

## *The Right to Education of Migrant Children in Russia*

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### ABSTRACT

The article is devoted to the children of migrants in Russia and the implementation of their right to education. The authors deal with the legal and organizational problems of providing education for the children of migrants in the Russian Federation.

Migrant children, their legal status, and socio-cultural adaptation have recently been the focus of attention as this problem is one of the complex issues of migration regulation processes. Migrant children being potential citizens of the Russian Federation, will actively be able to influence the political and social processes in the country.

A sound, balanced migration state policy can help migrants and their children to integrate into the host society, and education is one of the ways. In particular, a great role is played by teaching the language of the country.

The authors focus on the Russian legislative practice in the sphere of migration and describe how the Russian law deals with the problem of the children of migrants. The situation of education of the migrant children in Russia is discussed, and perspectives for the legislation development is indicated.

### INTRODUCTION

Migrant children, their legal status, and socio-cultural adaptation have been the focus of attention recently as this problem is one of the complex issues of migration regulation processes. Migrant children, in fact, are potential citizens of the Russian Federation and will be able to influence the political and social processes in the country. Russia entered the period of mass migration later than the countries of Europe and North America and is now facing all the challenges in migration sphere while having a unique chance to learn from the experience of other EU countries and not to repeat their mistakes.

Moving to another country brings social problems for migrants and their children; they may experience physical, mental, and educational challenges while adapting to a different environment and culture. Mass migration has a serious impact not only on migrants but on the

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citizens of the country, on economic, political, cultural, intergroup, and interethnic relations and educational space.

A sound, balanced migration policy of the state can do much to help migrants and their children to pass the sociocultural adaptation in the host country. Russia has already done a lot but not all the problems are fully resolved.

### **CHILDREN OF MIGRANTS IN RUSSIA AND THEIR RIGHT TO EDUCATION: LEGAL AND ORGANIZATIONAL PROBLEMS**

Education is the largest institution to provide adaptation of migrant children because it shows them the host country's culture, ensures their social and professional mobility. Russia provides an opportunity for the children of migrants to learn the Russian language before school to make education available for them.

According to the statistics of 2015, there are about 221.8 thousand children under the age of 18 years among 4.7 million migrants in Russia. Moscow schools alone have about 25 thousand children. In 2013, Muscovites participated in a survey; the survey results showed that 35% of their children attended a school where some of the pupils are the children of migrants. Eighteen percent of the respondents say the same about the nurseries their children attend. Specialized training is provided for teachers who work in such classes.

Legal regulations of migrant children in Russia are based on international instruments governing primarily issues of education for migrant children. On 01.08.1975 in Helsinki, Russia signed the final act of the conference on security and cooperation in Europe<sup>2</sup>. According to this Act, Russia agreed to ensure the children of migrant workers residing in the host country have access to the country's education on the same conditions as for the children-citizens of this country. On 30.09. 1992 Russia signed "The world declaration on the survival, protection, and development of children" adopted in New York<sup>3</sup>.

It should also be noted that Russia adopted several important acts together with the former USSR countries. The first is the Decision of Council of heads of CIS States "On proposals for a coordinated migration policy of the States-participants of CIS" (05.10.2007, Dushanbe). It

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<sup>2</sup> Public international law. A collection of documents. Vol. 1. - Moscow: BEK, 1996. P. 8 - 12.

<sup>3</sup> Diplomatic Bulletin. 1992. № 6. P. 10 - 13.

guarantees state support for the social protection of migrants and members of their families, and the creation of conditions for education of migrant workers' children in educational institutions of the country.<sup>4</sup> The second is a Convention on the legal status of migrant workers and members of their families, signed by State-members of Commonwealth of Independent States in Chisinau on 14.11.2008. Article 7 of this Convention emphasizes that migrant workers and members of their families will have the right to education<sup>5</sup> in particular.

The report of the Presidential Ombudsman for the protection of children called "The protection of children's rights in the Russian Federation" says that on February 1, 2016, the level of availability of preschool education for children aged 3 to 7 years on average in the Russian Federation was of 99.23%.<sup>6</sup>

In the Report of the Commissioner on human rights in the Russian Federation for the year 2015, it is indicated that there were 9 924 726 foreign nationals on the territory of the Russian Federation. More than 17 million foreign nationals entered the territory of the Russian Federation in 2015; the largest share (55.6 percent) in the number of arrivals still belongs to the citizens of Ukraine, Uzbekistan, Kazakhstan, and Tajikistan. The migration processes caused by the radicalization of the civil conflict that began in Ukraine in 2014 are of particular concern. More than 1.1 million persons from Ukraine entered the territory of the Russian Federation only in the period from April 1, 2014.

The lack of legal status entails the expulsion of an immigrant from Russia.<sup>7</sup> In the second half of 2015, there was a declining trend in the number of migrants; on January 1, 2016, there was a decrease in the number of foreign people in the territory of the Russian Federation by 9.5% compared with January 1, 2015. This can be explained by the fact that the procedure for their legalization is extremely complicated.

To work with the children of migrants, first, we must know exactly how many of them are in the territory of Russia because the problem for the schools and the city is the integration/not

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<sup>4</sup> The document was not published.

