



PUBLIC PARTICIPATION OF CHILDREN: FOUNDATIONS AND A REVIEW OF RUSSIAN LEGAL PRACTICES UNDER THE CONVENTION ON THE RIGHTS OF THE CHILD

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ABSTRACT

Public participation or active engagement in deliberation of political agenda sets up the citizens' 'will' to determine the outcomes of political decisions. Hereby various subgroups have a chance to claim their particular interests to avoid being bypassed in the overwhelming mass of even a benevolent majority. Children as a very particular subgroup lack political standing. This leaves a shadow on the democratic backbone of human rights law advocating for free and equal consensual will-formation. Not appealing to the reduction of voting age, it is suggested that children can influence public affairs in other ways than adults do. This question is especially relevant for Russia where the Soviet-era denial of children's legal personality still echoes in the statutory law, challenging their meaningful involvement in public decision-making. Russian legal practices regarding children's participation are examined through state reports and Concluding Observations of the UN Committee on the Rights of the Child. The author utilizes provisions of Russian statutory law and its application to match the participatory picture drawn in the official reports with the Russian legal reality.

KEYWORDS

Children in public decision-making, consideration of children's views, political rights, children's parliaments, children's councils, children's associations, local assemblies

NOTE

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INTRODUCTION

This article considers the compliance of Russia with its international obligations regarding children's public participation. The contemporary legal practices of children's involvement in public decision-making processes resulted from the implementation of the Convention on the Rights of the Child. Not only such practices but the whole understanding of the children's legal personality changed significantly in comparison with those of the Soviet period under the influence of this instrument. These issues are discussed in the three sections of this article.

Outlining the foundations of children's public participation, the first section considers the theoretical origins of participation and the participatory provisions of the Convention on the Rights of the Child. The author gives an overview of the Russian contribution to the treaty-monitoring procedure before the UN Committee on the Rights of the Child. For a fuller understanding of the matter in Russia the review of the past soviet legal practices denying children's legal personality is scrutinized. After this contextualization the facilitation of minors' participatory rights and, particularly, some aspects related to the consideration of the children's views by the Russian state authorities are sketched.

The second chapter aims to balance children's entitlements to influence public decision-making against the non-political nature of their rights. It is argued that children are entitled to some limited political freedoms which give rise to participatory claims.

The third part examines the precise forms on which children realize their public participation. The author identifies realization of such freedoms as the freedom of assembly, association, and expression among such forms. The review of the case dealt with by the Russian Supreme Court concerning the state's non-involvement in the activity of children's associations is suggested in this chapter. Children's councils, children's parliaments and the access to decision-making are also regarded in this chapter as participatory forms.

Generalizing outcomes of the research are suggested in the concluding section.

1. THE FOUNDATIONS OF CHILDREN'S PUBLIC PARTICIPATION¹

1.1. ON THE LOGIC OF THIS ARTICLE

This article discusses the issues of children's public participation in Russia. The first group of questions relate to the nature of children's participation, which in most instances is non-political. Legal justification for children's public participation is therefore urgent, as the right to take part in the conduct of public affairs is a political right. A possible solution for this is proposed. As well, a briefing is suggested to the reader concerning the evolution of the Russian legal dogmas and practices concerning children's legal subjectivity.

The second group of problems pertains to the issue of the forms in which children realize their public participation. Although human rights instruments do not exhaustively spell out certain participatory forms, the latter may be differentiated from praxis under the Convention on the Rights of the Child (the CRC Convention). Children's councils and parliaments, access to decision-making, and consultations with children on matters affecting them are mentioned by the CRC Committee in its General Comments.² The 'kick-start' to exploration of various participatory forms, however, is given by General Comment 25 of the UN Human Rights Committee dealing with the right to take part in the conduct of public affairs. Not all ways of active engagement in the conduct of public affairs are applicable to children. This is due to the age criteria falling within the scope of the reasonable restriction of voting rights and the right to equal access to the public service. Opportunities are open for children to take part in popular assemblies, in bodies representing citizens in consultation with government,³ and to participate through public debate and dialogue with their representatives⁴ or through the capacity to organize.⁵ Full enjoyment of the freedom to hold peaceful meetings, to criticize, oppose, and advertise political ideas can also be used by children to take part in the conduct of

¹ For the purposes of the present chapter and in conformity with the provisions of the main international human rights instruments, the child is understood hereby as a human being below the age of eighteen years.

² See, for example, UN Committee on the Rights of the Child, General Comment No. 11 (2009), *Indigenous Children and their Rights under the Convention*, UN Doc. CRC/C/GC/11, 12 February 2009, paras. 31, 39; UN Committee on the Rights of the Child, General Comment No. 1, (2001), *The Aims of Education*, 17 April 2001, UN Doc. CRC/GC/2001/, para. 8. UN Committee on the Rights of the Child, General Comment No. 5 (2003), *General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)*, 27 November 2003, UN Doc. CRC/GC/2003/5., para. 12; UN Committee on the Rights of the Child, General comment No. 9 (2006), *The Rights of Children with Disabilities*, 27 February 2007, UN Doc. CRC/C/GC/9, para. 32.

³ UN Human Rights Committee, General Comment No. 25, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25)*, UN Doc. CCPR/C/21/Rev.1/Add.7 (1996), Reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 168 (2003), para. 6.

⁴ *Ibid.*, para. 8.

⁵ *Ibid.*

public affairs.⁶ This is why expression of children's political opinions by virtue of media and various surveys is seen among their valid participatory tools.

1.2. THEORETICAL ORIGINS OF CHILDREN'S PUBLIC PARTICIPATION

Public participation regards the right to take part in the conduct of public affairs.⁷ The basics of participation come from age-old social practices and are conceptualized by legal philosophers. A theory of "deliberative democracy" by Habermas⁸ provides a close reference to public participation. Deliberative democracy implies active engagement of all citizens in decision-making processes thus contributing to a free consensual will-formation. Habermas suggests that mere voting in elections cannot ensure genuine will-formation. Such formal procedures only legitimize decisions of state authorities. Habermas argues for the existence of substantive democracy or "genuine participation of citizens in the processes of political will-formation"⁹ as a complementing element of formal democracy. Thus, preceding final legitimation in parliamentary bodies, public deliberations give substance to democratic processes of decision-making. The same desired result is conveyed by the UN Human Rights Committee regarding the right to take part in the conduct of public affairs which "lies at the core of democratic government based on the consent of the people".¹⁰

Superficially, this has very little to do with children. Minors are excluded from participation in political life, following the established state practices based on the existing human rights norms. Does this mean that their voices are not counted in general will-formation? At least from the position of general structural philosophy it should not be like this. The work of Fattore and Turnbull is relevant in the present context. They argue that children can be counted as equal participants in political will-formation. Adding on Habermas' theory of deliberative democracy and utilizing his theory of communicative action, these authors advocate for children being a politically differentiated social group able to advocate for their interests in a

⁶ UN Human Rights Committee, General Comment No. 25, *The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25)*, UN Doc. CCPR/C/21/Rev.1/Add.7 (1996), Reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 168 (2003), para. 25.

⁷ The conduct of public affairs is interpreted by the UN Human Rights Committee as "a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels" (UN Human Rights Committee, General Comment 25, *supra* note 3, para. 5).

⁸ The issues of deliberative democracy were first raised by Habermas in his work 'Legitimation Crisis': (Jurgen Habermas, *Legitimation Crisis* (Cambridge: Polity Press, 1989)). These ideas were developed further in the book "Between Facts and Norms" where the author reflects upon the meaning of public discourse in democracy (Jurgen Habermas, *Between Facts and Norms* (Cambridge, Massachusetts: The MIT Press, 1996)).

⁹ Jurgen Habermas, *Legitimation Crisis*, *supra* note 8, p. 36.

¹⁰ UN Human Rights Committee, General Comment 25, *supra* note 3, para. 1.

meaningful way. These authors derive children's inclusion in public deliberation from the fact that children "inhabit civil society and not adult political institutions".¹¹ As far as, following Habermas, political will originates in civil society, all members of society may participate in will-formation. Children are not an exception. The conclusion made by Fattore and Turnbull that "shared understanding is possible between actors of diverse competencies, something that is important where children and adults form communicative relationships"¹² promotes the leading argument of the present paper. This implication comes not merely from conclusion upon children's public participation on the grounds of their belonging to civil society and capability to communicate consciously. Inclusion of minors in deliberation processes meets the objective to elaborate the 'golden mean' of generalized public preferences. Children's voices representing one of the subgroups' diverse needs and opinions ought to be counted to avoid possible conflicts of interests in society.

1.3. PARTICIPATORY PROVISIONS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

The CRC is a child-specific UN human rights instrument. Its adoption is justified in most instances by the need of special protection and vulnerability of children.¹³ Guaranteeing a wide range of rights for the child this Convention does not categorize these rights as definitively civil or political. The CRC also provides for a specific monitoring mechanism which is realized by virtue of the activities of the UN Committee on the Rights of the Child.¹⁴ The Committee receives periodic state reports with information concerning on the measures which give effect to the rights recognized by the Convention and on the progress made on the enjoyment of those rights.¹⁵ The Committee makes general recommendations based on this information. These recommendations are transmitted to states' parties concerned and reported to the UN General Assembly.¹⁶

This most widely ratified Convention has several provisions related to participation. Taken together they give rise to participatory rights of minors. The belief that children have the right to express their views "is one of the more radical

¹¹ Toby Fattore and Nick Turnbull, "Theorizing Representation of and Engagement with Children: the Political Dimension of Child-Oriented Communication": 49; in: Jan Mason and Toby Fattore, eds., *Children taken Seriously: in Theory, Policy and Practice* (London; Philadelphia (Pa.): Jessica Kingsley Publishers, 2005).

