



# RUSSIA

Legal System	Constitution	Bill of Rights	Country Structure	Form of Government
Civil Law	Written	Yes	Federation	Republic

## 1. INTRODUCTION

### 1.1. Russia and Modern Slavery (Human Trafficking)

The Russian Federation (**Russia**) is currently on Tier 3 of the U.S. Department of State's ranking of governments' efforts to combat trafficking in persons.<sup>1</sup> Russia has neither a designated lead agency to coordinate its anti-trafficking efforts nor a body to monitor or assess its anti-trafficking activities. The 2018 Global Slavery Index gave Russia the government response rating of CC, based on low scores in the categories of support for survivors, criminal justice, coordination, and supply chain.<sup>2</sup>

Because of its economic and geographical conditions, Russia is a destination, transit, and source county for forced labour and human trafficking. Due to lack of accurate domestic reporting, information about cases of human trafficking to and from Russia oftentimes comes from countries whose citizens are seeking employment in Russia (mostly countries of Transcaucasia, Central Asia) and from countries that serve as destinations for human trafficking from Russia (mostly countries of Transcaucasia, Central Asia, the Baltics, and the Mediterranean). Russia recently banned the re-entry of workers from several Central Asian countries, which were often vulnerable to forced labour conditions in Russia. The Government continued the repatriation of Russian minors, including potential trafficking victims, whose parents were alleged fighters with ISIS. The Government maintained bilateral contracts with North Korea, which continued to operate work camps in Russia throughout 2019. While Russia reported that it was complying with UN Security Council's resolutions to stop issuing new work permits and repatriate existing North Korean workers by the end of 2019, observers noted a significant increase in the number of student and tourist visas issued by Russia to North Korean citizens, suggesting that such visas are used as a workaround for workers.

Russia does not have a central repository for publicly available information on investigation, prosecution, conviction, and sentencing data for trafficking cases. Non-governmental organizations (**NGOs**) reported that tens of thousands of trafficking-related cases were reported to authorities. However, Russia's federal-level Investigative Committee publicly reported three new investigations (two sex trafficking and one labour trafficking) in 2019, as well as three ongoing sex trafficking investigations.

The Government reported the identification of 61 trafficking victims in 2019. The Government did not provide funding or programs for protective services dedicated to trafficking victims. The last dedicated trafficking shelters closed in 2015 due to lack of funding. Government-funded homeless shelters could accommodate Russian and foreign victims, although there were no reports of victims assisted in these shelters in 2018 or 2019.

<sup>1</sup> U.S. Dep't of State, Trafficking in Persons Report 55 (2020), available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>. The U.S. Department of State rankings are based on the minimum standards specified in the U.S. Trafficking Victims Protection Act of 2000, "which are generally consistent with the [UN] Palermo Protocol." *Id.* at 39.

<sup>2</sup> The Global Slavery Index (2018) at 99, available at: <https://www.globallslaveryindex.org/resources/downloads/>.

Instances of labour trafficking have been reported in the construction, manufacturing, logging, textile, and maritime industries, as well as in saw mills, agriculture, sheep farms, grocery and retail stores, restaurants, waste sorting, street sweeping, domestic service, and forced begging. According to the latest available estimate of the Global Slavery Index, there were almost 800,000 victims of modern slavery in Russia in 2016.

## 1.2. Russia’s Policy and Legal Position

Russia’s policy and legal approach to human trafficking is shaped by the recent 30 years of history since the breakdown of the Soviet Union. In the 1990s, Russia emphasized reconnection with Europe and the broader international community. Russia joined international organizations such as the Council of Europe, the European Court of Justice, and the G8, and applied for accession to the World Trade Organization. Russia signed several important human rights agreements, including those related to human trafficking. Russia adopted the European Convention on Human Rights with some reservations, and the European Court of Human Rights became the last court of appeal for Russian citizens. Russia signed and ratified the UN Convention Against Transnational Organized Crime (**Palermo Convention**) with its Protocols to prevent, suppress, and punish human trafficking. However, in the 2000s, these trends slowed down, and recently Russia started to pivot away from these organizations and agreements. Russia became the only member state of the Council of Europe that did not sign the 2008 Convention on Action against Trafficking in Human Beings. In 2015, the Constitutional Court of Russia received the authority to decide on domestic implementation of international judgments. With the adoption of “foreign agent” and “anti-terror” laws in recent years, it became more difficult for NGOs receiving foreign aid to work in Russia, and it became a crime to provide material assistance to people considered to be in Russia illegally.

As a member of the Commonwealth of Independent States (**CIS**), Russia is a signatory to two CIS agreements related to human trafficking: the Agreement on the Cooperation of the CIS Member States in Combating Trafficking in Persons, Human Organs and Tissues (2005) and the Program of Cooperation between the CIS Member States against Trafficking in Persons for 2014–2018. Russian cooperation with neighboring countries on human trafficking exists but is limited. Cases of cooperation with Armenia, Georgia, Kazakhstan, and Ukraine have been reported.

The Criminal Code of the Russian Federation (**Russian Criminal Code**) includes articles on trafficking in persons and use of slave labour. Penalties for some of these offences reach up to 10 years of imprisonment. However, inconsistent with the definition of trafficking under international law, these articles established the use of force, fraud, or coercion as aggravating factors, rather than essential elements of the crime. Sometimes, authorities prosecute trafficking crimes under prostitution-related statutes, which bear lower penalties.

Russian laws on government procurement do not explicitly bar participation of bidders engaged in forced labour practices, or procurement of goods made with forced labour. No supply chain reporting laws obligate private businesses to control their supply chain to hinder human trafficking. The Russian Government does not provide funding for rehabilitation or protection of trafficking victims. However, the victims of human trafficking have the right to sue for damages, just like other crime victims.

## 2. OVERVIEW OF RUSSIA’S LEGAL APPROACH TO COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING

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### 2.1. Russia’s Regional and International Law Obligations

#### 2.1.1. *Fundamental human rights*

Like its predecessor the Soviet Union, the Russian Federation also adopted fundamental human rights principles and became part of a number of international treaties. During the Soviet era, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were ratified. The former Soviet Union never ratified the United Nations Universal Declaration of Human Rights.

After the collapse of the Soviet Union, the Russian Federation adopted the European Convention on Human Rights with some reservations. In 1998, the European Court of Human Rights became the last court of appeal for Russia citizens; however, in 2015, a federal law came into effect that allows the Constitutional Court of Russia to decide on the implementation of international judgments.

#### 2.1.2. *Slavery and trafficking*

Russia is a party to several treaties relevant to the prohibition of modern slavery and trafficking. Russia’s principal international law obligations in this regard derive from the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and Slavery Convention, signed at Geneva on 25 September 1926 and amended by the Protocol.

Russia is also a party of the C105 - Abolition of Forced Labour Convention, 1957 (No. 105), the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, and the Worst Forms of Child Labour Convention, 1999 (No. 182).

A regional agreement to cooperate against human trafficking was signed in 1998 between the Commonwealth of Independent States (CIS),<sup>3</sup> of which Russia is a member. The CIS Convention on Human Rights and Fundamental Freedoms<sup>4</sup> was drafted in line with several international treaties and states that “the Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms set out in the present Convention.”<sup>5</sup>

#### 2.1.3. *Effect under Russia’s law*

Russia has implemented some significant international laws into its legislation. Article 20 (Freedom of Assembly and Association) of the Universal Declaration of Human Rights is embodied in Articles 30 and 31 of the Constitution of the Russian Federation (1993). However, since the elections in 2011–2012, there are some changes towards a more challenging acceptance and consideration of international treaties. In December 2015, a federal law passed (Federal Law No.7-FKZ of December 14, 2015, on Amendments to the Federal Constitutional Law on the Constitutional Court of the Russian Federation<sup>6</sup>) empowering the Constitutional Court of Russia to decide on the effective enforcement of resolutions from the European Court of Human Rights in Russia. Federal Law No. 7 embodied into law an earlier decision of the

<sup>3</sup> <http://www.cisstat.com/eng/cis.htm>.

