Study Visit to London on Protection of Children's Rights
26 January – 1 February 2020

The Russian delegates of the study trip to the UK shared their experiences with the rest of the trainees at the final event on 14 February 2020 at the Legal Training Centre. Their observations and thoughts brought up a discussion of the prospects of protecting children's rights in Russia.

The week began with **a visit to Family Drug and Alcohol Court (FDAC) and meeting with DJ Kenneth Grant and his team.**

Cases are referred to this court by local authorities. A specialist multi-disciplinary team consisting of various professionals work closely with the court and the parents throughout the entire care proceedings. Substance misuse specialists and social workers from the team carry out an assessment of the parents. An intervention plan is agreed at a meeting attended by the parents, social workers and guardian. The parents then begin a 'trial for change'. The team provide a key worker for the parent who co-ordinates all the services identified in the plan. The team also carry out drug and alcohol testing, and in cases in proceedings they prepare regular short reports on the parents' progress. Intervention planning review meetings are held at regular intervals, to agree any changes to the plan and decide on future action. There is regular communication between the team and the judge in relation to cases in court, and between the team and relevant adult and children's services as well as with housing services and domestic abuse services and with legal representatives. The time period of the proceedings is limited to 26 weeks. All meetings in court are closed and informal. Each child is represented by his or her own lawyer, and the work of the lawyers is paid from the Legal Aid.

A delegate shares his impressions of the visit to FDAC

The delegates observed a hearing of a case where children were removed from the family and placed in hospital. Traces of drugs were found in a 1.5 year-old child's blood. The court was looking into a possible explanation. At the same hearing, the court considered if the mother was to be allowed to see her children at the hospital.

The striking difference noted by the Russian lawyers was the desire of the court to find a long-term solution to the problem. The efforts of the team were aimed to keep a child in the family, help the parents to return to a normal stable life. By comparison, Russian courts in similar cases tend to formally apply the law and they don't often request the assistance of specialists. The hearings in Russia have a 'punitive approach' in relation to the family, while in England a 'restorative' approach prevails.

Quote from a delegate:

In my opinion, thanks to the fact that England has Family Drug and Alcohol Courts that engage a wide range of specialists and offer programmes for parents under supervision of these specialists, it is easier for the court to make legitimate and informed decisions in family cases, and to better protect the rights, life and health of children.

At the Family Court, it was most striking to see that each participant in the process (parents and children) had their own lawyer. Interests of children in the Russian civil process are represented by parents, sometimes by a prosecutor. I think that the Russian justice system needs the same legal norm that would ensure that a child has a representative in court, responsible for protecting the interests and rights of the child, regardless of the opinion of the parents. And of course, specialist family courts could be a great addition to the Russian justice system.

At a meeting with the solicitor Robert Hush, the delegates learned about the work of a young, innovative Beck Fitzgerald Law Firm. The firm has changed the older work style: they reduced the cost of office maintenance by renting a 'We Work' space, thereby reducing the cost of their services. The firm specialises in family disputes and children's rights. The solicitors are paid from Legal Aid in family cases. These days, the Legal Aid programme also covers assistance to victims of domestic abuse.

All cases relating to family issues are divided in England and Wales into private (disputes about custody where a child remains in the family) and public (where local authorities interfere and a child is removed from the family). The main principle in both cases is the principle of the well-being of the child. In public cases the responsibility for the well-being of children lies with the local authorities. In private law cases, the voice of the child, regardless of age, is taken into account. A powerful fathers' public campaign "50/50" for equal rights of fathers in determining the child's custody had an impact on family law practice. Since 2012, mothers no longer have a presumed priority for custody.

An important fact is that the reason for family issues in 9 out of 10 cases is poverty, addictions, mental disorders or domestic violence between parents. Therefore, legal tools only cannot solve these issues. British colleagues believe that there should be more training provided for judges in domestic violence. Russian lawyers know this problem too well.

with Robert Hush at London South Bank University

At Coram Children's Legal Centre, the delegates met with the members of the legal department. The charity was founded in 1737 as a hospital and children's home. Today, it is a centre providing assistance to children and young people in various areas. The Coram lawyers talked about their work related to housing and education for migrant children. Legal assistance is provided free of charge. Each child has an individual consultant who, together with the child and parents, draws up a work plan for obtaining the necessary assistance. Complex problems arise, for example, with determining the age of migrant children, which affects the amount of social support.