¹² *Ibid.*: 48.

¹³ Lawrence J. Le Blanc, *The Convention on the Rights of the Child* (Lincoln: University of Nebraska Press, 1995), p. xv.

¹⁴ Convention on the Rights of Child (CRC), Concluded 20 November 1989, Entered into force 2 September 1990, 1577 U.N.T.S.3., art. 43.

¹⁵ CRC, *supra* note 14, art. 44.

¹⁶ *Ibid.*, art. 45.

thrusts of the (CRC) Convention".¹⁷ The right to express one's views under article 12 of this instrument ensures minor's involvement in decision-making.¹⁸ This is the most operational provision allowing children's public participation. It reinforces the status of the young child as an active participant in the promotion, protection and monitoring of their rights.¹⁹ The wording of article 12 implies expression of children's views in "judicial and administrative proceedings affecting the child". Legal opportunity to express one's views "can be seen as part of a repeated refrain in contemporary childhood discourses that children must have their autonomy recognized, be given a voice and have a say in their own lives".²⁰ Realization of public participation is also derived from this provision. Owing to its overall meaning, interpretation to which was given by the CRC Committee, they allow entitlements for minors to participate in public decision-making. The provisions of article 12 of the CRC are defined as one of the "general principles" of the Convention.²¹

However, it would be incomplete to track the implementation of the rights under article 12 of the CRC in isolation from other selected provisions of this Convention ensuring public participation. This conclusion follows from the observation of the UN Human Rights Committee monitoring the implementation of the International Covenant on Civil and Political Rights (the ICCPR).²² Other rights guaranteed by the CRC also give rise to children's participatory claims. In this regard Le Blanc labels all participatory rights as "empowerment rights", meaning that they "relate to a person being heard on matters that affect his or her life".²³ Such are the right to freedom of expression; including freedom to seek, receive and

¹⁷ Sara Muscroft, ed., *Children's Rights: Reality or Rhetoric? The UN Convention on the Rights of the Child: the First Ten Years* (London: the International Save the Children Alliance, 1999), p. 28.

¹⁸ The article provides that: "1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law".

¹⁹ UN Committee on the Rights of the Child, General Comment No. 7 (2005), *Implementing Child Rights in Early Childhood*, 20 September 2006, UN Doc. CRC/C/GC/7/Rev.1., para. 14.

²⁰ Fiona E. Raitt, "The Children's Rights Movement: Infusions of Feminism," *Canadian Journal of Family Law* (2005): 21.

²¹ They are interpreted by General Comment No. 5 as following: "[t]his principle, which highlights the role of the child as an active participant in the promotion, protection and monitoring of his or her rights, applies equally to all measures adopted by states to implement the convention" (UN Committee on the Rights of the Child, General Comment No. 5, *supra* note 2, para. 12). Among other general principles the following are mentioned: the obligation of states to respect and ensure the rights set forth in the convention to each child within their jurisdiction without discrimination of any kind (article 2); the best interests of the child (article 3 (1)); and the child's inherent right to life and states parties' obligation to ensure to the maximum extent possible the survival and development of the child (article 6).

²² *International Covenant on Civil and Political Rights*, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, Entered into force 23 March 1976, 999 U.N.T.S. 302. Following the Committee, participation by exerting influence through public debate and dialogue with ones' representatives or through capacity to organize 'is supported by ensuring freedom of expression, assembly and association' (UN Human Rights Committee, General Comment No. 25, *supra* note 3, para. 8).

²³ Lawrence J. Le Blanc, *supra* note 13, p. 157.

impart information and ideas of all kinds;²⁴ the right to freedom of thought, conscience and religion;²⁵ and the right to information.²⁶ The right to freedom of association and to freedom of peaceful assembly also supports public participation.²⁷ The CRC does not draw any specific line between the freedom of peaceful assembly and the freedom of association. It regulates these freedoms by virtue of one legal provision of its article 15. The right of everyone to form and join trade unions as an extension of the right to freedom of association²⁸ is not mentioned by this instrument. However, article 23 of the CRC mentions specifically participation of mentally or physically disabled children.²⁹

Thus, the CRC does not equate its provisions regarding children's public participation with the classic participatory right to take part in the conduct of public affairs; to vote and to stand for elections or for public office. Bringing the message that children are nonetheless equal rights-holders with others this instrument reaffirms that minors are not totally excluded from opportunities to influence public affairs. Compensating the 'closed' opportunities for children to fully realize political rights, the CRC opens other channels for children to take part in decision-making processes.

1.4. CHILDREN'S PUBLIC PARTICIPATION IN RUSSIA: JUSTIFICATION FOR THE CONVENTION ON THE RIGHTS OF THE CHILD

The CRC is practically the first human rights instrument facilitating limited political rights of children. The USSR joined this Convention in 1990. Practical realization of its provisions is therefore important for Russia as the successor of the Union. Every five years the state parties submit reports to the UN Committee in the Rights of the Child (the CRC Committee). They inform on which measures are undertaken to ensure children's rights and which impediments are met on the way to realization of separate provisions of this Convention. Basing its assessment on the information submitted by the states the Committee draws up recommendations as for what should be specifically taken into account, which problems should be solved in priority order, or which measures could be undertaken to solve these problems. The Russian Federation has submitted three periodic reports to the CRC Committee since 1992. These reporting materials are referred to throughout this article. The analysis of the praxis of the CRC Committee regarding other states is

²⁴ CRC, *supra* note 14, art. 13.

²⁵ *Ibid.*, art. 14.

²⁶ *Ibid.*, art. 17.

²⁷ *Ibid.*, art. 15.

²⁸ As specified, for example, by article 22 of the ICCPR.

²⁹ According to para. 1 of this article: 'States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community'.

also resorted to. This gives the point of comparison for reflecting upon the Russian legal practices. The article also considers the Russian statutory law and the practices of its implementation. This is done in order to investigate the Russian legal realities regarding children's public participation.

1.5. FROM THE SOVIET DENIAL TO LIMITED LEGAL RECOGNITION OF CHILDREN'S PARTICIPATORY RIGHTS IN RUSSIA

1.5.1. THE PRESENT FRAMES OF CHILDREN'S PUBLIC PARTICIPATION IN RUSSIA

The CRC entered into force for the USSR from 15 September 1990 being directly applicable. Despite the fact that this instrument guarantees separate political freedoms the contemporary Russian legal doctrine has not yet clearly settled with the issue concerning children's political rights. When Zaryaev and Malkov argue for such children's political rights as the right to assembly and association,³⁰ Chirkin denies the existence of children's political rights.³¹ The academic merits of these three scholars are widely recognised in Russia. Again, this contradiction in opinions might be explained by differentiation between the 'core' political rights and 'complementing' political freedoms.

Under the influence of the CRC the evolution of children's public participation in Russia has made a cardinal turn on its way from the soviet-era denial of children's legal personality to the present limited participatory rights of minors. It passed the temporary stage of allowing participation in local self-government to those who have attained 16 years. The law 'On Local Self-Government in the Russian Federation' of 6 July 1991 provided that persons who have attained 16 years can take part in public gatherings. These gatherings decided on important issues of territorial self-government.³² This law has been null and void since the beginning of 1999. The meaningful opportunities for children to participate in local self-government were cut off with its nullification. In the same year the bill³³ was brought to the State *Duma* – the lower chamber of the Russian Parliament. This bill proposed allowing persons who have reached 16 years taking part in other than

³⁰ A.V. Zaryaev and V.D. Malkov, *Yuvenalnoe pravo: uchebnik dlya vuzov (Juvenile Law: A Textbook for Higher Educational Establishments)* (Moscow: ZAO Yustitsinform, 2005).

³¹ Veniamin Evgenievitch Chirkin, *Yuridicheskoe litso publichnogo prava (Legal Personality in Public Law)* (Moscow: Norma, 2007).

³² Territorial self-government implies the citizens' self-organization in the place of their residence on a certain part of the territory of a municipality aiming at realization of their initiatives regarding the matters of local significance with their own forces and at their own risk.

³³ The Bill No. 99111398-2 'On the Basic Guarantees of the Rights of the Citizens to Take Part in Local Self-Government'; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus".

elections and referenda forms of local-self government. It was declined by parliamentarians.³⁴ The reasoning behind this referred to the "lack of clarity" of those exact "forms" which had been under consideration of the bill. As well, according to the same denial reasoning, neither the Russian Constitution nor the federal statutory laws allow any reduction of full age requirement.³⁵ A year later an attempt of another bill³⁶ suggested general reduction of voting age to 16 years. Not surprisingly, this bill was excluded from consideration by the parliament.³⁷ For now children are recognised as passive right holders by the Russian Constitution which claims that human rights and freedom belong to everybody since the day of birth.³⁸ Not only has their birth entitled the Russian children to certain rights. A child conceived during the lifetime of the deceased and born after the opening of the inheritance can be called upon to inherit.³⁹ Active realization of rights is connected to the full age which is 18 years. Two legal exceptions allow full realization of civil rights prior to the attainment of full age. Special procedures related to 'emancipation'⁴⁰ and to conclusion of marriage prior to the attainment of 18 years of age⁴¹ make a person a full participant of contractual relations. As for political rights, the fulfilment of certain age requirements allows exercising only some of them. This opens up the opportunity for children's public participation by virtue of several forms which are discussed later.