<sup>4</sup> <https://www.unhcr.org/uk/protection/migration/4de4eef19/cis-convention-human-rights-fundamental-freedoms.html>.

<sup>5</sup> Article 1 of the CIS Convention on Human Rights and Fundamental Freedoms.

<sup>6</sup> <https://rg.ru/2015/12/15/ks-site-dok.html>.

Constitutional Court of Russia (Resolution of the Constitutional Court of the Russian Federation No. 21-P of July 14, 2015, on the Matter of Verifying the Constitutionality of Provisions of Article 1 of the Federal Law on Ratification of the Convention on Human Rights and Fundamental Freedoms<sup>7</sup>).

## 2.2. Human Rights Protections Under Russia’s Law

Human rights protections in Russia are contained in domestic legislation that in many cases mirrors or incorporates principles and concepts from the international instruments to which Russia is a party. Examples of such legislation include Chapter 2 - Rights and Freedoms of Man and Citizen of the Constitution of the Russian Federation<sup>8</sup> and the criminalization of human rights violations (Chapter 17 of the Russian Criminal Code).<sup>9</sup>

## 2.3. Criminalization of Modern Slavery

Criminal prohibitions against various forms of modern slavery are set out predominantly in the Russian Criminal Code.<sup>10</sup> In particular, the Russian Criminal Code contains provisions relating to Kidnapping (Article 126), Unlawful deprivation of liberty (Article 127), Human trafficking (Article 127.1), and Use of slave labour (Article 127.2).

## 2.4. Supply Chain Reporting

Russian legislation is silent about supply chain reporting. Federal Law No. 94 on Placing Orders for Provision of Goods, Works, and Services for State and Municipal Needs of July 21, 2005<sup>11</sup> governs the unified procurement system. This Federal law does not prohibit forced labour and anti-human trafficking.

## 2.5. Investigation, Prosecution, and Enforcement

### 2.5.1. Investigation and prosecution of criminal offenses

No separate government agency investigates and prosecutes human trafficking. The investigation is conducted by the centralized police system and the prosecution is led by prosecutors. A limited number of police officers and prosecutors have anti-human trafficking training.<sup>12</sup>

Trafficking and forced labour are punishable offences under Russian criminal law. The penalty for trafficking in persons and use of forced labour is imprisonment.

The Government publishes very limited data on investigation, prosecution, and enforcement of anti-human trafficking; therefore, the media is the main source of such public information. The media reported several cases through the years showing the number of prosecutions; however, these numbers seem to be low when compared to the anti-human trafficking issues Russia is experiencing.

<sup>7</sup> <https://rg.ru/2015/07/27/ks-dok.html>.

<sup>8</sup> <http://www.constitution.ru/en/10003000-03.htm>.

<sup>9</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/6b50e0b2a3b6b342f0c9e6fceb3b4385a832920a/](http://www.consultant.ru/document/cons_doc_LAW_10699/6b50e0b2a3b6b342f0c9e6fceb3b4385a832920a/).

<sup>10</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/](http://www.consultant.ru/document/cons_doc_LAW_10699/).

<sup>11</sup> [https://www.wto.org/english/thewto\\_e/acc\\_e/rus\\_e/wtaccrus58\\_leg\\_345.pdf](https://www.wto.org/english/thewto_e/acc_e/rus_e/wtaccrus58_leg_345.pdf) (link needs to be pasted into a browser).

<sup>12</sup> Trafficking in Persons Report (10th Ed.).

### 2.5.2. Mutual assistance/international cooperation

The Russian Federation is cooperating with organizations such as Europol, Interpol, the United Nations Children’s Fund (**UNICEF**), the United Nations High Commissioner for Refugees (**UNHCR**), and the United Nations Office on Drugs and Crime (**UNODC**) in combating human trafficking.

CIS agreements establish cooperation between the general prosecutor’s offices of the CIS countries and a unified register of documentation between the CIS countries.<sup>13</sup>

In April 2007, the Ministry of Internal Affairs of the Russian Federation established an anti-human trafficking sub-department within the unit for combating organized crime and terrorism.<sup>14</sup>

## 3. RUSSIA’S FEDERAL CRIMINAL OFFENSES RELATING TO SLAVERY, SLAVERY-LIKE CONDITIONS, AND HUMAN TRAFFICKING

### 3.1. Overview of Criminal Offenses

Chapter 17 of the Russian Criminal Code proscribes certain human trafficking offences.<sup>15</sup> Articles 126, 127, 127.1 to 127.2, 240, and 241 describe relevant offences and punitive measures under the criminal law. Depending on the circumstances, those offences can be punishable either by a prison sentence, compulsory prison labour, disqualification from holding certain managerial positions or carrying out certain activities, or a probation order. Aggravating circumstances may extend penalties by up to 15 years of imprisonment.



<sup>13</sup> <http://www.cis.minsk.by/reestr/ru/index.html#reestr>.

<sup>14</sup> Irina Molodikova, “One Step Forward and Two Steps Back: Migration Policy and Human Trafficking in the Russian Federation since the Palermo Protocol of 2020,” *Journal of Human Trafficking*, available at: <https://doi.org/10.1080/23322705.2020.1690101>.

<sup>15</sup> Russia is a federal country but does not have relevant legislation at the state level.

## 3.2. Slavery Offenses Under the Criminal Code

### 3.2.1. General

In December 2000, Russia signed the UN Convention Against Transnational Organized Crime (**Palermo Convention**) with its Protocols to prevent, suppress, and punish human trafficking, and in March 2004, Russia ratified both the Convention and the Protocols. The legislation committee of the Russian State Duma in consultation with the relevant NGOs drafted a law on combating human trafficking. In December 2003, new articles were introduced to the Russian Criminal Code.<sup>16</sup> The new articles make trafficking in humans and forced labour criminal offences. While the use of slave labour is a criminal offence under article 127.2 and article 127.1, and slave labour is one part of the criminal offence of human trafficking, the act of slavery itself is not a criminal offence. Articles 240 and 241 prohibit inducing and coercing a person into prostitution as well as trafficking or transporting victims out of Russia.<sup>17</sup>

The Russian Criminal Code does not define “slavery” as a crime, but Chapter 17 proscribes offences against personal liberty and dignity that are punishable under articles 126 (Abduction), 127 (Illegal deprivation of liberty), 127.1 (Human trafficking), 127.2 (Use of slave labour), 240 (Recruitment into prostitution), and 241 (Inducing into prostitution and child prostitution).<sup>18 19</sup>

By ratifying the Palermo Convention in 2004, Russia committed to address human trafficking and to introduce into its national legislation the concept of “trafficking in persons.” The Palermo Convention defines “Trafficking in persons” as “*the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments ...*”<sup>20 21</sup> However, the legal definition of “human trafficking” has been broadened to adapt it to the domestic law. The legislature added some new language such as the “purchase and sale” of persons, which together with other components, constitute the criminal act under Article 127.1.<sup>22</sup>

HUMAN TRAFFICKING PENALTIES IN RUSSIA	Duration of imprisonment	Penal Labour
Human trafficking offences		
a) Including purchase and sale of a person	1 to 6 years	1 to 5 years
Aggravated circumstances, <i>i.e.</i> , committed in respect of two or more persons	3 to 10 years + disqualification to hold certain managerial positions or carry out certain activities up to 15 years	
resulting in death of the person(s)	Prison sentence of 8 to 15 years (may include probation for a term of up to two years)	

<sup>16</sup> [https://www.ilo.org/moscow/news/WCMS\\_481928/lang--en/index.htm](https://www.ilo.org/moscow/news/WCMS_481928/lang--en/index.htm).