In schools, children with learning difficulties are identified and their special needs are assessed. If needed, individual assistance by teachers and psychologists is provided at the expense of the local budget. Sometimes children with special needs can be referred to special schools or home schooling. The type of school is chosen by parents together with the authorities. They sign an agreement and an action plan. If the parents disagree with the choice of school or the plan, the case can go to court; in these cases the Coram lawyers represent the child in court.

with the team of Coram Children's Legal Centre

The meeting with the barrister Cyrus Larizadeh QC was not only informative, but also very emotional. QCs are a 'professional elite'; they are lawyers who, having vast knowledge and experience, demonstrate extraordinary skills when representing clients in court. Barristers act both for the defence and for the prosecution. Cyrus shared his experience in cases involving children who became victims of severe abuse, including his worst case of a father killing his little son. In all jurisdictions of the world, lawyers have to defend 'monsters.' Students often ask criminal lawyers, "How could you defend this person?" Of course, experienced lawyers have a standard answer: it is not the criminal a lawyer defends but the rights of the accused; without this justice would not be possible. But personal feelings of lawyers and their psychological traumas, as a rule, remain 'behind the scenes.' Cyrus Larizadeh shared his story of overcoming such traumatic situations with the help of therapy. The need for psychological support in combating professional burnout is a subject very relevant for Russian lawyers. Organisation of such psychological support could be a task for bar associations in the Russian regions.

Quote from a delegate

I was particularly struck by the openness and sincerity of Cyrus Larizadeh QC who talked about the psychological aspects and difficulties for a barrister dealing with cases of domestic abuse against children, based on his personal experience.

with Cyrus Larizadeh QC at 4PB for Family chambers

The delegates also shared their impressions of the work of **The Children and Family Court Advisory and Support Service (CAFCASS)**. It's a national agency funded by the Ministry of Justice. Its main function is to represent the interests of children in family courts. It is important that the service is independent of courts, social services, education and health authorities. The Cafcass workers examine the family situation, interview the child and prepare recommendations for the court. In case the court does not agree with the recommendations, the judge is obliged to provide the reasons for his/her decision.

with the CAFCASS team

At the Family Division of the High Court, the delegates met with the High Court Judge Frances Judd. They were surprised to find out that judges and barristers who work with children undergo special training. In addition, intermediaries are invited to work with children interviewed in court. They asses the children's needs and give recommendations to the judge and barristers on how to communicate with the child. The High Court has the experience of interviewing small children as young as four years old. Every day, a judge on duty works in court and makes emergency decisions, such as protective orders, orders to block departures at airports, etc. Judges speak with children in a meeting room in the presence of a psychologist. The atmosphere of these meetings is informal and judges don't wear robes.

with High Court Justice Frances Judd

Three Russian lawyers were fortunate to spend a morning at Willesden Magistrates Court. District Judge Jabbit invited them to observe four cases in youth justice proceedings. Usually a judge reviews up to 15 cases per day. The cases were of varying complexity and had different outcomes. A 14-year-old offender got a suspended sentence, which included an anger management programme, a curfew and an electronic bracelet. He left the court holding the hand of his Godmother who was going to adopt him. "He is making progress," said the judge who had known the offender from a few trials in the past. A girl accused of robbery was sentenced to community service. Another young man was sentenced to a short-term custody. Sentencing of minors in the form of imprisonment is exceptional.

The delegates also were acquainted with the work of **Southwark Youth Offending Service, London**. Usually, the police are the first to contact the service, but family members and friends can also contact them if they are worried about a young person's behaviour. Youth offending teams (YOTs) work with young people who get into trouble with the law. They look into the background of young people and try to help them stay away from crime. They also run local crime prevention programmes, help young people at the police station if they are arrested, help young people and their families at court, supervise young people serving a community sentence and stay in touch with a young person if he/she is sentenced to custody.

with the team of Southwark Youth Offending Service

In this area, the service has 50 staff who work with 300 young people. In case of minor offenses, the programme lasts from six to twelve weeks. If a young person has committed a serious crime, a youth court can send the offender to a correctional institution but custody sentences in youth justice are only about 1%. Currently, there are 300 minors in custody in England and Wales. At the age of 18, a young person is referred to the probation service. The main outcome of the work done by the Southwark Youth Offending Service is this: over half of teenagers have stopped committing crime having completed the programmes provided by the YOT.