³⁴ Determination of the State Duma of the Federal Assembly of the Russian Federation of 2 June 2000 No. 451-III GD 'On the Bill 'On the Basic Guarantees of the Rights of the Citizens to Take Part in Local Self-Government'; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2000, no. 25, item 2665).

³⁵ Following the Constitutional provision of article 60 '[t]he citizen of the Russian Federation shall be recognized to be of legal age and may independently exercise his rights and duties in full upon reaching the age of 18'.

³⁶ The Bill No 23045-3 'On Amending the Federal Law 'On the Basic Guarantees of Electoral Rights and the Rights to Take Part in Referendum of the Citizens of the Russian Federation', to the Federal Law 'On Elections of the Members of the State Duma of the Federal Assembly of the Russian Federation', to the Federal Law 'On the Elections of the President of the Russian Federation', to the Federal Law 'On Ensuring of Constitutional Rights of the Citizens of the Russian Federation to Elect and to be Elected to the organs of Local Self- Government' regarding the Reduction of the Age to Elect and to Take Part in Referendum'. The document has not been officially published and is available from the Russian law database 'Consultant Plus'.

³⁷ The Protocol of the Council of the State Duma of the Federal Assembly of the Russian Federation No 135, para. 31; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus".

³⁸ The Constitution of the Russian Federation, art. 17, para. 2.

³⁹ The Civil Code of the Russian Federation, art. 1116, para. 1; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2001, no. 49, item 4552).

⁴⁰ The Civil Code of the Russian Federation provides that: "[t]he minor, who has reached the age of 16 years, may be declared to have the full active capacity, if he works by a labour agreement, including by a contract, or if he engages in business activities upon the consent of the parents, the adopters or the trustee" (*ibid.*, art. 27).

⁴¹ *Ibid.*, art. 21, para. 2.

1.5.2. THE RIGHT OF A CHILD TO EXPRESS HIS OR HER VIEWS IN THE RUSSIAN STATUTORY LAW

Formally the right of a child to express his or her views is fixed in different areas of the Russian law. Participation in individual 'state-child' dialogues is presupposed in the following cases. The right of a child to express his or her opinion in court and administrative procedures is stipulated by article 57 of the Russian Family Code.⁴² Precise instructions on how to implement this norm were given by the Supreme Court of the Russian Federation.⁴³ Regional courts use these instructions as procedural directions.⁴⁴ Decisions on Russian citizenship are also among the cases when children's opinions are legally 'worthy' for public law. The consent of a child who has attained 14 years of age is mandatory for obtaining or withdrawal from the Russian citizenship.⁴⁵ Realization of these two participatory opportunities usually takes the form of granting of consent by a minor. This refers to the individual matters affecting children. The Russian legal order is much stricter regarding their involvement in general public affairs. Rare legal exceptions are fixed by federal statutory law providing for the opportunity to hold membership in children's associations for those who have attained eight years of age.⁴⁶ This provision was introduced only in 2006.⁴⁷ Those who have attained 16 years of age

⁴² According to this article: [t]he child shall have the right to express his opinion in resolving any issue in the family, which infringes upon his interests, and also to be heard out in the course of any court or administrative hearings. It shall be obligatory to take into account the opinion of the child who has reached the age of 10 years, except for in the cases when this is contrary to his interests. In the cases stipulated by the present Code (Articles 59, 72, 132, 134, 136, 143 and 154), the guardianship and trusteeship bodies or the court shall be able to take the decision only with the consent of the child who has reached the age of 10 years.

⁴³ If the court comes to a conclusion that it is necessary to obtain an opinion of a minor in a child rearing dispute, the opinion of a child custody authority is asked before in order to find out whether the presence of a minor in the court may have a negative impact on him or her. The inquiry is conducted with due account on the age and developmental stage of a child in the presence of a teacher in an atmosphere where the influence of other affected persons is left out. While conducting an inquiry the court ought to find out whether the opinion of a child is a consequence of the influence of one of the parents or other affected persons; whether a child fully understands his or her own interests while expressing this opinion; and what are his or her argumentation behind this opinion; and other similar circumstances (*On the Application of the Legislation by Courts When Resolving the Disputes over Child Upbringing*, Ruling of the Plenum of the Supreme Court of the Russian Federation of 27 May 1998 No. 10, para. 20; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus").

⁴⁴ For instance, the Court of *Moscow Oblast* directly referred to this ruling of the Supreme Court when trying as the second instance court the appeal concerning the restoration of parental rights (The Determination of the Court of Moscow Oblast of 12 July 2004 on the case No. 33-5450 "The Case concerning the Claim regarding the Restoration of Parental Rights is Sent for a New Trial because of the Lack of the Obligatory Act of Examination of Child Custody Authorities concerning the Examination of Living Conditions"; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus").

⁴⁵ The Federal Law of 31 May 2002 No. 62-FZ *On the Citizenship of the Russian Federation*, art. 9, para. 2; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2002, no. 22, item 2031).

⁴⁶ The Federal Law of 19 May 1995 No. 82-FZ *On Public Associations*, art. 19; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1995, no. 21, item 1930).

⁴⁷ The Federal Law of 10 October 2006 No. 18-FZ *On Amending of Selected Laws of the Russian Federation*; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2006, no. 3, item 282).

can be organizers of general 'adult' public meetings.⁴⁸ During such meetings citizens collectively express their opinions concerning public affairs.

1.5.3. PAST SOVIET PRACTICES

Prior to these legislative improvements Russian legal theory as well as practice considered children's rights to be derivatives from parental duties. The necessity of a child to have his or her own opinion and to estimate his or her as well as other people's actions remained unconsidered thereby. Such an approach was justified by the lack of full legal subjectivity of a child which had been seen as dependant on the certain level of consciousness and will advancement. Only upon reaching a certain stage of maturity can a person engage in legal relationships, obtain legal rights and carry out relevant duties by his or her conscious actions, and carry out responsibility for these actions. In fact, minors as being legally 'incapable' to act were excluded from participation in legal relationships. Parents and other legal representatives were entitled to participate in legal relationships on behalf of their children.⁴⁹

Another justification for such a position came from the notion of a 'personality' in the soviet legal theory and practice. Along with the rights of citizens the Constitution of the USSR of 1977 fixed the right of a 'personality' to protection by the courts against encroachments on their honour and reputation, life and health, and personal freedom and property (article 57).⁵⁰ In so doing the legal doctrine did not consider as 'personalities', for example, those who had been imprisoned, legally incapable, or below full age.⁵¹

The past exclusion of children from legal relationships has even at present much deeper consequences than a mere lack of legal standing. Still in the modern era the echoes of the soviet 'ignorance' regarding children's rights are dealt by the courts of law. Thus, the formal decision on political repression regarding children under 16 years old was unnecessary, according to the Russian legislation. This was due to the fact that upon reaching this age it was impossible to bring them to criminal responsibility. Nonetheless, these children were in fact repressed and subject to all enforcement measures. Together with their parents who were unjustly

⁴⁸ The Federal Law of 19 June 2004 No. 54-FZ *On Gatherings, Mass-Meetings, Marches, Processions and Vigils*, art. 5; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2004, no. 25, item 2485).

⁴⁹ The reflections of these views were widely indoctrinated by the 'classicist' of the Russian civil law and legal theory Professor Malein (Nikolai Sergeevitch Malein, *Grazhdanskoe pravo i prava lichnosti v SSSR (Civil Law and the Rights of a Personality in the USSR)* (Moscow, Yuridicheskaya literatura, 1981), p. 113-114.

⁵⁰ Noteworthy, the literal Russian meaning of the subject of this right is precisely '*lichnost'*' ('personality'), not individual.

⁵¹ Nikolai Sergeevitch Malein, *supra* note 49, p. 81.

drawn to political repressions, their children were forced to be in prison camps in conditions which clearly infringed on their rights. These circumstances are decisive in dealing with the issue of rehabilitation of victims of political repressions, following the Law of the RSFSR of 18 October 1991 No. 1761-1 'On Rehabilitation of Victims of Political Repressions'. Taking this into account, the Russian Constitutional Court stated that "the circumstance that these children have not attained the age of legal responsibility is irrelevant for the assessment of their legal status and can not be a ground for restriction of their rights and freedoms in the process of rehabilitation".⁵² Such children, following this legal position, should be recognized as repressed on the grounds of political motives with all legal consequences which it implies. Thus children as beings who have not yet entered into a condition of a 'personality' were considered by the soviet legal and social practices to be outside of the public domain. This was based on the stereotyping of a 'personality' following a wider sociological context according to which "personalities are not born; they are cultivated" Such views were upheld by authoritative soviet researchers in the sphere of child psychology and pedagogical techniques.⁵³

1.5.4. CONSIDERATION OF CHILDREN'S VIEWS

At present Russia reports to the CRC Committee that some steps are undertaken in the direction of "giving due account"⁵⁴ to children's voices. Mentioning that "children put forward their proposals, comments and amendments" during the drafting of the selected Russian statutes⁵⁵ the Russian representatives even outlined a special mechanism of consideration of these proposals. Children's opinions are first discussed within various children's associations and meetings "before being formulated and generalized in a composite document".⁵⁶ Such document is further on sent to the relevant state authority. There is no official data, however, available which would allow verifying the further consideration of children's opinions within this authority. Besides, the Russian representatives reported that the opinions of children are taken into consideration when defining additional educational disciplines, in the organization of activity outside school and

⁵² The Ruling of the Constitutional Court of the Russian Federation of 23 May 1995 *On the case of constitutionality check of the articles 2.1 and 16 of the Law of the RSFSR of 18 October 1991 No. 1761-1 'On Rehabilitation of Victims of Political Repressions'*; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1995, no. 22, item 2168).

