

Rights of Minors in the Sphere of Culture, Recreation and Leisure Activities

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ABSTRACT

The works is dedicated to highly challenging though poorly investigated problems of legislative recognition and practical implementation of rights of minors in the sphere of culture, recreation and leisure activities. Detailed analysis of international legislative acts and laws of the Russian Federation regulating public relations in this sphere leads the investigators to a conclusion on obvious insufficiency of statutory regulation of these relations in respect to minors in spite of a high degree of significance of corresponding standards for provision of full-scale physical, psychic, moral and intellectual development of personality of a young person. Work may be useful for scientists, teachers, candidates and students of law schools as well as for practitioners whose activity is connected with protection of rights and interests of minors and (or) with their physical, moral and artistic education.

Keywords: Children, Minors, Recreation, Culture, Leisure Activities, Physical Culture, Physical Education, Sport, Aesthetic Education, Artistic Education

JEL Classifications: Z13, Z18, K39

1. INTRODUCTION

1.1. Introduce the Problem

It is difficult to overestimate significance of physical health of a child, his habit to healthy lifestyle, access to social heritage of his nation and country in which he lives and gets education, for comprehensive physical, psychical, intellectual and moral development of his personality.

1.2. Explore Importance of the Problem

Recognizing its responsibility for harmonious development of personality of minors and fulfilling its international responsibilities, the Russian Federation sets itself and solves priority tasks in the sphere of culture, recreation, leisure activities, development of physical culture and sport, as well as in respect of children. The Concept of Long-term Socio-economic Development of the Russian Federation to 2020, approved by Decree of the Government of the Russian Federation dated November 17, 2008 No. 1351-p (As Amended by Order of the Government of the Russian Federation, Dated August 08, 2009) states that the aim of the state policy in the sphere of culture lies in implementation of cultural and spiritual potential of each personality and the society as a whole (The Concept of Long-term Socio-economic Development of the Russian Federation to 2020). The strategic aim of state policy in the sphere of development of physical culture and sport lies in creation of conditions guiding citizens to healthy lifestyle, including getting physical education and going in for sports, development of sport infrastructure, increasing competitiveness of the Russian sport (Vinogradova et al., 2014; Lina et al., 2015). The present document specifies the following priority tasks which shall be solved in order to reach the aim, first of all for comprehensive development of personality of minors: Perfection of system used for support of evocation for youth and children; creation of multifunctional culture organizations combining library museum, art school for children etc.; creation of conditions for development of creative capacities of children with disabilities; establishment of scholarship for orphaned children and children from low-income families with outstanding abilities; development of production and distribution of native cinematography products, etc. (Kryukova et al., 2014; Kryukova et al., 2013; Holovatyi, 2014).

1.3. Describe Relevant Scholarship

Such tasks in the sphere of development of physical culture and sport include: Development of physical education and going in for sports including educational institutions and at place of residence; development of additional sport education; creation of sport schools for children as well as clubs and sport sections for children and grown-ups, etc. Article 44 of the Constitution of the Russian Federation guarantees to a minor as well as to any person legally living at the territory of the Russian Federation freedom of scientific, technical and artistic creation. Intellectual property in the Russian Federation is protected by law. Everybody has the right to participate in cultural life, to use cultural institutions, the right for access to cultural values (The Constitution of The Russian Federation, 1993).

Article 31 of the UN Convention "On the Rights of the Child" states that "Member states acknowledge the right of a child for recreation and leisure activities, the right to participate in games and entertainments corresponding to his age, and to participate freely in cultural life and to pursue art" (UN Convention "On the Rights of the Child," 1989). Member-states respect and encourage the right of a child for full-scale participation in cultural and creative life and aid in provision of corresponding and equal possibilities for cultural and creative activity as well as leisure activities and recreation.

Such wise a sufficiently solid system of guarantees providing exercising of rights by minors in the sphere of culture, recreation and leisure activities was developed at constitutional and international legislative level. The only question is whether the active legislation of the Russian Federation provides sufficient number of special standards maximally fully considering the needs of minors formed factored in their age peculiarities, under the influence of family environment school, micro-environment at the place of residence, etc. The present work is dedicated to this issue.

2. METHODS

The study used a complex scientific methods: Formal logic, dialectical, system, comparative legal analysis and synthesis, induction and deduction, abstraction and hypothesis ascent from the abstract to the concrete (and back), comparison, analogy. Dialectical method of learning allowing tracing the study method in its development is the determining method in the system of methods used in the present study. The method of system analysis allowed determining the place of the studied right of minors in the general system of their rights to reveal its essence and to open its content. Other scientific methods used in jurisprudence are sufficiently fruitful from scientific point of view: Normative, structural and functional, formal and logical, predictor, etc. All of them are allowed to explore the experiences and to make a number of proposals. The main directions of development of the test the rights of minors are formed on the basis of the principles of state policy on children: Legislative support of the rights of the child; family support in order to provide education, recreation and health of children, protection of their rights, the responsibility of officials and citizens for violation of the rights of children, support public associations engaged in activities to implement and protect the rights of children.

