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## **LANZAROTE CONVENTION**

Council of Europe Convention on the protection of children  
against sexual exploitation and sexual abuse

**Replies to the general overview questionnaire**

### **RUSSIAN FEDERATION**

Replies registered by the Secretariat on 28 August 2014



**Question No 1.**

In the Russian Federation, the term "child" has several definitions in different federal laws, which are substantially the same.

According to Article 54 of the Family Code of the Russian Federation, a child is a person under the age of eighteen years (legal age).

The second paragraph of Article 1 ("Terms used in this Federal Law") of Federal Law No. 124-FZ dated July 24, 1998 *On the Main Guarantees of Children's Rights in the Russian Federation* also defines the term "child" as a person under the age of eighteen years (legal age).

In this connection, we believe that this term is in line with the requirements to the definition provided in the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter, the Convention).

Certain Articles of the Criminal Code of the Russian Federation (hereinafter, the Criminal Code) stipulate a stricter punishment for crimes against minors.

The Code of Criminal Procedures of the Russian Federation (hereinafter, the Code of Criminal Procedures) provides certain legal guarantees to ensure respect for the rights of minors having the status of victims in a criminal case, to the extent requiring that investigative actions be performed in the presence of a legal representative, psychologist or a teacher.

In this connection, it is necessary to determine the victim's age to conduct a preliminary investigation.

However, in case the documents that prove the victim's age are not available or cause doubts, clause 5 of Article 196 of the Code of Criminal Procedures requires that a forensic examination be launched.

The legislation does not clearly set the age when it is permitted to "engage in sexual activities."

However, Article 134 ("Sexual intercourse and other sexual actions with a person under the age of sixteen years") of the Criminal Code stipulates liability for engaging in sexual activity with a person under the age of sixteen years. According to a Note to Article 134 of the Criminal Code, a person who has committed such crime for the first time shall be released from punishment by court if it is established that such person and the crime committed by him/her are no longer socially dangerous in connection with his/her marriage with the victim.

In addition, Article 240<sup>1</sup> of the Criminal Code stipulates liability for using sexual services of a minor aged sixteen to eighteen years by a person who has reached the age of eighteen years.

## Question No 2.

Part 2 of Article 19 of the Constitution of the Russian Federation declares that the State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, beliefs, membership of public associations, and other circumstances.

This constitutional principle is further elaborated in criminal law and in law of criminal procedure (Article 4 of the Criminal Code and Articles 9 and 15 of the Code of Criminal Procedure).

## Question No 3.

The key documents that govern the relations arising in connection with the enforcement of the guarantees of fundamental rights and legal interests of children in the Russian Federation include:

1. Federal Law No. 124-FZ dated July 24, 1998 *On the Main Guarantees of Children's Rights in the Russian Federation*.

This Federal Law sets the key guarantees of rights and legal interests of a child, which are stipulated by the Constitution of the Russian Federation, to ensure legal, social and economic conditions for the exercise of children's rights and legal interests, which includes steps against trafficking in, and sexual exploitation of, children.

2. Federal Law No. 120-FZ dated June 24, 1999 *On the Basics of the System for Prevention of Neglect, Homelessness and Crime among Minors*

The key objectives of this Federal Law include: protecting the rights and legal interests of minors, providing social and pedagogical rehabilitation of minors in a socially dangerous situation, as well as detecting and preventing criminalization of minors or engagement of minors in antisocial actions.

3. Federal Law No. 436-FZ dated December 29, 2010 *On the Protection of Children against Information Harmful to their Health and Development*.

This Federal Law governs the relations connected with the protection of children against information harmful to their health and/or development, including that contained in information products.

Information prohibited from distribution among children includes, *inter alia*, information that:

- can encourage children to take drugs, psychoactive and/or intoxicating substances, tobacco products, alcoholic or spirits-containing products, beer or beverages produced from beer, or engage in gambling, prostitution, vagrancy or begging;
- substantiates or justifies violence and/or cruelty or encourages any violent actions against people or animals;
- denies family values, or advocates non-traditional sexual relations or promotes disrespect for parents and/or other family members;
- contains pornographic content.

Moreover, the Criminal Code stipulates liability for sexual exploitation or sexual abuse of minors.

In particular, this issue is covered by the following Articles of the Criminal Code: Clause "a": of Part three, Clause "b" of Part four of Article 131 (Rape); Clause "a" of Part 3, Clause "b" of Part four of Article 132 (Violent sexual actions), Part two of Article 133 (Compulsion to perform sexual actions); Article 134 (Sexual intercourse and other actions of sexual character with a person under the age of sixteen years), Article 135 (Depraved actions), Part three of Article 240 (Recruiting into prostitution), Article 240<sup>1</sup> (Recourse to sexual services provided by a minor), clause "c" of Part two and Part three of Article 241 (Organization of prostitution), Article 242<sup>1</sup> (Production and distribution of materials or objects with pornographic images of minors), Article 242<sup>2</sup> (Use of a minor for production of pornographic materials or objects) of the Criminal Code.

Since the Russian Federation signed the Convention, the following Federal Laws have been adopted to align national legislation with the Convention.

1. Federal Law No. 58-FZ dated April 5, 2013 *On Amendments to Certain Laws of the Russian Federation to Prevent Trafficking in Children, their Exploitation, Children's Prostitution, and Activity connected with the Production and Distribution of Materials or Objects with Pornographic Images of Minors.*

Amendments were made to Federal Law No. 124-FZ dated July 24, 1998 *On the Main Guarantees of Children's Rights in the Russian Federation*, which require that the public authorities of the Russian Federation, public authorities of the constituent entities of the Russian Federation, and local authorities take steps within their powers to prevent trafficking in, and exploitation of children.

In addition, Article 6.19 ("Creation of conditions by a legal entity to facilitate trafficking in children and/or exploitation of children") and Article 6.20 ("Production of materials or objects with pornographic images of minors by a legal entity or distribution of such materials or objects") were added to the Code of Administrative Offenses of the Russian Federation.

2. Federal Law No. 380-FZ dated December 28, 2013 *On Amendments to the Criminal Code of the Russian Federation and the Code of Criminal Procedures of the Russian Federation.*

This Federal Law added Article 240<sup>1</sup> to the Criminal Code, which stipulates liability for a recourse to sexual services provided by a minor.

3. Federal Law No. 432-FZ dated December 28, 2013 *On Amendments to Certain Laws of the Russian Federation to Extend the Rights of Victims in Criminal Proceedings.*

In particular, the Code of Criminal Procedures was reinforced with provisions requiring mandatory video recording during any investigative actions involving a minor victim or witness, unless such minor victim or witness or their legal representative objects to video recording, as well as disclosure of testimony previously given by a minor victim or witness during a preliminary investigation or court proceedings, demonstration of photographic negatives, photos and diapositives made during interrogations, or playback of audio and video records of interrogations in the absence of minor victim or witness without interrogation.

Furthermore, the Decree of the President of the Russian Federation No. 761 dated June 1, 2012 approved the National Child Protection Strategy 2012-2015, which (Chapter 6) provides for the following:

- development of a complex national strategy to prevent violence against children and rehabilitate children that have become victims of violence;
- establishment of the non-profit partnership Russian National Monitoring Center for Missing and Exploited Children to join the efforts of the state and civil society to locate missing children, prevent violent and sexual crimes, including crimes committed with the help of computer networks, and improve performance of the investigative agencies investigating criminal offenses against children;
- ensuring compliance with the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime dated July 22, 2005;
- establishment of a network of organizations providing psychological and social rehabilitation of child victims of violence and assistance to investigative agencies investigating criminal offenses against children.

The Federal Law No. 14-FZ dated February 29, 2012 *On Amendments to the Criminal Code of the Russian Federation and to Certain Laws of the Russian Federation to Strengthen Punishment for Sexual Crimes against Minors* made amendments strengthening punishment for persons engaged in crimes against minors and also set restrictions on work with children for persons that have committed crimes against sexual integrity of minors.

#### **Question No 4.**

The Russian Federation has established a legal framework to engage children in taking decisions affecting their interests; and there are also public associations and youth councils, chambers and parliaments. Most schools have their school self-government bodies functioning actively. Many constituent entities of the Russian Federation have joined the UNICEF Child Friendly Cities Initiative, with one of its objectives being to engage children more widely in the enforcement of their rights and taking of decisions affecting their interests.

The National Strategy of Action for Children for 2012-2017 stipulates the following top-priority steps to engage children in taking decisions affecting their interests:

- ratifying the European Convention [on the Exercise of Children's Rights](#);
- amend Federal [Law No. 98-FZ](#) dated June 28, 1995 *On Governmental Support of Public Associations of Youth and Children*;
- developing and introducing revised curricula that will offer children an opportunity to acquire knowledge in the field of human rights and children's rights and will include a special section dedicated to the practical application of such knowledge;
- adding a special section to training and retraining programs for professionals working with children, which will explain the right of children to engage in taking decisions affecting their interests and the principles to exercise such right;
- teaching children how to ensure privacy and protect their personal data of the Internet;
- promoting the institution of children's ombudsman in cities, municipal formations and educational establishments;
- using social technologies to engage children in the life of their local community, as well as in review and examination of decisions affecting children's rights and interests, at all levels;
- developing standards and methodologies to extend the engagement of children in various spheres of life;
- creating a system of ongoing monitoring of children's engagement in taking decisions affecting their interests, including systematic collection of qualitative and quantitative data about the level of such engagement of children from all age and social groups, as well as about resources allocated to support such engagement in decision taking.

## Question No 5.

The following agencies are responsible for the promotion and protection of children's rights:

1. Presidential Commissioner for Children's Rights (Children's Ombudsman) who ensures the protection of children's rights and legal interests within his powers granted by the Decree of the President of the Russian Federation No. 986 dated September 1, 2009.