⁵³ Ivan Fiodorovitch Vedin, *Bitie tcheloveka: deiatelnost i smisl (Personal Being: Activity and sense)* (Riga: 1987), p. 211.

⁵⁴ UN Committee on the Rights of a Child, Second periodic report of the Russian Federation, 20 November 1998, UN Doc. CRC/C/65/Add.5, para. 130.

⁵⁵ *Ibid*

⁵⁶ *Ibid*.

in the children's movements.⁵⁷ At least superficially this shows that the Russian legal order enables children "not only to express opinions on various aspects of daily life, but also to have those opinions taken into account in the adoption of economic, legal, political and other decisions".⁵⁸

2. NON-POLITICAL RIGHTS OF CHILDREN'S VS. THEIR PUBLIC PARTICIPATION. LEGAL JUSTIFICATION FOR CHILDREN'S PUBLIC PARTICIPATION: FROM INTERNATIONAL HUMAN RIGHTS INSTRUMENTS TO THE RUSSIAN LEGAL SYSTEM

International human rights instruments to which Russia is a party become a compound part of its legal system⁵⁹ upon completion of the ratification procedure. On the one hand, these instruments do not directly exclude children from the realization of political rights. For instance the ICCPR incorporated into the Russian law provides that the rights guaranteed by it belong to everyone. Accordingly, there are states which entrust persons who are less than 18 years old with voting rights.⁶⁰ In this and in many other respects the ICCPR "aided in the evolution of the children's rights model, expanding its scope from a care and protection basis to include individual civil and political rights for the child".⁶¹ On the other hand, it would be premature to conclude upon the existence of the child's right to vote based on one's judgment on the practice of a few states. The 'core' participatory provision of article 25 of the ICCPR,⁶² introduces "reasonable" restrictions of the right to take part in the conduct of public affairs. The UN Human Rights Committee clarified that the requirement of age is considered to be a reasonable criterion for

⁵⁷ UN Committee on the Rights of a Child, Second periodic report of the Russian Federation, *supra* note 54, para. 129.

⁵⁸ *Ibid.*

⁵⁹ The Constitution of the Russian Federation, art. 15, para. 4.

⁶⁰ Among such countries is Iran where the "minimum age to vote in elections in accordance with the Elections Act is 16 years" (UN Committee on the Rights of the Child, Initial Periodic Report of Iran (Islamic Republic of), 23 July 1998, UN Doc. CRC/C/41/Add.5 (1997), para. 4 (e)). Though in Austria "children within the meaning of the Convention are therefore excluded from voting in elections to the institutions of representative democracy", there are, nonetheless two exceptions from this rule. Firstly, "children and adolescents have an indirect effect on the composition of the Austrian Parliament to the extent that the *Nationalrat* election regulations allocate seats according to population figures (which include children and adolescents) and not the number of those entitled to vote" (UN Committee on the Rights of the Child, Initial Periodic Report of Austria, 26 June 1997, UN Doc. CRC/C/11/Add.14, para. 79). Secondly, the "right of adolescents who have attained the age of 16 to vote in municipal council elements" was introduced in the following Austrian Lander, namely, Burgenland, Carinthia, and Styria (The UN Committee on the Rights of the Child, Second Periodic Report of Austria, 8 July 2004, UN Doc. CRC/C/83/Add.8, para. 99). The Isle of Man also allows lower voting age of 16 for elections in Isle of Man House of Keys Elections (UN Committee on the Rights of the Child, Third and Fourth Periodic Reports of the United Kingdom of Great Britain and Northern Ireland, 25 February 2008, UN Doc. CRC/C/GBR/4, the Isle of Man, para.4).

⁶¹ Kirsten M. Backstrom, "The International Human Rights of the Child: do they Protect the Female Child?" *George Washington Journal of International Law and Economics* 30 (1996-1997): 569-570.

⁶² Which provides for the right to take part in the conduct of public affairs, to vote, and to have access to the public service.

restriction of the right to vote, to stand for elections⁶³ and to appointment for particular offices.⁶⁴ The vast majority of states including Russia tie voting rights to the full-age. The federal law 'On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to participate in a Referendum' stipulates that the universal electoral rights and the right to participate in a referendum belong to all citizens of the Russian Federation who at the day of voting have reached 18 years of age.⁶⁵ The provision of this article may sometimes cause confusion in application by electoral commissions of the provisions of the Code of Administrative Offences of the Russian Federation⁶⁶ setting forth responsibility for violation of electoral legislation.⁶⁷ As a general rule, a "person who has attained the age of sixteen years old by the moment of committing an administrative offence shall be administratively liable".⁶⁸ Dealing with administrative offences for violations of electoral legislations the Russian electoral commissions may disregard reading the rules of the Administrative Code in conjunction with article 4 of the main federal 'electoral' law. This results in failures to check the age of a person and unnecessary bringing of minors to administrative responsibility. Though having no authority to interpret rules on administrative offences, the Central Electoral Commission⁶⁹ has nonetheless given some recommendations for other electoral commissions on the application of the rules of the Code of Administrative Offences.⁷⁰ Following this interpretation, the persons who have not attained 18 years to the day of voting can be brought to administrative responsibility with due account to the nature of the offence and therefore by virtue of separate provisions of the Code (for example, by virtue of article 5.12⁷¹; or article 5.14⁷²).

Justifying the existence of children's limited political rights one shifts the focus from the meta-norm of public participation to other affiliated participatory provisions of the ICCPR. The age requirement is not especially noted by the ICCPR

⁶³ UN Human Rights Committee, *General Comment No. 25*, *supra* note 3, para. 10.

⁶⁴ *Ibid.*, para. 4.

⁶⁵ The Federal Law of 12 June 2002 No. 67- FZ *On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to Participate in a Referendum*, art. 4; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2002, no. 24, item 2253).

⁶⁶ Following article 21.2 of the mentioned Federal law the members of electoral commissions can be entitled by the superior electoral commissions to draw up protocols on administrative offences.

⁶⁷ The Administrative Code contains 25 compositions of crimes (*corpus delicti*) regarding violations electoral rights of the citizens, starting from violation of a right to familiarize oneself with a list of voters and ending with non-publishing of the results of voting.

⁶⁸ The Code of Administrative Offences of the Russian Federation, art. 2.3., para. 1; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2002, no. 1, item 1).

⁶⁹ Which is a federal state authority in charge of organization and conduction of elections and referenda in the Russian Federation.

⁷⁰ The Protocol of the Sitting of the Central Electoral Commission of the Russian Federation of 27 September 2006 No. 187-4-4 *On the Recommendations concerning separate Issues of Application of the Code of Administrative Offences of the Russian Federation by Electoral Commissions*; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus".

⁷¹ Production and Dissemination of Anonymous Agitation Material.

⁷² Wilful Elimination or Damage of Printed Materials Relating to Elections or a Referendum.

as a "reasonable" restriction of such participatory rights as the right to freedom of expression, assembly, and association.⁷³ Nonetheless, following the limitation provisions of articles 21-22 of this Covenant greatly depends on states' discretion for the necessity in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. States enjoy a certain margin of appreciation with respect to introduction of legal regulations imposing age restrictions to freedom of assembly and association. The Russian experience in this regard is discussed further on.

One way to justify the existence of children's political rights would be to differentiate between political rights in a narrow and in a wide sense. Some scholars argue for the differentiation between the 'core' political rights concentrated around voting and referenda and between peripheral political rights including political freedoms (freedom of opinion, expression, information, media, assembly, and association).⁷⁴ From this standpoint one cannot say that children do not have political rights. Keeping with this, it is further suggested that children are entitled with limited political rights, including the rights related to political participation. The scope of children's political rights following Backstrom "does not extend to a political voice but only allows children the freedom to express their opinions on those issues affecting them".⁷⁵

Participation of children is for the most part non-political, which seems to be true in many states, Russia included, although international law entitles children with some limited political rights. Nonetheless, almost all topical political matters affect children. There are authors claiming that almost every area of governmental policy refers to children.⁷⁶ Indeed, when the state authorities make decisions concerning education, health-care, or social security this affects children directly as they are among the primary addressees of this directions of state policy. It is fair to conclude that children, as a main rule, do not participate in all political issues, but only in those "affecting them". This clause, "affecting them", stresses the combination of general and individual approach to participation of children.

⁷³ UN Human Rights Committee, *General Comment No. 25*, *supra* note 3, para. 8.

⁷⁴ Such is the opinion of Nowak differentiation between strictly political rights fixed by article 25 of the ICCPR and political rights in a wider sense including political freedoms (Manfred Nowak, *U.N. Covenant on Civil and Political Rights, CCPR Commentary*, 2nd Revised Edition (Kehl, Strasbourg, Arlington: N.P. Engel, 2005), p. 565). Similar is a standpoint of Hassen who differentiates between core political rights including the right to vote, the right to associate, and the right to have one's vote counted and contested political rights (E. Charles Guy-Uriel, "Law, Politics and Judicial Review: a Comment on Hassen," *Journal of Legislation* 31 (2004): 18.

⁷⁵ Kirsten M. Backstrom, *supra* note 61: 552.