<sup>17</sup> <https://www.globallslaveryindex.org/2018/findings/country-studies/russia/>.

<sup>18</sup> [https://www.legislationline.org/download/id/7390/file/Russia\\_Report\\_trafficking\\_human\\_beings\\_2013\\_ru.pdf](https://www.legislationline.org/download/id/7390/file/Russia_Report_trafficking_human_beings_2013_ru.pdf).

<sup>19</sup> <https://ria.ru/20160823/1474991590.html>.

<sup>20</sup> [https://www.un.org/ru/rights/trafficking/human\\_trafficking\\_russia.pdf](https://www.un.org/ru/rights/trafficking/human_trafficking_russia.pdf).

<sup>21</sup> <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

<sup>22</sup> [www.amasyants.ru/?module=criminalistics&id=113](http://www.amasyants.ru/?module=criminalistics&id=113).

HUMAN TRAFFICKING PENALTIES IN RUSSIA	Duration of imprisonment	Penal Labour
b) Use of Slave Labour	1 to 5 years	Up to 5 years
c) Illegal Deprivation of Liberty, unrelated to person’s abduction	Up to 2 years	
Under c) by a group of people	3 to 5 years	Up to 5 years
d) Inducing, coercion, and organization of prostitution	Up to 3 years or up to 8 years for child prostitution	
Under d) transferring victims outside the Russian Federation and keeping victims illegally outside the Russian Federation	6 years (this can include probation for 2 years)	

**3.2.2. Extraterritorial application**

Article 12 of the Russian Criminal Code provides extraterritorial application. Russian citizens and permanent residents who commit crimes against interests protected by the Russian Criminal Code outside of Russia are subject to prosecution under the code (provided no foreign court decision was made in relation to such crime).<sup>23</sup>

**3.3. Slavery-Like Offenses in Russia’s Legal Order**

**3.3.1. Servitude**

Although servitude does not exist as a stand-alone offence in Russia, it is included within the elements of Articles 127.1 of the Russian Criminal Code (refer to Section 3.4.1. on human trafficking).

**3.3.2. Forced labor**

Forced labour is a crime against the personal freedom and physical integrity of the person. Based on the Constitution of the Russian Federation and the Russian Criminal Code, no one has a right to force a person to do anything without that person’s consent. The use of slave labour, therefore, is a crime against a person.<sup>24</sup>

The elements of this offence are:<sup>25</sup>

(a) the very fact of forcing a person into slave labour. It is a crime if the perpetrator owns or uses a product or service resulting from forced labour while the victim is dependent on the perpetrator and has no means to refuse the work.

(b) intent as well as the *purpose* of exploiting the person. Exploitation will mean not only the use of slave labour but also other methods of violating personal liberty.

(c) the perpetrator is at least 16 years old and sane at the time of the crime.

<sup>23</sup> <https://www.dissercat.com/content/territorialnoe-i-eksterritorialnoe-deistvie-ugolovnogo-zakona>.

<sup>24</sup> [http://stavf.krdu.mvd.ru/upload/site122/document\\_file/T2 - UPH.pdf](http://stavf.krdu.mvd.ru/upload/site122/document_file/T2 - UPH.pdf).

<sup>25</sup> <https://advokat-malov.ru/prestupleniya/ispolzovanie-rabskogo-truda.html>.

### 3.3.3. *Deceptive recruiting for labor or services*

The Russian Criminal Code does not specifically prohibit deceptive recruitment. The articles on forced labour or prostitution broadly cover certain elements of deceptive recruiting.

### 3.3.4. *Early and forced marriage*

Both international and domestic laws prohibit forced marriage. Article 12 of the Family Code (**Family Law**)<sup>26</sup> requires the mutual consent of both persons, a man and a woman, to conclude a marriage.

Family Law authorizes marriages upon reaching of the age of 14 “under viable reasons” but does not define the meaning of “viable reasons.”

### 3.3.5. *Debt bondage*

Debt bondage is a key form of contemporary slavery. It occurs when the victim is obliged to work to pay off a debt and the person who is holding the debt thus has some coercion over the forced worker. The Russian Criminal Code does not make debt bondage an offence, so it must be linked with forced labour and prostitution.

As with forced labour and prostitution, debt bondage is one of the factors for human trafficking.<sup>27</sup>

### 3.3.6. *Any other relevant offenses*

#### **Inducing and organization of prostitution**

The primary element of the crime is inducing a person to prostitution. The victim can be a man or woman of any age. Blackmailing, deceit, property damage, or any other methods are considered acts of coercion, which allow an offender to force the victim into engaging in prostitution.

Article 241 of the Russian Criminal Code makes it a crime to commit certain acts aimed at the organization of prostitution, as well as harboring or the systematic provision of premises for prostitution. One distinctive element of this crime is facilitating prostitution by providing premises specifically designed for the purpose of prostitution, including the presence of security guards; necessary repairs; sales of food, alcohol, and narcotics; and setting rules of conduct for the staff and visitors. The law was amended in 2012 by introducing stricter punishment (including a prison sentence of up to 10 years) for such acts committed by use of threat or force and for child prostitution.<sup>28</sup>

### 3.3.7. *Extraterritorial application of the offenses*

Article 12 of the Russian Criminal Code provides for extraterritorial application<sup>29</sup> when: (a) the crime is committed by a Russian citizen or permanent resident, (b) the crime is committed against interests protected by the Russian Criminal Code, and (c) no foreign court has issued a judgment against the alleged offender for the same crime.

<sup>26</sup> Family code of Russia N223-FZ as amended on March 2, 2021.

<sup>27</sup> [https://mvd.ru/upload/site125/dissertaciya/uridich\\_nauki/kurilova/Dissertatsiya\\_Kurilovoy\\_EN.pdf](https://mvd.ru/upload/site125/dissertaciya/uridich_nauki/kurilova/Dissertatsiya_Kurilovoy_EN.pdf).

<sup>28</sup> <http://ukodeksrf.ru/search/node?keys=240>.

<sup>29</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/c35309e0a5b0291571f5f963bce56146e227835e/](http://www.consultant.ru/document/cons_doc_LAW_10699/c35309e0a5b0291571f5f963bce56146e227835e/).



### 3.4. Human Trafficking/Smuggling-Related Criminal Offenses

#### 3.4.1. *International and domestic trafficking/smuggling of people*

Article 127.1 of the Russian Criminal Code makes human trafficking an offence punishable by a prison term. Human trafficking is defined as the act of buying or selling a person for any purpose, as well as the act of recruiting, transporting, transferring, harboring, or receiving a person for the purpose of exploitation of prostitution, other forms of sexual exploitation, forced labour, or servitude. The purpose of exploitation of a person is a mandatory element of the offence for the acts of recruiting, transporting, transferring, harboring, or receiving a victim. However, it is not an essential element for the acts of buying or selling.

Article 127.1 of the Russian Criminal Code prescribes penalties of up to five years of prison labour or up to six years of imprisonment for offences involving adult victims, and three to 10 years of imprisonment for those involving a child victim.

Smuggling across the national border of Russia is an aggravated human trafficking offence, irrespective of whether movement across the border was performed legally or illegally. A victim's pregnancy is another aggravating factor, as long as the offender was aware of the victim's pregnancy.<sup>30</sup> Other aggravating circumstances include harboring and the offender committing the crime by exercising official powers. Furthermore, an even heavier punishment is prescribed for offenders who negligently cause death, grievous bodily harm to the victim's health, or any other severe consequences, whose conduct threatens the life and health of many people, or who are members of an organized crime group.

