of migrant children should be guaranteed.

Specialized Institutions where *children left without parental care* with disabilities are placed must address the children's disabilities in accordance with standard requirements approved by the chief sanitary officer of the Russian Federation (including, among other things, requirements applicable to the premises and surrounding territory where the children stay, play, take classes and receive medical treatment adapted to their needs).¹⁸⁶ The standard requirements also provide that the children's state of health must be taken into account in educational process, health improvement procedures and physical training classes.¹⁸⁷

Similar rules ensuring that special health needs of children are addressed are set out in regulations governing BCIs and ICNURs.¹⁸⁸

Non-governmental organizations like Russian Red Cross note that the right of migrants to emergency medical assistance guaranteed in Russia is sometimes breached.¹⁸⁹

For links to websites containing information on issues that migrants face in Russia, please refer to 6.1.

7. Expulsion

7.1. Exclusion clauses

Neither Russian law nor Russian court practice provide for an answer to this question.

7.2. Internal relocation/expulsion to country of origin

There are no explicit rules to this effect. Generally, the best interest of the child must be taken into consideration in deciding on his or her relocation back to his or her country of origin.

7.3. Resettlement to a third country

Neither Russian law nor Russian court practice provide for an answer to this question.

8. Data Collection

8.1. Data regarding migrant children on the move collected by the public authorities:

¹⁸⁵ Clauses 5 and 6 of Government Resolution No. 186 dated 6 March 2013.

¹⁸⁶ Clauses 25, 43 and 48 of Government Resolution No. 481 dated 25 May 2014 and clauses 3.10, 3.11 and 5.1 to 5.14 of the Sanitary and Epidemiological Standard Requirements for Organization, Accommodation and Operation of Organizations for Orphans and Children Left without Parental Care approved by Resolution No. 8 of Chief Sanitary Officer of the Russian Federation dated 9 February 2015.

¹⁸⁷ Clauses 12.1 to 12.17 of the the Sanitary and Epidemiological Standard Requirements for Organization, Accommodation and Operation of Organizations for Orphans and Children Left Without Parental Care approved by Resolution No. 8 of Chief Sanitary Officer of the Russian Federation dated 9 February 2015.

¹⁸⁸ Clauses 3 and 6 of Order No. 344H of the Healthcare Ministry dated 12 April 2012; clauses 6 and 10 to 17 of Order No. 343H of the Healthcare Ministry dated 11 April 2012; clause 17 of Order No. 25 of the Labor Ministry dated 29 March 2002; and Order No. 72H of the Healthcare Ministry of the Russian Federation dated 15 February 2013.

¹⁸⁹ See <http://www.redcross.ru/interview/davron-muhamadiev-tema-migracii-v-rossii-slishkom-politizirovana> (available as of 18 June 2018; only in Russian).

There is no regulation on information on migrant children on the move that must be collected.

Should migrant children become recipients of a social service (free legal counsel etc.), information identifying them and describing the services received may be collected in a register of recipients of social services maintained by the relevant authorities of the constituent entity of the Russian Federation upon the child's explicit consent or the consent by their legal representative.¹⁹⁰

8.2. Data protection:

All authorities and organizations involved in assisting migrant children must keep data regarding the children confidential.¹⁹¹

9. **International relations**^{192*}

9.1. Foreign aid that addresses root causes of migration of minors (in particular of unaccompanied minors) in countries of origin and transit countries.

Russia is a party to a CIS Cooperation Treaty on Return of Children to Countries of their Residence which addresses the return of children to the countries of origin among the countries participating in that treaty. These countries include Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine, and the treaty has been in effect since 24 September 1993 (see 4.1 for detail).

There are no any other notable formal development or cooperation programs maintained in Russia with countries of origin and transit countries addressing the root causes of migration.

9.2. Cooperation with civil society:

Russian law expressly allows civil society and non-commercial organizations (including international organizations represented by their branches in Russia):

- (i) to perform activities related to preparation for a child's exercise of his or her rights and performance of his or her duties;¹⁹³ and
- (ii) in relation to *children in a difficult situation*, which is a category that should comprise at least certain categories of migrant children (see 1.4 for the applicable statutory definition), to perform activities related to protection of the rights of such children, including the filing of claims with Russian courts against officials at governmental authorities, organizations, and individuals, including parents; guardians; educational, medical, and social workers; and other specialists working with children.¹⁹⁴

Please refer to 6.1 for a list of links to certain organizations which are active in matters related to migrants.

9.3. Visa policies

Russia does not have a system of humanitarian visa/ parole specifically designed to protect refugees from persecution.

Russia may grant so called humanitarian visas to foreign nationals for entry into Russia for the purpose of academic, cultural, or political exchanges; sports events; religious contacts (other than for professional religious activities including missionary activities); pilgrimage;

¹⁹⁰ Article 26 of the Social Services Law.

¹⁹¹ Article 9(3) of the Law on Prevention of Children's Vagrancy and Delinquency and article 6 of the Social Services Law.

^{192*} These questions are based on recommendations issued in the *Communication from the European Parliament and the Council – Action Plan on Unaccompanied Minors (2010-2014)*

¹⁹³ Article 7(4) of the Law on the Rights of the Child.

¹⁹⁴ Article 15(3) of the Law on the Rights of the Child.

charity work; or providing services such as humanitarian relief.¹⁹⁵

10. Additional Remarks

None.

Annex: List of Defined Terms

¹⁹⁵ Article 25.5 of Federal Law No. 114-FZ "On the Procedure for Exit from and Entry to the Russian Federation" dated 15 August 1996.