⁷⁶ Thomas Hammarberg and Alfild Petren, "The Political Influence of Children": 62; in: Alfild Petren and James Himes, eds., *Children's Rights, Turning Principles into Practices* (Stockholm: Save the Children, Sweden, 2000); Naznin Ahmed Shabnam, "The Breached Contract: what Society Owes its Children for Minimizing their Constitutional Rights," *Howard Law Journal* 50 (2007): 860.

Various foreign commentators convey different views on the existence of children's political rights. Hammarberg and Petren state that children, including adolescents, are deprived of political rights.⁷⁷ However, these authors make such conclusions as, for instance, that the CRC "is the first treaty to recognize the civil and political rights of children",⁷⁸ and that political institutions do have an obligation to consider children's views.⁷⁹ Perhaps these authors imply the mentioned distinction between 'core' political rights and political freedoms which children are entitled to. Other commentators do not explicitly deny political rights of children. For example, Le Blanc clearly reaffirms the regulation of all sets of rights, i.e., civil, political, economic, social, and cultural although the CRC does not make any formal distinction among them.⁸⁰ Similar to Le Blanc's is Jackson's claim that the CRC does not contra-categorize children's rights.⁸¹ Lister argues that the reduction of the voting age practiced by some states is a strong counterargument for "dismissing the issue of children's right to the vote" is of the similar opinion too.⁸² Much depends in this context on what to understand as a right, because "the word 'right' is troublesome enough".⁸³ If one sticks to the normative understanding of 'the right', which presupposes the existence of a general legal provision for a certain claim and a corresponding obligation of others to ensure it, then the existence of children's political rights is under considerable doubt.⁸⁴ This is why the CRC provides for additional participatory guarantees for children, "encouraging children's involvement in decision-making".⁸⁵ Pursuing the efforts to check out whether the existing Russian practices really take children's voices into account the discussion moves on to the exploration of certain children's participatory forms in Russia.

⁷⁷ Giving due recognition to the fact that the Universal Declaration of Human Rights, providing for the right for everyone to take part in the government, "makes no explicit exception for children", these authors explain such an "omission" in such a way that it was so obvious when drafting this declaration "that children were not covered by the word 'everyone'" (Thomas Hammarberg and Alfhiild Petren, *supra* note 76: 61).

⁷⁸ *Ibid.*: 62.

⁷⁹ *Ibid.*: 63.

⁸⁰ Lawrence J. Le Blanc, *supra* note 13, p. xvii. He draws attention to the fact that the opponents of adoption of the CRC supported it with the claim that existing human rights instruments provide sufficient coverage of the rights for children. Those advocating for the adoption of a child-specific UN human rights instrument justified it by the need of special protection and vulnerability of children, but not with the claim that children are excluded from some rights guaranteed by other instruments. *Ibid.*, p. xv.

⁸¹ Rochelle D. Jackson, "The War over Children's Rights: and Justice for All? Equalizing the Rights of Children," *Buffalo Human Rights Law Review* 5 (1999): 225.

⁸² Ruth Lister, "Why Citizenship: where, when and how Children," *Theoretical Inquiries in Law* 8 (2007): 705.

⁸³ Samuel M. Davis and Mortimer D. Schwartz, *Children's Rights and the Law* (Massachusetts/Toronto: Lexington Books, 1987), p. 1.

⁸⁴ On the concept of normative rights see, for example, Rex Martin, *A System of Rights* (Oxford: Oxford University Press, 1997).

⁸⁵ Sara Muscroft, *supra* note 17, p. 28.

3. FORMS OF CHILDREN'S PARTICIPATION: POSITIVE RUSSIAN EXPERIENCE AND LESSONS FOR RUSSIA

3.1. REALIZATION OF PARTICIPATORY RIGHTS AND FREEDOMS AS THE FORM OF CHILDREN'S PARTICIPATION

3.1.1. FREEDOM OF ASSOCIATION

Freedom of association has been labelled as one of the "new channels, through which children may make their views known and have them taken into account" by the CRC Committee.⁸⁶ The Committee generally welcomes the increasing number of youth led organizations in various parts of the world. In this context, the Committee reminds us of the right to exercise freedom of association as stipulated in article 15 of the Convention.⁸⁷ Emphasizing the participatory importance of children's associations, the Committee makes a number of particular recommendations for the state parties, such as: systematically ensure the active participation of children's associations in the development of various policies or programs affecting them;⁸⁸ and, encourage the active and systematic involvement of these associations in the promotion and implementation of children's rights.⁸⁹

The Russian delegation stated that "there is a new quality to children's organizations that makes them once again an important factor in the social development of children as free, active citizens of a democratic society and a rapidly changing world".⁹⁰ Children's associations aim primarily at the realization of children's specific interests and the inculcation of democratic values in children and fostering those values by means of elections or standing for election in those associations.⁹¹ As for the Russian Federation, various types of children's associations successfully function. New types of organizations have appeared. They are voluntary and based on a community of interests, such as ecological, charitable, cultural, etc. Moreover, associations that existed in pre-revolutionary

⁸⁶ UN Committee on the Rights of the Child, Concluding Observations on Jordan, UN Doc. CRC A/51/41 (1996), para. 114.

⁸⁷ UN Committee on the Rights of the Child, Days of Discussion, *The Right of the Child to be Heard* (2006), Recommendations, UN Doc. CRC/C/43/3 (2007), para 1016.

⁸⁸ UN Committee on the Rights of the Child, Concluding Observations on the Republic of the Congo, UN Doc. CRC/C/COG/CO/1, para. 31 (c); UN Committee on the Rights of the Child, Concluding Observations on Marshall Islands, UN Doc. CRC/C/MHL/CO/2, para. 31 (b).

⁸⁹ UN Committee on the Rights of the Child, Concluding Observations on Chile, UN Doc. CRC/C/CHL/CO/3, para. 26.

⁹⁰ UN Committee on the Rights of the Child, Initial Periodic of the Russian Federation, 22 October 1992, UN Doc. CRC/C/3/Add.5, para. 84.

⁹¹ UN Committee on the Rights of the Child, Periodic report of Egypt, 11 November 1999, UN Doc. CRC/C/65/Add.9, para. 58.

Russia have been revived such as the Scouts.⁹² Russia reports that every child has the right to take part in the activity of children's associations on the basis of the law on state support for youth and children's organizations.⁹³ Thus, the Russian Federation may perhaps stay out in the line of other states facilitating children's right to association. The right of children to freedom of association is enshrined in the federal law on basic guarantees of the rights of the child. The Russian representatives specified that "[a]rticle 9 of this law stipulates that the administrations of educational establishments are not entitled to place any obstacle in the way of the establishment of pupil's associations, on the initiative of pupils over 8 years of age, except for children's associations that are founded or established by political parties and children's religious organizations".⁹⁴ In their free time pupils may hold assemblies and meetings. The Russian representatives mentioned that the proposals of children are "attentively considered". Particularly, "many of the proposals on the law of the Russian Federation on state support for youth organizations and children's associations were taken into consideration". Moreover an amendment initiated by children to the 1995 federal law on public associations which was accepted, "changed the minimum age for membership of a children's organization".⁹⁵ The minimum age for joining a children's organization was reduced from ten to eight years old in 1997.

3.1.2. THE CASE OF THE RUSSIAN SUPREME COURT CONCERNING STATES' NON-INVOLVEMENT IN THE ACTIVITY OF CHILDREN'S ASSOCIATIONS

Case of *U.* brought to the Supreme Court of the Russian Federation is worthy with respect to the state non-involvement in the activity of children associations. *U.*, the President of a Regional Children Environmental Community Foundation contested the cassation decision of *Murmansk* Regional Court. He applied to the Supreme Court to annul the provisions of the regional law which allegedly violated rights of the citizens and their associations.⁹⁶ The applicant argued firstly that the contested provisions defining the terms under which minors' associations are eligible to state support contradict the Russian Constitution and statutory law which

⁹² UN Committee on the Rights of the Child, Initial Periodic of the Russian Federation, *supra* note 90, para. 83.

⁹³ UN Committee on the Rights of the Child, Second Periodic of the Russian Federation, *supra* note 54, para. 150.

⁹⁴ UN Committee on the Rights of the Child, Third periodic report of the Russian Federation, 15 November 2004, UN Doc. CRC/C/125/Add.5, para 103.

⁹⁵ UN Committee on the Rights of the Child, Second periodic report of the Russian Federation, *supra* note 54, para. 130.

⁹⁶ It is indicated in this case that the applicant argues the provisions of the Law of Murmansk Oblast of 17 May 1999 *On State Support of the Youth and Children Associations of Murmansk Oblast*.

claim the equality of citizens and their associations before the law. Secondly, the applicant insisted that the norm establishing the entitlement of the Governmental Committee of *Murmansk Oblast* to coordinate the activities of these associations allows the Committee's intervention in the freedom of association which is also against the law and violates citizens' rights.

The Supreme Court rejected these claims. Denying the first claim, the Court based its reasoning on the provision of the Federal Law 'On State Support of the Youth and Children Associations', according to which the issues of state support of such associations in the subjects of the Russian Federation and in municipalities are regulated by the laws of the subjects of the Federation (article 2, para. 2). Following this provision, the regional lawmaking body reasonably passed the law establishing the principles of state support by virtue of special-purpose financing from regional budget and extra-budgetary money. As far as state support comes from regional budgetary funds, regional legislative authority is entitled to define the terms, according to which such support is carried out.