Victims' consent does not negate or mitigate the offence of human trafficking. However, a first-time offender may avoid criminal liability by voluntarily freeing the victim and cooperating with the prosecution.

#### 3.4.2. *International and domestic trafficking in children*

Russian criminal and administrative laws make trafficking in children and child exploitation criminal offences. Punishment depends on the severity of the committed offence and the extent of damage inflicted. Citizens of the Russian Federation, foreign nationals, and stateless persons, meaning any individuals, can be liable.

Paragraph b, part 2, Article 127.1 of the Russian Criminal Code makes persons liable for trafficking in children, if the offenders had a criminal intent to target a minor. Pursuant to Article 54 of the Family Code, a child or minor is defined as a person under the age of 18 years.

The crime of trafficking in children has three components:

- acts (recruiting, transporting, transferring, harboring, or receiving);
- means (threatened force or use of force, coercion, kidnapping, fraud, deception, abuse of power or vulnerable position, or bribery in the form of payments or benefits for the person controlling the victim); and
- goals (intended for exploitation, including organ harvesting).

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<sup>30</sup> Zeinalov.

Trafficking in children is sometimes undertaken with an aim of subsequent adoption. According to some estimates, numerous cases of adoption in Russia, especially by foreign nationals, are actually the sale of minors arranged by officers of child protective services and other government authorities.<sup>31</sup>

### **3.4.3. Victim harboring**

Victim harboring is a criminal offence in Russia. It entails hiding the human trafficking victim from authorities, relatives, and other stakeholders, by misinforming them about the victim’s identity or whereabouts. Harboring may occur in any place; for example, a person, once received, is kept in a dwelling and passed off as another person, such as a friend or relative.

### **3.4.4. Extraterritorial application of human trafficking and smuggling offenses**

Refer to Section 3.2.2.

## **3.5. Online Exploitation of Children Offenses**

### **3.5.1. Overview**

The Russian Criminal Code addresses crimes of online child exploitation “by means of print and electronic media, including the Internet.”

### **3.5.2. Production and circulation of child pornography material**

The Russian Criminal Code makes it an offence for a person to produce, obtain, control, or move across the national border of Russia with the intention of distribution, public display, or advertising of any materials or items with the pornographic images of minors (punishable by a maximum penalty of 10 years of imprisonment for an aggravated offence, and eight years of imprisonment otherwise).

“Child pornography material” includes materials and items containing any image or description for sexual purposes of fully or partly naked genitals of a minor; a minor performing or mimicking sexual intercourse or other sexual acts; sexual intercourse or other sexual acts involving a minor; or an adult imitating a minor performing or mimicking sexual intercourse or other sexual acts.

The crime covers visual media, literature, or other sources, unless the materials and items are of historic, artistic, or cultural value or are intended for scientific, educational, or medical use in the manner prescribed by the federal law.

The objective aspects of a crime are: (1) production; (2) purchase; (3) storage; (4) movement across the national border; (5) distribution; (6) public display; or (7) advertising of materials or items.

A crime of production occurs upon the production of at least one pornographic material or item and is deemed completed once at least one person views or receives such material or item. The production or purchase of pornographic materials and items for personal use is not a crime.

A crime of distribution of pornographic materials or items is complete upon the sale of at least one such material or item.

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<sup>31</sup> See Pristanskaya, “O.V. Action Taken by Prosecution Authorities of the CIS Member States to Prevent Kidnapping and Human Trafficking // Prosecution and Investigative Practice,” 2005, Nos. 3–4, p. 140.

Movement of pornographic materials or items across the national border for the purpose of distribution, public display, or advertising is a separate crime even if committed by a non-producer. This crime is deemed completed once a person receives such pornographic materials or items.

### 3.5.3. *Use of a minor for the purposes of producing pornographic materials or items*

The Russian Criminal Code makes it an offence to make a photograph, movie, or video of a minor for the purposes of producing or distributing pornographic materials or items or to engage a minor as a performer to participate publicly in any pornographic entertainment, including at concerts, theaters, or nightclubs.

A crime occurs when any act is done that is an objective aspect of the crime. Determining whether or not a photograph, movie, or video of a minor is a criminal offence depends on the purpose of producing or distributing pornographic materials or items.

### 3.5.4. *Obligation of Internet content hosts*

Internet content hosts are liable under the Code of Administrative Offences of the Russian Federation if government authorities notify them that their service is being used to publish child pornography, and they do not take action to limit access to any online information, web resource, or website. Non-compliance is punishable with a fine of up to RUB 8,000,000 (which at the date of writing is about USD 107,400).

## 3.6. Child Sex Tourism Offenses

Although child sex tourism is not a separate offence in Russia, authorities often prosecute this activity under related statutes, including Articles 240 (Involvement in prostitution), 240.1 (Receiving sexual services from a minor), and 241 (Organization of prostitution) of the Russian Criminal Code.

## 4. RUSSIA'S SUPPLY CHAIN REPORTING LEGISLATION

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No supply chain reporting legislation obliges private businesses to control their supply chain to hinder human trafficking. Nonetheless, a few regulations and guidelines may influence companies to manage their supply chains to meet human rights and labour conditions obligations.

The Federal Stock Market Commission issued recommendations for companies to include in a Code of Corporate Conduct.<sup>32</sup> Companies are recommended to create by-laws that reflect social responsibility of a company, *inter alia*, to improve working conditions, protect employee health, and guarantee a safe workspace. The ethical by-laws should prevent employees from using their official position to the detriment of society and other persons, as well as provide means to identify and prevent violations of the by-laws and state legislation.

Furthermore, the Chamber of Commerce and Industry of the Russian Federation<sup>33</sup> has developed a "Standard of social reporting for enterprises and organizations, registered in the Russian Federation" (**Standard**), which is said to be in line with the AA1000 Standards.<sup>34</sup> To comply with the Standard, companies should report, *inter alia*, on fair pay and safety of working conditions.

<sup>32</sup> [http://www.cbr.ru/sbrfr/archive/fsfr/fkcb\\_ffms/catalog.asp@ob\\_no=1772.html](http://www.cbr.ru/sbrfr/archive/fsfr/fkcb_ffms/catalog.asp@ob_no=1772.html).

<sup>33</sup> <https://tpprf.ru/ru/>.

<sup>34</sup> <https://www.accountability.org/standards/>.

## 5. FORCED LABOR: OVERVIEW OF RUSSIA’S APPLICABLE EMPLOYMENT AND MIGRATION LAWS

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### 5.1. Employment Law Rights for Victims of Human Trafficking and Forced Labor

Russian employment laws forbid forced labour, which occurs when the employee has not voluntarily consented to perform the work.<sup>35</sup> They provide procedures through which victims of forced labour and trafficking can seek civil remedies.

Victims of forced labour and trafficking are not likely to have an employment agreement with those who have trafficked or exploited them. In fact, many victims suffer from concealed work, or employment of foreigners without a work permit or work patent. Employment laws not only make forced labour a criminal offence carrying penalties for employers, but also give victims the right to claim damages.

Victims of forced labour and trafficking can rely on Chapter 38 of the Russian Federation Labour Code (**Labour Code**) to claim damages from the responsible employer. Victims can claim damages for (i) illegal privation of the possibility to work,<sup>36</sup> (ii) illegal dismissal of an employee,<sup>37</sup> (iii) non-pecuniary damages caused by the employer’s unlawful actions or omissions,<sup>38</sup> and (iv) breach of the agreed term for the payment of salary and other amounts due to the employee.<sup>39</sup>

In relation to the rights of foreigners who are employed without a work permit, refer to Section 5.6.