<sup>5</sup> The website of the parliamentary Assembly of the organization of Agreement on collective security <http://www.paodkb.ru>.

<sup>6</sup> <http://mamanarabote.ru>.

<sup>7</sup> The report of the Commissioner for human rights in the Russian Federation for 2015 // <https://rg.ru/2016/03/24/ombudsman-doklad-dok.html>.

integration of migrants. The statistics should be conducted not just by citizenship status but should include several more complex indicators that are necessary for the understanding of the situation. Such indicators are the country of origin, native language, duration of stay in the Russian Federation. The state body dealing with the migration situation is the Ministry of Internal Affairs of the Russian Federation, so it has the most complete and relevant data. However, the Ministry of Internal Affairs of the Russian Federation considers only the adult population but not minors.

The Decree of the RF Government from 17.11.2008 № 1662-P “About the concept of long-term socio-economic development of the Russian Federation for the period till 2020” provides opportunities for every child entering the first grade to master the programs of preschool education and to communicate fully in the language of instruction.<sup>8</sup> Forecast of long-term socio-economic development of the Russian Federation for the period till 2030 by the Ministry of economic development declares that the Russian Federation provides 100% accessibility of preschool education for the children aged three to seven years and this data includes the increase in the proportion of children of migrant workers.<sup>9</sup>

Article 5 of the Federal law from 29.12.2012 № 273-FZ “On education in the Russian Federation” guarantees the right of every individual to education regardless of gender, race, nationality, language, origin, and other circumstances.

Enrollment in schools is carried out in accordance with the Admissions Policy for educational programs of preschool education (Ministry of Education of Russia, April 8, 2014, № 293). It states that the enrolment of foreign citizens and individuals without citizenship, including compatriots abroad in the educational organization, is carried out at the expense of budgetary appropriations of the Federal budget, budgets of constituent entities of the Russian Federation and local budgets. Thus, children of migrant families can be enrolled if places in preschool are available. The register of children for educational programs of preschool education is organized in accordance with the Letter of the Ministry of Education of Russia from 01.12.2014 № 08-1908. Even though these documents say nothing about the children of migrants, we believe that there is

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<sup>8</sup> "Collection of the legislation of the Russian Federation", 24.11.2008, № 47.

<sup>9</sup> 8. The text of the document is given in accordance with the publication on the website <http://www.economy.gov.ru> as at 30.04.2013.

a certain necessity for state accounting of such children, including those who need preschool education.

The letter of the Ministry of Education of Russia from 09.07.2014 № 08-859 “On the education of children arriving from the territory of Ukraine” stipulates that with a purpose of the adoption of priority measures for ensuring the rights of children arriving from the territory of Ukraine having the status of refugee, forced migrant or temporarily residing in the territory of Russia, these categories receive public and free preschool, primary general, basic general and secondary general education in educational institutions of the Russian Federation.

However, according to various CYS surveys, only 15-25% of the migrant children in Russia go to kindergarten, and the number of Russian preschool children enrolled in kindergartens ranges from 50 to 80% (depending on region).<sup>10</sup>

This situation exists firstly due to the lack of places in kindergartens and secondly because of the lack of information about the procedure of getting enrollment for the children. It is difficult to collect documents; the parents must be officially registered, and they must get medical insurance.<sup>11</sup>

In schools and kindergartens of Moscow alone, about 28 thousand children do not have Russian citizenship, and about 15 thousand of them do not speak Russian. For children who do not speak Russian, there is a program of learning the language.<sup>12</sup>

The Moscow Government pays great attention to education and socio-cultural adaptation of migrant children. Thus, the Decision of the Government of Moscow (25.03.2008, № 195-PP) “The Government of Moscow Strategy for implementation of the state policy in the interests of children “Moscow children” for 2008-2017” states that about 25 million of such children study at educational institutions. Most of them have weak knowledge of the Russian language, culture, history, traditions, and standards of behavior in everyday life. In order to create conditions for the integration of such children into the educational environment of Moscow, special working groups

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<sup>10</sup> Arefiev, A. L. The education of children from families of foreign citizens in the schools of Moscow // Vestnik RUDN. Series: education Issues. Languages and profession. 2015. № 5 P. 149-160.

<sup>11</sup> Yu. Florinskaya Children of migrants in Russia: access to education and medicine // <http://www.demoscope.ru/weekly/2012/0515/analit02.php>

<sup>12</sup> <https://lenta.ru/news/2011/09/29/children/>

were created (about 245) to study the Russian language based on 152 schools. The number of pupils in these groups is more than 3 thousand.<sup>13</sup>

In Moscow and other regions of Russia, the problem of the Russian language knowledge is solved with the help of extra-curriculum classes. So, if the child is not fluent enough in the language and if it is difficult for a child to engage in the educational process, then he can attend these special RAF classes (Russian as a foreign language) in the second half of the school day. Those who do come with zero knowledge (and the first graders who did not attend kindergarten in Russia and senior high school students who did not study in Russian schools at home country) need the Russian language training. Many schools of Russian language were opened for them in Moscow by the initiative of the Department of Education of the Government of Moscow.<sup>14</sup>

The education of migrant children is crucially important if we speak about their future social position. One of the studies was devoted to the attitudes of high school graduates to getting a higher education. Four hundred and eleven students and 330 parents took part in this research. Many of the respondents planned to enter the University, and most of them were going to enter state universities.<sup>15</sup>

There are kindergartens and schools<sup>16</sup> in Moscow with the so-called ethno-cultural (national) component (Latvian, Armenian, etcetera.). This experiment is fascinating, and its impact is being studied.