Regarding the second the Court found that the applicant misinterprets the law. According to the Court's interpretation, article 14, para. 1 of the contested *Murmansk* law obliges the Governmental Committee to coordinate "the activity of the exercise of the measures of state support of the youth and children associations" but not to coordinate the associations *per se*.⁹⁷

Certainly, the problem of control over state funds is important. However, this concerns only such expenditure supervision which excludes the possibility of the money ending up in private pockets. The issue raised in this case definitely fell far beneath this surface entailing the matters of state control over children's associations by indirect 'ordering' of their activities. The Russian Supreme Court, however, kept up with the line of the federal statutory law providing for purpose-oriented funding of these associations.⁹⁸ The reference to the federal purpose-oriented programmes is well thought as it sets up the threshold of state 'programming' thus providing for formal equality of those associations which follow it.

⁹⁷ Decision of the Supreme Court of the Russian Federation of 3 January 2002, Case No. 34-G01-11: *The rejection of the claims, according to which separate provisions of the Law of Murmansk Oblast of 17 May 1999 'On State Support of the Youth and Children Associations of Murmansk Oblast' allegedly violating rights of citizens and their associations is justifiable because the state support comes about the regional budget, therefore the regional legislative organ is entitled to define the terms, according to which such support is carried out.*

⁹⁸ For instance, article 11 of the Federal Law *On State Support of the Youth and Children Associations* provides that financing of arrangements in support of youth and children associations is pursued by means which are in federal target-oriented programmes in the area of youth policy (para. 1). It continues that federal executive organ in charge of the realization of youth policy carries out responsibility concerning the legality of allocation of means to these associations and also controls the justification of expenditures (The Federal Law of 28 June 1995 *On State Support of the Youth and Children Associations*; in: *Sobranie zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1995, no. 27, item 2503).

3.1.3. FREEDOM OF ASSEMBLY

The Russian Constitution does not specifically entrust children with this freedom. The opportunity for children to assemble peacefully is enshrined by federal laws.⁹⁹ It has already been mentioned that minors who have attained 16 years of age are entitled to be organizers of public meetings.¹⁰⁰ The Russian statutory law offers more 'efficient' chances for minors to influence public affairs through local assemblies. Several types of them are mentioned by the Federal Law 'On General Principles of Organizing Local Self-Government in the Russian Federation'¹⁰¹ as forms of direct participation in local self-government. Only some of these forms are open for minors. For example, minors who have attained 16 years of age are entitled to take part in citizens' gatherings. These gatherings aim at public discussions of the issues related to organization of territorial self-government.¹⁰² This is an important participatory opportunity for children as citizens' gatherings may result in the petition to the organs of local self-government.¹⁰³ The law obliges local authorities to consider such petitions and to provide a written feedback after such consideration.¹⁰⁴ Attainment of the same age allows minors to participate also in public hearings.¹⁰⁵ Such hearings aim to discuss the drafts of the local legal acts, such as the charter of a municipality; the local budget; or the community developmental programs. Certainly, nothing prevents children under 16 from being present in these gatherings or hearings. However, this would mean mere physical presence; the legal importance of the opinion of such minors would be irrelevant.

3.1.4. FREEDOM OF EXPRESSION

Freedom of expression is another distinctive form of children's participation. It can be exercised by different means, including media, participation in surveys, or using telephone help-lines, although other means are possible, too.

⁹⁹ The Federal Law of 24 July 1998 No 124-FZ *On the Basic Guarantees of the Rights of the Child in the Russian Federation*, art. 9, para. 3; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1998, no. 31, item 3802).

¹⁰⁰ The Federal Law of 19 June 2004 No. 54-FZ *On Gatherings, Mass-Meetings, Marches, Processions and Vigils*, *supra* note 48, art. 5.

¹⁰¹ The Federal Law of 6 October 2003 No. 131-FZ *On General Principles of Organizing Local Self-Government in the Russian Federation*; in: *Sobranie zakonodate'lstva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2003, no. 40, item 822).

¹⁰² *Ibid.*, art. 26.

¹⁰³ *Ibid.*, art. 29.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, art. 27.

3.1.4.1. ACCESS TO MEDIA

Media can be viewed as one of the most effective means to enhance children's participation. The CRC Committee recognizes the essential role played by the media in promoting awareness of the right of the child to express views.¹⁰⁶ The Russian representative informed the Committee that "creative participation by children in the production of their own mass media" actively promotes their freedom of expression.¹⁰⁷ Minors have an opportunity to express their views in children's and young people's television broadcasts.¹⁰⁸ This is supported by governmental efforts. The Russian Government claims that children's TV channels being included in a special package aimed at disseminating socially significant information meets the goal to transmit state policy in the sphere of social and cultural development.¹⁰⁹

Looking beyond these statements the practical impact of media involvement in dealing with child-specific issues in Russia seems to be insufficient. Though having no reference to participatory rights, the following cases exemplify a wide gap between organized mainstreaming of topical child issues in media and actual public mobilization. The information about children left without parental care was published in the frames of a special project 'Be my Mother'. The analysis of the results of such publications has shown that this information causes at best feelings of compassion and willingness to contribute some toys or clothes. Rarely people expressed wishes to foster a child in their families.¹¹⁰ There are also cases when publicly released information concerning children is a notorious formality. For example, in *Primorskii Kraj* they compared the dates of the court decisions on international adoption with the dates of information releases. It was found that the releases took place 10-15 days before the relevant court hearings.¹¹¹ Thus, the great potential of media in facilitation of the Russian children's public participation still needs some work to be invested in it. Apart from 'technical' legal efforts to facilitate such participation, measures ought to be taken to increase the general legal culture of population.

¹⁰⁶ UN Committee on the Rights of the Child, Days of Discussion, *supra* note 87, para. 1019.

¹⁰⁷ UN Committee on the Rights of the Child, Initial Periodic of the Russian Federation, *supra* note 90, para. 73.

¹⁰⁸ UN Committee on the Rights of the Child, Third periodic report of the Russian Federation, *supra* note 94, para. 92.

¹⁰⁹ Order of the Government of the Russian Federation of 29 November 2007 No. 1700-r *On the Conception of the Development of the TV-Broadcasting in the Russian Federation for the years 2008-2011*; in: *Sobranie Zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2007, no. 49, item 6221).

¹¹⁰ Decree of the Government of Sverdlovsk Oblast of 26 July 2005 No 583-PP *On the Measures to Eradicate the Breaches of the Legislation on Adoption*; in: *Sobranie Zakonodatel'stva Sverdlovskoi Oblasti (Compilation of Legislation of Sverdlovsk Oblast)* (2005, no. 4-5, item 1074).

¹¹¹ Order of the Ministry of Education and Science of the Russia Federation of 25 April 2006 No 98 *On the Measures to Improve the Activity of Regional Operators of the State Database on the Children Left without Parental Care, of Child Custody organs, of Institutions where the Children Left without Parental Care are Placed, and of Establishments of Monitoring and Placement of Orphan Children and the Children Left without Parental Care*, *Vestnik Obrazovaniia (Herald of Education)* (2006, no. 16).

3.1.4.2. CHILDREN'S PARLIAMENTS

Children's parliaments are viewed not as regular political decision-making bodies but as special forums for communication of minors. They are set up in a wide variety of states representing different geographical groups and practically all existing international organizations.¹¹² Such initiatives "establish links between children and decision makers".¹¹³ The decisions of children's parliaments are advisory by nature. However, these organs might have some budgetary powers if financial resources are allocated to them.¹¹⁴

In the Russian Federation children's parliaments are also practiced. Russia reports to the CRC Committee that "[a]rising from the collaboration between legislative bodies and children's associations a new kind of work has developed during the last 3-4 years - the Children's Parliament, the Children's Chamber, the Children's *Duma*, etc. under the legislative assembly (Moscow, Kemerovo, etc.)".¹¹⁵ The activities of the Central Electoral Commission (the CEC) of the Russian Federation are noteworthy in this connection. The CEC consolidates regional progressive experiences regarding children's parliaments. For example, having studied the achievements of the Electoral Commission of *Arkhangelsk Oblast* regarding elections in Youth Parliament of *Severodvinsk* the CEC recommended other subjects of the Russian Federation to adhere to this experience.¹¹⁶ Several measures to reach this goal were proposed, such as: running the courses on foundations of electoral law in schools; development and distribution of tutorial literature and awareness-raising materials, supporting youth organizations in organizing seminars, round tables on the issues of informing young electorate concerning electoral process.

Allowing children to express their views is one of the uncontested advantages of this form of children's participation. Children's parliaments also bring other positive results contributing to development of some practical skills such as gaining familiarity with the parliamentary system.¹¹⁷ These bodies carry out a lot of important functions, the most widely spread of which is providing for discussions on

¹¹² For example: Bolivia, Chad, Egypt, El Salvador, Georgia, Guinea, Iceland, Liberia, Liechtenstein, Lithuania, Mali, Mexico, Mongolia, Mozambique, The Kingdom of the Netherlands (Netherlands and Aruba), Nicaragua, Nigeria.

¹¹³ UN Committee on the Rights of the Child, Days of Discussion, *supra* note 87, para. 1013.

¹¹⁴ UN Committee on the Rights of the Child, Second periodic report of Mali, 11 April 2006, UN Doc. CRC/C/MLI/2, para. 194.

¹¹⁵ UN Committee on the Rights of the Child, Second periodic report of the Russian Federation, *supra* note 54, para. 125.