This Decree vested the following powers in the Presidential Commissioner for Children's Rights to enable him to perform his duties and functions:

- subject to applicable procedure, request and receive any data, documents and materials from the federal public authorities, public authorities of the constituent entities of the Russian Federation, local authorities, organizations or officials;
  - freely visit any federal public authorities, public authorities of the constituent entities of the Russian Federation, local authorities or organizations;
  - inspect, whether independently or jointly with the competent public authorities or officials, the activity of the federal executive authorities, or public authorities of the constituent entities of the Russian Federation or officials, and request relevant explanations from such authorities or officials;
  - whenever any violations of children's rights and interests are detected in any act (omission) by the federal executive authorities, public authorities of the constituent entities of the Russian Federation, local authorities or officials, submit his opinion containing recommendations regarding possible or necessary steps to be taken to restore such rights and interests;
  - subject to applicable procedure, engage scientific and other organizations, as well as scientists and professionals, *inter alia*, on contractual basis, to perform expert or scientific and analytical work related to the protection of children's rights.
2. Commissions on minors' affairs and protection of their rights, which are established to coordinate the activity of agencies and institutions in the system of prevention of neglect, homelessness and crime among children; commissions on the prevention of neglect, homelessness, offenses and antisocial behavior among minors, detection and elimination of causes thereof and conditions facilitating such behavior, protection of minors' rights and legal interests; commissions on social and pedagogical rehabilitation of minors in dangerous social situations, detection and prevention of criminalization of minors or engagement of minors in antisocial actions.

Resolution of the Government of the Russian Federation No. 995 dated November 6, 2013 *On the Approval of a Model Regulation on the Commissions on Minors' Affairs and Protection of Their Rights* is the key document determining the tasks, powers, structure, establishment procedure and operations of such commissions.

The system of commissions in the constituent entities of the Russian Federation is comprised of:

- commissions set up by the supreme executive authorities of the constituent entities of the Russian Federation and operating within the relevant constituent entities of the Russian Federation;
- commissions set up by the local authorities and operating within municipal formations in the constituent entities of the Russian Federation, e.g. regional (city) commissions or district commissions in cities.

3. The federal public authorities and the public authorities of the constituent entities of the Russian Federation, charged with public administration in the field of education, as well as local authorities exercising administration in the field of education.
4. Guardianship authorities.
5. Agencies for youth affairs.
6. Health care administrations.
7. Employment services.
8. Departments of internal affairs.
9. Agencies controlling circulation of drugs and psychotropic substances.
10. Institutions of the correctional system (pretrial detention centers, juvenile correctional facilities and corrections inspectorates).

In December 2008 the “Ne Dopusti!” (Stop!) complex social project to protect children against kidnapping, illegal exploitation and cruel treatment was launched in Russia. The project was organized by the Public Chamber of the Russian Federation, the Regional Public Organization "Center for Internet Technology" (ROCIT), and the Inter-regional Human Rights Public Organization "Soprotivlenie".

A key objective behind the project is to use high technologies to safeguard and protect children and ensure their comprehensive development and self-development.

In their work, specialists involved in the project apply the generally accepted international principles to locate missing children or provide advisory and psychological assistance.

The Ne Dopusti! Project is included in the Global Missing Children's Network under the auspices of the International Centre for Missing and Exploited Children (ICMEC), the International Association on Internet Hotlines (INHOPE), and the European Network of Awareness Centres (Insafe).

The Ne Dopusti! Project pursues the following objectives:

- assisting the law enforcement agencies and other organizations, as well as civil structures to locate missing minors, detect and prevent illegal exploitation of minors and cruel treatment of children;
- joining the efforts of the public authorities, law enforcement agencies, socially responsible industry (including the Internet industry), expert organizations and practitioners, and civil society to foster a safe environment for children;
- providing users with methodological information (advice) about actions to be taken if a child is missing, as well as actions to ensure child's safety;
- providing psychological assistance to relatives of missing children or child victims, and also providing a comprehensive rehabilitation assistance jointly with trusted partners;
- attracting the attention of general public to the issue (extent of issue) of missing minors, as well as to the issue of illegal exploitation of children and violence against children.

The indicators describing the criminal impact on minors, which are determined in accordance with Section 3 *Information about Crimes against Minors* of the semiannual departmental statistical reporting form *Information about Crimes with Victims (1-P Form)*<sup>1</sup>, can be viewed as steps taken to collect data for the purpose of monitoring and evaluation of cases of sexual exploitation and sexual abuse of children.

In this form the quantitative indicators showing the total number of crimes against minors are categorized as follows:

- crimes against life and health;
- crimes against freedom, honor and dignity of a person;
- crimes against property;
- crimes against sexual integrity and sexual freedom of a person;
- crimes against morality.

In their turn, crimes against sexual integrity and sexual freedom of minors are divided into:

- rape of minors - clause "a" of part 3 of Article 131 of the Criminal Code;
- rape of minors under the age of 14 years – clause "b" of part 4 of Article 131 of the Criminal Code;
- violent sexual actions against a minor - clause "a" of part 3 of Article 132 of the Criminal Code;
- violent sexual actions against a person under the age of 14 years – clause "b" of part 4 of Article 132 of the Criminal Code;
- compulsion to sexual actions – Article 123 of the Criminal Code;
- sexual intercourse and other sexual actions with a person, under the age of 16 years – Article 134 of the Criminal Code (including persons under the age of 16 years – part 1 of Article 134 of the Criminal Code, persons under the age of 14 years – part 2 of Article 134 of the Criminal Code, persons under the age of 12 years – part 3 of Article 134 of the Criminal Code);
- depraved actions – Article 135 of the criminal code (including depraved actions with a person under the age of 16 years - part 1 of Article 135 of the Criminal Code, under the age of 14 years - part 2 of Article 135 of the Criminal Code, under the age of 12 years - part 3 of Article 135 of the Criminal Code).

Crimes against moral of minors are divided into:

- recruitment of a minor into prostitution – part 3 of Article 240 of the Criminal Code;
- organization of prostitution using minors - clause "c" of part 2 of Article 241 of the Criminal Code;
- organization of prostitution using persons under the age of 14 years - part 3 of Article 241 of the Criminal Code;
- production and distribution of materials or objects containing pornographic images of minors - part 1 of Article 242.1 of the Criminal Code;
- production and distribution of materials or objects containing pornographic images of minors - part 2 of Article 242.1 of the Criminal Code.

In addition, the 1-P statistical reporting form makes it possible to monitor data about the total number of crimes over six months or year, as well as data about preliminary investigated crimes, including criminal cases referred to court or suspended criminal cases, and data about the number of minors granted the status of victims.

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<sup>1</sup> Approved by Order of the Ministry of Internal Affairs of Russia No. 923 dated December 8, 2009 *On the Approval of 1-P Statistical Reporting Form.*

Data about persons convicted of certain crimes, including intentional crimes against minors, and released from prisons subject to administrative supervision can be used as additional steps aimed to collect data to monitor and assess cases of sexual exploitation and sexual abuse of children.

According to Article 2.1 of the Federal Law No. 64-FZ dated April 6, 2011 *On the Administrative Supervision over Persons Released from Prisons*, administrative supervision shall be introduced by court over persons who have committed, aged over 18 years, a crime against sexual integrity of a minor at the age under 14 years and have a sexual attraction disorder (pedophilia), which does not make such person insane.

To control persons in this group, the territorial units of the Ministry of Internal Affairs of Russia set up administrative supervision divisions or designated officers charged with administrative supervision. In addition, a procedure was established to collect and reflect information about such persons in data banks at the regional and federal level.

In accordance with the Federal Law No. 242-FZ dated December 3, 2008 *On State Genome Registration in the Russian Federation*, state genome registration is compulsory for persons convicted or serving a sentence in the form of imprisonment in connection with grave and especially grave crimes, and all crimes against sexual integrity and sexual freedom of a person.

The procedure of such registration is governed by the *Regulation on Compulsory State Genome Registration of Persons Convicted or Serving a Sentence in the Form of Imprisonment*, approved by Resolution of the Government of the Russian Federation No. 828 dated October 11, 2011.

The following entities are engaged, within their powers, in compulsory state genome registration of persons convicted or serving a sentence in the form of imprisonment:

- federal state budgetary institution Expert and Forensic Center of the Ministry of Internal Affairs of the Russian Federation;
- expert and forensic divisions of the territorial units of the Ministry of Internal Affairs of the Russian Federation, which are authorized to perform compulsory state genome registration;
- prisons and detention centers where people serve sentences in the form of imprisonment.

Genome information collected during compulsory state genome registration of persons convicted or serving a sentence is recorded, stored and classified by the federal state budgetary institution Expert and Forensic Center of the Ministry of Internal Affairs of the Russian Federation, which has created and maintains a federal database of genome information.

The federal database of genome information is maintained by the federal state budgetary institution Expert and Forensic Center of the Ministry of Internal Affairs of the Russian Federation.

#### **Question No 6.**

The activities of different agencies charged with the protection of children against sexual exploitation and sexual abuse are coordinated at the national (federal) level by the Government Commission on Crime Prevention.

In accordance with the Regulation on the Government Commission on Crime Prevention, approved by Resolution of the Government of the Russian Federation No. 216 dated March 28, 2008, the Government Commission on Crime Prevention is a coordinating body set up to ensure coordinated actions by the relevant executive authorities to implement measures within the state crime prevention system.

The Commission's key tasks include:

- coordinating the activities of the federal executive authorities and executive authorities of the constituent entities of the Russian Federation, as well as interacting with local authorities and organizations to enforce Russian laws related to crime prevention;
- developing decisions and coordinating organizational and practical steps taken within the state crime prevention system to strengthen the fight against hard drinking, alcoholism, drug addiction and illegal migration, re-socialize persons released from prisons, as well as other steps aimed to reduce crime rates in the Russian Federation;
- developing complex measures in the top-priority areas of crime prevention activity, and implementing such measures in the practical activities of entities responsible for crime and offense prevention;
- arranging and taking national and inter-regional proactive steps at the federal level to reduce crime rates in the Russian Federation;
- updating the Government of the Russian Federation about the Commission's work and steps taken by the heads of the federal executive authorities and executive authorities of the constituent entities of the Russian Federation to eliminate the causes of, and conditions facilitating crimes and other offenses.