Violation of the right to education of migrant children is strictly punishable under Russian law. Consider the example of 'D.' The administrative claim of D. was granted by the Supreme court of Kalmykia Republic in 2016 in case № 33-20/2016. D. referred to the fact that the decision of the immigration authority violated the right of children to receive education in the Russian Federation, the right of residence together with parents, which is the invasion of privacy and a violation of international law and norms of the Russian legislation.

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<sup>13</sup> Vestnik of Mayor and government of Moscow", № 21, 09.04.2008.

<sup>14</sup> <http://sch1450u.mskobr.ru>

<sup>15</sup> The situation of migrant children in St. Petersburg. – M.: United Nations Children's Fund, (UNICEF), 2011 – 166 P.

<sup>16</sup> "Vestnik of Mayor and government of Moscow", № 24, 19.04.2004.

D. appealed to the court with this claim citing the following facts. On September 9, 2015, he appealed to the OFMS Department in the Republic of Kalmykia in Elista with a statement on the extension of the period of temporary stay of his three children who are not citizens of the Russian Federation.

D. was not a citizen of the Russian Federation but had the right to permanent residence in the Russian Federation. He had officially worked in the Republic of Kalmykia since April 2013. The children's mother also was not a citizen of the Russian Federation but had a temporary residence permit in the Russian Federation for the period until April 2018. The period of stay of the children had expired in September 2015, so he applied a statement on the extension of the residence in the prescribed manner. D. asked to cancel the decision of the head of OFMS Department in the Republic of Kalmykia in the city Elista from September 9, 2015, on refusal in prolongation of the term of temporary stay of three children and to oblige the Department OFMS in the Republic of Kalmykia in Elista to consider the application on prolongation of their term of stay in Russia. The Supreme court of the Republic of Kalmykia granted D's claim.

It is necessary to specify that no criminal case was considered by the Russian courts on the issue of bribery by migrant parents for the enrollment of their children in school, kindergarten, or University.

The problem could be with the children only of illegal migrants due to the lack of documents about their legal presence in the territory of Russia. It is essential that Russia has all the conditions for the integration of migrants. However, there is evidence that there are up to 5 million illegal immigrants now in Russia, and many of them come with their families. The reluctance of parents to obtain relevant documents for the legal presence in Russia creates difficulties for the education of the children of illegal migrants.

Foreign nationals according to the Federal law from 25.07.2002 № 115-FZ "On the legal status of foreign citizens in the Russian Federation" must register at migration service, the children of migrants illegally staying in Russia are subject to deportation. Illegal minors in Russia have no rights, including the right to education, but it is the fault of their parents who do not want to be legalized in Russia and thereby are breaking the law themselves and are violating the rights of their children.

Another problem that should be recognized is that children of migrants must leave Russia every 90 days with their parents according to article 5 of the Federal law from July 25, 2002, № 115-FZ “On the legal status of foreign citizens in the Russian Federation”; a visa-free entry to the Russian Federation does not let a foreign citizen stay more than ninety days.<sup>17</sup> Thus, it can be seen as some violation of the rights of migrant children who are forced to interrupt their study every 90 days and leave Russia with their parents. We believe the problem should be resolved by the law. In this regard, we consider it necessary to amend claim 1.1. in article 5 of the Federal law “On the legal status of foreign citizens in the Russian Federation” as follows: “the period of temporary stay in the Russian Federation of a foreign citizen with a patent and the period of temporary stay in the Russian Federation of his family members is determined by the validity of the patent.”

### CONCLUSION

A significant problem in the field of regulation and control of migration is departmental isolation. Only a few ministries (the Ministry of Internal Affairs of Russia, the Russian Ministry of Labor and Ministry of Education and Science) are involved in adaptation and integration of migrants at the Federal level. However, none of them are leading the coordination in addressing these problems. This results in imbalances in the actions of the Federal agencies, the regions of the Russian Federation, and institutions of culture and education. As a consequence, it does not lead to effective implementation of the concept of state migration policy of the Russian Federation for the period till 2025, the national security Strategy of the Russian Federation, and other acts. Accordingly, there is still no clear strategy of the state migration policy in the sphere of adaptation and integration of migrants.

The purpose now is the development and implementation of mechanisms for identifying children not enrolled in secondary school (children engaged in vagrancy, the children of migrants) and their preparation for school. It is necessary to form the database of children focusing on the educational needs of them (including individual academic work and achievement). This database should be available for other structures to provide the exchange of information.

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<sup>17</sup> Meeting of the legislation of the Russian Federation", 29.07.2002, No. 30, article 3032.