¹¹⁶ The Ordinance of the Central Electoral Commission of the Russian Federation of 28 April 1999 No. 4/20-Sh *On the Activity of the Electoral Commission of Arkhangelsk Oblast to Promote Legal Culture of Young Electorate*; in: *Vestnik Tsentribirkoma RF (Herald of the Central Electoral Commission of the Russian Federation)* Vol. 4 (1999).

¹¹⁷ UN Committee on the Rights of the Child, Second periodic report of Georgia, 28 April 2003, UN Doc. CRC/C/104/Add.1, para. 77.

principal issues. For example, in some subjects of the Russian Federation children's parliaments "have the rights to initiate legislation, to make an expert appraisal of decisions taken, and to move additions and amendments to existing legislation".¹¹⁸ The question of the consideration of the views of children expressed in the frames of children's parliaments by state authorities remains unresolved in Russia. Few states introduce real mechanisms to ensure that children's parliaments can be meaningful, not façade forums for expression of children's views. Georgia makes quite a vague statement that the members of their national parliaments are obliged to give them due consideration.¹¹⁹ However, the mere informal interaction with state organs can not fully ensure the consideration of the decisions of children's parliaments. The CRC Committee repeatedly recommends possible solutions for this problem, for example, strengthening the efforts to ensure the consideration of recommendations of the children's parliaments;¹²⁰ or ensuring that members of the youth parliament should be allowed to participate in the deliberations of national parliaments and to offer their advice on issues affecting them.¹²¹

The Committee also urges states parties to establish clear guidelines on how the views presented by children are taken into account by the formal political process, and how children are provided with adequate responses to their proposals.¹²² Despite the lack of information concerning the steps undertaken by the states to establish such guidelines one solution is suggested hereby. Establishing a procedure, according to which a report is submitted to state authorities after the sessions of children's parliaments, would ensure consideration of children's views. Certain time could be given to the authorities to provide feedback of what could be done in order to meet the claims outlined in the report. For example, the children's parliament of Mali submits a report to the authorities after its each biannual session on its concerns about the situation of children and "the action it expects from the government".¹²³ There is no mention of the response actions which ought to be undertaken by the government. It would be logical to suggest that the government gives comments upon the claims of children concerning the actions expected from it. These recommendations as well as the positive experience of other states outlined above may one day also be realized by Russia.

¹¹⁸ UN Committee on the Rights of the Child, Second periodic report of the Russian Federation, *supra* note 54, para. 125.

¹¹⁹ UN Committee on the Rights of the Child, Second periodic report of Georgia, *supra* note 117, para. 77.

¹²⁰ UN Committee on the Rights of the Child, Concluding Observations on Mozambique, UN Doc. CRC/C/114 (2002), para. 282.

¹²¹ UN Committee on the Rights of the Child, Initial report of the Netherlands (Aruba), June 2003, UN Doc. CRC/C/117/Add.2, para. 51.

¹²² UN Committee on the Rights of the Child, Days of Discussion, *supra* note 87, para. 1013.

¹²³ UN Committee on the Rights of the Child, Second periodic report of Mali, *supra* note 114, para. 193.

3.1.4.3. PARTICIPATION IN SURVEYS¹²⁴

Surveys are another form of children's participation through realization of freedom of expression. The participatory contribution of surveys is undeniable, as a "barometer of children's views"¹²⁵ they provide for maintaining contacts with the concerned minors. The following example shows the potential of surveys in Russia for public participation at the local level. The aim of local surveys is to identify the citizens' opinions concerning different issues of local self-government which should be necessarily considered by local and state authorities.¹²⁶ The results of these surveys are non-binding. Despite this, children cannot express their opinions, since the law sets up a reservation, according to which only those citizens who hold electoral rights are entitled to participate in such surveys.¹²⁷ This limitation seems to be disproportionate as it contradicts the main goal of citizens' participation, i.e. harmonization of people's preferences. Who, for example, may know better, if not children themselves, in which facilities provided for by the efforts of organized self-government they would like to play?

The analysis of the praxis of the CRC Committee reveals that in other states surveys are successfully practiced to facilitate public participation of children. In Germany such surveys are regular events. The 'Youth Survey' has been conducted every five years since the end of the 1980s, giving an insight into the interests and wishes of older children, specifically social and political orientation of 16 to 29 year olds.¹²⁸ State authorities may conclude after such surveys upon their priorities in enhancement of participatory rights, for example, to put more focus on human rights in public school curriculum. There are indeed no visible obstacles preventing the utilization of such experiences by the Russian Federation.

3.2. CHILDREN COUNCILS WITHIN EDUCATIONAL INSTITUTIONS

The idea of such councils was officially introduced by the CRC Committee in General Comment No.1, which draws attention to distinctive forms of participation in school life. States' efforts to (re)introduce students' and pupils' councils are acknowledged by the CRC Committee as "a first step in encouraging greater

¹²⁴ Surveys mean hereby the collection of information concerning certain matters by virtue of referring questions to a certain group of respondents.

¹²⁵ UN Committee on the Rights of the Child, Second periodic report of Germany, 24 July 2003, CRC/C/83/Add.7, para. 31.

¹²⁶ The Federal Law of 6 October 2003 No. 131-FZ *On General Principles of Organizing Local Self-Government in the Russian Federation*, *supra* note 101, art. 31, para. 1.

¹²⁷ *Ibid.*, art. 31, para. 2.

¹²⁸ UN Committee on the Rights of the Child, Second periodic report of Germany, *supra* note 125, para. 32.

acceptance of the participatory rights of children".¹²⁹ Children's councils as compared with their parliaments are not *ad hoc* forums enabling children to express their views, but regular bodies. Minors participate in various councils within educational institutions, such as school councils, pupils' councils, and student councils practiced in a wide range of states.¹³⁰ These councils carry out children's initiatives, allowing minors deciding on the issues of studying process. Involving the children directly, school councils are one of the primary instances to deal with some specific human rights issues connected to studies, such as violence and bullying in schools.¹³¹

Aiming to establish a personality-oriented system of education, the Russian Federation undertakes the change from authoritarian to democratic nature of education. Such a system presupposes *inter alia* participation of pupils in various forms of school self-government. After such reconsideration the Russian statutory law mentions the "democratic nature" of educational administration.¹³² The goal to humanize education is set by the federal programme on development of education.¹³³ To reach this goal various school councils are established in Russia on the basis of the law 'On Education'.¹³⁴ Such councils include representatives of local authorities, teachers, parents, and of course pupils. They are in charge of different issues starting from consideration of the forms and techniques of education ending up with deciding on disciplinary measures. The specific participatory value of these councils is that using socializing activities at schools and other educational institutions they contribute a lot to drawing the children into participation in educational activities, providing for a constructive dialogue and respect for others' views.¹³⁵ The CRC Committee also recognizes the key role played by the school environment in enhancing and promoting child participation.¹³⁶

¹²⁹ UN Committee on the Rights of the Child, Concluding Observations on Grenada, UN Doc. CRC/C/94 (2000), para. 398.

¹³⁰ Austria, Bolivia, Denmark, El Salvador, Italy, Latvia, Mali, Namibia, the Russian Federation, the United Arab Emirates.

¹³¹ UN Committee on the Rights of the Child, Concluding Observations on Denmark, UN Doc. CRC/A/51/41 (1996), para. 71; UN Committee on the Rights of the Child, Concluding Observations on Italy, UN Doc. CRC/A/51/41 (1996), para. 85.

¹³² The Law of the Russian Federation of 10 July 1992 No. 3266-1 *On Education*, art. 2, para. 6; in: *Sobranie zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1996, no. 3, item 150). There is a slight difference between the two sources of Russian statutory law, i.e. between the "federal laws" and the "laws of the Russian Federation". After the collapse of the Soviet Union in 1991, but prior to 1993, when the present Russian Constitution was adopted, the laws passed by the central parliament had been named "the laws of the Russian Federation". The laws of the Russian Federation which had not been nullified have the same legal force as the later federal laws.

¹³³ The Federal Law of 10 April 2000 No. 51-FZ *On the Affirmation of the Federal Programme on Development of Education*; in: *Sobranie zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (2000, no. 16, item 1639).

¹³⁴ The Law of the Russian Federation of 10 July 1992 No. 3266-1 *On Education*, *supra* note 132, art. 35, para. 2.

¹³⁵ UN Committee on the Rights of the Child, Periodic report of Egypt, *supra* note 91, para. 57.

¹³⁶ UN Committee on the Rights of the Child, Days of Discussion, *supra* note 87, para. 1003.

3.3. ACCESS TO DECISION-MAKING

As emphasized by the CRC Committee, children should be represented in various bodies such as parliaments, committees and other forums where they may voice views and participate in the making of decisions that affect them as children in general and as children with disabilities specifically.¹³⁷ Opening government decision-making processes to children was named as a "positive challenge" which states are "increasingly responding to".¹³⁸ The evidence of such response is an increase as a result of their involvement in the formulation and implementation of policies and programmes concerning children.¹³⁹ Access of children to the decision-making process may be practiced both formally (for example, by incorporating the right of children to participate in decision-making in domestic legal regulation)¹⁴⁰ or informally (for example, by virtue of *ad hoc* attending of governmental or parliamentary sessions by students or other types of informal communication).¹⁴¹ Participation in decision-making includes not only opening of governmental or parliamentary sessions for children but also the participation of children in judicial or administrative proceedings which affect them.

