

Sanitary-and-epidemiologic regulation of living conditions of persons with disabilities

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After ratification of the Convention on the rights of persons with disabilities (hereinafter — the Convention), Russian Federation has started to bring the national legislation into compliance with the requirements of the Convention in terms of social policy on the rights of persons with disabilities and during 2013–2017 developed a number of legislative and regulatory acts to implement the main provisions of the Convention. Assessment of compliance of regulatory and legislative acts of Russian Federation and the results achieved in terms of providing disabled persons with conditions equal to other people, as regards the access to places of residence for independent living and integration into society without discrimination is an urgent task and the purpose of the study, which included: study of principles and standards of the Convention on the rights of persons with disabilities and measures to implement the right of persons with disabilities to an independent lifestyle in the legislation of Russian Federation; the study of sanitary legislation on the presence of requirements to ensure favorable conditions for the independent living of disabled people in apartment buildings on an equal basis with other people and followed up cohabitation of small groups of disabled people in separate living accommodations.

Keywords: persons with disabilities, Convention on the rights of persons with disabilities, sanitary and epidemiological regulation, living conditions.

Introduction

Having become a party to the Convention on the Rights of Persons with Disabilities¹ (hereinafter referred to as the Convention) Russian Federation has begun to harmonize the requirements of the Convention with the national legislation on social policy regarding the rights of persons with disabilities, and during 2013–2017 developed a number of laws and regulations on the implementation of the main provisions of the Convention.

¹ Convention on the Rights of Persons with Disabilities (signed on September 24, 2008, ratified by Federal Law no. 46-FZ of May 3, 2012).

In accordance with articles 35–36 of the Convention on the Rights of Persons with Disabilities the initial report of Russian Federation on measures taken to implement the Convention and on the progress made in this regard was considered at the 19th session of the Committee on the Rights of Persons with Disabilities on February 27–28, 2018. At the same time, apart from the presentation of the initial report sent in 2014, the official delegation has given detailed information on positive dynamics of the situation with the rights of persons with disabilities in Russian Federation for the period from 2012 to 2018 in official supplementary replies and during the discussion.

Concluding Remarks² reflect the spirit common for all countries for further improvement of legislation and policies in the field of disability.

Realization of certain Committee recommendations implies a review of current legal mechanisms in Russia and will require the development of decisions of an interdepartmental nature based on step-by-step implementation of the principles and standards of the Convention.

Among the most complex and challenging recommendations are the ones assuming the following:

- 1) recognition of full legal capacity for all persons with all forms of disability and its realization, taking into account respective correction of legal mechanisms of guardianship, psychiatric care and social services;
- 2) development and implementation of strategies for stepwise reduction in the number of persons with disabilities (especially children with disabilities) placed in specialized institutions such as boarding schools or nursing homes, based on expanding the network of ancillary services, forms of personal assistance, enhancing the role of the family, and developing social support systems.

For further realization of principles and standards of the Convention in Russian Federation and for implementation of the recommendations of the Committee, an urgent task is to improve national legislation, including the sanitary one, which, according to the law on the sanitary and epidemiological well-being of the population³, is mandatory for citizens, individual entrepreneurs and legal entities (Articles 10, 11).

Purpose and objectives

The purpose of the study is to study the compliance of regulatory legal acts of Russian Federation, which establish sanitary and epidemiological requirements for ensuring sanitary and epidemiological well-being of population, human disease prevention, favorable conditions for work, living, recreation, training and nutrition, as well as preserving and strengthening its health, with principles, provisions and standards of the Convention on the Rights of Persons with Disabilities to an equal with other people and independent way of life.

² Concluding observations on the initial report of the Russian Federation on the implementation of the Convention on the Rights of Persons with Disabilities.

³ Federal Law of March 30, 1999 no. 52-FZ (ed. 04/18/2018) “On the sanitary and epidemiological welfare of the population”.