At the level of the constituent entities of the Russian Federation, these functional are performed by the interdepartmental crime prevention commissions.

The activities of the law enforcement agencies aimed at prosecuting sexual crimes against minors are coordinated by the Prosecutor's Office of the Russian Federation in accordance with the Federal Law No. 2202-1 dated January 17, 1992 *On the Prosecutor's Office of the Russian Federation*.

In Russia, cooperation was established between the competent public authorities, institutions of civil society and private sector to combat more effectively sexual exploitation and sexual abuse of children.

The main forms of such cooperation include:

- involvement of delegates from institutions of civil society and private sector in the work of expert and public councils under the Presidential Commissioner for Children's Rights, chambers of the Federal Assembly of the Russian Federation, Government of the Russian Federation, and federal executive authorities;
- involvement of delegates from institutions of civil society and private sector in the activity of working groups at the State Duma during drafting and consideration of draft federal laws related to the prevention of social exploitation and social abuse of children;
- forums, conferences and round-table discussions with delegates from the public authorities, institutions of civil society and private sector, which are dedicated to the issues of prevention of sexual exploitation and sexual abuse of children (e.g. annual Safe Internet Forums);
- governmental support to non-profit organizations engaged in the activities to prevent sexual exploitation and sexual abuse of children, as well as to individual projects in this field.

As regards cooperation between the competent authorities with respect to persons subject to criminal prosecution for, or convicted of, crimes recognized as such in accordance with the Convention, it should be noted that the provisions of Article 180 of the Criminal Penitentiary Code of the Russian Federation (hereinafter, the Penitentiary Code) require that the administration of the correctional facility where the sentence is served notify the local authorities and the federal employment services at the place of residence chosen by the convicted person about accommodation, capacity to work and professions of such person within two months prior to the expiration of the term of arrest or within six months prior to the expiration of the term of compulsory labor or imprisonment, or, with respect to persons sentenced to no more than six months of imprisonment, after the effective date of sentence.

To any person convicted of a crime against sexual integrity and sexual freedom of an individual, the administration of the correctional facility where the sentence is served shall, within 6 months prior to the last day of sentence, explain that the convicted person may pass an examination by a commission of psychiatrists to determine whether such person has any sexual attraction disorders (pedophilia) and identify medical measures to be taken to improve such person's mental health, prevent such person from committing other crimes and provide appropriate treatment.

Once a person has served his/her sentence or has been released on probation or has had the remaining portion of sentence substituted with a less severe punishment, all required files in relation to such person who, aged over eighteen years, was convicted of a crime against sexual integrity of a minor under the age of fourteen years, and following a forensic psychiatric examination was recognized to have a sexual attraction disorder (pedophilia), which does not make such person insane, and in relation to which the court ruled to arrange a forensic psychiatric examination to determine whether any forced medical measures should be taken during the period of probation or less severe punishment, as well as after the sentence, shall be submitted by the administration of the correctional facility where such persons serves his/her sentence to the criminal correctional inspectorate at the place of residence chosen by such person.

It should also be noted that in case involuntary treatment at a facility providing psychiatric aid in an in-patient setting is discontinued, court may submit all necessary files related to the person undergoing compulsory treatment to the federal executive healthcare authority or the executive healthcare authority in the relevant constituent entity of the Russian Federation for the latter to decide whether such person should be treated in a medical facility providing psychiatric aid or referred to a mental asylum in accordance with the procedure stipulated by healthcare legislation (Article 102 of the Criminal Code).

#### **Question No 7.**

In the context of transparent borders inside the CIS, visa-free regime with certain states and considerable migration flows, the promotion of international cooperation between the law enforcement agencies in the field of sexual exploitation and sexual abuse, including those of minors, becomes crucial.

Currently, the Russian Federation has intergovernmental or interdepartmental agreements on cooperation in the fight against crime, including sexual exploitation, with more than 60 countries.

Fighting against crimes of this kind is the subject of discussion in multilateral formats, such as the Commonwealth of Independent States (CIS), the Shanghai Cooperation Organization (SCO), Europol, Interpol, and other important international organizations.

To promote international cooperation, the Ministry of Internal Affairs of Russia partnered with the Ministry of Foreign Affairs of Russia to support the ratification of the Treaty of the CIS Member States on Interstate Search of Persons, which will improve the efficiency of search within the CIS area; the treaty was ratified by the Federal Law No. 87-FZ dated May 5, 2014.

#### **Question No 8.**

There is no data about legislative or other measures aimed to ensure that information for children about the threats related to sexual exploitation and sexual abuse or information how to protect oneself, adapted to children's development level, is included in the primary and secondary school curricula. However, the Federal State Standard of General (Full) Secondary Education, approved by the Decree of the Ministry of Education of Russia No. 413 dated May 17, 2012, provides for a list of compulsory school subjects to be included in the school curriculum, including majors and individual curricula for pupils.

These include the subject "Basics of Life Safety" (basic level) that teaches pupils how to take basic measures of protection and how to behave in dangerous and extraordinary situations, as well as other knowledge and skills related to the protection from different perils connected with sexual exploitation and sexual abuse, including the risks connected with the use of information and communication technology.

From January 2013 to June 2014, the All-Russian Awareness Raising Campaign against Violence and Cruelty in Mass Media was conducted under the auspices of the Presidential Commissioner for Children's Rights (hereinafter, the All-Russian Campaign).

The All-Russian Campaign included a set of organizational, educational, scientific and other events arranged in the constituent entities of the Russian Federation in accordance with the Campaign Plan approved by the Presidential Commissioner for Children's Rights P.A. Astakhov on June 1, 2013.

In recent years, the following steps have been taken in the Russian Federation to prevent or prohibit the distribution of material advocating crime, which are recognized as such in accordance with the Convention:

- The Federal Law No. 436-FZ On the Protection of Children against Information Harmful to their Health and Development was adopted, setting severe restrictions on the distribution of information prohibited for children, which in particular includes information justifying or substantiating violence and/or cruelty or encouraging violent actions, whether against humans or animals, except for cases stipulated by this Federal Law, as well as information justifying unlawful behavior;
- amendments were made to the Federal Law No. 149-FZ dated July 27, 2006 On Information, Information Technology and Data Protection, which established an organizational and legal mechanism to restrict access to websites containing information prohibited from distribution in the Russian Federation (unified register of the domain names, website links and network addresses that allow identifying websites containing information circulation of which is forbidden in the Russian Federation), which includes materials containing pornographic images of minors and/or advertisements recruiting children as performers in pornographic shows or events, as well as information about minor victims of illegal actions (omission) that is prohibited from distribution in accordance with federal laws.

The Ministry of Internal Affairs of the Russian Federation established required information exchange with the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications (Roskomnadzor), which makes it possible to

identify websites containing information prohibited from distribution in the Russian Federation.

There is interaction with the Safe Internet League and with the Friendly Runet Foundation, and any Internet user having information about resources containing prohibited information can call their hot lines.

As a result, from 2009 to 2013 information containing signs of children's porn was deleted almost from 50,000 Russian web-resources.

### **Question No 9.**

Article 331 of the Labor Code of the Russian Federation (hereinafter, the Labor Code) does not allow persons who have or had previous convictions, are or have been subject to criminal prosecution (except for persons released from criminal prosecution due to exculpatory circumstances) for crimes against sexual integrity or sexual freedom of an individual, or against family or minors to engage in any pedagogical activity.

Moreover, the provisions of Article 351<sup>1</sup> of the Labor Code do not allow persons who have or had previous convictions, are or have been subject to criminal prosecution (except for persons released from criminal prosecution due to exculpatory circumstances) for crimes against sexual integrity or sexual freedom of an individual, or against family or minors to work in the field of education, upbringing and development of minors, organization of their leisure, medical care, social protection and social services, culture and art activities involving minors.

To prevent any activity involving regular contacts between children and any persons who have previous convictions for crimes against sexual integrity or sexual freedom of an individual, or against family and minors, Article 65 of the Labor Code requires that a police clearance certificate and/or a statement that criminal prosecution has been dismissed due to exculpatory circumstances shall be presented by any person hired to perform a job that may not be performed by persons who have or had previous convictions, or are or have been subject to criminal prosecution.

Persons convicted or having previous convictions for crimes against life and health, freedom, honor, dignity, sexual integrity or sexual freedom of an individual, family or minors, public health or public security, the fundamentals of the constitutional order or state security shall not be allowed to work with minors.

The Federal Law No. 387-FZ *On Amendments to [Article 22.1](#) of the Federal Law On State Registration of Legal Entities and Individual Entrepreneurs and to the Labor Code of the Russian Federation* requires that any individual willing to be registered as an individual entrepreneur to carry out activity in the field of education, upbringing and development of minors, organization of their leisure, medical care, social protection and social services for minors shall provide a police clearance certificate to the competent authorities.

State registration of a person, having conviction or subject to criminal prosecution, as an individual entrepreneur is not allowed.

The Administrative Regulation of the Ministry of Internal Affairs of Russia which governs the issue of police clearance certificates or statements that criminal prosecution has been dismissed, as approved by Order of the Ministry of Internal Affairs of Russia No. 1121 dated November 7, 2011, sets the deadlines and the sequence of administrative procedures related to the issue of police clearance certificates or statements that criminal prosecution

has been dismissed, as well as what officials should do when exercising their powers to issue such certificates and statements.

Check of candidates and issue of such certificates and statements are performed by the Federal Budgetary Institution Main Information and Analytical Center of the Ministry of Internal Affairs of Russia at the regional level.

#### **Question No 10.**

Chapter 15 of the Criminal Code governs the prescription of involuntary medical treatment to persons convicted for crimes, *inter alia*, against sexual integrity of minors under the age of fourteen years and having a sexual attraction disorder (pedophilia), which does not make them insane.

