

# Diversity in a united world of child support: RUSSIA

**Olga A. Khazova**

*Institute of State and Law, Moscow*

# I. Substantive questions

## 1. Basic features of child maintenance law

- The main relevant legal sources:
  - Family Code 1995
  - Civil Procedure Code 2002
  - Federal Law on Enforcement Proceedings 2007
  - Federal Law on Free Legal Aid in RF 2011
  - Federal Law on Exit from RF and Entry to RF 1996
  - Decree of the Plenum of RF Supreme Court on paternity and alimony matters 1996

# I. Substantive questions

## 1. Basic features of child maintenance law

- Terminology: maintenance – alimony
  - Child support v. spousal support
- Child – a person under 18 (age of majority)
  - Adopted children
  - Emancipation
  - Underage marriage

# I. Substantive questions

## 1. Basic features of child maintenance law

- Child maintenance – parental duty
- Providing maintenance on a voluntary basis
  - Maintenance agreements
- In case of a conflict – claim maintenance in court
- Grounds for court application:
  - Properly established filiation
  - Absence of maintenance agreement
- May be claimed any time

# I. Substantive questions

## 1. Basic features of child maintenance law

- How are the debtors means of subsistence are secured:
  - Deduction on the whole cannot exceed 70% of earnings/income
  - List of income which may not be levied
  - List of property which may not be levied

# 1. Substantive questions

## 2. Child support/maintenance guidelines

- In proportion to the parents' earnings/income – general rule
  - One child –  $1/4$
  - Two children –  $1/3$
  - Three or more children –  $1/2$
  - The court may reduce/increase the amount
    - Financial and family situation of the parties and other circumstances worth paying attention to

# 1. Substantive questions

## 2. Child support/maintenance guidelines

- In a form of a lump sum (or both in proportion and a lump sum)
  - For instance, if a parent does not have regular earnings/income, or payments in proportion are not possible or inconvenient or violate the parties' interests
  - Each parent has a child under his/her care
  - Criterion: the child's level of living before parental divorce

# 1. Substantive questions

## 2. Child support/maintenance guidelines

- Additional expenses
  - Child's illness
  - But NOT educational expenses
  - In a lump sum
- Temporary alimony - while a case is pending
- Maintenance/alimony – paid periodically (on a monthly basis)



# I. Substantive questions

## 3. Public sector financial support – child maintenance

- No “alimony fund” so far, plan to create it

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- Restriction of debtor’s right to leave Russia (2012 -142,500 alimony debtors stopped at the border)
  - Criminal liability – malicious refusal to pay alimony under the court judgment

## II. Procedural law questions

### 1. Judicial or administrative authorities

- Judicial proceedings
  - Justices of the peace
  - Court proceedings – court judgment – writ of execution
  - Simplified (summary) procedure – court order
- “Extra-judicial” procedure – parental agreement

## II. Procedural law questions

### 1. Judicial or administrative authorities

- Grounds for collection of maintenance/alimony sums
  - Writ of execution,
  - Order of court
  - Notarized agreement
- Administration of a parent-debtor place of work
- Law enforcement body - bailiffs

## II. Procedural law questions

### 2. Access to procedure

- Exemption from state fee when filing an alimony claim
- Legal assistance in alimony issues (legal consultation, filing a case etc)
  - Person whose average monthly income of his/her family is below subsistence level in a particular region (for inst, in Moscow 230-250 Euro)
  - Disabled persons, disabled children, and some other categories

## II. Procedural law questions

### 3. Access to information concerning the debtor's income and assets

- While filing an alimony claim or while alimony case is pending – petitioner may ask the court to order to make an enquiry, to send a request
- Enforcement proceedings – to find income/assets – a bailiff's duty
- Problem: no info about debtor's place of work, concealment of income

## II. Private international Law question

### 1. International jurisdiction rules

- Maintenance/alimony claims with participation of a foreign parent – general rules of jurisdiction
- Russian courts have jurisdiction in alimony cases
  - If a petitioner has a place of residence in Russia
  - Justices of the peace
- Recognition and enforcement of foreign judgment
  - the second-level courts (“regional”)

## II. Private international Law question

### 2. Applicable law rules

- Parents-child relations, including child maintenance are governed by
  - the law of their common place of residence
  - if no place common place of residence – the law of the state of the nationality/citizenship of the child
  - upon request of the petitioner – law of the state of child's permanent place of residence may be applied
- No application of foreign law – if contradiction to Russian public order



## II. Private international Law question

### 3. Recognition and enforcement of foreign judgments

- If there is an international agreement
- Minsk Convention on legal assistance and legal relations in civil, family and criminal matters 1993 – CIS countries
- Bilateral agreements
  - BUT child alimony court order (not judgment) – not applicable



## IV. Plans to ratify the Hague Maintenance Convention 2007

- Russian – EU Project “Application of the Hague Conventions on Protection of Children in Russia”

*THANK YOU*