

(Translated from Russian)

Permanent Mission of the Russian Federation

No. 2794

The Permanent Mission of the Russian Federation to the United Nations Office and other international organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to letter AL/RUS/9/2018, has the honour to transmit herewith the reply of the Russian Federation to the enquiry concerning the situation of Ms. Yulia Savinovskih by the Special Rapporteur on the rights of persons with disabilities, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Working Group on the issue of discrimination against women in law and in practice.

The Permanent Mission of the Russian Federation takes this opportunity to convey to the Office of the United Nations High Commissioner for Human Rights the renewed assurances of its highest consideration.

Geneva, 6 August 2018

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Information from the Russian Federation in response to the enquiry from the special procedures of the Human Rights Council regarding the situation of Ms. Y.V. Savinovskih

Reference: AL RUS 9/2018

The Russian Federation has considered the enquiry by the Special Rapporteur on the rights of persons with disabilities, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Working Group on the issue of discrimination against women in law and in practice concerning the situation of Ms. Yulia Savinovskih and wishes to provide the following information.

Ms. Yulia Valerievna Savinovskih is married to Mr. E.V. Sokov and has two dependent children of her own.

In accordance with an agreement on the placement of a child in the care of a foster family of 19 June 2014, No. 56, involving the fulfilment of tutorship obligations against compensation, the agency of tutorship and guardianship of the Office of Social Policy for the Ordzhonikidze district of Yekaterinburg placed in the care of the Savinovskih foster family [REDACTED] born (HIV positive) on 17 December 2012, and, in accordance with an supplementary agreement to the above-mentioned agreement of 1 February 2016, [REDACTED] born on 11 May 2012 (with disabilities).

The foster care agreement entered into by Ms. Savinovskih is in keeping with the form recommended in letter No. 364 of 31 August 2010 of the Ministry of Education and Science of the Russian Federation. In accordance with article 152 of the Family Code of the Russian Federation, a foster family is recognized as one which acts as a tutor or guardian of a child or children under a foster care agreement concluded between the tutorship and guardianship authority and the foster parents or foster parent for the period specified in that agreement.

The provisions of chapter 20 of the Code are applicable to the relationships under the foster family agreement and, for areas not regulated by the Code, the rules of civil law on remuneration for providing services, insofar as that does not violate the essence of such relationships (Civil Code of the Russian Federation, chap. 39).

The procedure for establishing a foster family and monitoring the living conditions and upbringing of the child or children is specified in the Rules for the Establishment of a Foster Family and Monitoring of the Living Conditions and Upbringing of the Child or Children in a Foster Family, approved by Russian government decision No. 423 of 18 May 2009.

Under the terms of the foster family agreement No. 56 of 19 June 2014, Ms. Savinovskih was paid monthly remuneration amounting to:

- 19,504 roubles, including 2,536 roubles for tax on personal income (up to 1 April 2017);
- 16,456.50 roubles, including 2,139 roubles for tax on personal income (as from 1 April 2017).

According to the Act on Cash Payments for the Maintenance of a Child under Tutorship or Guardianship, No. 107-03 of 19 November 2008, of Sverdlovsk province, Ms. Savinovskih was paid a monthly allowance of 9,156 roubles for the maintenance of [REDACTED] and 11,466 roubles for [REDACTED]

In accordance with article 11 of the Federal Act on State Pension Provision in the Russian Federation, No. 166-FZ of 15 December 2001, [REDACTED] was paid a survivor's pension amounting to 16,421 roubles and [REDACTED] a disability pension amounting to 16,068.63 roubles.

The total sum of money paid out to the family since 1 April 2017 in connection with the raising of the foster children amounted to 69,586.13 roubles.

On 24 August 2017, the tutorship and guardianship department of the Office of Social Policy received information about the Instagram account of Ms. Savinovskih and its contents. During the verification of information received by the staff at the tutorship and guardianship agency about the account, photographs in which the foster parent Ms. Savinovskih was identified came to light. The photographs posted showed that a mastectomy had been performed on her and that, moreover, Ms. Savinovskih set herself up as a man in them.