3. RESULTS

3.1. Recruitment

Rights of minors in the sphere of recreation, culture and leisure activities, in spite of their strong interrelation and interdependence shall be from our point of view regarded not as a unified complex right but as a complex of relatively independent rights: The right for recreation, for application of cultural values and for development of creative capacities, right for health protection (Anisimov et al., 2011). On the other side, each of these subjective rights is, from our point of view, a component element of a more complex subject right belonging to a minor: His right for development (Pronin, 2011; Rabets, 2010).

The least one covers a complex of simpler subject rights, such as the right for decent life, for education, for healthy development, that is, for health protection, etc. Rights of a minor in the sphere of culture may be regarded both as a component of a more complex right of a personality, the right for individuality. Such conclusion results from a meaning of a range of specific provisions contained in different legislative acts of the Russian Federation subject to a more detailed analysis (Rabets, 2012; Yurochkin, 2014).

3.2. Statistics and Data Analysis

P.1 of article 12 of the Federal Law "On Basic Guarantees of the Rights of the Child in the Russian Federation" as of July 24, 124, No. 124 FZ states the following: "State government bodies of the subjects of the Russian Federation, local government bodies within the limits of their powers implement arrangements connected with provision of rights of children for recreation and health improvement, maintenance and development of institutions the activity of which is aimed at provision of recreation and health improvement of children. State government bodies of the Russian Federation may perform additional financing of arrangement connected with provision of rights of children for recreation and health improvement." (Federal Law, 1998).

3.3. Ancillary Analyses

The said right of minors is also exercised in the "Fundamentals of legislation of the Russian Federation on culture No. 361201 as of October 9, 1992 with subsequent amendments. Article 10 of the Fundamentals "Right for creative work" stipulates that each person has the right for all types of creative activity in accordance with his interests and abilities (Fundamentals of Legislation of the Russian Federation on Culture No. 3612, 1992).

The right of a person to perform creative activity may be exercised both in a professional and in a non-professional (amateur) manner.

Professional and non-professional creative worker have the same rights in the sphere of author's rights, they have equal rights for intellectual property, protection of tricks of the trade, freedom of disposal of results of their work, support of state. Article 27 contains a special standard dedicated to exercise by minors of their right for recreation and leisure activities and, first of all, for creative activity: The Russian Federation ... implements provisions of "Declaration of the rights of children taking into account the specifics of a child engaged in creative activity.""In order to provide general availability of cultural activity, cultural values and benefits for all the citizens, state government bodies and governing bodies shall according to their competence: Encourage activity of citizens connected with engaging children in creative activity and cultural development, self-education, non-professional art, craft;... create conditions for global aesthetic education and mass elementary art education, first of all by means of humanitarization of all the education system."

Article 12 of the fundamentals stipulates the right of a person for participation in cultural values. Persons under 18 years are provided with free visit to a museum once a month. Persons receiving education according to the basic professional educational programs have the right for free visit to state and municipal museums at least once a month. Procedure for free visits to museums is determined by a federal executive body authorized by the Government of the Russian Federation. The law stipulates arrangements for support and development of a network of special institutions and organizations including art schools, studios, courses, nonprofessional art (amateur artwork) as well as preservation of free of charge basic services of public libraries (article 30).

Article 13 confirming the right for aesthetic education is of special importance for minors. "Everybody has the right for aesthetic and art education, for choice of forms of the aesthetic development in accordance with the law on education." Point 2 of part 5, article 5 of the Federal Law "On Education in the Russian Federation" as of December 29, 2012, No. 273-FZ determines that state government bodies and local government bodies in the Russian Federation provide support to the persons demonstrating outstanding abilities including the ones showing a high level of intellectual development and creative capacities in a certain sphere of education and scientific and research activity in scientific and technologic and artistic creativity, in physical culture and sport (Federal Law No. 273, 2012).

Article 83 of the present law stipulates that "Art education and aesthetic education of citizens, preparation of qualified creative specialists and teaching employees in the sphere of arts is performed by means of implementation of educational programs in the sphere of arts," based on the principles of continuity and consistency. It is aimed at revelation of gifted children and young people at an early age, professional development, development of students based on age, emotional, intellectual and physical factors as well as successive overcoming of interdependent stages of professional achievement of personhood.