### 5.2. Applicability of Employment Legislation in the Context of Forced Labor or Trafficking

A victim of forced labour or trafficking is likely to be considered to be an employee if the victim performs paid work for the benefit of another person who imposes constraints and controls on the victim and to whom the victim is accountable and must obey.

The victim may be an “employee” even though the victim is not paid, and the employer claims that the worker was volunteering.

Whether there is an employment relationship depends on the factual conditions under which the worker carries out the work. In the absence of a written agreement, the employee may ask the court to declare an employment relationship. Any doubts will be resolved in favor of an employment relationship.<sup>40</sup> Furthermore, the inspectors of the Governmental Labour Inspection (*Государственная инспекция труда*) may also determine an employment relationship.

Victims who prove their status as “employees” may bring employment claims against traffickers (or in some instances, against other beneficiaries of the forced labour). They may claim a breach of the employment contract or a violation of their statutory rights.

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<sup>35</sup> Article 4 of the Labour Code.

<sup>36</sup> Article 76 of the Labour Code.

<sup>37</sup> Articles 77 to 84 of the Labour Code.

<sup>38</sup> Article 237 of the Labour Code.

<sup>39</sup> Articles 136, 140, 141, 142, and 236 of the Labour Code.

<sup>40</sup> Article 19.1 of the Labour Code.

### 5.3. Statutory Rights

Employees have statutory rights that serve as a basis to assess whether a person is the subject of forced labour, and that victims can use as a basis for damages claims against traffickers.

#### 5.3.1. *Rights to minimum wages, entitlements, and other applicable minimum standards*

Under Russian law, employees shall not be paid less than the minimum wage (**MPOT**).<sup>41</sup> A federal law sets the minimum wage annually. In 2021, the gross minimum wage per month is equal to RUB 12,792. Regional labour agreements may provide for higher minimum wages.

Employees may also be entitled to severance payments, transportation allowances, and bonuses.

#### 5.3.2. *Claims available in relation to misrepresentations and “sham” arrangements*

“Sham” arrangements may be re-characterized as employment contracts if they fulfill the conditions described in Section 5.2. If so, then the worker has the statutory rights granted to employees, and the employer also can incur fines in an amount from RUB 50,000 to RUB 100,000 for violating the requirement to set up a written agreement within three days from the day the employee started to work.<sup>42</sup>

#### 5.3.3. *Claims available in relation to unlawful deductions, loans, and debt bondage*

A recurring issue in human trafficking cases is the employer’s attempt to deduct or garnish wages to recover amounts the trafficking victim purportedly “owes” the employer. Russian law permits deductions from an employee’s wages only in very limited circumstances<sup>43</sup> and amounts, as the Labour Code sets out.<sup>44</sup> Violations are punishable by a fine from RUB 50,000 to RUB 100,000 for legal persons. In addition, a court may award pecuniary and non-pecuniary (moral) damages to the employee, and order the employer to reimburse the amounts unlawfully withheld.

#### 5.3.4. *Remedies*

Victims of forced labour or trafficking can bring a claim in the labour courts for payment of their outstanding wages and other entitlements, plus interest, pursuant to the Labour Code or any applicable collective bargaining agreement.

#### 5.3.5. *The well-being of workers: Preventing work-related psychosocial risks.*

The Labour Code does not expressly obligate employers to protect their employees’ mental health. However, the Labour Code protects employees’ dignity at work.<sup>45</sup> Furthermore, an employee may seek non-pecuniary damages caused by an employer’s unlawful actions or omissions.<sup>46</sup> These legal grounds may support an employee’s claim for a mental health risk (e.g., moral harassment).

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<sup>41</sup> Article 133 of the Labour Code.

<sup>42</sup> Article 5.27 of the Russian Federation Code relating to Administrative Offences.

<sup>43</sup> Article 137 of the Labour Code.

<sup>44</sup> Article 138 of the Labour Code.

<sup>45</sup> Article 2 of the Labour Code.

<sup>46</sup> Article 237 of the Labour Code.

### **5.3.6. *The well-being of workers: Promotion of workers' health***

Employers have a general obligation to ensure safe conditions of work for employees.<sup>47</sup>

In general, employers must prevent risks, evaluate the risks that cannot be avoided, adapt work to the employee, and give appropriate instructions. The Labour Code provides detailed safety and protection measures that an employer is required to adopt.

### **5.3.7. *The well-being of workers: Rest time***

Working times and rest times are strictly regulated in Russia. As a matter of principle and subject to limited exceptions, an employee should not work more than 40 hours per week.<sup>48</sup> No regulation sets a maximum number of hours per day.

Employees must have at least 30 minutes and not more than two hours of rest per day during the working day.<sup>49</sup> Furthermore, the employees must have at least 42 consecutive hours of rest time per week.<sup>50</sup>

Collective bargaining agreements may provide different rules for an economic sector.

### **5.3.8. *The well-being of workers: Freedom to change jobs and right to leave***

As a general principle, under Russian law all employment contracts have an undetermined period of time.<sup>51</sup> In certain limited cases, the Labour Code permits an employment contract to have a fixed term of not more than five years.<sup>52</sup>

Employees who have (or who are deemed to have) an employment contract for an undetermined term or a fixed term employment contract are free to terminate their employment contract without cause, subject to the obligation to give prior notice.<sup>53</sup>

## **5.4. Rights to a Safe Workplace and Compensation Associated With Injuries or Illness**

As Sections 5.3.5. and 5.3.6. described, employees have a right to a safe workplace.

Employment-related injuries or diseases may give employees a right to a specific indemnity regime. Significant criminal penalties may also apply if the employer has knowingly or carelessly put the employee at risk.

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<sup>47</sup> Article 212 of the Labour Code.

<sup>48</sup> Article 91 of the Labour Code.

<sup>49</sup> Article 108 of the Labour Code.

<sup>50</sup> Article 110 of the Labour Code.

<sup>51</sup> Article 58 of the Labour Code.

<sup>52</sup> Article 59 of the Labour Code.

<sup>53</sup> Article 80 of the Labour Code.

## 5.5. Access to Justice and Practical Issues Associated With Enforcing Social Legislation

Victims of forced labour or trafficking rarely assert claims in Russia.

Most victims do not know about the legal assistance available to file claims, and they do not speak Russian well. Russian employment law and litigation procedures are complex, and it is difficult for a person to commence proceedings without legal assistance.

In 2017, the International Labour Organization (ILO) committee supervising the application of international labour standards in the countries that ratified the Forced Labour Convention<sup>54</sup> requested the Russian Government to “strengthen its effort to provide victims of trafficking with appropriate protection and assistance such as shelters, crisis centers and reintegration programs. It also request[ed] the Government to provide statistical data on the number of victims identified and provided with appropriate protection and assistance.”<sup>55</sup> Russia had only one provision in place to protect victims of a criminal act (including victims of human trafficking and forced labour) who cooperate with law enforcement authorities.<sup>56</sup>

Furthermore, in 2019, the Russian Federation ratified the Protocol of 2014 to the Forced Labour Convention.<sup>57</sup> Article 4 of the Protocol sets out that the Member countries shall ensure that all victims of forced labour, irrespective of their legal status, have access to appropriate and effective remedies, and that the victims are not prosecuted for the unlawful activities committed as part of forced labour. This ratification may be viewed, in part, as a formal commitment to provide victims with protection and access to effective remedies.

