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Social and Legal Situation of Handicapped Persons in the Russian Federation

Abstract: The article by K. Laskowska presents the evolution in the approach of the state and of society to handicapped persons in Russia in the past and in the present. The author points to a number of problems that have been present for years in relationships of handicapped persons with other people (lack of understanding and support, dislike, and rejection), as well as existential problems encountered by them in their daily lives (unemployment, low disability benefits). The author also presents the most important provisions of the Act “On social protection of handicapped persons in the Russian Federation” of 1995, which regulates many spheres of the state’s assistance provided to such persons. In particular, the Act regulates the support related to housing, healthcare, information, transport, financial aid, etc. The deliberations lead to the conclusion that changes are needed that will lead to better social integration, as well as to better and more effective work of representatives of state authorities and institutions. What is needed is a single cohesive and efficient system that facilitates the functioning of handicapped persons in society.

Keywords: handicapped person, invalid, rehabilitation of handicapped persons.

1. Introduction

According to the data published by Rosstat, as of 15 January 2015, there were 13 million handicapped persons living in Russia, including approximately 605,000 children¹, and according to the Ministry of Health Protection and Social Development of the Russian Federation, there were approx. 13.2 million handicapped persons in Russia (approx. 9% of the population).² However, other data indicates that

1 Инвалиды 2018. Что изменится с этого года, <https://doorinworld.ru/stati/invalidy-2016-cto-izmenitsya-s-etogo-goda> (access 25.03.2018).

2 П.В. Романов, Е.Р. Ярская-Смирнова, Инвалиды и общество: двадцать лет спустя, <http://www.demoscope.ru/weekly/2011/0463/analit02.php> (access 25.03.2018).

handicapped persons account for approximately 10% (i.e. 14.4 million) of the Russian population, which means that nearly one in four Russian families have a member who is handicapped. Studies conducted across society indicate that a majority of respondents have acquaintances who are handicapped and that 60% have experience in caring for such persons. Consequently, indirectly or directly, this problem affects many Russians.³

One must keep in mind that handicapped persons are not a homogenous group. They differ by their condition, sex, age, social status, education, and place of residence.⁴ Also, the nomenclature used in reference to them is not clear. They are commonly referred to as “handicapped persons” but the official term is “invalid” and, in the literature, they are often referred to as «persons with limited health capacity».⁵

The purpose of this document is to describe the social and legal situation of handicapped persons in Russia. The author’s intent is to present their past and present problems. Moreover, selected and, apparently, the most important laws that regulate the lives of handicapped persons are presented in the article.

2. Social situation of handicapped persons in the Russian Federation

For ages, the situation of handicapped persons was quite difficult. Due to the limitations they faced, they were low on the social ladder. “They were considered to be a burden, a social group that brought no benefits”,⁶ defective,⁷ “unnecessary, inconvenient”⁸ people. Their handicap was considered to be a punishment for their sins and a sign of possession by bad spirits, which condemned them to isolation, marginalisation in society, and exclusion from normal life, work, and schooling.⁹ They often lived in poverty¹⁰. Sometimes handicapped persons were killed in order to eliminate them from the “healthy society”.¹¹

3 Н. Корнеева, Отношение общества к инвалидам заметно меняется, <http://dislife.ru/articles/view/3823> (access 25.03.2018).

4 П.В. Романов, Е. Р. Ярская-Смирнова, *op. cit.*

5 А.К. Крылова, Отношение современного российского общества к детям – инвалидам, <https://www.school-science.ru/2017/8/26822> (access 25.03.2018).

6 Инвалиды в современном обществе, <https://doorinworld.ru/stati/311-invalidy-v-sovremennom-obshhestve> (access 25.03.2018).

7 В.С. Баглай, Отношение общества к инвалидам: история и современность, <https://www.scienceforum.ru/2014/521/3136> (access 25.03.2018).

8 А.К. Крылова, *op. cit.*

9 В.С. Баглай, *op. cit.*

10 Инвалиды в современном обществе, <https://doorinworld.ru/stati/311-invalidy-v-sovremennom-obshhestve>

11 Инвалиды в современном обществе, <http://www.ccdi.ru/novye-stati/invalidy-v-sovremennom-obschestve.html> (access 25.03.2018).