This fact was the reason for the unannounced inspection of the living conditions of [REDACTED] and [REDACTED] by the tutorship and guardianship agency (by order of the Office of Social Policy, No. 1689-op of 24 August 2017).

During the inspection, it was established that the conditions of health and well-being in the two-room apartment in which the children were living were unsatisfactory (the apartment was dirty, the children were unkempt, only one of the children's beds had linen and there was an unpleasant smell permeating the rooms). Ms. Savinovskih explained that her stay in hospital and post-surgery recovery accounted for the inadequate living conditions in the apartment.

During the inspection, Ms. Savinovskih presented specialists from the tutorship and guardianship agency a certificate of hospital stay in the surgery department of the municipal Railway Hospital at the Russian Railways (JSC RZD) Sverdlovsk Passenger Station, where she was diagnosed with sexual identity disorder (transsexualism). The report contained information that Ms. Savinovskih had undergone irreversible female to male sex reassignment surgery. Ms. Savinovskih also stated her intention to move permanently to Spain, for which she had prepared a set of documents.

The detection of Yulia Savinovskih's sexual identity disorder and concealment of information about the changes in circumstances in the family that could affect the upbringing and development of a foster child, including the fact that she had undergone surgery and failed to give notification of her intention to change her place of residence, violate the terms of the foster family agreement.

The tutorship and guardianship agency informed Ms. Savinovskih of these violations of the terms of the agreement.

As a result of the inspection in connection with the breach of the foster family agreement by the foster parent Ms. Savinovskih, who did not provide for adequate living conditions for the children and also concealed the fact that she had undergone sex reassignment surgery, the experts at the tutorship and guardianship department took a decision to place the foster children in Children's City Hospital No. 15, an autonomous public health-care institution in Yekaterinburg, for their welfare until all the circumstances were investigated.

Ms. Savinovskih and her spouse Mr. Sokov brought the children to the health-care institution on their own.

According to article 29 of the Federal Act on Tutorship and Guardianship, No. 48-FZ of 24 April 2008, the tutorship and guardianship authority may release tutors or guardians from their obligations, including temporarily, in the event of a conflict between the interests of the foster child and those of the guardian or tutor.

In accordance with paragraph 13 of the rules for the monitoring by the tutorship and guardianship authorities of the living conditions of foster children, the enjoyment by these children of their rights and legitimate interests and the protection of their property, and also the regulations governing the implementation by the tutorship and guardianship authorities of their rights and obligations, approved by government decision No. 423 of 18 May 2009 on individual questions of carrying out tutorship and guardianship for minors, in the event that the actions of a tutor are in violation of the law of the Russian Federation and/or cause harm to the health or physical, psychological or moral development of the foster child, or in the event that violations are found as a result of an inspection that cannot be addressed without the termination of the tutorship or guardianship, the tutorship and guardianship authority is required within three days of the inspection to:

- (a) Draw up an act releasing the tutor from obligations or relieving the tutor of carrying them out, to be sent to the tutor in question;
- (b) Takes steps to find temporary accommodation for the foster child if necessary.

Given the requirements of the law and the contradictions between the tutor fulfilling obligations against compensation and the foster children, the Office of Social Policy issued order No 1717-op on 28 August 2017 releasing Ms. Savinovskih from her obligations as a tutor exercising her powers against compensation (under the foster family agreement) with respect to [REDACTED] and [REDACTED].

The actions of the tutorship and guardianship authority to move the children without parental care from the Savinovskih family to the social care centre and release Ms. Savinovskih from her obligations as a tutor exercising her powers against compensation under the foster family agreement were reviewed by the procuratorial authorities and investigation and police agencies. The results of the review carried out found no violations in the actions of the officers of the tutorship and guardianship authority.

The act of the tutorship and guardianship authority releasing the tutor or guardian from carrying out the obligations entrusted to them was challenged by Ms. Savinovskih in court.

The facts brought to light by the tutorship and guardianship authority hindering Ms. Savinovskih from carrying out the obligations of a foster parent were confirmed during the court hearing regarding her administrative claim challenging order No. 1717-op of 28 August 2017 of the Office of Social Policy, on the basis of which she was released from carrying out the obligations of a foster parent.