Victims of human trafficking often fear that their perpetrator will report them to the police and that they will face deportation to their home country. Several NGOs offer assistance to victims of forced labour, and victims may also be eligible for free legal support. Non-profit organizations assist victims of human trafficking with access to justice. For example, the Russian Red Cross, with the support of the International Organization for Migration, has opened a shelter in St. Petersburg for temporary accommodation and social rehabilitation of victims of forced labour and sexual exploitation (for Russian and foreign nationals). The victims may get legal support, along with psychological and other assistance.<sup>58</sup> Labour unions may also bring certain legal actions on behalf of undocumented workers.

<sup>54</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312174:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO).

<sup>55</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:3299902](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3299902).

<sup>56</sup> Federal Act No 119-FZ of 20 August 2004 of the State of Protection of Victims, Witnesses and Other Participants of Criminal Proceedings.

<sup>57</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100\\_ILO\\_CODE:P029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:P029).

<sup>58</sup> <http://moscow.iom.int/en/countertrafficking>.

## 5.6. Interaction Between Employment Law and Migration

### 5.6.1. *Employment rights affected where employment is unlawful under migration law*

Victims of forced labour or trafficking may be working in breach of their visa conditions. The residence and employment procedure for foreigners (and stateless persons) is set out in the Federal Law “Concerning the legal status of foreign citizens in the Russian Federation.”<sup>59</sup>

All foreigners, apart from Eurasian Economic Union (EAEU) nationals,<sup>60</sup> are required to have a government-issued work permit. Among other provisions, employers wishing to employ the non-EAEU nationals also have to get a permit or inform the appropriate authorities about such employment. The permit limits the type and place of labour. Violation of the Federal Law can lead to administrative punishment for both the employee and the employer and to the administrative expulsion<sup>61</sup> of a foreign citizen from the Russian Federation. Expelled foreigners can be held at special facilities until their expulsion.<sup>62</sup> In addition, fictitious registration of a foreign citizen or stateless persons at the place of residence or stay is a criminal act.<sup>63</sup>

The Russian Criminal Code prohibits the illegal crossing of the Russian border.<sup>64</sup> It is not clear whether foreign nationals who are victims of human trafficking are prosecuted for illegally crossing the state border. Moreover, it is not clear if the victims of human trafficking and labour, who violated the Federal Law “[c]oncerning the legal status of foreign citizens in the Russian Federation,” are liable and subject to administrative punishment.

### 5.6.2. *Rights/remedies available under applicable migration law and regulations*

Russian migration law does not provide for any specific claims. For a general overview of restitution and victim’s compensation, refer to Section 7.

## 5.7. Employment Laws and Child Labor

According to the recent estimates of the International Labour Organization (ILO), the regional prevalence of child labour in Europe and Central Asia (including Russia) is 4.1%.<sup>65</sup> Research has not revealed a reliable estimate specific for Russia.

The Russian Federation has ratified the ILO Minimum Age Convention of 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention of 1999 (No. 182). The ILO Convention No. 138 requires the ratifying countries to establish a minimum age for children to enter work or employment and to set national policies for the elimination of child labour. Convention No. 182 requires the countries to take immediate measures to eliminate the worst forms of child labour.<sup>66</sup>

<sup>59</sup> [https://www.mid.ru/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptlCk6B6Z29/content/id/541112?p\\_p\\_id=101\\_INSTANCE\\_CptlCk6B6Z29&\\_101\\_INSTANCE\\_CptlCk6B6Z29\\_languageId=en\\_GB](https://www.mid.ru/foreign_policy/official_documents/-/asset_publisher/CptlCk6B6Z29/content/id/541112?p_p_id=101_INSTANCE_CptlCk6B6Z29&_101_INSTANCE_CptlCk6B6Z29_languageId=en_GB).

<sup>60</sup> Presently, EAEU member states are Armenia, Belarus, Kazakhstan, Kyrgyzstan, and the Russian Federation.

<sup>61</sup> Code of the Russian Federation on Administrative Offences, dated 30.12.2001 N 195-FZ (as amended on 30.12.2020).

<sup>62</sup> Article 34 of the Federal Law “Concerning the legal status of foreign citizens in the Russian Federation.”

<sup>63</sup> Articles 322.2 and 322.3.

<sup>64</sup> Article 322.

<sup>65</sup> ILO: Global estimates of child labour: Results and trends, 2012–2016, Geneva 2017.

<sup>66</sup> <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang--en/index.htm>.



Article 11 of the Federal Law sets out the basic guarantees for the rights of children.<sup>67</sup> Furthermore, the Labour Code<sup>68</sup> of the Russian Federation regulates many specific aspects related to employment of children (persons under the age of 18). For example:

- Starting from the age of **16**, children are allowed to enter into contractual employment agreements. Under certain circumstances related to education status, starting from **15** years of age, children can perform “light labour” that is not harmful to their health. Similarly, children from the age of **14** can be employed for “light labour,” but only with the written consent of their parents (Article 63).
- Working time for children between the ages of 14 and 15 is limited to **four hours per day**; between ages 15 and 16 to **five hours per day**, and between ages 16 and 18 to **seven hours per day**. If children combine education with work, the maximum permitted work time is further reduced (Article 94).
- Children are not allowed to work between 10 pm and 6 am, except, for example, on works of art (Article 96).
- Employees under the age of 18 are financially responsible for deliberate damage of employers’ property, only if they were intoxicated with alcohol or drugs (Article 242); and
- Other specifics of employment of children, such as forbidden types of work, compulsory medical examinations, vacations, and work trips, are addressed in Articles 262 to 272.

The Russian Criminal Code<sup>69</sup> identifies a limited number of specific criminal violations for the exploitation of children. For instance, criminal responsibility for involving children in the act of begging is identified in Article 151. In practice, this provision may not protect infants or children with disabilities who are unable to actively beg themselves but whom adults use as passive participants in begging.

In cases where unlawful child labour is accompanied by the elements of human trafficking and abduction, Articles 127 and 127.1 of the Federal Criminal Law may apply. Furthermore, prohibition of commercial sexual exploitation of children is addressed in Articles 134 and 240 to 242.2 of the Russian Criminal Code. In particular, organizing prostitution of a minor can be punished by imprisonment for up to eight years (Article 240). Moreover, exploitation of children for production of pornography can be punished by a prison sentence of up to 10 years. In case a victim is 14 years or younger, a more severe punishment may apply (Article 242.1).

## 6. GOVERNMENT PROCUREMENT RULES

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### 6.1. Overview

Russia has two laws relevant to government procurement. Law No. 44-FZ governs the procurement by federal, regional, and local governments; and Law No. 223-FZ deals with procurement by state-owned companies. Neither of these statutes explicitly bars participation of bidders engaged in forced labour practices or procurement of goods made with forced labour.

<sup>67</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_19558/](http://www.consultant.ru/document/cons_doc_LAW_19558/).

<sup>68</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34683/](http://www.consultant.ru/document/cons_doc_LAW_34683/).

<sup>69</sup> [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/](http://www.consultant.ru/document/cons_doc_LAW_10699/).

## 6.2. Federal, State, and Municipal Procurement

Federal Law No. 44, entitled “System of contracts for procurement of goods, works, and services for fulfilling state and municipal needs,”<sup>70</sup> regulates government procurement. The law provides for a unified system of procurement by state agencies at the federal, regional, and municipal levels. An electronic portal provides a uniform platform for announcement of procurement needs and submission of bids. Under the law, state agencies must ensure that procurement and selection of contractors is transparent. The law requires the award of a certain fraction of contracts to small and medium business entities, and limits the award of single-bid contracts.