Quote from a delegate

During the trip, we met with the staff of CAFCASS, Youth Offending Service and Coram Children's Legal Centre. I was impressed to learn that in England such organisations were created to protect the rights of children, their well-being and crime prevention.

The meeting with Professor Penny Cooper focused on working with vulnerable witnesses. Of course, all legal practitioners believe they can conduct interviews perfectly well. They can be effective in achieving their goals in court by affirming their position, refuting the arguments of the opposite party and building confidence in the testimony of their witness. Cross-examination has traditionally played an important role in the English justice system, carried out in a tough manner. This is exactly what lawyers are trained to do. However, working with children requires completely different skills. Special programmes have been introduced to train lawyers in interviewing minors. Now judges and lawyers are learning to ask questions, interact with social workers who serve as intermediaries in court. The main idea of the introduction of intermediaries is the priority of the well-being of the child and assistance to vulnerable witnesses who have been in traumatic situations. Judges now prohibit cross-examination of children who have been exposed to violence. It might seem that this contradicts the principles of the adversarial fair trial standards. But contemporary British researchers and judges believe that obtaining a child's testimony by way of traditional cross-examination involving psychological pressure is simply not valuable as the reliability of such evidence would be doubtful. At the same time, the risk of causing a child severe psychological harm is great.

> *Quote from a delegate*
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> *We all thought it would be worthwhile to adapt in Russia the English experience, such as participation of psychologists and lawyers in the work with parents and children, providing lawyers for children, and inviting intermediaries to assist with examination in court.*

Russian lawyers also attended trials at courts of different levels: at the **Westminster Magistrate's Court** they were impressed by the work of magistrates; at the **Central Criminal Court (the Old Bailey)** they watched jury trials, and they also observed the **Court of Appeal hearings at the Royal Courts of Justice**.

At the final **meeting with Deputy Chief Magistrate Tan Ikram** the delegates discussed the work of judges, their judicial career and professional training, and the interaction of magistrates and professional judges with the society. In England, the degree of public trust in the judicial system reaches 90%. The Russian lawyers were struck by the atmosphere in English courts where they saw respect toward all participants in the proceedings.

> *Quote from a delegate*
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> *I was impressed by the high degree of respect of the parties in court proceedings and the trust of the court to the lawyers. I also admired the interest and dedication of judges, lawyers and workers of various social services to children's cases in criminal and family law.*

By comparison of approaches to protecting the rights of children, the Russian lawyers noted that the English system is distinguished by the following:

- The absolute priority of the well-being of the child is not just as a proclaimed principle but a clear instrumental criterion for choosing legal means and reasoning one's decisions;
- A variety of tools, forms and methods are available in the legal system for cases involving children;
- National and local authorities, together with non-governmental organisations combine their efforts to protect the interests of children;
- Interdisciplinary teamwork and constant cooperation of specialists from different professions are used for case analysis and decision making;
- Informal, thorough, flexible and humane approaches are used in all complex situations affecting children's rights;
- Typical features of the legal profession are ongoing analysis and introspection, recognition of problems and errors, aspiration to change the situation for the better, creativity and openness to change, including a critical attitude to traditional legal procedures;
- Legal ethics and application of the high principles of the rule of law in each case are taken very seriously.

Quote from a delegate

In London, we had the opportunity to meet with outstanding barristers, judges of various courts, probation officers and experts in protecting children's rights. All of them shared the same principles and approaches: strict observance of human rights, and especially the rights of children, respect for the law, honesty, openness, fairness, and the desire to do their job well and to benefit the society. I could see that all these people sincerely love their country, their city, respect the rights of other people and the law.

on the Tube

The acquaintance with the English practice inspired the Russian lawyers and helped them to identify the goals of their own professional development and the direction of efforts to protect children's rights in Russia.

As Lord Thomas of Cwmgiedd famously said, *"It is a truism that change is not just about having a new framework and new legislation in place, but about change in culture necessary to make the new legislation and framework a reality."*