During the times of the Kievan Rus and then Moscow Rus, the first monasteries were built where poor and ill persons, including handicapped persons, were provided with food and shelter. The first systems for providing aid to those in need were established by Tsar Ivan the Terrible and then perfected by Tsar Peter the Great. On 31 January 1712, the latter gave an order that mandated the construction of special hospitals and to an order that allowed for the construction of hospitals for the mentally ill. From that year until the start of the 20th century, aid to handicapped person consisted mostly in welfare aid based on a system of state and private means. In that period, the first social organizations that provided support to those in need were created. Later, however, the newly shaped Soviet society departed from those solutions. In the years 1920-1930, a state social security system was created, including production cooperatives that employed handicapped persons. Wages paid by those cooperatives were higher than disability benefits. Also, organizations were established that provided help to the blind and deaf. The aid system also functioned during the war. Special homes for invalids were established and efforts were made to ensure their employment.¹²

In the 1950's, after the victory in World War II, the state wanted to give the appearance that the USSR was "blooming" and handicapped people did not fit within that particular ideology. Therefore, efforts were made to separate them from society by placing them in various specialised institutions, such as dormitories, schools, special work places, or hospitals. This proved successful as the state's policy towards handicapped persons, implemented for decades, resulted in their isolation. Another stereotype that emerged was «society without handicapped persons» (how was this possible in a country with so many people maimed during the war?) and so a psychological barrier between healthy people and handicapped people was erected.¹³

After 1990, state policy towards the handicapped became compensatory in nature. The issues of monetary benefits and availability of services came into being and were subsequently governed by the Act on basic principles of social protection of handicapped persons in the USSR of 1990.¹⁴ The Act guaranteed lack of discrimination, specific rights, and active involvement in the life of society.¹⁵ In 1995, another breakthrough took place. This is when the Act on social protection of handicapped persons in the Russian Federation was adopted,¹⁶ which «stimulated further development of the state's policy that maintained protection of handicapped

12 В.С. Баглай, *op. cit.*

13 А.К. Крылова, *op. cit.*

14 Закон СССР от 11.12.90 Н 1826 «Об основных началах социальной защищенности инвалидов в СССР», <http://pravo.levonevsky.org/bazazru/texts25/txt25576.htm>.

15 П.В. Романов, Е. Р. Ярская-Смирнова, *op. cit.*

16 Федеральный закон от 24 ноября 1995 г. № 181-ФЗ «О социальной защите инвалидов в Российской Федерации», http://www.consultant.ru/document/cons_doc_LAW_8559/.

persons as a minority that required rehabilitation in conditions of integration». ¹⁷ The Act will be discussed further in this article.

As the above information indicates, with time the situation of and the social attitudes to handicapped persons improved. They began to get social and financial aid and the first support institutions were established. Currently, they enjoy the same rights as all other citizens; they have their dreams, want to discover the world and travel, want to enjoy life and to have various skills. ¹⁸

However, in spite of the changes that have occurred, the situation of handicapped persons is still not perfect. Nowadays healthy people are often unfriendly toward the handicapped, especially the blind (in public transit, in hospitals) and persons who are intellectually slow or possess a physical disability. Moreover, those persons suffer as a result of lack of adaptation in means of transport, lack of access ramps into various public buildings, as well as being forced to live in special homes for the handicapped away from society. Very few of them have jobs. Trapped within the four walls of their homes or at various institutions, they live in a world of diseases, full of complexes, depression, and personal experiences. ¹⁹

The most difficult situation for them is in small towns and rural areas where appropriate aid is hard to come by. Life for the handicapped in big cities is easier. The results of research conducted among handicapped persons show a drop in satisfaction with the deterioration (in their opinion) of their situation in society, mostly due to the “disappearance of the tradition of supporting handicapped persons”. They miss the Soviet aid system. They complain about unemployment. ²⁰

3. Current legal situation of handicapped persons in the Russian Federation

The starting point for the determination of the legal situation of handicapped persons is Art. 39 of the Constitution of the Russian Federation of 1993, ²¹ which guarantees social protection to everyone in the event of disability.