The volume of state procurement has grown steadily. The Russian Department of Finance reported that, in 2019, state procurement volume rose 20% over the previous year and reached RUB 8.2 trillion (over USD 110 billion).<sup>71</sup> Of that, 29% was by the federal government, 49% by regional governments, and 22% by municipalities.<sup>72</sup> Two-thirds of the total volume was awarded through electronic auctions. Single-bid contracts accounted for 18% of the number of awards and for 11% of their volume.<sup>73</sup> State procurement comprises about 7.5% of the Russian gross domestic product (which was about RUB 110 trillion in 2019<sup>74</sup>). According to other estimates (related to an earlier time period), government procurement in Russia was over 12% of GDP and almost 30% of total government expenditures.<sup>75</sup>

Article 31 of the law lists multiple requirements for the companies wishing to participate in bidding for government contracts. None of them explicitly prohibits participation of companies using forced labour or procurement of goods made using forced labour. However, the law provides a framework for using future legislation related to these issues to bar such companies from access to government contracts. For example, clause 1.1 of Article 31 generally requires that the participants meet the requirements of Russian laws that apply to the bidders. Clause 1.7 of Article 31 requires the officers, directors, and accountants of participating companies to be free of criminal convictions for economic crimes or bribery-related offences. According to clause 1.11 of Article 31, bidders should not be prohibited by Russian law from participation.

The Russian Labour Law offers one possible path to bar access of bad actors to government contracts. Article 4 of the Russian Labour Law prohibits forced labour.<sup>76</sup> In turn, under Russian Administrative Law,<sup>77</sup> violation of labour laws is punishable by a fine.<sup>78</sup> If a company or an officer of a company is convicted under Article 5.27 of Russian Administrative Law of violating Article 4 of Russian Labour Law (e.g., for employing

<sup>70</sup> Federal Law No. 44-FZ (*Федеральный закон от 05.04.2013 № 44-ФЗ «О контрактной системе в сфере закупок товаров, работ, услуг для обеспечения государственных и муниципальных нужд»* (в ред. от 31.07.2020)), available at: [https://legalacts.ru/doc/44\\_FZ-o-kontraktnoj-sisteme/](https://legalacts.ru/doc/44_FZ-o-kontraktnoj-sisteme/).

<sup>71</sup> <https://nangs.org/news/economics/obaem-goszakupok-v-2019-godu-vyros-na-20-do-82-trln-rublej>.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> <https://iz.ru/994430/2020-04-01/rosstat-podtverdil-rost-vvp-v-2019-godu-na-urovne-13>.

<sup>75</sup> Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains, Organization for Security and Co-operation in Europe (2018), n. 36, available at: <https://www.osce.org/files/f/documents/1/9/371771.pdf>.

<sup>76</sup> Russian Labour Law (*Трудовой кодекс Российской Федерации от 30.12.2001 N 197-ФЗ* (ред. от 09.11.2020)), available at: <https://legalacts.ru/kodeks/TK-RF/>.

<sup>77</sup> Russian Administrative Law (*Кодекс Российской Федерации об административных правонарушениях от 30.12.2001 N 195-ФЗ* (ред. от 30.12.2020)), available at: <https://legalacts.ru/kodeks/KOAP-RF/>.

<sup>78</sup> *Id.* at Article 5.27 Labour Law Violations (*Статья 5.27. Нарушение трудового законодательства и иных нормативных правовых актов, содержащих нормы трудового права*).

forced labour), Article 31 of Russian Government Procurement Law 44-FZ should bar the company from bidding for government contracts.

### 6.3. Public Procurement by State-Owned Companies

Russian Law No. 223-FZ governs procurement by state-owned companies.<sup>79</sup> It applies to companies that have higher than 50% ownership by the Russian Federation, by a federal subject of the Russian Federation, or by a municipality, and to subsidiaries of any such company.<sup>80</sup> Unlike Russian Law 44-FZ governing state procurement, Russian Law 223-FZ mandates each state-owned company to develop and use its own Model Procurement Agreement for all of its procurement. It does not impose the same requirements on the percentage of awards going to small and medium-size entities, or the same limitations on single-bid contracts. Under 223-FZ, state companies must be guided by the Russian Constitution, Russian Civil Laws, and other laws and regulations.<sup>81</sup> 223-FZ does not have any explicit limitations on companies that may participate in bidding for state-owned companies' procurement.

It is estimated that the volume of state procurement under 44-FZ is about 10 times larger than state-owned companies procurement under 223-FZ.<sup>82</sup> This would peg state-owned companies procurement at about RUB 0.8 trillion (about USD 10 billion).

### 6.4. International Agreements on Government Procurement

While Russia is a member of the World Trade Organization (**WTO**), it is not a party to the WTO's Agreement on Government Procurement (**GPA**).<sup>83</sup> On 29 May 2013, the WTO Committee on Government Procurement granted Russia a "GPA Observer" status.<sup>84</sup> Russia applied for GPA accession in August 2016 and circulated its initial GPA market access offer in June 2017.<sup>85</sup> Negotiations are ongoing.

## 7. RESTITUTION AND VICTIM COMPENSATION

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### 7.1. Overview

Russia has signed international treaties that require access to restitution and compensation for the victims of human trafficking. Under Russian law, victims of human trafficking have access to the same legal proceedings as any crime victim to sue for damages, but no provisions focus on human trafficking. The Russian Government does not provide funding for rehabilitation or protection of trafficking victims, and it has become more difficult for NGOs to provide those services.

<sup>79</sup> Russian Law No. 223-FZ (Федеральный закон от 18.07.2011 N 223-ФЗ (ред. от 22.12.2020) О закупках товаров, работ, услуг отдельными видами юридических лиц (с изм. и доп., вступ. в силу с 02.01.2021)), available at: [https://legalacts.ru/doc/223\\_FZ-o-zakupkah-tovarov\\_-rabot\\_-uslug-otdelnymi-vidami-juridicheskikh-lic/](https://legalacts.ru/doc/223_FZ-o-zakupkah-tovarov_-rabot_-uslug-otdelnymi-vidami-juridicheskikh-lic/).

<sup>80</sup> *Id.* at Article 1, clause 2.

<sup>81</sup> *Id.* at Article 2, clause 1.

<sup>82</sup> <https://zakupki.kontur.ru/site/articles/67-44-or-223>.

<sup>83</sup> [https://www.wto.org/english/tratop\\_e/gproc\\_e/memobs\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm).

<sup>84</sup> *Id.*

<sup>85</sup> <https://trade.djaghe.com/?p=4623>.

## 7.2. Russia’s Obligations Under International Treaties

In 2004, the Russian Federation ratified the United Nations Convention against Transnational Organized Crime (**UNTOC**) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (**Protocol**), supplementing that Convention.<sup>86</sup> As a party to UNTOC and the Protocol, Russia has made commitments related to restitution and compensation to victims of human trafficking.

### 7.2.1. Victim compensation provisions of UNTOC

The UNTOC includes Article 25 entitled “Assistance to and protection of victims.”<sup>87</sup> It requires each State Party to “take appropriate measures within its means to provide assistance and protection to victims.”<sup>88</sup> Additionally, it expects State Parties to “establish appropriate procedures to provide access to compensation and restitution for victims.”<sup>89</sup>

Furthermore, Article 14, entitled “Disposal of confiscated proceeds of crime or property,” requires each State Party, to the extent permitted by domestic law and on the request made by another State Party, to “give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.”<sup>90</sup>

### 7.2.2. Victim compensation provisions of the anti-trafficking Protocol to UNTOC

The Protocol provides more specific guidance to governments on preventing and punishing human trafficking. Article 6, entitled “Assistance to and protection of victims of trafficking in persons,” specifies that “[e]ach State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons,”<sup>91</sup> including “[m]edical, psychological and material assistance.”<sup>92</sup> The Palermo Protocol also requires each State Party to “ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”<sup>93</sup>

### 7.2.3. International treaties with victim compensations provisions not joined by Russia

The Council of Europe Convention on Action against Trafficking in Human Beings (**European Convention against Trafficking**) entered into force in 2008. The Russian Federation is not a Party to the European Convention against Trafficking, and is currently the only member of the Council of Europe that has not signed this treaty.