The following educational programs are implemented in the sphere of arts:

1. Additional pre-professional and general development programs;

- 2. Educational programs of secondary vocational education, integrated with educational programs of general basic and general secondary education;
- 3. Educational programs of secondary vocational education (programs for preparations of mid-level experts);
- 4. Educational programs of higher education (Bachelor's programs, specialist programs, magistracy programs, assistantship traineeship programs, post-graduate education programs).

Additional pre-professional programs in the sphere of arts are implemented in order to find gifted children at an early age, creation of conditions for their art and aesthetic education, acquisition of knowledge, skills, experience in the sphere of the chosen type of arts, experience in artistic activity and performance of their preparation for receiving professional education in the sphere of arts. Additional pre-professional programs in the sphere of arts are implemented in educational organizations of additional education of children (art schools for children according to the types of arts), in professional organizations implementing integrated educational programs in the sphere of arts, educational programs of secondary vocational education in the sphere of arts and in educational organizations of higher education.

Article 33 of fundamentals on culture stipulates that state government and regulation bodies execute the policy of protectionism (patronage) in relation to young talents, creative young populations, debutants, and new creative teams without encroaching on their liberty and independence.

In the states where ethnic, religious or linguistic minorities or representatives of indigenous population exist, a child belonging to such minorities or indigenous population shall not be debarred from a right to make use of his culture together with other members of his group, to exercise religion and to perform religious ceremonies as well as to use his mother tongue (article 30 of the Convention).

Legislation of the Russian Federation on culture does not contain special standards which would be directly aimed at implementation of the said right namely by the minors. Therewith the Russian Federation acknowledges the right of each person for his personal cultural identity: "Everyone has the right for free choice of ethic, aesthetic and other values, for protection by the state of his cultural identity" (article 11 of the fundamentals). Undoubtedly this provision specificates, as mentioned above, the right of a minor for his own individuality.

Therewith the fundamentals contain section III, named "Rights and degrees of freedom of nations and other ethnic communities in the sphere of culture." According to article 20 of the fundamentals "Nations and other ethnic communities in the Russian Federation have the right for preservation and development of their cultural and national identity, protection, restoration and conservation of native cultural and historical life environment."

"Policy in the sphere of preservation, creation and advancement of cultural values of indigenous inhabitants, that gave names to

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national state entities, shall not damage cultures of other nations and other ethnic communities living at these territories" According to article 21 of the fundamentals persons compactly living outside their state formations or without their own nationhood have the right for national and cultural autonomy; the procedure of creation and legal status of national and cultural autonomies are specified in the Federal Law as of June 17, 1996 No. 74-FZ (Federal Law No. 74-FZ, 1996).

Finally, article 22 of the fundamentals stipulates that "the Russian Federation guarantees its protection (partonage) in respect of preservation and restoration of cultural and national identity of small ethnic communities of the Russian Federation by means of exceptional measures of protection and stimulation provided by federal state programs of social economic, ecologic, national and cultural development.

As is obvious the standards of convention on the right of a minor for leisure are reflected in the law of the Russian Federation though, to our point of view, execution of this right in the sphere of education and culture can barely be called close to maximal. Taking into account insufficiency of the measures of economic, organization and legal nature the National Strategy of Action for Children for the period 2012-2017 years, approved by presidential decree of June 1, 2012, No. 761 states measures aimed at development of a system of additional education, infrastructure of creative development and education of children, in particular: "Development and introduction of federal requirements to educational programs of additional education and sport and leisure activity (National Strategy of Action for Children for the Period 2012-2017 years old No. 761 2012)."

Development of regulatory and legal framework with the aim of introduction of personal certificates for children for acquisition of guaranteed free of charge services of additional education, sport and leisure services at the place of residence.

Lending support to museum institutions, art schools implementing programs in the artistic and aesthetic sphere for pre-school children and children, studying in general education institutions, including for disabled children, orphaned children and children without parental care.

Extension of a net of child and junior creative associations, clubs at the place of residence, labor and recreation camps, other forms of amateur talent activities for children and adolescents; development of various forms of tourism and regional ethnography; involvement of adolescents in different types of socially beneficial and personally significant activities.

Lending state support to existing and newly established television channels and programs for children, adolescents, to children's theatres, film studios and television studios.

Formation of a state order for printed, cinema and computer output.