Materials and methods

International treaties relating to the rights of persons with disabilities to an independent lifestyle and regulatory legal acts of Russian Federation establishing sanitary and epidemiological requirements for living conditions in residential buildings and premises of persons with disabilities were the materials of the study.

A set of general scientific methods for studying social relations arising in the field of ensuring the sanitary and epidemiological well-being of population as one of the main conditions for the realization of the citizens' rights to health protection and favorable environment stipulated by the Constitution of Russian Federation: analytical, system-structural, comparative, — was used as a procedural basis of the study.

Results

In accordance with article 19 (paragraph a) of the Convention “Living independently and being included in community” “States parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others, and they are not obliged to live in particular living arrangement”.

The Federal Law of May 3, 2012 no. 46-FL “On ratification of the Convention on the Rights of Persons with Disabilities” confirmed Russia's readiness to comply with international standards on economic, social, legal and other rights of persons with disabilities.

The Federal Service for Supervision of Consumers' Rights Protection and Human Wellbeing is actively involved in the processes related to the modernization of current legislation in this area. Work is underway to bring the standards of Russian Federation, providing for the availability of facilities and services, open or provided to the public, in accordance with the requirements of the Convention.

“Sanitary and Epidemiological Requirements for Living Conditions in Residential Buildings and Premises”⁴ were developed in 2010 (hereinafter referred to as SanPiN), which established requirements for the compulsory equipping of residential buildings of over five floor height with elevators (freight and passenger), the dimensions of at least one cabin providing the possibility of transporting a person on a stretcher or wheelchair, which ensures implementation of Article 2 provisions of the Convention.

In 2016, the Government of Russian Federation approved the “Rules for Ensuring Accessibility Conditions for Persons with Disabilities and Common Property in an Apartment Building”⁵ (hereinafter referred to as the Rules).

Analysis of SanPiN requirements showed absence of requirements set forth in the Rules concerning the provision of accessibility conditions for persons with disabilities to

⁴ Resolution of the Government of the Russian Federation dated July 9, 2016 no. 649 “On measures to adapt residential premises and common property in an apartment building, taking into account the needs of persons with disabilities”.

⁵ SanPiN 2.1.2.2645-10 “Sanitary and epidemiological requirements for living conditions in residential buildings and premises”.

residential premises that ensure the implementation of the principles and provisions of the Convention on the independent lifestyle of persons with disabilities and the elderly.

In the section of general provisions and the scope of SanPiN (p. 1.2) it is stated that “the rules establish mandatory sanitary and epidemiological requirements for living conditions in residential buildings and premises, which should be followed when placing, designing, reconstructing, building and operating residential buildings and premises intended for permanent residence “without taking into account the diversity of resident cohort or vital function limitations among some residents.

Therefore, there is no indication that in the design and construction of a residential building, residential sections for persons with disabilities in apartment buildings, special requirements should be observed for places of residence for persons with disabilities of different categories, depending on characteristics of the disabled (wheelchair accessible persons, those with complete hearing and (or) vision loss), and during reconstruction of existing buildings and in apartment buildings, accommodation should be adapted to the needs of the disabled, families including disabled persons and other vulnerable groups.

In the section on hygienic requirements to the site and territory for residential building construction it is established that “the land plot should provide for the possibility of organizing a local area with a clear functional zoning and placement of recreation areas, gaming, sports”, but there is no requirement that they should be adapted to opportunities for the disabled and other limited mobility groups (hereinafter — LMG) (item 3 of SanPiN).

The document presents “hygienic requirements for parking places or garages for cars”, but there is no requirement to provide parking places or garages for vehicles driven by or transporting the disabled, which are allowed to be placed on building surrounding grounds with their clear graphic image (p. 2.8 SanPiN). The requirements for the sites in front of the house entrances, travel and pedestrian paths indicate only that they must have solid coverings and that free melt and rainwater should be allowed to flow freely, but the requirements for the design of travel routes for the disabled in the territory, building, residential and general purposes premises are missing (Section 2.9 SanPiN).