In a decision of the Orzhonikidze District Court of Yekaterinburg on 20 September 2017, Ms. Savinovskih's administrative claim was dismissed and the acts of the tutorship and guardianship authorities were recognized as lawful and justified.

On 5 February 2018, the Court reviewed in civil proceedings Ms. Savinovskih's claim against the Office challenging the order to release the claimant from the obligations as a tutor of the dependents [REDACTED] and [REDACTED] and request for the restoration of her status as tutor. The decision to dismiss the claim was upheld as a result of the court review.

The decision came into force under a decision of the civil court of appeal of the Sverdlovsk Provincial Court on 15 May 2018.

Under the Office of Social Policy orders Nos. 1715-op and 1714-op of 28 August 2017, the minors [REDACTED] and [REDACTED] were placed in the Social Rehabilitation Centre for Minors of the Orzhonikidze district of Yekaterinburg, a public institution in Sverdlovsk province.

[REDACTED] has been diagnosed with the following: HIV infection; residual cerebral impairment; myotonic dystrophy; speech delay; and adenoid and tonsillar hypertrophy, first degree. The child was admitted to the Centre on 29 August 2017 in satisfactory physical condition. His age was confirmed by clinical analyses.

During his stay in the Centre, the child's state of health remained satisfactory. In addition, [REDACTED]

- Underwent treatment in the independent public Izoplit Children's Health Centre from 26 January 2018 to 7 February 2018;
- Receives regular antiretroviral treatment as prescribed by specialists;
- Undergoes regular check-ups and examinations once every three months in the Sverdlovsk Provincial Centre for the Prevention of and Fight against AIDS, a public health-care institution of Sverdlovsk province;
- Is examined by specialist doctors, including a paediatrician, surgeon, dentist, urologist, neurologist and ophthalmologist;

- Is immunized according to the national vaccination schedule of the Russian Federation;
- Underwent an examination by a psychiatrist and a paediatric mental health commission.

Furthermore, according to the results of the regional municipal paediatric mental health commission of 8 December 2017, a special education programme for children with mental disabilities was recommended for the child. [REDACTED] was sent by his legal representatives to the Salyut rehabilitative health-care centre for July and August 2018.

He attended Kindergarten No. 432, a municipal public preschool, between 7 September 2017 and 15 January 2018 and has been attending Teremok Kindergarten, No. 346, a remedial (speech therapy) public preschool since 15 January 2018.

[REDACTED] has been diagnosed with: residual cerebral impairment; cerebral palsy; spastic quadriplegia affecting his ability to walk; Gross Motor Skill Classification System level 1; speech delays.

The child was admitted to the Centre on 29 August 2017 in satisfactory physical condition. His age was confirmed by clinical analyses.

However, according to testimony examined by the court, when he entered the Centre, his education was in a state of neglect, although he is catching up. He had trouble playing with children, did not know the names for basic household items, did not know what numbers or seasons of the year were and could not establish the simplest of cause-effect relationships.

During his stay in the Centre, the child's state of health remained satisfactory and he:

- Was examined by an orthopaedist (called in to provide lessons in remedial physical education and the use of orthopaedic shoes) and by an ophthalmologist;
- Underwent in February 2018 an electrocardiogram and consultation with a cardiologist (who diagnosed a heart rhythm disorder, supraventricular tachycardia, and prescribed treatment);
- Received new braces and orthopaedic shoes in October 2017;
- Was sent by his legal representatives to the Salyut rehabilitative health-care centre for July and August 2018.

Since 17 October 2017, [REDACTED] has been attending the municipal public preschool Kindergarten No. 399, which combines ordinary with special education, where he has been undergoing regular rehabilitation therapy as a child with cerebral palsy.

The Centre provides the children with all the necessary living conditions for their development and successful adaptation. The children are emotionally stable. During their stay in the Centre, [REDACTED] and [REDACTED] were included in the educational process with the help of a school psychologist and speech therapist. Twice a week, the children attend remedial classes in the Centre aimed at the development of their cognitive processes, memory, attention, thinking and imagination.

The children also take music lessons and participate in painting and phyto-design clubs. The boys feel comfortable in the groups of classmates, enter into contact with adults and children with ease and gladly participate in group activities.