Such treatment is intended to cure or improve mental condition of such persons, and also prevent new crimes by such persons.

The way how involuntary medical treatment shall be administered is governed by the criminal correctional law of the Russian Federation and other federal laws.

In particular, for persons who have a sexual attraction disorder (pedophilia) and who have been convicted for crimes against sexual integrity of a minor under the age of fourteen years, committed in the state of sanity, and who require treatment for mental disorders, which does not make them insane, court, in addition to a regular punishment, may order to arrange involuntary medical treatment, such as involuntary monitoring and treatment by a psychiatrist in an outpatient setting (Part 2 of Article 99 of the Criminal Code).

Part for of Article 18 of the Criminal Correctional Code requires that to any person who, at the age above eighteen years, convicted a crime against sexual integrity and sexual freedom of an individual and was sentenced to imprisonment, the administration of the correctional facility where the sentence is served shall, within 6 months prior to the last day of sentence, or upon receipt of a parole application or an application to replace the remaining portion of sentence with a less severe punishment, or prior to filing a recommendation to replace the remaining portion of sentence with a less severe punishment, suggest the convicted person to pass an examination by a commission of psychiatrists to determine whether such person has any sexual attraction disorders (pedophilia) and identify medical measures to be taken to improve such person's mental health, prevent such person from committing other crimes and provide appropriate treatment. Such examination shall be performed when such convicted person files a voluntary request to the administration of the correctional facility where the sentence is served or provides his/her consent. The administration of the correctional facility where the sentence is served shall arrange a medical examination of such person by a commission of psychiatrists and the administration of medical treatment prescribed following such examination. Another medical examination of the convicted person shall take place when prescribed by the attending doctor, *inter alia*, when the attending doctor concludes in the process of treatment that any medical treatment should be changed or discontinued. Such treatment may be discontinued by the administration of the correctional facility where the sentence is serviced, if request by the convicted person receiving such treatment. The provisions of this Article shall not apply to any convicted person subject to involuntary medical treatment in accordance with court ruling due to such person's mental disorder that does not make him/her insane.

In addition, according to parts 2 and 2<sup>1</sup> of Article 3 of the Federal Law No. 64-FZ dated April 6, 2011 *On the Administrative Surveillance over Persons Released from Prison*, the court shall establish administrative surveillance in relation to an adult person who is about to be or

has been released from prison and has outstanding conviction for a crime against sexual integrity and sexual freedom of a minor or who, at the age of above eighteen years, committed a crime against sexual integrity of a minor under the age of fourteen years and has a sexual attraction disorder (pedophilia), which does not make such person insane.

The law enforcement agencies shall monitor compliance of persons released from prison with the temporary restrictions of rights and freedoms imposed by the court and with the obligations imposed on such persons.

In case following release from prison, a person subject to administrative surveillance fails to arrive to the place of residence or stay chosen by such person within the period of time prescribed by the administration of the correctional facility or in case such person leaves, without permit, his/her place of residence or stay in order to avoid administrative surveillance, such person will be subject to criminal prosecution in accordance with Article 314<sup>1</sup> of the Criminal Code.

### **Question No 11.**

Currently, the IT sector (communication operators, search engines, content providers, etc.) is engaged most actively. Examples of self-regulation acts (codes of conduct) include the Declaration for Safety of Children and Youth on the Internet (2010, adopted by the Safe Internet Forum)<sup>2</sup> and the Russian Internet in the 21<sup>st</sup> Century: Children's Safety Manifest (2012, adopted by the Russian Association for Electronic Communications)<sup>3</sup>.

Within the All-Russian Awareness Raising Campaign against Violence and Cruelty in Mass Media and other Means of Mass Communications, the members of the Expert and Public Council under the Presidential Commissioner for Children's Rights held a series of training seminars in 2013-2014, dedicated to the protection of children against information harmful to their health and development, including the issues of dissemination of information about all forms of sexual exploitation and sexual abuse of children.

Financing, *inter alia*, through different foundations, projects and programs implemented by civil society and aimed at the protection of children against sexual exploitation and sexual abuse, is provided in different forms, such as: provision of financial support to specialized non-profit organizations by the government agencies and local authorities; or financing of activities carried out within federal, regional or municipal target programs. To provide a specific example, we can refer to the above-mentioned Ne Dopusti! initiative, a social project for the protection of children against kidnapping, unlawful exploitation and cruel treatment, which is financed out of funds allocated for the presidential program for support of non-profit NGOs involved in the development of civil institutions, as well as out of funds granted by the Federal Agency on Press and Mass Communications of the Russian Federation (Rospechat).

On May 17, 2014, the Ministry of Internal Affairs of the Russian Federation arranged the Police Guarding Childhood ("Politsiya Na Strazhe Detstva") initiative at the Ministry's territorial departments, an all-Russian social campaign timed to the International Child Helpline Day and aimed at the prevention of family ill-being, and provision of support and assistance to children in difficult life situations.

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<sup>2</sup> The Declaration is available at the website of the Safe Internet Forum: URL: <http://www.safor.ru/declaration.php>.

<sup>3</sup> The Manifest is available at the RAEC website: URL: <http://www.raec.ru/right/standarts/>

It was supported by 82 territorial departments of the Ministry of Internal Affairs of Russia at the regional level, except for the Ministry of Internal Affairs of the Republic of Crimea and the Sevastopol Department of the Ministry of Internal Affairs of Russia.

All reports received via the child helpline were addressed. People who called the helpline received explanations on the issues related to legal aspects of regulation of child-parental, family and other relations, and in some cases urgent psychological and other aid was provided.

In total, more than 1,700 pieces of material, many accompanied with photos and videos, were published in mass media and on the Internet. These include more than 200 messages published in the news feed section on the official website of the Ministry and websites of territorial departments of the Ministry of Internal Affairs of Russia in the "Child Helpline Day" section.

Also, in pursuance of the order of the State Secretary/Deputy Minister of Internal Affairs of the Russian Federation I.N. Zubov No. 1/4238 dated May 8, 2014, events timed to the International Day for Protection of Children were held and covered in mass media.

This year, from June 1 to June 3, approximately 200 pieces of material on this topic were published on the web, prepared with the assistance of the press services of the territorial departments of the Russian Federation.

In accordance with the Resolution taken on March 19, 2014 by the Government Commission on the Implementation of Federal Law No. 324-FZ dated November 21, 2011 *On Free Legal Assistance in the Russian Federation*, legal information and consulting services were arranged in the territorial entities of the Russian Federation within this campaign for children and teenagers at secondary schools, sponsored orphanages, temporary detention centers for minor offenders, maintained by the territorial departments of the Ministry of Internal Affairs of Russia, as well as at disadvantaged families and among children in difficult circumstances, which services included the explanation of administrative and criminal liability for offenses.

Sporting events and theatrical performances were arranged by the Ministries of Internal Affairs for the Republic of Dagestan, Republic of Kalmykia, Republic of Khakassia, and Kabardino-Balkarian Republic, as well as by the Main Departments of the Ministry of Internal Affairs of Russia for the Trans-Baikal Territory and Krasnoyarsk Territory, Lipetsk, Novgorod, Samara, Sverdlovsk and Ulyanovsk regions.

Legal quizzes were carried out by the Ministry of Internal Affairs for the Kabardino-Balkarian Republic, as well as by the Main Departments of the Ministry of Internal Affairs of Russia for the Altai Territory and Trans-Baikal Territory, and Kirov, Kursk, Lipetsk, Moscow, Sverdlovsk, Tambov, Tula, and Ulyanovsk regions, and the Jewish Autonomous Region.

Round-table discussions and conferences were arranged in the Krasnoyarsk Territory, as well as in the Lipetsk, Omsk, Sverdlovsk and Tambov regions.

The Main Departments of the Ministry of Internal Affairs of Russia for the Altai Territory and the Sverdlovsk Region, and the Departments of the Ministry of Internal Affairs for the Trans-Baikal Territory and the Tomsk Region drafted and distributed leaflets with legal information for teenagers.

Meetings with schoolchildren and children from orphanages to improve their legal knowledge were held almost by all territorial departments of the Ministry of Internal Affairs of Russia.

The meeting of the Presidium of the Public Council under the Ministry of Internal Affairs of Russia held on June 9, 2014 addressed the following issue: "The role of public councils under the Ministry of Internal Affairs of Russia and its territorial departments in the organization of leisure activity of minors during the summer period". Following a discussion, the Presidium members decided to launch the initiative called *Holidays with the Public Council under the Ministry of Internal Affairs of Russia*, with one of its major objectives being to prevent offenses against or by minors.

## **Question No 12.**

The Federal Law No. 44-FZ dated April 2, 2014 *On the Involvement of Citizens in the Protection of Public Order* determines the principles for and the main forms of involvement of citizens in the protection of public order, search of missing persons; and the peculiarities of creation and operation of public law-enforcement associations, the aim of which is to participate in the protection of public order; as well as the procedure and peculiarities of creation and functioning of people's guards and their legal status.

In accordance with this Federal Law, citizens may do the following to help the agencies of internal affairs (police) and other law enforcement authorities:

- report crimes or threats to public order to the agencies of internal affairs (police) and other law enforcement authorities;
- get involved in the protection of public order, whenever invited by the agencies of internal affairs (police) and other law enforcement authorities;
- get involved in the protection of public order during sporting, cultural, entertaining and other public events, whenever invited by the organizers;
- participate in the work of coordination, advisory, expert and consultative bodies (councils, commissions) dealing with the issues of protection of public order and set up within the agencies of internal affairs (police) and other law enforcement authorities;
- provide other assistance to the agencies of internal affairs (police) and other law enforcement authorities in accordance with the legislation of the Russian Federation.

To encourage citizens of the Russian Federation and other persons to engage in specific useful activities in the interest of the Ministry of Internal Affairs of Russia, they can be rewarded with the For the Assistance to the Ministry of Internal Affairs of Russia badge in accordance with Order of the Ministry of Internal Affairs of Russia No. 989 dated October 31, 2012 *On the Departmental Merit Badges of the Ministry of Internal Affairs of the Russian Federation*.

