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HUMAN
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Dear Mr. Kochkorov,

On behalf of Human Rights Watch, please accept my best regards.

As you know, Human Rights Watch is an independent international organization that works in over 90 countries to defend people's rights. Human Rights Watch does not receive funding from any government. Our organization has conducted research on the rights of people with disabilities in dozens of countries around the world.

We value the engagement we have with the Ministry of Labor and Social Development during this process. We would particularly like to thank you for meeting with us in February and for assisting us in obtaining permission to visit the Belovodsky and Jalalabadsy Psychoneurological institutes. We are also aware of a number of positive policy steps taken by the Ministry of Labor and Social Development to support families with disabilities, including the introduction of a new "assistant" payment to families of children with high-support needs.

As a part of our ongoing work on the rights of persons with disabilities, Human Rights Watch has undertaken research on the conditions and treatment of children and young adults with disabilities in residential homes or schools, including psychoneurological institutions. We have also conducted research into the ability of children with disabilities to access inclusive education, and specifically the role that the Medico-Social Expertise (MSEK) plays in that sphere. Over the last year, Human Rights Watch conducted interviews with over 100 children with disabilities, their parents, experts, and disability rights activists in several cities in Kyrgyzstan about these two issues. We also reviewed legislation and government policies pertaining to these topics.

We write to you now in the spirit of constructive engagement to share with the Ministry of Labor and Social Development our preliminary findings. We also write to ask the questions listed below regarding conditions in institutions under the authority of the ministry, as well as questions pertaining to inclusive education.

The results of our research will be published in a report. We would appreciate it if we could receive your response by June 15, 2020 so as to ensure we fully reflect your answers in the report. We hope our findings and recommendations will be useful for Kyrgyzstan as it seeks to guarantee the rights of children with disabilities.

Preliminary Findings Relevant to the Ministry of Labor and Social Development

On Institutions

Kyrgyzstan has ratified the Convention on the Rights of the Child (CRC) and just last year ratified the Convention on the Rights of Persons with Disabilities (CRPD). These treaties recognize that children have a right to grow up in a family environment and be included in the community regardless of any disability. They also guarantee the right to be free from violence and neglect.

However, in the course of our research, we found that children and young adults who grow up in psychoneurological institutes (PNIs) face isolation and neglect. Institution staff also told us they have no accessible or age-appropriate complaint mechanisms in place for a child to report physical or verbal abuse.

We found that caretakers in PNIs, who often felt that they were understaffed, relied on the administration of antipsychotics, sedatives, and other medications, not for a legitimate therapeutic purpose but rather to respond to behaviors deemed disruptive. It did not appear that caretakers attempted to adapt less intrusive interventions in response to a child's behavior, such as teaching them positive coping mechanisms, improving communication skills, or conducting group therapy.

It also did not appear that medical staff made an effort to reach out to the parents or legal guardians of the children to explain the rationale for using these medications or explain side effects, nor did they obtain consent for their use. In cases where children did not have legal guardians or parents, institution staff made no attempt to obtain consent from children or inform them in any way in this process. While international law recognizes that children can be treated with consent of a parent or guardian, the CRC stresses the importance of children's participation in this process.

Finally, we found that upon reaching 18, children in psychoneurological institutes are often denied legal capacity, and a decision is made to either to send them to an institution for adults or to grant guardianship to their parents or other relatives.

Human Rights Watch is concerned that the PNIs have been excluded from the government's current plan to close or transform institutions for children across the country.

On the MSCE

A large part of our research focused on barriers faced by children living in the community in accessing quality inclusive education. We understand that primarily it is the role of the Psycho-Medico Pedagogical Commission (PMPC), overseen by the Ministry of Education, to assess children with disabilities and make recommendations for their educational path. However, due to the limited geographic reach of the PMPC, most parents we spoke to underwent only the Medico-Social Expert Commission (MSCE), and not the PMPC. Many parents said that a conclusion from the MSCE, which was demanded by schools upon a child's attempt to enroll, could be used as grounds for barring a child from receiving education in a mainstream school, and for referring them for homeschooling or to a special school instead.

Our understanding is that MSCE is conducted by medical professionals, most of whom likely lack pedagogical or disability rights expertise. Affirmation of the right to inclusive education is part of an international shift from a "medical model" of viewing disability to a "social model," which recognizes disability as an interaction between individuals and their environment, with an emphasis on identifying and removing discriminatory barriers and attitudes in the environment.

We kindly request the Ministry of Labor and Social Development to provide us with the following information:

On Institutions for Children:

1. Could your ministry kindly provide data on how many children with disabilities currently reside in the two psychoneurological institutes (PNIs) for children under your authority, and disaggregate the number by age, gender, and type of disability?
2. How many children were residing in institutions for children, other than PNIs, overseen by the Ministry of Social Development in each of the last five years? Could you disaggregate this data by age, gender, and type of disability?
3. How many of the total number of children with disabilities currently residing in PNIs have at least one living parent?
4. What is the standard ratio of children with disabilities to caregivers in these PNIs?