The detailed regulation of the legal situation of this social group in Russia is provided by the Federal Act of 24 November 1995, No. 181-FZ, “On social protection

17 П.В. Романов, Е.Р. Ярская-Смирнова, *op. cit.*

18 Инвалиды в современном обществе, <https://doorinworld.ru/stati/311-invalidy-v-sovremennom-obshhestve>

19 Отношение к инвалидам – правовая дискриминация национального масштаба, <https://doorinworld.ru/stati/765-otnoshenie-k-invalidam-pravovaya-diskriminacziya-naczionalnogo-masshtaba> (access 25.03.2018).

20 Н. Корнеева, Отношение общества к инвалидам заметно меняется, <http://dislife.ru/articles/view/3823> (access 25.03.2018).

21 Конституция Российской Федерации от 12 декабря 1993 г., <http://www.constitution.ru/10003000/10003000-4.htm>.

of handicapped persons in the Russian Federation”. Also, there are a number of secondary laws to the aforementioned Act.

Currently, the Act consists of 36 articles (6 chapters). In the preamble it states that the Act “defines the policy of the state in the area of social protection of handicapped persons in the Russian Federation”. Its “objective is to ensure the same opportunities to handicapped persons as those enjoyed by other citizens in the area of exercise of civil, economic, political, and other rights and liberties provided for in the Constitution of the Russian Federation, as well as pursuant to the generally recognized principles and norms of international law and international treaties signed by the Russian Federation”.

Chapter I of Art. 1 of the Act, titled “General provisions”, defines the term “handicapped person” (called literally, an invalid). Pursuant to that chapter, a handicapped person is “a person who has health disturbances involving a disorder of the functions of the body due to diseases, consequence of injuries or other defects, which leads to a restriction of life functions and causes a need for providing such a person with social protection”. This is a person who, either in whole or in part, has lost the ability to function on his or her own in some spheres of life, such as movement, communication, learning, or work. It is assumed that handicapped persons are assigned to a disability group and handicapped children are assigned to the “handicapped child” category. The group or category assigned depends on the extent of the person’s bodily disturbances.

Handicapped persons are entitled to social protection, in the form of a specific system of means (including legal ones) that create conditions for overcoming the restrictions and difficulties in their functioning. Such a system should enable handicapped persons to participate in social life on an equal basis. Handicapped persons are also entitled to social support, which includes legally regulated social guarantees, with the exception of pensions (Art. 2). Art 3.1 of the Act contains a statement that in Russia discrimination based on disabilities, taking the form of restriction of deprivation of rights and liberties, especially in the political, cultural, and economic spheres, is prohibited.

In order to enforce the rights of handicapped persons, state authorities are required, in particular, to: define the state’s policy in relation to handicapped persons; adopt acts of law in the area of social protection of handicapped persons and conclude relevant international agreements; define the general principles of organisation and implementation of medical and social evaluation and rehabilitation of handicapped persons; define the criteria and conditions for qualifying persons as handicapped; regulate the matter of availability to such persons of technical rehabilitation, communication and information technology; evaluate the activities of institutions involved in the rehabilitation of handicapped persons; prepare and implement federal target programs in the area of social protection of handicapped persons and control of their performance; approve and finance a list of rehabilitation means, technical

rehabilitation means, and services provided to handicapped persons; create federal institutions that deal with medical and social evaluation, as well as monitoring their activities; coordinate and finance research on handicapped persons; help in the work of association of handicapped persons; define expenditures on social protection of handicapped persons; establish a uniform system for registration of such persons in the Russian Federation and for statistical monitoring of their socio-economic situation and demographic composition; define the requirements concerning equipment in work places for handicapped persons; prepare reports from the actions conducted as a part of performance of the obligations of the Russian Federation arising from the Convention on the Rights of Persons with Disabilities (Art. 4).