An active involvement of citizens in providing assistance to the law enforcement authorities to maintain public order, a high level of legal knowledge, and a firm civil position based on knowledge of, compliance with and respect for law, are an integral part of today's democratic state.

In their daily activities, the law enforcement agencies rely on the assistance of law-abiding citizens, including the youth.

Officials from the executive authorities of the constituent entities of the Russian Federation and local authorities, as well as educational administrations, educational organizations, and other agencies and institutions from the system for prevention of neglect, homelessness and crime among minors, public organizations and associations, and mass media are engaged in different complex operating and preventive activities and raids subject to the applicable procedure,

In 2014, the Ministry of Internal Affairs of the Russian Federation took part in the Hot Heart (Goryacheye Serdtse) project, an all-Russian public-social initiative launched by the Social and Cultural Initiative Foundation.

This initiative is aimed to join the efforts of government and public organizations in the field of civil, patriotic and moral education of children and young people, foster a socially active individual having the feeling of national pride, civil dignity and love for the Motherland and their people, and ready to defend them.

The key objective behind this initiative is to find and recognize candidates to be rewarded with the Hot Heart lapel badge among children and young people under the age of 23 years, who have demonstrated that they are not indifferent to people around them and committed brave and fearless acts connected with:

- overcoming of emergencies and/or deadly threats for the surrounding people;
- overcoming of difficult life situations, *inter alia*, by children with disabilities;
- readiness and willingness to help people (implementation of projects to support people in need of help).

In 2014, about 1,500 candidates proposed by the Initiative's Organizing Committee were reviewed, with 128 persons and two public organizations recognized with the Hot Heart lapel badge.

### **Question No 13.**

In accordance with clause 2 of Article 9 of Federal Law No. 120-FZ dated June 24, 1999 *On the Basic Elements of the System of Prevention of Neglect, Homelessness and Crime among Minors*, the agencies and bodies included in this system shall ensure, within their competence, respect for the rights and legal interests of minors, protect minors against all forms of discrimination, physical or psychological violence, assault, rude treatment, sexual or other exploitation, identify minors and their families which are in a dangerous social situation, and immediately notify:

- 1) the prosecutor's office, in case of violation of minors' rights and freedoms;
- 2) the commission on minors' affairs and protection of their rights, about all cases of violation of minors' rights for education, labor, rest, accommodation or other rights, as well as about all deficiencies in the work of the competent bodies and agencies, which hinder prevention of neglect and crime among minors;
- 3) the guardianship authority, in case any minors are detected left without parent care or other legal guardians or in a situation jeopardizing their life, health or hindering their education;
- 4) the social protection authority, in case any neglected or homeless minors in need of help from the government or families in a socially dangerous situation are detected;
- 5) the department of internal affairs, in case parents or other legal representatives of minors or other persons are identified, which treat minors in a cruel manner and/or engage them in crime or antisocial behavior or commit other unlawful actions in relation to minors, or minors that have committed a crime or other antisocial acts are identified;
- 5<sup>1</sup>) criminal correctional inspections, in case any minors on file with the criminal correctional inspections and convicted have been identified, which need social or psychological help, assistance with social adaptation or employment; or about cases of crime or antisocial behavior among minors, or violation of judicial restrictions and/or prohibitions by minors; evasion of treatment against drug addiction, medical or social rehabilitation by minors who have been convicted and recognized to be addicted to drugs and granted a deferral of punishment, or evasion of obligations imposed on minor convicts by court;

- 6) the healthcare authority, in case any minors are identified which need medical examination, monitoring or treatment in connection with the consumption of alcohol, spirits-containing products, beer or beer-based beverages, drugs, psychoactive or intoxicating substances;
- 7) the educational administration, in case any minors are identified which need government help in connection with an escape from an orphanage, educational institution or other organizations providing education, or in connection with the absence from lessons at educational organizations without good reason;
- 8) the youth authority, in case any minors are identified which are in a socially dangerous situation and in this connection need help in arranging their leisure or employment.

According to clause 3 of Article 9 of Federal Law No. 120-FZ dated June 24, 1999, such information shall be stored and used in a way ensuring its confidentiality.

In accordance with sub-clause 34 of clause 1 of Article 13 of Federal Law No. 3-FZ dated February 7, 2011 *On the Police*, to enable the police to fulfil its duties, it is authorized to engage, as free-lance workers, citizens subject to their consent, cooperate with citizens willing to provide [assistance](#), whether free of charge or for a fee, to the police on a confidential basis; offer remuneration for assistance in investigating crimes and detaining persons who committed them, and pay such remuneration to citizens; reward citizens who provide assistance to the police in the fulfilment of other duties; subject to applicable procedure engage, for consultation, experts from state or municipal bodies, with their salary (cash allowance) at their primary place of employment (service) preserved.

#### **Question No 14.**

Since 2010, a nation-wide campaign has been conducted in the Russian Federation to prevent cruel treatment of children, which is aimed to attract public attention to the issue of cruel treatment of children, promote the belief among the general public that cruel treatment of children is unacceptable, and foster the values of responsible parenthood and sustainable models of bringing up children without violence. As a result of this, for the first time ever this topic has become the subject of broad discussions in mass media, NGOs, political community and, most importantly, among the general public in Russia.

During the awareness raising campaign, the all-Russian Movement Russia without Cruelty to Children and the website dedicated to responsible parenthood [www.Ya-roditel.ru](http://www.Ya-roditel.ru), containing information about different aspects of bringing up children without violence, regional family and child help services, were launched, and consultations for parents on psychological aspects of bringing up children have been provided.

The following child helplines currently operating in Russia at the federal level should be mentioned:

- Unified all-Russian child helpline 8-800-2000-122;
- Deti Online (Children Online) helpline (<http://www.detionline.com/>);
- Ne Dopusti! Project (<http://nedopusti.ru/>);
- Hot line of the Safe Runet Center (<http://saferunet.org/>);
- Hot line of the Safe Internet League (<http://www.ligainternet.ru/>).

In addition, a broad network of helplines has been launched in the constituent entities of the Russian Federation and municipal formations.

They all provide an opportunity to call and have a consultation on a confidential basis.

On May 17, 2014, the Ministry of Internal Affairs of Russia arranged the Police Guarding Childhood (Politsiya Na Strazhe Detstva) initiative at the Ministry's territorial departments at the regional level, an all-Russian social campaign timed to the International Child Helpline Day and aimed at the prevention of family ill-being, and provision of support and assistance to children in difficult life situations (for more detailed information about this campaign see answer to question 11). This campaign is expected to become an annual event in the future.

#### **Question No 15.**

In accordance with part two of Article 45 of the Code of Criminal Procedures, legal or other representatives must be engaged in the criminal case to defend the rights and legal interests of victims that have not reached legal age or due to their physical or mental state are unable to defend their rights and legal interests independently.

In accordance with Federal Law [No. 432-FZ](#) dated December 28, 2013, part two<sup>1</sup> was added to Article 45 of the Code of Criminal Procedures, which will become effective on January 1, 2015; and according to this part, upon request of a legal representative of a minor victim that has not reached the age of sixteen years and has become the victim of a crime against sexual integrity of a minor, the inquirer, investigator or court shall arrange the involvement of a lawyer to act as a representative of such victim. In this case lawyer's fees shall be compensated from the federal budget.

According to part two<sup>2</sup> of Article 45 of the Code of Criminal Procedures, the inquirer, investigator, judge or court may rule to suspend the minor victim's legal representative from participation in a criminal case, whenever there are reasons to believe that the legal representative's actions prejudice the interests of the minor victim. In this case, another legal representative of the minor victim shall be allowed to participate in the criminal case.

Part three of Article 161 of the Code of Criminal Procedures stipulates that no information about private life of the minor under the age of 14 years may be disclosed without consent of the minor's legal representative.

Article 191 of the Code of Criminal Procedures determines the peculiarities of interrogation of a minor victim or witness. In accordance with Federal Law [No. 432-FZ](#) dated December 28, 2013, [from January 1, 2015](#) these peculiarities of interrogation will apply also to other investigative activities involving minors (confrontation, identification and testimony verification).

Interrogation of a victim or witness under the age of fourteen years or, at the discretion of the investigator, interrogation of a victim or witness at the age of fourteen to eighteen years shall be conducted in the presence of a teacher.

A minor's legal representative may be present during interrogation of a minor victim or witness (part one).

In accordance with Federal Law [No. 432-FZ](#) dated December 28, 2013, [on January 1, 2015](#) part one of Article 191 of the Code of Criminal Procedures will be restated to require mandatory presence of a teacher or psychologist during interrogation, confrontation, identification or testimony verification involving a minor victim or witness under the age of sixteen years or a minor victim or witness that has reached the age of sixteen years, but has a mental disorder or developmental retardation. Whenever such investigative actions involve a minor that has reached the age of sixteen years, a teacher or psychologist shall be invited at the investigator's discretion. Such investigative actions involving a minor victim or witness under the age of seven years may not last for more than 30 minutes without a break and for

more than one hour in total; for minor victims or witness at the age of seven to fourteen years - for more than one hour and two hours in total; and for minor victims or witnesses older than fourteen years - for more than two hours and in total more than four hours a day. A legal representative of a minor victim or witness may be present during such investigative activities.

Minor victims or witnesses under the age of sixteen years shall not be warned about liability for refusal to give testimony or for giving knowingly false testimony. When explaining the procedural rights granted to such victims and witnesses by [Articles 42](#) and [56](#) of the Code of Criminal Procedures, they shall be warned that they shall tell only truth (part two).

The investigator shall not permit the legal representative and/or representative of a minor victim or witness to participate in interrogation in case such participation contradicts the interests of the minor victim or witness. In this case the investigator shall arrange the participation of another legal representative of the minor victim or witness (part three).