Annex: List of Defined Terms

Baby Care Institution (“BCI”) means medical institutions within the state or municipal healthcare system accommodating children left without parental care or found in a difficult situation who are aged under 3 year old (in Russian – *дом ребенка*).

CIS Cooperation Treaty on Return of Children to Countries of their Residence means a Treaty on Cooperation of Internal Affairs Ministries on Return of Children to Countries of their Residence, signed on 24 September 1993 by the internal affairs ministries of the then CIS countries including Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine, in effect from 24 September 1993.

European Convention on Human Rights means the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Government Regulations for Guardians’ Recruitment and Training means regulations for recruitment, recording and training of individuals willing to become guardians or caregivers approved by Government Resolution No. 423 dated 18 May 2009.

Government Resolution No. 170 dated 26 February 2015 means Government Resolution No. 170 dated 26 February 2015 approving the rules for medical examination of children left without parental care who are placed under supervision of the relevant specialized organizations.

Government Resolution No. 481 dated 24 May 2014 means Government Resolution No. 481 dated 24 May 2014 approving regulations for organizations for orphans and children left without parental care.

Government Resolution No. 1306 dated 30 December 2013 means Government Resolution No. 1306 dated 30 December 2013 approving the rules for accommodation (stay) in special institutions of the Ministry for Internal Affairs of the Russian Federation or its territorial department of foreign nationals and stateless persons subject to deportation from the Russian Federation.

Government Resolution No. 896 dated 27 November 2000 means Government Resolution No. 896 dated 27 November 2000 approving sample provisions of institutions for children in need for social rehabilitation.

Guardianship Law means Federal Law No. 48-FZ "On Guardianship and Care Giving" dated 24 August 2008.

Healthcare Law means Federal Law No. 323-FZ "On Foundations of Healthcare in the Russian Federation" dated 21 November 2011.

Institution for Children in Need for Urgent Rehabilitation (“ICNUR”) means a social rehabilitation center or a social asylum for children, or a center for assistance to children left without parental care for the purpose of urgent social assistance established within the social service system of executive bodies of constituent entities of the Russian Federation, or municipalities to accommodate children left without parental care aged between 3 and 18 year old (in Russian – *специализированные учреждения для несовершеннолетних, нуждающихся в социальной реабилитации*).

Law on Additional Guarantees to Children Left without Parental Care means Federal Law No. 159-FZ "On Additional Guarantees of Social Assistance to Orphans and Children Left without Parental Care" dated 21 December 1996.

Law on Education means Federal Law No. 273-FZ “On Education” dated 29 December 2012.

Law on Foreigners means Federal Law No. 115-FZ "On Legal Status of Foreign Citizens in the Russian Federation" dated 25 July 2002.

Law on Police means Federal Law No. 3-FZ "On Police" dated 7 February 2011.

Law on Prevention of Children's Vagrancy and Delinquency means Federal Law No. 120-FZ "On Foundations of the System of Prevention of Children's Vagrancy and Delinquency" dated 24 June 1999.

Law on Refugees means Federal Law No. 4528-1 "On Refugees" dated 19 February 1993.

Law on the Rights of the Child means Federal Law No. 124-FZ "On Main Guarantees of the Rights of the Child in the Russian Federation" dated 24 July 1998.

Order No. 343H of the Healthcare Ministry dated 11 April 2012 means Order No. 343H of the Healthcare and Social Development Ministry of the Russian Federation dated 11 April 2012 approving the procedure for accommodation by medical organizations of children found in a difficult situation until they reach 4 years old.

Order No. 344H of the Healthcare Ministry dated 12 April 2012 means Order No. 344H of the Healthcare and Social Development Ministry of the Russian Federation dated 12 April 2012 approving template regulations on "baby houses."

Order No. 286 of the Healthcare Ministry of the Russian Federation dated 24 January 2004 means Order No. 286 of the Healthcare Ministry approving a medical card form for a baby placed within a Baby Care Institution dated 28 July 2000.

Order No. 2 of the Healthcare Ministry of the Russian Federation dated 24 January 2003 means Order No. 2 of the Healthcare Ministry of the Russian Federation "On Improvement of Functioning of Baby Care Institutions" dated 24 January 2003.

Order No. 711H of the Healthcare Ministry dated 13 October 2015 means Order No. 711H of the Healthcare Ministry of the Russian Federation dated 13 October 2015 approving a template prescription for medical examination and a list of required medical tests and a template report on medical examination results.

Order No. 25 of the Labor Ministry dated 29 March 2002 means Order No. 25 of the Ministry for Labor and Social Development of the Russian Federation dated 29 March 2002 approving recommendations on organization of institutions for children in need for social rehabilitation.

Order No. 839 of the Ministry for Internal Affairs dated 1 September 2012 means Order No. 839 of the Ministry for Internal Affairs "On Improvement of Functioning of Detention Centers for Juvenile Offenders" dated 1 September 2012.

Rules on Regular Checks of the Child's Conditions means rules for performance by the guardianship and care authorities of checks of the living conditions of the child who is appointed a guardian/caregiver, of the respect for the child's rights and legitimate interests, safety of the child's property and compliance with individual obligations of the guardian/caregiver in respect of the child approved by Government Resolution No. 423 dated 18 May 2009.

Social Services Law means Federal Law No. 442-FZ "On Foundations of Social Services Provided to People in the Russian Federation" dated 28 December 2013.

Specialized Institution means a specialized institution providing social services, or educational and/or medical organizations where orphans and children left without parental care are placed.