Article 15 of the European Convention against Trafficking focuses on compensation and legal redress for victims of human trafficking. In addition to requiring Parties to ensure that victims have access to relevant legal information, the Convention requires that “[e]ach Party shall provide, in its internal law, for the right

<sup>86</sup> Federal Law No. 26-FZ of April 26, 2004.

<sup>87</sup> United Nations Convention against Transnational Organized Crime, signed in December 2000, in Palermo, Italy.

<sup>88</sup> *Id.*, Article 25, clause 1.

<sup>89</sup> *Id.*, Article 25, clause 2.

<sup>90</sup> *Id.*, Article 14.

<sup>91</sup> Protocol, Article 6, clause 3.

<sup>92</sup> *Id.*, Article 6, clause 3(c).

<sup>93</sup> *Id.*, Article 6, clause 6.

*of victims to compensation from the perpetrators.*<sup>94</sup> It goes beyond the requirements of the UNTOC for victim compensation, requiring each Party to “*adopt such legislative or other measures as may be necessary to guarantee compensation for victims.*”<sup>95</sup> One example provided in the Convention is “*through the establishment of a fund for victim compensation.*”<sup>96</sup>

Russian legal journals have discussed the European Convention against Trafficking and its emphasis on victim rights. One academic article captured the Convention’s main idea that the victims cannot be criminals.<sup>97</sup> The author explained that this Convention puts victim rights in the center, and emphasized that the Parties are required to help trafficking victims by providing physiological and medical help, temporary housing, and assistance with arranging for compensation.<sup>98</sup>

Russia also has not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (**Convention on the Rights of Migrants**). It entered into force on July 1, 2003. Several provisions of the Convention on the Rights of Migrants provide for victim compensation. For example, migrants shall have the right to fair and adequate compensation if their assets are expropriated.<sup>99</sup> Migrant workers shall have an enforceable right to compensation if they become victims of unlawful arrest or detention.<sup>100</sup> Migrants shall also have a right to seek compensation if a deportation decision is reversed.<sup>101</sup>

### 7.3. Legal Framework for Victim Compensation in Russia

Under the Civil Code of the Russian Federation (**Civil Code**), victims of human trafficking have the right to sue for damages, just like any other crime victim. No special provisions provide restitution or compensation to victims of human trafficking.

The Civil Code provides for compensation of losses to victims of crimes.<sup>102</sup> Victims are entitled to full recovery of their losses.<sup>103</sup> Losses may include restitution for the violated rights, compensation for damage to a victim’s property, and lost profits.<sup>104</sup> The Civil Code allows courts to require the perpetrator to disgorge its profits derived from the crime,<sup>105</sup> and to pay monetary damages for the physical and emotional

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<sup>94</sup> Council of Europe Convention on Action against Trafficking in Human Beings, Article 15, clause 3.

<sup>95</sup> *Id.*, Article 15, clause 4.

<sup>96</sup> *Id.*

<sup>97</sup> I.N. Lebedinetz, “Genesis of International Legal Regulation of the Fight Against Slavery, Slave Trade, and Other Forms of Human Trafficking. Current Problems in Russian Law,” 2016, No. 3 (64). (И. Н. Лебединец, *Генезис международно-правового регулирования борьбы с рабством, работоторговлей и другими формами торговли людьми. Актуальные проблемы российского права. 2016, № 3 (64) март*).

<sup>98</sup> *Id.*

<sup>99</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 15.

<sup>100</sup> *Id.*, Article 16.

<sup>101</sup> *Id.*, Article 22.

<sup>102</sup> Civil Code of the Russian Federation, Article 15.

<sup>103</sup> *Id.*, Article 15, clause 1.

<sup>104</sup> *Id.*, Article 15, clause 2.

<sup>105</sup> *Id.*

components of moral harm to the victim.<sup>106</sup> Additionally, the Civil Code allows victims to recover compensation for losses caused by unlawful action or inaction by government officials.<sup>107</sup>

While the criminal case against the human traffickers is pending, the victim has the right to sue the perpetrators for damages by filing a civil case.<sup>108</sup> The victim may file a civil complaint (without a filing fee) at any time from the beginning of the criminal case until the end of the criminal investigation in the first level court.<sup>109</sup> As a civil case plaintiff, the trafficking victim obtains additional rights, including the right to submit evidence, file motions and objections, provide testimony in a native language, have access to an interpreter at no charge, refuse to self-incriminate, have legal representation, and have access to transcripts of prosecutorial investigations, among others.<sup>110</sup>

## 7.4. Protections for Victims of Human Trafficking in Russia

Russia does not offer government funding for rehabilitation of trafficking victims.<sup>111</sup> While multiple NGOs previously offered assistance for trafficking victims, the last dedicated trafficking shelters closed in 2015 due to lack of funding.<sup>112</sup> As of 2020, a shelter “for women in difficult life situations,” run by the Russian Orthodox Church, continued to accept victims and offered them food, housing, and psychological care, although not medical assistance.<sup>113</sup> Recent anti-terrorism laws have made it a crime to provide assistance to people who are in Russia illegally, and NGOs that assist trafficking victims who are unlawfully present in Russia can be prosecuted.<sup>114</sup>

### 7.4.1. Support for trafficking victims on a case-by-case basis

There have been examples of government support for victims of human trafficking on a case-by-case basis. The Government continued the repatriation of Russian minors whose parents were alleged to be ISIS fighters.<sup>115</sup> Returning children (about 200 since 2017), some potentially trafficking victims, received counseling.<sup>116</sup> Under a 2016 agreement, Russia has repatriated thousands of North Korean workers.<sup>117</sup> These migrant workers often worked in Russia under conditions of forced labour, including the construction of the stadium in St. Petersburg for the 2018 World Cup.<sup>118</sup> Moscow city police have informally provided

<sup>106</sup> *Id.*, Article 151.

<sup>107</sup> *Id.*, Article 16.

<sup>108</sup> G.K. Smirnov, O.O. Tschepilov, “Protection of Human Trafficking Victims in Criminal Cases,” St. Petersburg, 2009. (Смирнов Г. К., Щепилов О. О., “Защита жертв торговли людьми в уголовном судопроизводстве,” Справочно-методическое пособие, Санкт-Петербург, 2009).

<sup>109</sup> *Id.* at 36.

<sup>110</sup> *Id.* at 36–37.

<sup>111</sup> U.S. Dep’t of State, Trafficking in Persons Report: Russia (2020), available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/russia/>.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> Luhn, A., “Like prisoners of war: North Korean labour behind Russia 2018 World Cup,” *The Guardian* (4 June 2017), available at: <https://www.theguardian.com/football/2017/jun/04/like-prisoners-of-war-north-korean-labour-russia-world-cup-st-petersburg-stadium-zenit-arena>.

“permit letters” valid for one year to potential victims of human trafficking, allowing them to remain in the Moscow region while the authorities investigated their trafficking case.<sup>119</sup> In January 2018, local authorities worked with NGOs to free Uzbek victims from a factory, obtain travel documents, and raise funds to help repatriate them.<sup>120</sup>

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<sup>119</sup> U.S. Dep’t of State, Trafficking in Persons Report: Russia (2020), available at: <https://www.state.gov/reports/2020-trafficking-in-persons-report/russia/>.

<sup>120</sup> U.S. Dep’t of State, Trafficking in Persons Report: Russia (2018), available at: <https://www.refworld.org/docid/5b3e0a9a4.html>.