In accordance with Federal Law [No. 432-FZ](#) dated December 28, 2013, parts four and five will be added to Article 191 of the Code of Criminal Procedures, which will become effective since January 1, 2015 and will stipulate the following:

- a psychologist must be involved during interrogation, confrontation, identification or testimony verification involving a minor victim or witness under the age of sixteen years or a minor victim or witness that has reached the age of sixteen years, but has a mental disorder or developmental retardation, in connection with criminal cases related to crimes against sexual integrity of a minor;
- video recording must be used during any investigative actions under Chapter 26 of the Code of Criminal Procedures (interrogation, confrontation, identification or testimony verification), which involve a minor victim or witness, unless the minor victim or witness or his/her legal representative objects. Video records shall be retained in the criminal case files.

#### **Question No 16.**

The listed intended actions will be prosecuted in accordance with the applicable articles of the Criminal Code of the Russian Federation.

- Article 18 of the Convention – parts three to five of Article 131 (Rape), parts three to five of Article 132 (Violent sexual actions), part two of Article 133 (Compulsion to perform sexual actions), Article 134 (Sexual intercourse and other sexual actions with a person under the age of sixteen years), Article 135 (Depraved actions) of the Criminal Code;
- Article 19 of the Convention – part two of Article 133, Article 134, Article 2401 (Recourse to sexual services provided by a minor), clause "c" of part two and part three of Article 241 (Organization of prostitution) of the Criminal Code;
- Articles 20, 21 of the Convention – parts two and three of Article 242 (Illegal production and distribution of pornographic materials or objects), Article 2421 (Production and distribution of materials or objects with pornographic images of minors), Article 2422 (Use of a minor for production of pornographic materials or objects) of the Criminal Code;
- Article 22 of the Convention – Article 135 (Compulsion to perform sexual actions) of the Criminal Code;
- Article 23 of the Convention – such actions are treated as preparations for crime and shall be qualified under the applicable article of the Special Part of the Criminal Code

(Articles 131-135 of the Criminal Code) subject to the provisions of Article 30 of the Criminal Code;

- Article 24 of the Convention – persons who have performed such actions shall be prosecuted in accordance with the applicable article of the Special Part of the Criminal Code (Articles 131-135 of the Criminal Code) subject to Article 33 of the Criminal Code.

A crime committed against a minor by a parent or other person who, in accordance with law, is responsible for upbringing of the minor, or by a pedagogical worker or any other worker of an educational organization, medical organization or organization providing social services or any other organization responsible for supervising minors is qualified as an aggravating circumstance according to clause "o" of part one of Article 63 of the Criminal Code.

### **Question No 17.**

In accordance with clause 1 of Article 48 of the Civil Code of the Russian Federation, a legal entity means any organization, while the real subjects of legal relations within a legal entity are individuals. Hence, being an independent subject of legal relations, a legal entity actually is unable to carry out its activity without direct involvement of individuals.

However, in accordance with the legal position of the Constitutional Court of the Russian Federation stated in its Decree No. 1P dated January 17, 2013, guilt of a legal entity for an administrative crime usually results from the guilt of individuals, i.e. legal entity's officers or employees, and administrative or criminal prosecution of such individuals, as directly stipulated by the Code of Administrative Offenses of the Russian Federation (hereinafter, the Code of Administrative Offenses) ([part 3 of Article 2.1](#)) shall not release the legal entity from administrative liability for the relevant crime, and for certain administrative crimes legal entities are subject to stricter liability for administrative offenses than individuals. Such legal regulation, resulting from the specific nature of legal entities that as economic agents shall bear the risks accompanying their activities, as well as from the fact that, unlike individuals, legal entities are not treated by the current law as subject of criminal liability, is allowed by the Constitution (decrees of the Constitutional Court of the Russian Federation No. 7-P dated April 27, 2001 [and No. 28-P dated November 26, 2012](#)).

The general provisions regarding administrative liability of legal entities are laid down in Article 2.10 of the Code of Administrative Offenses. As regards severity and efficiency of impact, the administrative sanctions are close to the criminal ones.

In particular, if a legal entity commits an offense under Article 6.19 (Facilitation of trafficking in children and/or exploitation of children by a legal entity) of the Code of Administrative Offenses, it will be subject to sanctions involving an administrative penalty for legal entities amounting to one million to five million roubles or administrative suspension of activities for up to ninety days.

The sanctions under Article 6.20 (Production and distribution of materials or objects with pornographic images of minors by a legal entity) of the Code of Administrative Offenses stipulates an administrative penalty for legal entities amounting to one to five million roubles with forfeiture of materials or objects with pornographic images of minors and equipment used to produce such materials or objects, or administrative suspension of activities for up to ninety days with forfeiture of materials or objects with pornographic images of minors and equipment used to produce such materials or objects.

## Question No 18.

The Criminal Code stipulates the following punishment for crimes against minors.

### Article 131 (Rape):

- part three – shall be punishable with deprivation of liberty for a term of eight to fifteen years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to twenty years and with restraint of liberty for a term of up to two years;
- part four – shall be punishable with deprivation of liberty for a term of twelve to twenty years with or without deprivation of the right to hold certain posts or engage in certain activities for a term of up to twenty years and with restraint of liberty for a term of up to two years;
- part five – shall be punishable by deprivation of liberty for a term of fifteen to twenty years with deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years or by life imprisonment.

### Article 132 (Violent sexual actions):

- part three – shall be punishable with deprivation of liberty for a term of eight to fifteen years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to twenty years and with restraint of liberty for a term of up to two years;
- part four – shall be punishable with deprivation of liberty for a term of twelve to twenty years with or without deprivation of the right to hold certain posts or engage in certain activities for a term of up to twenty years and with restraint of liberty for a term of up to two years;
- part five – shall be punishable by deprivation of liberty for a term of fifteen to twenty years with deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years or by life imprisonment.

### Article 133 (Compulsion to perform sexual actions):

- part two – shall be punishable by compulsory labor for a term of up to five years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to three years or by deprivation of liberty for a term of up to five years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to three years.

### Article 134 (Sexual intercourse or other sexual actions with a person under the age of sixteen years):

- part one – shall be punishable by compulsory labor for a term of up to 480 hours, or by restraint of liberty for a term of up to four years, or by compulsory labor for a term of up to four years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to three years, or by deprivation of liberty for a term of up to four years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to ten years;
- part two – shall be punishable by compulsory labor for a term of up to five years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to three years or by deprivation of liberty for a term of up to six years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to ten years.
- part three – shall be punishable with deprivation of liberty for a term of three to ten years with or without deprivation of the right to hold certain posts or engage in certain activities

for a period of up to fifteen years and with or without restraint of liberty for a term of up to two years;

- part four – shall be punishable by deprivation of liberty for a term of eight to fifteen years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years;
- part five – shall be punishable with deprivation of liberty for a term of twelve to twenty years with or without deprivation of the right to hold certain posts or engage in certain activities for a term of up to twenty years and with or without restraint of liberty for a term of up to two years;
- part six – shall be punishable by deprivation of liberty for a term of fifteen to twenty years with deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years or by life imprisonment.

Article 135 (Depraved actions):

- part one – shall be punishable by compulsory labor for a term of up to 440 hours, or by restraint of liberty for a term of up to three years, or by compulsory labor for a term of up to five years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to three years, or by deprivation of liberty for a term of up to three years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to ten years;
- part two – shall be punishable with deprivation of liberty for a term of three to eight years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to fifteen years and with or without restraint of liberty for a term of up to two years;
- part three – shall be punishable by deprivation of liberty for a term of five to twelve years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years;
- part four – shall be punishable with deprivation of liberty for a term of seven to fifteen years with or without deprivation of the right to hold certain posts or engage in certain activities for a term of up to twenty years and with or without restraint of liberty for a term of up to two years;
- part five – shall be punishable by deprivation of liberty for a term of ten to fifteen years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to twenty years.

Article 240 (Recruiting into prostitution):

- part three – shall be punishable with deprivation of liberty for a term of three to eight years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to fifteen years and with or without restraint of liberty for a term of up to two years.

Article 240<sup>1</sup> (Recourse to sexual services provided by a minor) shall be punishable by compulsory labor for a term of up to 240 hours, or by restraint of liberty for a term of up to two years, or by compulsory labor for a term of up to four years, or by deprivation of liberty for the same term.

Article 241 (Organization of prostitution):

- part two – shall be punishable with deprivation of liberty for a term of up to six years with or without deprivation of the right to hold certain posts or to be engaged in certain activities for a period of up to ten years and with or without restraint of liberty for a term of up to two years;

- part three – shall be punishable with deprivation of liberty for a term of three to ten years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to fifteen years and with or without restraint of liberty for a term of one to two year(s).

Article 242 (Illegal production and distribution of pornographic materials or objects):

- part two – shall be punishable by deprivation of liberty for a term of two to five years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to ten years;
- part three – shall be punishable by deprivation of liberty for a term of two to six years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to fifteen years.

Article 242<sup>1</sup> (Production and distribution of materials with pornographic images of minors):

- part two – shall be punishable with deprivation of liberty for a term of three to ten years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to fifteen years and with or without restraint of liberty for a term of up to two years.

Article 242<sup>2</sup> (Use of a minor for production of pornographic materials or objects):

- part one – shall be punishable by deprivation of liberty for a term of three to ten years with or without deprivation of the right to hold certain posts or to engage in certain activities for a term of up to fifteen years;
- part two – shall be punishable with deprivation of liberty for a term of eight to fifteen years with or without deprivation of the right to hold certain posts or engage in certain activities for a period of up to twenty years and with or without restraint of liberty for a term of up to two years.

Therefore, the crimes under consideration entail the most severe punishments, or maximum term of imprisonment in case of deprivation of liberty.

#### **Question No 19.**

According to clause "d" of part two of Article 151 of the Code of Criminal Procedures, the crimes similar to those specified in the Convention fall to the jurisdiction of the Investigative Committee of the Russian Federation, except for the crime under part two of Article 242 (Distribution, public demonstration or advertising of pornographic materials or objects among minors, or involvement of minors in distribution of pornographic materials by a person who has reached the age of eighteen years) of the Criminal Code, which shall be investigated by the agencies of internal affairs.