At the same time, in order to prevent injuries, “the territory adjacent to an apartment building where a disabled or LMG person resides should have a non-slip and non-vibrating covering (road, floor, staircase) with a rough surface without gaps for adhering shoe soles, walking supports or wheelchair wheels in different weather conditions”. In addition, “the coating made of loose and bulk materials is not allowed to use”.

There is also no indication of maximum allowed slopes and gap clearances, wheelchair turn-around areas, need for equipping the road surface in front of the porch of apartment building, where the disabled person lives, with a raised (tactile) strip, rigid metal ramps fixed on uneven surfaces or on stair steps.

The section “Building Requirements” is not highlighted and, therefore, there are no requirements for the entrance group to the building (porch and entrance platform, drainage and catchment grids, shed, staircase, ramp, handrails, doorways, vestibule, corridors).

The section on hygienic requirements for residential and public buildings requires that “Residential buildings with a height of more than five floors must be equipped with elevators (freight and passenger)”, whereas for disabled and LMG people the buildings should be equipped with passenger elevators and / or lifting platforms in order to ensure

their access to the floors above or below the floor of the main entrance to the building (first floor) (Section 3.10 SanPiN).

It is further noted that “When equipping a house with elevators, the dimensions of one of the cabs must ensure the possibility of transporting a person on a stretcher or wheelchair”, but it is not taken into account that a person in a wheelchair can move with an accompanying person (Section 3.10 SanPiN).

Also, the section “Requirements for the living space of a disabled person” is not highlighted. In this section, it should be noted that the living room of a disabled person must have a living room, a combined sanitary unit for a disabled person, a front-hall with an area of at least 4 m² and an accessible path of movement (the width of the path of movement, with the possibility of turning the wheelchair with an attendant, entrance, indoor, balcony doorways, thresholds). The minimum size of a dwelling for a disabled person moving in a wheelchair must be at least 16 m².

As part of an apartment for a disabled person, it is advisable to provide a pantry with an area of at least 4 m² for storing tools, materials and products used and produced by the disabled when working at home, as well as for placing blind aid devices and literature in Braille.

In accordance with item 3.9 of health regulations and norms “It is not allowed to arrange the entrance to the room equipped with a water closet pan, directly from the kitchen and living rooms, except for the entrance from the bedroom to the combined bathroom, provided that the apartment has a second room equipped with a water closet pan, with the entrance to it from the corridor or the hall”. However, in apartments for families with disabled persons in wheelchairs, the entrance to a room equipped with a toilet is allowed to be designed from the kitchen or living room and equipped with a sliding door.

The countries of Western Europe and North America over the past decades have gone a certain way in understanding the role and place of persons with disabilities in society, and developing principles and tools for protecting and supporting people with disabilities and integrating them into society. The main stages of this path are: — from separation (creation of isolated “islands of well-being” for people with disabilities, in particular, within specialized boarding schools) [5]; — through integration (the formation in the urban environment of specialized objects and paths intended for people with disabilities) [21]; — to inclusion, based on the principles of universal design and continuous universal environment [4; 21; 25].

The principle of universal design is based, among other things, on the fact that the environment created for people with disabilities gives advantages to other users (during periods of pregnancy, injury or infirmity) [5; 22; 31]. For example, wide ramps from the sidewalk to the road, designed for wheelchair invalids, have been successfully used by parents with prams, people carrying goods, or cyclists.

Another direction to realize the principles, provisions and standards of the Convention is the de-institutionalization of persons with disabilities by organizing independent residence for persons with disabilities on an equal basis with others.

Based on the recommendations of the Committee to the State party to adopt a strategy for deinstitutionalization of disabled boys and girls, specifying the dates, and instructions of T. Golikova, the Deputy Prime Minister of Russian Federation, to develop inter-agency decisions based on step-by-step implementation of the principles and standards of the Convention, i.e. strategies for the stepwise reduction of the number of persons with dis-

abilities (especially children with disabilities) placed in specialized residential care, based on expanding the network of support services, personalized assistance forms, enhancing the role of the family, the development of social support systems⁶ (Section III n. 2).