5. What government policies or regulations, if any, regulate workers at PNIs for children regarding the following practices:
 - a. The use of physical restraints, such as to bind children's hands to their bodies;
 - b. The use of sedatives or antipsychotic medication;
 - c. The use of corporal punishment or other physical force by staff or other children as punishment for behavior deemed disruptive;
 - d. Overall guidance on disciplinary measures.
6. What measures have been adopted to ensure that health care services in PNIs are based on the free and informed consent of the person concerned, including children?
7. What measures have been taken to oversee the prescription of medications, including psychotropic medication, to children in institutions? Does the Ministry collect any data on how frequently and in what quantity these medications are used in PNIs?
8. What mechanisms are put in place to inform the child and the child's guardian about the potential risks and benefits of prescribed medication?
9. What training in non-coercive, constructive interventions do staff employed at PNIs for children receive?
10. Which government body is responsible for monitoring conditions in PNIs for children to ensure that they are consistent with national and international standards? What are the results of that monitoring? What, if any, measures are in place to hold institution workers accountable in case of physical or psychological violence, or neglect of a child?
11. Under what circumstances are children from PNIs placed in psychiatric hospitals, and for how long?
12. Under what circumstances are children from PNIs transferred to adult institutions after reaching adulthood? How many have been transferred to institutions for adults in the last five years upon reaching adulthood? How many children were reunited with their families upon reaching adulthood?

13. How many children died in the last five years while in the custody of PNIs for children?
14. What are the reasons for initiating procedures to deprive children living in PNIs of their legal capacity upon reaching adulthood? Are there any protocols regulating this process, or guidance for courts or institution staff on how they can facilitate assisted-decision making that fully supports an individual's exercise of their rights during this process?
15. Do all children in PNIs undergo a court process to determine their legal capacity? If so, can you share any data on these court rulings from recent years?
16. Is an individual who is subject to deprivation of legal capacity able to participate in person in all court proceedings related to that deprivation of legal capacity?
17. How many adults with disabilities in Kyrgyzstan are deprived of legal capacity?
18. Does the government plan to phase out the use of PNIs for children, including by prioritizing family-based care, preventing new placements of children in institutions, and ensuring community-based supports for children with disabilities and their families? If so, when?
19. Does the ministry have any plans to include the PNIs for children in the government's deinstitutionalization plan? If so, when do you anticipate this will take place?
20. What, if any, policies have been put in place in PNIs in response to the Covid-19 pandemic? Under what conditions will these policies be lifted?

Questions pertaining to the MSCE:

1. According to the "Government Decree on the Medico-Social Expertise in the Kyrgyz Republic," the MSCE can rule that a child is capable of study in a mainstream school, capable of study in a special school or should be homeschooled, or is not capable of being educated at all. We would like to understand:
 - a. What protocols or guidance regulate MSCE employees' decision to issue recommendations on a child's educational path?
 - b. Can you provide any information on how many children were ruled 1) fit for study in a mainstream school; 2) fit for study in a special school; 3) fit for

homeschooling; and 4) not capable of being educated at all in 2019, respectively?

- c. In which cases are children ruled “not capable of being educated”? How many such cases have there been in 2017, 2018, and 2019?
2. What policies exist regulating the MSCE or providing guidance to its members, beyond the “Government Decree on the Medico-Social Expertise in the Kyrgyz Republic” of 2002?
3. How many MSCE offices are there in the country? How many of them operate full-time, and how many of them operate part-time?
4. How many children did MSCE assess in 2019?
5. In the case of a child with a disability, how many people make up the MSCE and what professional qualifications do they have? Are any non-medical personnel ever included in the assessment of a child for the MSCE, and, if so, in what instances?
6. Are members of the MSCE provided with any training or guidance on the rights of children with disabilities, and, if so, what?
7. Are there any policies regulating how school administrators and teachers, including those who work in special schools, should use information from the MSCE in making a decision to enroll the child or enlist them in homeschooling? Are decisions by the MSCE “mandatory” or “recommendatory” in nature, and where is this explicitly stated?
8. What policies guide cooperation between the MSCE and the PMPC, particularly in light of education for children with disabilities? Are there policies that require or encourage MSEK employees to refer parents to a PMPK?
9. The Ministry has said it plans to reform the MSCE by bringing it in line with the International Classification of Functioning, Disability and Health¹. What is the timeline of these reforms and what has been accomplished to date?
10. Does the Ministry have any additional plans to further reform the MSEK, and if so what?

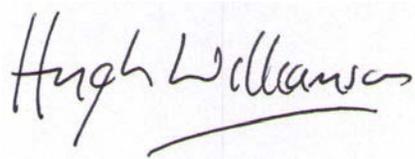
¹ <https://mlsp.gov.kg/chasto-zadavaemye-voprosy/>

We thank you for your attention to these questions and look forward to receiving your response.

Thank you once again for your engagement on this issue and the constructive dialogue between our offices.

We ask you to kindly send your response to my colleagues Laura Mills (by email at millsl@hrw.org or by phone at +1-917-836-9883) and Aichurek Kurmanbekova (+996 555991023) Please do not hesitate to contact Ms. Kurmanbekova or Ms. Mills with any questions in the meantime.

Kind regards,

A handwritten signature in black ink that reads "Hugh Williamson". The signature is written in a cursive style with a long horizontal flourish underneath the name.

Hugh Williamson
Director, Europe and Central Asia Division
Human Rights Watch