#### **Question No 20.**

Part one of Article 63 of the Criminal Code stipulates aggravating circumstances that coincide with those specified in the Convention.

In particular:

- a) recidivism;
- b) grave consequences resulting from crime;
- c) commission of a crime by a group of persons or a group of persons by previous concert, by an organized group, or by a criminal community (criminal organization);

- i) commission of a crime with heightened brutality, sadism or mockery, or involving tormenting the victim;
- h) commission of a crime against a woman who is obviously pregnant, or against a minor, another defenceless or helpless person, or a person who is dependent on the guilty person;
- o) commission of a crime against a minor by a parent or other person who, in accordance with law, is responsible for upbringing of the minor, or by a pedagogical worker or any other worker of an educational organization, medical organization or organization providing social services or any other organization responsible for supervising minors.

### **Question No 21.**

In accordance with part two of Article 45 of the Code of Criminal Procedures, legal or other representatives must be engaged in the criminal case to defend the rights and legal interests of victims that have not reached legal age or due to their physical or mental state are unable to defend their rights and legal interests independently.

According to part three of Article 45 of the Code of Criminal Procedures, the legal representatives and representatives of a victim, civil plaintiff or private prosecutor shall have the same procedural rights as the persons they represent.

In this connection, attention should be paid to the rights granted to a victim by part two of Article 42 of the Code of Criminal Procedure:

- know the charges brought against the accused person (clause 1);
- review protocols of investigative actions performed with such person and submit his/her objections thereto (clause 10);
- review orders appointing a forensic examination and expert reports (clause 11);
- once a preliminary investigation is completed, including dismissal of a criminal case, review all criminal case files, take any notes from the criminal case files, make copies of the criminal case files, including copies made using any technical means. If several victims are involved in a criminal case, every victim may review the criminal case files related to damage caused to that particular victim (clause 12);
- receive copies of rulings on the institution of a criminal case, on granting the status of a victim, on refusal to appoint detention as a measure of restraint for the accused person, on dismissal of a criminal case, or suspension of a criminal case, on referral of a criminal case to the competent court, on appointment of a preliminary hearing or court session;
- receive copies of the sentence delivered by the court of first instance and copies of judgments delivered by the courts of appeal or cassation. Upon request, a victim may receive copies of other procedural documents affecting his/her interests (clause 13);
- speak during pleadings (clause 15);
- review minutes of court session and submit objections thereto (clause 17);
- submit complaints about any act (omission) or decision taken by the inquirer, investigator, prosecutor or court (clause 18);
- request to take safety measures in accordance with part three of Article 11 of the Code of Criminal Procedures (clause 21).

In accordance with parts one and two of Article 145 of the Code of Criminal Procedures, following consideration of a report about a crime, the agency of inquiry, inquirer, investigator or head of investigative authority shall communicate their decision to the applicant. The applicant shall be notified about his/her right to challenge such decision and the applicable procedure for challenging.

According to part eight of Article 162 of the Code of Criminal Procedures, the investigator shall in writing notify, inter alia, the victim and his/her representative about any extension of the period of preliminary investigation.

Part three of Article 195 of the Code of Criminal Procedures reads that the investigator shall communicate the order appointing a forensic examination to the suspect, accused person, his/her lawyer, victim and his/her representative, and shall also explain their rights granted by Article 198 of the Code of Criminal Procedure. In case a forensic examination is appointed and carried out, the victim and his/her representative may:

- 1) review the order appointing a forensic examination;
- 2) challenge the expert or request to engage another expert institution to perform the expert examination;
- 3) request to engage, as experts, the persons specified by them or a particular expert institution to perform the forensic examination;
- 4) request to include additional questions to the expert in the order appointing a forensic examination;
- 5) be present, subject to the investigator's consent, during expert examination and give explanations to the expert;
- 6) review the expert's opinion or notice that no opinion can be issued, as well as the protocol of expert's interrogation.

In accordance with part one of Article 209 of the Code of Criminal Procedures, the investigator, following suspension of preliminary investigation, shall notify this to the victim, his representative, civil plaintiff, civil defendant or their representatives, and shall also explain the procedure how to challenge such decision.

According to part three of Article 211 of the Code of Criminal Procedures, information about resumption of preliminary investigation shall be communicated to the victim and his representative.

Completion of investigation shall be notified by the investigator, inter alia, to the victim and his representatives (part two of Article 215 of the Code of Criminal Procedures).

Part one of Article 216 of the Code of Criminal Procedures provides that, upon request of the victim or his representatives, the investigator shall familiarize them with the criminal case files, whether fully or partially, not including the files specified in part two of Article 3174 of the Code of Criminal Procedures. In addition, the bill of indictment or criminal case files can be provided to the victim or his representative for review upon request (part three of Article 225 of the Code of Criminal Procedures).

Following approval of the bill of indictment, the prosecutor shall refer the criminal case to court, which shall be notified, inter alia, to the victim and/or his representatives (part one of Article 222 of the Code of Criminal Procedures).

Furthermore, it should be taken into consideration that, according to Article 222 of the Code of Criminal Procedures, the victim, his legal representative and/or representative may participate in the criminal prosecution of the accused person and, with respect to criminal cases with private prosecution, bring and support charges in accordance with the Code of Criminal Procedures.

To adapt the rules of interrogation to the age of a minor victim, part two of Article 191 of the Code of Criminal Procedures requires that the victims under the age of sixteen years shall not be warned about liability for refusal to give testimony and for giving knowingly false

testimony. When the procedural rights granted by Article 42 of the Code of Criminal Procedures are explained to such victims, they shall be informed that they shall tell only truth.

In accordance with part two of Article 45 of the Code of Criminal Procedures, legal or other representatives must be engaged in the criminal case to defend the rights and legal interests of victims that have not reached legal age or due to their physical or mental state are unable to defend their rights and legal interests independently.

In accordance with Federal Law No. 432-FZ dated December 28, 2013, part two<sup>1</sup> was added to Article 45 of the Code of Criminal Procedures, which will become effective on January 1, 2015; and according to this part, upon request of a legal representative of a minor victim that has not reached the age of sixteen years and has become the victim of a crime against sexual integrity of a minor, the inquirer, investigator or court shall arrange the involvement of a lawyer to act as a representative of such victim. In this case lawyer's fees shall be compensated from the federal budget.

According to part two<sup>2</sup> of Article 45 of the Code of Criminal Procedures, the inquirer, investigator, judge or court may rule to suspend the minor victim's legal representative from participation in a criminal case, whenever there are reasons to believe that the legal representative's actions prejudice the interests of the minor victim. In this case another legal representative of the minor victim shall be allowed to participate in the criminal case.

According to part three of Article 45 of the Code of Criminal Procedures, the legal representatives and representatives of a victim, civil plaintiff or private prosecutor shall have the same procedural rights as the persons they represent.

Part three of Article 161 of the Code of Criminal Procedures prohibits disclosure of any information about the private life of the parties to criminal proceedings, as well as any information about the private life of a minor victim under the age of fourteen years without consent of his legal representative.

According to part nine of Article 166 of the Code of Criminal Procedures, in case there is a need to ensure safety of the victim, his representative, witness or their close or other relatives, the investigator may avoid providing any data about their identity in the protocol of any investigative actions in which such victim, his representative or witness is involved. In this case, the investigator, subject to consent of the head of the investigative agency, shall issue an order justifying confidentiality of such data, specifying a pseudonym and containing a signature specimen, which will be used by the investigator in the protocol of investigative actions involving the victim. Such order shall be placed in an envelope that shall be sealed and filed with the criminal case materials and kept with them under the conditions preventing any other parties to the criminal proceeding from seeing its contents. In urgent cases, the given investigative action can be performed on the basis of the investigator's confidentiality order in relation to the identity of the person involved in the investigative action, without consent of the head of the investigative agency. In this case, such order shall be submitted, as soon as possible, to the head of the investigative agency to verify whether it is lawful and reasonable.

In accordance with Federal Law No. 432-FZ dated December 28, 2013, part five was added to Article 191 of the Code of Criminal Procedures, effective from January 1, 2015, which requires that video recording must be used during investigative actions stipulated by the said chapter, whenever a minor victim or witness is involved, unless such minor victim or witness, or their legal representative objects to using video recording. Video records shall be retained in the criminal case files.

Moreover, the said Federal Law also added part 3 to Article 137 (Violation of privacy) of the Criminal Code to set forth liability for illegal dissemination, whether in a public speech, publicly demonstrated work, media or information and communication networks, of any information identifying a minor victim under the age of sixteen years in a criminal case or any information describing physical or moral sufferings experienced by such victim as a result of crime, which dissemination causes harm to minor's health, mental disorder in the minor or other severe consequences.

To ensure safety of a person identifying a criminal, the investigator may decide to carry out the identification process in the conditions that will not make it possible for the identified person to watch the identifying person (part eight of Article 193 of the Code of Criminal Procedures).

When consideration of criminal cases dealing with crimes against sexual integrity and sexual freedom of an individual or other crimes can result in disclosure of any information about the sexual aspects of life of the parties to the criminal proceedings or information humiliating their dignity or honor, or when needed for the sake of security of the parties to the court proceedings, their family members, relatives or friends, the court may rule that the court proceedings shall be closed (clauses 3 and 4 of part two of Article 241 of the Code of Criminal Procedures).

Whenever sufficient information is available which shows that the victim, a witness or other party to the criminal proceedings receives threats of murder, violence, destruction of or damage to their property or any other illegal actions, the court, judge, prosecutor, head of the investigative agency, investigator, agency of inquiry or inquirer shall take security measures within their competence in relation to such persons in accordance with Articles 166 part nine, 186 part two, 193 part eight, 241 part two clause 4 and 278 part five of this Code, as well as any other security measures stipulated by the legislation of the Russian Federation (part three of Article 11 of the Code of Criminal Procedures).