The expected result of the implementation of the deinstitutionalization strategy should be equal right of all persons with disabilities to “live in common places of residence, with options of choice equal to other people”⁷, including accompanied accommodation, depending on the characteristics of disability caused by:

- a) persistent disorders of motor function requiring use of a wheelchair and other auxiliary means of transportation;
- b) persistent hearing function impairment, associated with the need to use aids;
- c) persistent visual function disorders, associated with the need to use a dog guide, other aids;
- d) development delays and other human body dysfunctions.

The Ministry of Labor has developed and approved “Guidelines for organization of various technologies for accompanied accommodation of the disabled, including such technology as accompanying cohabitation of small groups of people with disabilities in separate residential buildings”⁷ (hereinafter referred to as GL). They are aimed at implementing provisions of Article 19 of the Convention on the right of persons with disabilities to an independent lifestyle and involvement into the local community.

The concept of “accompanied accommodation for persons with disabilities” is used in GL and interpreted as “hospital-replacing technology of social services” (clause 2), which is absent from sanitary legislation.

Definition of the concept includes “the possibility of providing social, rehabilitation and educational services to people with disabilities, carrying out social support activities for persons with disabilities (assistance in providing medical, psychological, educational, legal, social assistance that is not related to social services)”.

Accompanied accommodation is organized in order to keep the stay of persons with disabilities in a familiar, supportive environment, develop skills that ensure maximum possible independence in the realization of basic living needs (organization of everyday life, leisure, communication and social connections), and adaptation to independent living.

The analysis of GL showed that accompanied accommodation of the disabled can be organized in individual (for those in need of periodic maintenance) or a group form- for those in need of regular or permanent maintenance (clause 9).

To ensure the safety and quality of life of people with disabilities, it is recommended to include into small groups the disabled with various degrees of severity and complexity of life function limitations and impairment (items 11, 15 GL) based on the conclusion of an individual program of rehabilitation and habilitation of a disabled person (IPRH)⁸.

⁶ Letter of the Ministry of Labor and Social Protection of the Russian Federation 13-6/10/P-3257 of May 15, 2018. Order of the Deputy Prime Minister of the Russian Federation T. Golikova. — TG-P12-3567.

⁷ Order of the Ministry of Labor and Social Protection of the Russian Federation of December 14, 2017 no. 847 “On approval of methodological recommendations on the organization of various technologies for the accommodation of persons with disabilities, including such technologies as accompanied cohabitation of small groups of people with disabilities in separate residential premises”.

⁸ Order of the Ministry of Labor and Social Protection of the Russian Federation of June 13, 2017 no. 486n “On approval of the procedure for the development and implementation of an individual program for the rehabilitation and habilitation of a disabled person, an individual program for the rehabilitation

When organizing an accompanied accommodation for a disabled person, it is recommended (paragraph 16 of the GL) to take into account the volume of social services provided by the disabled and rehabilitation and habilitation services: permanent maintenance — over 8 and up to 24 hours a day; regular maintenance — from 4 to 8 hours per day; periodic maintenance — from 4 to 12 hours a week.

In order to provide security for a small group, it is recommended to provide for accompanying personnel with adequate qualifications and in sufficient numbers. This clause of the GL emphasizes that this should not be just an apartment, but rather a miniature social service organization. When determining the area of a dwelling used for accompanied accommodation of persons with disabilities, it is necessary to take into account that, besides the disabled, there should always be persons in this dwelling who are carrying out the functions of accompanying them, for which it is recommended to provide a separate room.

For permanent independent living of persons with disabilities, adaptation of residential premises is provided for, ensuring both the availability of residential premises and the provision of the necessary social services. Formation of small groups should be carried out taking into account the compliance of the living space with the established standards for the provision of living space.

According to the GL (clause 7), “residential premises... must comply with the established sanitary and technical rules and regulations, other requirements of Russian Federation legislation”.