Art. 5.1 of the Act contains provisions related to a federal register of handicapped persons, which is an information technology system that contains certain information about such persons, including personal data, information about the disability group and the level of occupational disability, the period for which the group was established, their disorders, their rehabilitation, and the financial benefits paid to those persons. Moreover, it was assumed that contribution to the emergence of a disability is subject to material, administrative, civil, or penal liability (Art. 6).

The title of chapter II is "Socio-medical evaluation". Art. 7 of the Act provides that social and medical evaluation is the basis for qualifying a person as handicapped. The purpose of the evaluation is to determine the social protection means, including the rehabilitation needed to fulfill the handicapped person's needs. A list of such needs is created based on an evaluation of restrictions on daily life activities due to bodily disorders. The criteria for evaluation of the physical condition of handicapped persons are defined by competent authorities and institutions.

Socio-medical evaluations are performed by federal institutions overseen by competent bodies of the executive branch of the government, which is responsible for implementation of the social policy of the state and of law related to the social protection of society. Such institutions are required, in particular, to: "determine disability, its causes, its time, the needs of handicapped persons in various aspects of social protection; prepare individual programs for rehabilitation, habilitation of handicapped persons; study the level and the causes of disabilities in the population; participate in creation of comprehensive programs for rehabilitation, habilitation of handicapped persons, prevention of disabilities and social protection of handicapped persons; determine the extent of loss of ability to perform work; determine the cause of death of a handicapped person in cases where the laws of the Russian Federation provide for social support to the family of the deceased; [...] ensure conditions for independent evaluation of the quality of the conditions of provision of services by federal medical and social institutions". Information about those institutions is provided on websites (Art. 8).

The title of chapter III is "Rehabilitation and habilitation of handicapped persons". Art. 9 of the Act defines the terms rehabilitation and habilitation. According to the

Act, rehabilitation is “a system and process of full or partial restoration of the skills of handicapped persons for personal, social, and occupational activity” and habilitation is “a system and process for the shaping of skills not present in handicapped persons for personal, social, and occupational activity”. Those undertakings are intended to reduce restrictions in the lives of handicapped persons so as to enable their social adaptation and integration. They include, most of all, improvement of the quality of life by way of medical procedures (surgeries, prosthetic devices, sanatoria), increasing the level of education, and participation in cultural and sporting activities. They also include access to technical means of rehabilitation, appropriate infrastructure (including communication and information technology infrastructure), as well as the access of handicapped persons and their families to information about rehabilitation and habilitation possibilities. In the light of Art. 10, a list of aid and support means, and services financed from the state budget, is prepared by the government of the Russian Federation.

Art. 11, contains a description of an individual program for the rehabilitation and habilitation of handicapped persons. It provides for a set of different (medical and occupational) means aimed to improve the health and activate handicapped persons. Some are provided free of charge while others (clearly stated) are payable. Consequently, the cost of certain benefits must be covered by the handicapped themselves or by the institutions (e.g. foundations) that take care of them. The aforementioned program is not mandatory. However, it is recommended. Consequently, each handicapped person can choose those elements that he or she finds the most useful, e.g. get a wheelchair, a prosthetic device, a hearing aid, etc. Moreover, handicapped persons may purchase the devices they need themselves. In such cases, the cost involved is reimbursed in accordance with the criteria specified in Art. 11.1 of the Act. A competent federal body of the executive branch of the government defines the procedure for and level of such reimbursement. A decision not to participate in an individual program, either in whole or in part, does not entitle handicapped persons to receive compensation in cash for devices and/or services that would otherwise be provided for free. Federal institutions performing socio-medical evaluations submit information from individual programs to competent bodies of the executive branch of government, to local government authorities, and to other authorities that provide support to handicapped persons. Then, after each of these bodies or authorities have performed their particular function, the evaluations are returned to the respective federal institutions that initiated them.

Art. 11.1 contains a list of technical means for the rehabilitation of handicapped persons. This includes: special self-service aids; special care products; special orientation aids (including guide dogs with a set of equipment); aids for receiving and exchanging information; special education aids; aids to education (including literature for blind persons) and employment; prosthetic devices (including prosthesis and orthopedic products, orthopedic shoes and special clothing, ocular prostheses,

and hearing aids); special training and sports equipment; and special mobility devices (wheelchairs). The decision to provide such aids to handicapped persons is made based on determination of their needs resulting from their health condition. The costs of the aforementioned equipment and of their repairs are covered by the state budget, similarly the cost of maintenance and medical treatment of guide dogs, which is set at 17,420 rubles a year.