One particular problem impeding access of children to decision-making is that children's views are not duly taken into account by decision-making authorities.¹⁴² This is unfortunately true as applied to participation of the Russian minors in decision-making processes. The law 'On State Support of the Youth and Children Associations' stipulates that representatives of children's associations have the right to take part in the sittings of federal executive organs when the issues entailing concerning the issues affecting the interests of children and youth are decided.¹⁴³ At least formally such a right exists in the Russian legal order. However, no mention of the consideration of the children's views can be found from this provision and no jurisprudence is available concerning this issue so far. Although this case has not been reported by Russia, it can illustrate nonetheless why the Committee encourages the states to continue promoting children's participation, in particular in

¹³⁷ UN Committee on the Rights of the Child, General Comment No. 9, *supra* note 2, para. 32.

¹³⁸ UN Committee on the Rights of the Child, General Comment No. 5, *supra* note 2, para. 12.

¹³⁹ UN Committee on the Rights of the Child, Second periodic report of Chad, 14 December 2007, UN Doc. CRC/C/TCD/2*, para. 85.

¹⁴⁰ For example, in Dominican Republic the Law No. 136-03 was introduced to incorporate children's rights to express their views and to participate in decision-making (UN Committee on the Rights of the Child, Concluding Observations on Dominican Republic, UN Doc. CRC/C/DOM/CO/2, para. 32).

¹⁴¹ For example, in the Great Britain admitting Youth Parliament of Montserrat interacts informally with the members of the Parliament (UN Committee on the Rights of the Child, Third and fourth periodic report of the United Kingdom of Great Britain and Northern Ireland, *supra* note 60).

¹⁴² UN Committee on the Rights of the Child, Concluding Observations on Belgium, UN Doc. CRC A/51/41 (1996), para. 592; UN Committee on the Rights of the Child, Concluding Observations on Lesotho, UN Doc. CRC/C/103 (2001).

¹⁴³ The Federal Law of 28 June 1995 No. 98-FZ *On State Support of the Youth and Children Associations*, art. 5, para. 2; in: *Sobranie zakonodatel'stva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* (1995, no. 27, item 2503).

decision-making processes in all matters affecting children themselves.¹⁴⁴ It proposes different measures for the states to enhance children's access to decision-making, for example, to develop training programmes for local officials and other decision-makers to enable them to take adequately into consideration the opinions of children presented to them, with particular emphasis on involving and reaching vulnerable groups, such as children of ethnic minorities.¹⁴⁵

CONCLUSIONS

The Russian succession to the CRC Convention gave a positive impulse to the facilitation of children's rights. The gravest omissions of the past regime which totally denied minors' legal personality are presently corrected mainly by courts. Things have changed also regarding children's involvement in decision-making processes. Given that, according to international human rights law, children are entitled to, at best, only limited political rights, their participation in the Russian Federation is mainly non-political and is limited to the 'matters affecting them'. Nonetheless, children's inclusion in political life proves to be necessary, especially due to the observation of the CRC Committee that "in certain contexts apparent inconsistencies arise, such as when children below the age of 18 are subject to military service yet are not eligible to vote".¹⁴⁶ Although the voting age in Russia is 18 years, there can be similar inconsistencies in the Russian law with its application leading minors to administrative responsibility for violation of electoral legislation. The Central Electoral Commission of the Russian Federation gives clarifications in this regard for the regional commissions entitled to draw up protocols on administrative offences. It is clarified that minors can be administratively liable only for very limited offences such as damage of materials promoting political campaigns.

Analyzing the praxis under the CRC Convention one can make the following observations concerning the fulfilment of the Russian obligations to facilitate children's participatory rights. The recommendations of the Committee regarding elaboration of national legal base of children's rights in conformity with the CRC Convention¹⁴⁷ and fortifying efforts to involve civil society in the processes of children's participation.¹⁴⁸ To a great extent these recommendations were followed by the Russian Federation. Particularly, the activity of children's associations has

¹⁴⁴ UN Committee on the Rights of the Child, Concluding Observations on Nicaragua UN Doc. CRC/C/15/Add.265, para. 245.

¹⁴⁵ *Ibid.*, para. 245.

¹⁴⁶ UN Committee on the Rights of the Child, Days of Discussion, *supra* note 87, para. 1021.

¹⁴⁷ UN Committee on the Rights of the Child, Concluding Observations on the Russian Federation, UN Doc. CRC/C/90, para. 67.

¹⁴⁸ *Ibid.*, para. 80.

been broadened. The contents and the activity of the children's movement were developed by virtue of elaboration of various activity programmes aiming to "establish conditions for implementation of the rights and interests of every child".¹⁴⁹ Moreover, the support was widely granted for the process of the creation of new organizations for children. "This is evidence of the transition to a multiplicity of organizations, associations and groups of various kinds".¹⁵⁰ The CRC Committee generally welcomed the efforts made by Russia to promote respect for the views of the child. The Committee nonetheless remains concerned that article 12 of the Convention is not fully reflected in Russian legal practices.¹⁵¹ Analyzing these practices one may observe that, despite all the formal efforts to include children in public decision-making, there is a trend to minimize their participation in political matters. The major procedural opportunities to influence decision-making are open at the level of local self-government. Perhaps local matters affect children's interests most directly. Indeed, children are most aware of which recreational facilities they would prefer to have in their neighbourhood and of what kind of services they would like to have in local library. Nonetheless, examining federal statutory law on local self-government one notes that practically all participatory tools followed by obligatory consideration of citizens' opinion by local authorities are only for those who have reached full age. The exception is petitioning local authorities, which presupposes obligatory feedback and is open for children.

It may seem that the child is seen by the Russian legal system not as a partner in child-state dialogues but rather as a will be partner. The legal denial of children's substantial participation is a very deep reflection of the social order. Therefore, exclusion of children from important vehicles to influence decision-making processes seems to be inherent to the Russian legal system, which reflects age-old social practices belittling children's legal subjectivity. The Russian practices of children's involvement in political decision-making very often take the form of a spontaneously organised play, and not any real standing. Only minors' membership in youth and children associations appears to be a stable participatory opportunity. Nonetheless even this effort is a double-edged sword for children's democratic participation. The federal statutory law allowing children from 8 years old to take part in children's associations introduces in a way restricting terms of state support of these associations. This is among the reasons why the CRC Committee "urges

¹⁴⁹ UN Committee on the Rights of the Child, Second periodic report of the Russian Federation, *supra* note 54, para. 151 (a).

¹⁵⁰ *Ibid.*, para. 151 (b).

¹⁵¹ UN Committee on the Rights of the Child, Concluding Observations on the Russian Federation, UN Doc. CRC/C/RUS/CO/3, para. 30.

states parties to move from an events based approach to the right to participation to the systematic inclusion of children in policy matters".¹⁵²

Finally, one could say that the modern Russian practices represent important steps towards the recognition of children's rights. The analysis of the Russian praxis under the CRC Convention shows that at least formally Russia keeps up with its obligations. The Russian situation seems to fall pretty much in line with the most states' practices. More precise and clear information in state's reports would better contribute to the assessment of the Russian compliance with its obligations in respect of children's participatory rights. Nonetheless, the improvements in Russian children's participatory rights are evident.

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53. Decision of the Supreme Court of the Russian Federation of 3 January 2002, Case No. 34-G01-11: *The rejection of the claims, according to which separate provisions of the Law of Murmansk Oblast of 17 May 1999 'On State Support of the Youth and Children Associations of Murmansk Oblast' allegedly violating rights of citizens and their associations is justifiable because the state support comes about the regional budget, therefore the regional legislative organ is entitled to define the terms, according to which such support is carried out. Decision of the Supreme Court of the Russian Federation of 3 January 2002.*
54. Determination of the State Duma of the Federal Assembly of the Russian Federation of 2 June 2000 No. 451-III GD *'On the Bill 'On the Basic Guarantees of the Rights of the Citizens to Take Part in Local Self-Government'*. In: *Sobranie Zakonodate'lstva Rossiiskoi Federatsii (Compilation of Legislation of the Russian Federation)* Vol. 25 (2000) Item 2665.

55. Decree of the Government of Sverdlovsk Oblast of 26 July 2005 No 583-PP *On the Measures to Eradicate the Breaches of the Legislation on Adoption, Sobranie Zakonodatel'stva Sverdlovskoi Oblasti (Compilation of Legislation of Sverdlovsk Oblast)* (2005, no. 4-5, item 1074).
56. The Protocol of the Sitting of the Central Electoral Commission of the Russian Federation of 27 September 2006 No. 187-4-4 *On the Recommendations concerning separate Issues of Application of the Code of Administrative Offences of the Russian Federation by Electoral Commissions*; the document has not been officially published; it was explored basing on the materials of the Russian law database "Consultant Plus".
57. The Bill No. 99111398-2 'On the Basic Guarantees of the Rights of the Citizens to Take Part in Local Self-Government'. The document has not been officially published and is available from the Russian law database 'Consultant Plus'.
58. The Bill No 23045-3 'On Amending the Federal Law 'On the Basic Guarantees of Electoral Rights and the Rights to Take Part in Referendum of the Citizens of the Russian Federation', to the Federal Law 'On Elections of the Members of the State Duma of the Federal Assembly of the Russian Federation', to the Federal Law 'On the Elections of the President of the Russian Federation', to the Federal Law 'On Ensuring of Constitutional Rights of the Citizens if the Russian Federation to Elect and to be Elected to the organs of Local Self-Government' regarding the Reduction of the Age to Elect and to Take Part in Referendum'. The document has not been officially published and is available from the Russian law database 'Consultant Plus'.