In connection with the adoption of the Federal Law on the Basics of Social Services for Citizens in Russian Federation⁹, sanitary and epidemiological requirements were developed in 2016 for placement, arrangement, equipping, maintenance, sanitary and hygienic and anti-epidemic mode of work of social service organizations¹⁰ (hereinafter referred to as SR-2016) intended for provision of social services in in-patient and semi-in-patient forms to elderly people and persons with disabilities. However, there is no indication in them that they cover accompanying accommodation of persons with disabilities in small groups in separate rooms.

According to SR-2016, residential premises of in-patient social service organizations are equipped according to apartment or corridor types. In accordance with the GL, it is recommended to form groups of 4–7 persons with disabilities for group accompanied accommodation of disabled people, and according to SR-2016 residential premises are designed for a group of 5–6 persons with a shared living room, kitchen, dining room, hallway, and sanitary arrangements.

For persons suffering from mental disorders, accommodation is provided only by corridor type (item 3.4 SR-2016), that is, possibility of their living in apartment-type accommodation is not envisaged. It is recommended by the Ministry of Labor of Russia (Section 9) to place no more than 2 disabled persons into a room, and according to the sanitary rules sleeping rooms are provided for 1–3 persons, and for 4–6 persons with mental disorders (Section 3.5 SR-2016).

or habilitation of a disabled child issued by federal state institutions for medical and social expertise, and forms”.

⁹ Federal law of December 28, 2013 no. 442-FZ “On the basis of social services for citizens in the Russian Federation”.

¹⁰ SP 2.1.2.3358-16. “Sanitary and epidemiological requirements for the placement, installation, equipment, maintenance, sanitary and anti-epidemic mode of operation of social service organizations”.

The layout and equipment of all premises, including bedrooms according to SR-2016 (clause 3.5), should provide possibility for being used by persons with disabilities, including wheelchair users, but the area standards for 1 disabled person in bedrooms and other premises are not indicated.

According to GL (clause 2) accompanied accommodation is a hospital-replacing technology of social services for a small group of people with disabilities. The most important criterion for determining the possibility of accompanied residence is the absence of infectious contagious diseases, acute condition of mental illness in a form which is dangerous to his own life and/or the life and health of others (item 14B).

In this regard, the question arises who should be responsible for prevention of infectious and parasitic diseases, carrying out preventive and anti-epidemic measures, monitoring anti-epidemic regime. The requirements stated in Chapter VIII of the SR-2016, appear to be in need of adaption to the living conditions of people with disabilities in small groups in separate residential premises, possibly in apartment buildings.

From the given analysis of regulatory and procedural documents it is clear that it is planned to introduce technology of followed residence of small groups of disabled people with disabilities of different severity and complexity degrees that require different extent of services (regular, periodic, permanent support) in separate dwellings with permanent accommodation of an accompanying person (social worker or social care teacher), with participation of specialists in various fields, in order to provide social and everyday services and implement rehabilitation measures.

Discussion

According to the requirements of the Convention and the concluding observations of the UN Committee on the Rights of Persons with Disabilities, Russian Federation must develop a strategy for deinstitutionalization of persons with disabilities, which is consistent with the experience of a number of foreign countries [1; 4; 7–9; 16; 18–20; 24; 26–30] and a plan of measures for its implementation. By 2022 Russian Federation should submit a regular Report to the UN Committee on Rights on the results of the deinstitutionalization of persons with disabilities.

Consequently, in the nearest future a joint, permanent or temporary accommodation of small groups of the disabled persons, not connected by blood or family ties and having individual development features and needs in the range of services (regular, periodic, permanent support) with various disabilities caused by different diseases, varying degrees of severity, of different age and gender, in one apartment should be widely organized in Russia

It will be an apartment with the staff serving the disabled, i.e. employees who provide periodic or permanent support, social services, different types of rehabilitation in accordance with the IPRH of the disabled.