For example, in case of threats of violence, extortion or other criminal actions in relation to the victim, a witness or their family members, relatives, friends, telephone calls and other talks can be controlled and recorded upon written application from such person or, in the absence of such application, if ordered by court (part two of Article 186 of the Code of Criminal Procedures).

In addition, Federal Law No. 119-FZ dated August 20, 2004 *On State Protection of Victims, Witnesses and other Parties to Criminal Proceedings* provides for a system of state protection of victims, witnesses and other parties to criminal proceedings, including security measures and social support measures for such person and also establishes grounds and procedures for the application thereof.

In accordance with part two of Article 42 of the Code of Criminal Procedures, the victim is entitled to receive information about arrival of the convict to the correctional facility, instances when the convict leaves the detention center, date when the convict is released from prison, if the victim or his legal representative makes a corresponding statement before the end of hearing of arguments.

In this connection the Criminal Correctional Code provides for the following notification procedure.

Arrival of the convict to the correctional facility shall be notified by the administration of the correctional facility or correctional agency within 10 days after arrival with a notice to a convict's relative designated by the convict and to the victim or victim's legal representative provided that the convict's personal file contains a copy of court ruling or court order

requiring such notice to the victim or victim's legal representative (Article 17 of the Criminal Correctional Code).

Convicts that had the remaining portion of sentence in the form of imprisonment replaced with restraint of liberty or convicts sentenced to restraint of liberty as an additional punishment shall be released from the correctional facility where they serve their sentence and travel to the place of residence independently, with travel expenses covered from the federal budget. The administration of correctional facility shall issue to the convict an order to travel to the place of residence, specifying the route and the time of arrival to the criminal correctional inspectorate at the place of residence for registration, which shall be immediately notified in writing to such inspectorate and to the victim or victim's legal representative provided that the convict's personal file contains a copy of court ruling or court order requiring such notice to the victim or victim's legal representative (part 3 of Article 47<sup>1</sup> of the Criminal Correctional Code).

In case the convict is permitted to temporarily leave the correctional facility, the administration of the correctional facility shall immediately notify the victim or victim's legal representative, provided that the convict's personal file contains a copy of court ruling or court order requiring such notice to the victim or victim's legal representative (part 6<sup>1</sup> of Article 97 of the Criminal Correctional Code).

When a person sentenced to imprisonment is released, the administration of the correctional facility shall send an appropriate notice to the victim or victim's legal representative no later than 30 days prior to release or, in case of release on parole, on the date of release provided that the convict's personal file contains a copy of court ruling or court order requiring such notice to the victim or victim's legal representative (Article 172<sup>1</sup> of the Criminal Correctional Code).

## **Question No 22.**

Article 191 of the Code of Criminal Procedure determines the peculiarities of interrogation of a minor victim or witness. In accordance with Federal Law No. 432-FZ dated December 28, 2013, from January 1, 2015 these peculiarities of interrogation will apply also to other investigative activities involving minors (confrontation, identification and testimony verification).

Interrogation of a victim or witness at the age under fourteen years or, at the discretion of the investigator, interrogation of a victim or witness at the age of fourteen to eighteen years shall be conducted in the presence of a teacher. A minor's legal representative may be present during interrogation of a minor victim or witness (part one).

In accordance with Federal Law No. 432-FZ dated December 28, 2013, on January 1, 2015 part one of Article 191 of the Code of Criminal Procedure will be restated to require mandatory presence of a teacher or psychologist during interrogation, confrontation, identification or testimony verification involving a minor victim or witness under the age of sixteen years or a minor victim or witness that has reached the age of sixteen years, but has a mental disorder or developmental retardation. Whenever such investigative actions involve a minor that has reached the age of sixteen years, a teacher or psychologist shall be invited at the investigator's discretion. Such investigative actions involving a minor victim or witness under the age of seven years may not last for more than 30 minutes without a break and for more than one hour in total; for minor victims or witness at the age of seven to fourteen years - for more than one hour and two hours in total; and for minor victims or witnesses older than fourteen years - for more than two hours and in total more than four hours a day.

A legal representative of a minor victim or witness may be present during such investigative activities.

Victims under the age of sixteen years shall not be warned about liability for refusal to give testimony or for giving knowingly false testimony. When the procedural rights granted by Article 42 (part two) of the Code of Criminal Procedures are explained to such victims, they shall be informed that they shall tell only truth.

In addition, to mitigate the negative psychological impact in minor victims (witnesses), a requirement was introduced to use video recording during investigative actions involving a minor victim or witness.

This will make it possible to provide, during court proceedings, testimony previously given during the preliminary investigation, using audio and video record of interrogations, in the absence of the minor victim or witness.

If necessary, there is a possibility to interrogate the minor victim or witness for the second time but only on the grounds of a reasoned decision of the court made upon request of the parties or upon its own initiative.

Article 20 of the Code of Criminal Procedures stipulates that, based on the nature and severity of crime, criminal prosecution, including bringing of charges at court, can be public, private-public or private.

Criminal cases with private-public charges shall be initiated only upon application of the victim or victim's legal representatives, but they shall not be closed due to the reconciliation of the victim and the accused. Criminal cases with private-public charges include criminal cases dealing with crimes under Articles 131 part one, 132 part one, 137 part one, 138 part one, 139 part one, 145, 146 part one, 147 part one, of the Criminal Code of the Russian Federation (part three of Article 20 of the Code of Criminal Procedures).

The head of an investigative agency, an investigator or, subject to prosecutor's consent, an inquirer shall initiate a criminal case in connection with any crime mentioned in parts two and three of this Article, and, in case no application has been filed by the victim or victim's legal representative, if a crime has been committed against a person unable, whether due to its dependent or helpless state or any other reason, to protect his rights and legal interests. Other reasons include cases when a crime has been committed by an unidentified person (part four of Article 20 of the Code of Criminal Procedures).

In accordance with part two of Article 45 of the Code of Criminal Procedures, legal or other representatives must be engaged in the criminal case to defend the rights and legal interests of victims that have not reached legal age or due to their physical or mental state are unable to defend their rights and legal interests independently.

In accordance with Federal Law No. 432-FZ dated December 28, 2013, part two<sup>1</sup> will be added to Article 41 of the Code of Criminal Procedures, which will become effective on January 1, 2015; and according to this part, upon request of a legal representative of a minor victim that has not reached the age of sixteen years and has become the victim of a crime against sexual integrity of a minor, the inquirer, investigator or court shall arrange the involvement of a lawyer to act as a representative of such victim. In this case lawyer's fees shall be compensated from the federal budget.

According to part two<sup>2</sup> of Article 45 of the Code of Criminal Procedures, the inquirer, investigator, judge or court may rule to suspend the minor victim's legal representative from participation in a criminal case, whenever there are reasons to believe that the legal representative's actions prejudice the interests of the minor victim.

In this case another legal representative of the minor victim shall be allowed to participate in the criminal case.

According to Article 15 (Categories of crime) of the Criminal Code, crimes of moderate gravity include deliberate offenses for which maximum punishment stipulated by the Criminal Code does not exceed five years of deprivation of liberty, and negligent crimes for which maximum punishment stipulated by the Criminal Code does not exceed three years of deprivation of freedom., intentional acts, for which maximum penalty stipulated by the Criminal Code does not exceed ten years deprivation of liberty, shall be recognized as grave crimes, and intentional acts, for which the Criminal Code provides a penalty in the form of deprivation of liberty for a term exceeding ten years, or a more severe punishment, shall be recognized as especially grave crimes.

The limitation period for criminal prosecution is fixed in Article 78 (Relieve from criminal prosecution in connection with expiration of the period of limitation) of the Criminal Code, and a person shall be relieved from criminal prosecution in case the following periods have expired since a crime has been committed:

- 1) six years for medium-gravity crimes;
- 2) ten years for grave crimes;
- 3) fifteen years for especially grave crimes.

There is no concept of "secret operations" in the legislation of the Russian Federation.

However, Federal Law No. 144-FZ dated August 12, 1995 *On Search and Investigative Activity* governs the search and investigative activities undertaken to prevent and investigate crimes, as well as the grounds for undertaking such activities.

In particular, such grounds include:

1. A criminal case initiated.
2. The following information becoming known to the search and investigative agencies:
  - 1) signs of a crime that is being prepared, being committed or has been committed, as well as information about persons who prepare, commit or have committed a crime, in case no sufficient data are available to decide whether or not a criminal case shall be initiated;
  - 2) information about persons hiding from the inquiry or investigative agencies or courts or evading criminal punishment;
  - 3) information about missing persons or unidentified corpses.

### **Question No 23.**

The inquirer, inquiry agency, investigator, head of the investigative authority shall accept and verify a report about crime, whether committed or under preparation, and, within the competence stipulated by the Code of Criminal Procedures, shall take a decision in connection therewith within 3 days after such report (Article 144 of the Code of Criminal Procedures).

Interrogation of a victim or witness at the age under fourteen years or, at the discretion of the investigator, interrogation of a victim or witness at the age of fourteen to eighteen years shall be conducted in the presence of a teacher. A minor's legal representative may be present during interrogation of a minor victim or witness (part one of Article 191 of the Code of Criminal Procedure).

Federal Law No. 432-FZ dated December 28, 2013 *On Amendments to Certain Laws of the Russian Federation to Reinforce the Rights of Victims in Criminal Proceedings* requires that a psychologist shall be present during interrogation, confrontation or identification and testimony verification involving a minor victim or witness under the age of sixteen years or at the age of sixteen years or older, when such victim or witness has a mental disorder or developmental retardation, in connection with criminal cases dealing with crimes against sexual integrity of a minor.

Video recording must be used during any investigative actions under Chapter 26 of the Code of Criminal Procedures, which involve a minor victim or witness, unless the minor victim or witness or his/her legal representative objects. Video records or filming records shall be filed with the case materials (parts four and five of Article 191 of the Code of Criminal Procedures, respectively).

These provisions will become effective on January 1, 2015.

Ministry of Internal Affairs of Russia