Lending state support to public electronic libraries, museums, theatres and other internet resources for children and adolescents. Implementation of a system of measures for preservation and

development of specialized child's libraries. Provision of state support during development and implementation of complex interindustry programs, as well as during nationwide actions aimed at development of childhood reading and literature for children; organization of open competitions for creation of literary works for children. Organization of the system of professional competency enhancement for educational personnel in the sphere of additional education for children. Adjustment of labor compensation for teachers in institutions of additional education for children including teachers in the system of cultural institutions according to the level not lower than the average remuneration of teachers in the region. Significant renewal of legislation in the sphere of art education and culture shall be regarded as an important step in implementation of tasks formulated in the national strategy.

Healthy development of minors is practically impossible without physical education which should be understood as a process aimed at character education, development of physical abilities of a person, acquisition of skills and knowledge in the sphere of physical culture and sport in order to form a comprehensively developed and physically healthy person with a high level of physical culture (Federal Law "On Physical Culture and Sports in the Russian Federation" No. 329-FZ, 2007. p. 25). The present law determines legal, organizational, economic and social principles of activity in the sphere of physical culture and sport in the Russian Federation. According to article 2 of the law physical culture implicates the part of culture representing a complex of values, standards and knowledge created and used by the society for purposes of physical and intellectual development of abilities of a person, improvement of his physical activity and formation of healthy lifestyle, social adaptation by means of physical education, physical training and physical development (p. 26). Sport is determined as sport sphere of social and cultural activity as a complex of kinds of sport existing in the form of competitions and special practice of preparation of a person to such competitions; (p. 12).

Law also determines the main principles of the law on physical culture and sport. These include: Securing a right of each person for free access to physical culture and sport as necessary conditions for development of physical, intellectual and ethic abilities of a personality, a right to perform physical training and to go in for sports for all the categories of citizens and population groups; uniformity of normative legal base in the sphere of physical culture and sport over the whole territory of the Russian Federation; combining state regulation of relations in the sphere of physical culture and sport with self-regulation of such relations with the subjects of physical culture and sport; establishment of state guarantees of citizens in the sphere of physical culture and sport; prohibition against discrimination and violence in the sphere of physical culture and sport, for illegal influence on the results of official sport competitions; provision of safety and health for persons involved in physical training and sport as well as participants and spectators of physical training and sporting events; observance of international agreements of the Russian Federation in the sphere of physical culture and sport; promotion of development of physical culture and sport for handicapped persons, individuals with physical disabilities and other groups of population in need of increased social protection; cooperation of a

federal executive body in the sphere of physical culture and sport, federal executive bodies of subjects of the Russian Federation, local government bodies with sport federations; regularity and continuity of physical education of citizens pertaining to different age groups; assistance in development of all kinds and constituents of sport, including children's and youth sport, school sport and student sport, taking into account the uniqueness of sport, its social and educational functions as well as the specifics of its structure based on voluntary activity of its subjects (article 3).

As to orientation of the present law to execution of a right of minors for development, quite positive changes introduced by a range of Federal laws shall be noted, especially the Federal law as of July 2, 2013 No. 185-FZ (Federal Law on Amendments to Certain Legislative Acts of the Russian Federation and the Annulment of legislative acts (certain provisions of legislative acts) of the Russian Federation in connection with the adoption of the Federal Law "On Education in the Russian Federation", 2013). In particular, the law was complemented by a number of concepts directly relevant to minors, namely, the concept of "school sport" developed as a part of sport, aimed at physical education and physical training of students in general education in physical training events and sport events including in official physical training events and sport arrangements (p. 31 of article 2).

Some of the principles listed above are directly relevant to minors (p. 10, 11 of article 3). Attention shall be also paid to a number of specific standards regulating relations in the sphere of physical activity with participation of minors.

Article 22 determines that under-age sportsmen may be granted the first junior category, the second junior category, the third junior category and though the law does not directly specify the possibility of granting sport titles to non-adults, for example, "candidate master of sports," "master of sports" as well as honorary sport degrees, no one disputes such possibility.

Article 28 of the law regulates legal status of school and student sport clubs. Non-legal body school sport clubs and student sport clubs (including in the form of public associations) may be established by educational organizations implementing educational programs for elementary general education, basic general education, general secondary education, intermediate vocational education and higher education and (or) by the students of such organizations, for the purpose of involvement of students in participating in physical training activities and sport, development and popularization of school sport, student sport. Activity of such sport clubs is performed according to the procedure established by the federal executive body authorized by the Government of the Russian Federation and determined by the statutes of corresponding educational organizations. Establishment of children's and youth sport clubs and centers of additional education for children is stated in articles 32, 33, 35 in connection with regulation of relations connected with physical culture and sport in the sphere of education (p. 3).