In Russia, a number of studies are devoted to the development of conceptual foundations for integration of disabled people into society [2; 10–13; 15; 21].

There are more than 500 boarding social service institutions in the country with over 150 thousand residents. Accompanied residence projects are being implemented in 21 constituent entities of Russian Federation, such as: Pskov Region, Moscow Region, Leningrad Region, Penza Region, Irkutsk Region, Republic of Buryatia, Smolensk Region, Vladimir Region, Kemerovo Region and others [3; 6; 14; 17; 22; 23].

However, in the sanitary rules and regulations: “Sanitary and epidemiological requirements for living conditions in residential buildings and premises” there are no requirements aimed at implementing the principles and provisions of the Convention relating to ensuring the conditions of accessibility of residential premises, with free choice of places of residence for an independent lifestyle in apartment houses. The rules do not contain requirements for ensuring the safety of movement of persons with disabilities around the house territory, building and apartment.

A new model of living arrangement for people with disabilities proposed by Russian Ministry of Labor i.e. accompanied living, which is understood as a hospital-replacing technology of social services, does not have a scientific substantiation of requirements for ensuring sanitary and epidemiological well-being in new types of residential premises for small groups of people with disabilities and the order of control (supervision) activities for development and maintenance of these apartments (houses).

The established sanitary and epidemiological requirements for the placement, arrangement, equipping, maintenance, sanitary and anti-epidemic mode of work for organizations intended to provide social services in in-patient and semi-in-patient forms for the elderly, persons with disabilities are not applicable to organizing accompanied residence of persons with disabilities in small groups in separate residential areas.

Therefore, it is necessary to provide a hygienic justification of the requirements for the placement, arrangement, maintenance of the places of residence, personal hygiene, laundry regime, working conditions of those working in places of residence, medical care, infectious and parasitic disease prevention, and service personnel.

The significance of the issues addressed in the article confirms that Rospotrebnadzor is included in the number of bodies responsible for the preparation of proposals (in the areas of established authority) for implementation of Concluding Observations on the initial report of Russian Federation on implementation of the Convention on the Rights of Persons with Disabilities, adopted by the 19th session of the Committee on the Rights of Persons with Disabilities (February 14 — March 9, 2018) under item 3 of the Draft Plan prepared by the Ministry of Labor of Russia on behalf of the Deputy Prime Minister of Russian Federation T. Golikova (June 21, 2018 no. ТГ-П112–3567):

“To continue, in cooperation with organizations representing persons with disabilities, work to bring legislation more fully in line with the provisions of the Convention on Non-Discrimination and Reasonable Adjustment, among other things, the inclusion in the relevant legislation of the rules, allowing to qualify specific manifestations of discrimination and ensure the transition to a rights-based model of their elimination, taking into account the specifics of the services provided by the industry and the rights of persons with disabilities it implements.”

Conclusions

1. In order to ensure full compliance of the legislation with the general principles and specific provisions of the Convention and the effective implementation of the commitments made by Russian Federation, it is necessary to complete current sanitary rules and standards “Sanitary and epidemiological requirements for living conditions in residential buildings and premises” (SanPiN 2.1.2.2645–10), taking into account life function limitations, different forms of residence of persons with

- disabilities, both in apartment buildings and in specially constructed or adapted houses; enhance the activities of control and supervisory bodies, for which to develop a standard template for organization of control and oversight measures carried out at residence and support facilities of the disabled, as well as questionnaires, and include planned inspections in annual summary plans.
2. The emergence of various technologies for accompanied accommodation of persons with disabilities, including such technologies as accompanied cohabitation of small groups of people with disabilities in separate residential premises and regarded as a hospital-substituting technology of social services for people with disabilities, sets the task of scientific substantiation and development of sanitary and epidemiological requirements for conditions (accommodation, equipping, maintenance, sanitary and hygienic and anti-epidemic regime) and the organization of accompanied residence of persons with disabilities of different categories, age and gender, in small groups in separate residential areas.

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