The title of chapter IV is «Support of the life of handicapped persons». Art. 13 of the Act guarantees the provision of qualified medical care to handicapped persons. It is decided that such care is provided pursuant to the Russian law as a part of implementation of the program of state guarantees related to free healthcare provided to citizens of the Russian Federation. Moreover, handicapped persons are guaranteed access to information, including free access to fictional and academic books (in braille for the visually impaired) as well as cassettes, all financed by the government and delivered to libraries. The language of communication for persons with hearing and speech impairment is the Russian sign language. As a part of assistance to handicapped persons, there is a system for translation of subtitles or sign language for television programs, films and videos. Such translations are performed by sign language translators who are properly educated and have appropriate skills (Art. 14).

Art. 14.1 provides for the participation of blind persons in certain transactions with the aid of the so-called facsimile (a copied hand signature). It is used for example to withdraw cash or to obtain a loan. In order to perform such a transaction, a blind person should present a document that confirms his or her identity, a notarial confirmation of authenticity of his or her hand signature with a facsimile copy of the hand signature, and a confirmation of disability issued by a federal state institution.

The Act also provides unlimited access to social, engineering, and transport infrastructure for the handicapped. This means, that the Act guarantees: «1) conditions for unhindered access to public, engineering, and transport infrastructure facilities (residential buildings, public buildings, industrial buildings and facilities, including those where sport, cultural, and other organisations are located), to places of recreation [...]; 2) conditions for unobstructed use of rail, air, water, road, and urban ground electrical transport and suburban and inter-city means of transport and information (including sound signals, light signals, traffic signals, and equipment that control pedestrian traffic in transport communication); 3) possibility of autonomous movement in the territory where public and transport infrastructure facilities are located, entry to and exit from such facilities, entry to and exit from means of transport, including use of wheelchairs; 4) support to handicapped persons with permanent eyesight disorder and loss of ability of autonomous movement and provision of help to such persons in public, engineering, and transport infrastructure facilities; 5) proper location of equipment and information carriers necessary to ensure free access of handicapped persons to public, engineering, and transport infrastructure and to service infrastructure [...]; 6) access to sound and visual

information required by handicapped persons, as well as labels and other graphic and text information signs in braille code [...]; 7) entry to public, engineering, and transport infrastructure facilities by guide dogs that have documents confirming their special training [...]; 8) help in overcoming barriers that hinder access to services on an equal basis with others, provided by employees of organisations that provide services to the population». Consequently, bus/train stations, airports, bus/train/tram stops must be technically adapted to the needs of handicapped persons. In each of those facilities, 10% of all seats must be adapted to the needs of handicapped persons in the 1st, 2nd, and 3rd disability groups. They should be marked with the words «handicapped person» (Art. 15). Art. 16 provides for the responsibility of persons who do not comply with this regulation.

Art. 17 provides for a guarantee to provide housing to handicapped persons. Such persons and families with handicapped children who need better housing conditions may obtain an appropriate dwelling in accordance with a certain procedure. Such housing is provided under a rent contract. Its floor area may exceed the maximum limit on floor area per person (but not by more than one hundred percent). Housing may also be provided to persons suffering from serious chronic diseases. The fees paid for the housing and its repairs depend on the floor area of the dwelling. The tenants are entitled to receive specific discounts. Such housing may also be provided to handicapped persons living in social assistance institutions. Moreover, handicapped persons and persons with handicapped children are granted a 50% discount for housing and municipal services (including rent, house maintenance fees, payments for repairs of housing, water supply payments, and electricity payments).

The Act also regulates the matter of education of handicapped persons. The Act emphasises that the state supports and guarantees conditions necessary for education of handicapped persons. The Act enables human development and integration with the society. Therefore, the state guarantees free elementary, secondary, and higher education. Handicapped persons are entitled to teaching at home (Art. 19).