It shall be emphasized that at present time special attention is paid in the Russian Federation both to the issues of sport instruction in educational organizations and to the peculiarities of implementation of educational programs in the sphere of physical culture and sport. Foremost, article 28 of the law states that educational organizations at their discretion determine the forms of physical training, means of physical education, kinds of sport and physical activity, methods and duration of physical culture lessons taking into account local conditions and interests of students, based on the federal educational standards and norms of physical fitness.

Organization of physical development and education in educational organizations includes:

- 1. Conducting obligatory physical training and sport classes according to the basic educational programs as well as additional (facultative) physical training and sport classes according to additional general education programs;
- 2. Creation of conditions, including provision of sport inventory and equipment for performance of complex arrangements connected with physical and sport training of students;
- 3. Formation of physical training skills for students taking into account individual capacities and state of health, creation of conditions for involvement in physical training and sport;
- 4. Performance of physical training arrangements during training session;
- 5. Performance of medical control of organization of physical education;
- 6. Formation of responsible attitude of parents (or surrogate parents) to health of children and their physical education;
- 7. Performance of annual monitoring of physical preparedness and physical development of students;
- 8. Assistance to organization and carrying out sport arrangements with participation of students;
- 9. Assistance in development and popularization of school and student sport;
- 10. Participation of students in international sport arrangements including in world universiades and official sport competitions.

Secondly, article 84 of the Federal law as of December 29, 2012 No. 273-FZ "On Education in the Russian Federation" contains standards determining peculiarities of implementation of educational programs in the sphere of physical culture and sport. Implementation of the said educational programs is aimed at physical education of a personality, acquisition of knowledge, skills and abilities in the sphere of physical culture and sport, physical perfection, formation of culture of healthy and safe life style, health promotion, determination and selection of the most gifted children and adolescents, creation of conditions for sport preparation as well as training of personnel in the sphere of physical culture and sport. The following educational programs are implemented in this sphere:

- 1. Educational programs of the basic general and general secondary education integrated with additional preprofessional educational programs in the sphere of physical culture and sport;
- 2. Professional educational programs in the sphere of physical culture and sport;
- 3. Additional general education programs in the sphere of physical culture and sport.

The last ones include the following:

- Additional general education programs in the sphere of physical culture and sport aimed at physical education of personality, revelation of gifted children, acquiring by them of basic knowledge on physical culture and sport (programs of physical education and fitness and health recreation programs);
- Additional pre-professional programs in the sphere of physical culture and sport aimed at selection of gifted children, creation of conditions for their physical education and physical development, acquisition by them of basic knowledge, skills, experience in the sphere of physical culture and sport (including eoy selected kind of sport) and preparation to mastering the stages of sport training.

3.4. Intervention or Manipulation Fidelity

Drawing up the results of the performed study we have to state evident insufficiency of special standards in the active national legislation of the Russian Federation which could be used for creation of an integral system of guarantees for execution of right of minors at interstate level in the sphere of recreation, culture and leisure activities.

3.5. Baseline Data

Deficiency of such standards is especially observable in the legislation on culture and physical culture and sport. It shall be directly noted that statutory regulation of relations with participation of minors in these spheres is poor.

4. DISCUSSION

Implementation of the rights of minors in the field of culture, recreation and leisure activities adequately is the key to their successful socialization in the community and involves the effective adaptation of a young man in the community, the ability to withstand a certain extent the company regarding the obstacles that prevent self-development and assert themselves. This disadvantage is in some way improved by the provisions contained in the National strategy as well as in the Concept of the State Family Policy for the period until 2025, approved by Decree of the Government of the Russian Federation on August 25, 2014, No. 1618-p. (Concept of the State Family Policy for the period until 2025, 2014). Herewith the said documents are not formal note of direct action; a minor whose rights were violated cannot make reference to them. That is why it is not only reasonable but it is exceptionally necessary to improve legislation on culture and on physical culture and sport in this direction, to create accurate and efficient mechanism providing implementation and protection of rights of a minor in the sphere of culture and leisure activities.

5. CONCLUSION

To the study of problems connected with execution and protection of rights of minors in the sphere of recreation, culture and leisure activities it shall be noted that in legal science these problems were undeservingly overlooked. Despite some positive developments in the reconstruction and development of public policies for children in Russia, the establishment of a specific legal framework, positive experiences in a number of regions, is necessary to take on the federal level, a set of measures in accordance with international standards. The present study is only one of a few scientific researches that took the first step in this direction, It is quite clear that it does not cover all the aspects of the actual and complicated problems connected both with essence and scope of rights of minors in the sphere of recreation, culture and leisure activities, and with their execution and protection. Therewith it may serve a basis for further scientific pursuits in this region.

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