Art. 20 of the Act pertains to the employment of handicapped persons. It is assumed that companies should assign a minimum number of jobs to handicapped persons. The Act provides that conditions must be provided for the development of entrepreneurship among the handicapped, that training must be provided to handicapped persons for new jobs, and companies must be encouraged to hire such persons. Art. 21 provides that in companies employing more than 100 persons, 2-4% of the employees must be handicapped persons; in the case of companies with 35-100 employees, the requirement is 3%.

Art. 23 describes the working conditions that need to be ensured in the case of handicapped persons. The article emphasizes that employees have to create required work conditions in accordance with the individual programs of rehabilitation or habilitation of handicapped employees. Contracts on terms worse than those agreed with normally healthy persons are prohibited. It is prohibited to

provide worse conditions to handicapped persons compared to other employees. Handicapped persons in group 1 and 2 may work no longer than 35 hours a week. Moreover, overtime, work on weekends, and work at night requires the consent of the handicapped person. Also, such work is only permitted if their state of health is appropriate. Handicapped persons are entitled to annual leave of at least 30 calendar days. Employers are required to create appropriate work conditions (Art. 24).

Art. 27 regulates the cash benefits paid to handicapped persons. The article provides for the state's duty to provide support in the form of cash payments (pensions, benefits, health insurance payments, payments for damage to health), as well as compensation in cases defined under Russian law. The article also provides that handicapped persons who require care and assistance receive medical services at home or in appropriate institutions, as well as telecommunication aids, special telephones (including those for subscribers with hearing impairment), household appliances, and other means facilitating social adaptation (Art. 28).

Art. 28.1 specifies the value of monthly cash benefits paid to handicapped persons. This is: 1) handicapped persons in group 1 – 2,162 rubles; 2) handicapped persons in group 2 – 1,544 rubles; 3) handicapped persons in group 3 – 1,236 rubles. Other cash benefits (pursuant to separate regulations) are paid to persons irradiated as a result of the Chernobyl disaster. The value of benefit payments is adjusted annually on the 1st of February based on the inflation rate for the previous year. The sums are paid by the field body of the Pension Fund of the Russian Federation.

Article 32 regulates the responsibility for violating the rights of handicapped persons.

It assumes the persons culpable of such violations under the Russian law. Any disputes concerning the determination of disability, the implementation of individual rehabilitation programs, the habilitation of handicapped persons, the provision of specific social protection, as well as disputes concerning other rights and liberties of handicapped persons, are resolved in the course of court procedures.

Chapter V is titled «Associations of handicapped persons». Art. 33 of the Act guarantees the right of handicapped persons to form public associations. It was found that such associations ensure equal opportunity with other citizens and are a form of social protection for the handicapped. Consequently, the state provides aid to such associations, including material, technical, and financial assistance.

In conclusion, the attitude toward handicapped people demonstrates one's humanity. Despite the positive changes that have been taking place, nowadays the handicapped still remain a weak and defenseless social group. They are frequently perceived as «special» and «different» instead of «equal» and «like anyone else».²² Consequently, improvement of this situation requires involvement of both state and society. The state should constantly improve law, procedures, and the actions of

22 В.С. Баглай, *op. cit.*

officials, while society in general needs to increase the level of empathy and promote a willingness to provide both assistance and understanding. In the opinion of A. K. Krylova, what is required nowadays is more intensive social integration, which should consist not only in the improvement and adaptation of urban infrastructure but also in a change in the attitudes towards handicapped persons.²³ Effective social integration depends on many factors and on the persons and authorities involved in the process of changes. Such persons include not only handicapped persons and their families, but also state, social, and local agents and non-governmental organisations. Such cooperation should lead to improvement and higher quality of support and rehabilitation. The handicapped themselves can also play an important role in the cooperation process. «Creation of common strategies may influence the state policy and the lives of individual citizens, while being an important step in the development of civil society. Such processes reflect growing approval of the rights and human dignity of communities, renewal of social relations and political relations of individuals, the society, and the state».²⁴

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23 А.К. Крылова, *op. cit.*

24 Романов П.В., Ярская-Смирнова Е.Р., *op. cit.*