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For use in the lawsuit in the court of the
city of Amsterdam, the Netherlands,

on recognition of the judgement of the
judicial district ** of the peace justice
of the city of St. Petersburg of **** and
the ruling of the Krasnoselsky district
court of St.-Petersburg of ***

Covering letter

Herewith is submitted

In the application

the legal opinion on twelve leaves

of Advocatel A.E. Zuev

Advocate A.E. Zuev

1. Legality of judicial decisions in the Russian Federation

1.1 The legality of judicial decisions issued by the courts of general jurisdiction in civil cases is determined by the Civil Procedure Code of the Russian Federation (hereinafter – the CPC of the RF).

1.2 Article 1 (1) of the CPC of the RF stipulates that the manner of civil judicial procedure is determined by the Russian Constitution, Federal Constitutional law "On the Judicial system of the Russian Federation", Federal law "On the peace justices of the Russian Federation".

1.3 Article 1 (2) of the CPC of the RF establishes that if an international Treaty of the Russian Federation provides for the rules other than those which established by an internal legislation, the rules of the international Treaty shall apply.

1.4 Article 1 (4) of the CPC of the Russian Federation establishes that in the absence of a specific rule to be applied, an analogy of legislation or an analogy of law shall be used.

1.5 Article 5 of the CPC of the Russian Federation establishes that civil justice is carried out according to the rules established by the legislation on civil proceedings.

1.6 Article 8 of the CPC of the Russian Federation establishes that judges are independent and shall be subject only to the Constitution of the Russian Federation and Federal laws.

1.7 Article 16 of the CPC of the Russian Federation provides for the possibility of disqualification of judges.

1.8 Chapter 39 of the CPC of the Russian Federation provides for the possibility of judgments which have not entered into legal force to be subject to appeal before a higher court.

1.9 Chapters 40 and 41 of the CPC of the Russian Federation provide for the possibility of judgements which have entered into legal force to be subject to appeal before the courts of cassation instance.

1.10 Chapter 41-1 of the CPC of the Russian Federation provides for the possibility of judgements which have entered into legal force to be subject to appeal in the Supreme Court in accordance with supervisory procedures.

1.11 Chapter 42 of the CPC of the Russian Federation provides for the possibility of judgements which have entered into legal force to be reviewed on newly discovered circumstances and/or on new circumstances. New circumstances include, i.e., Judgements of the Constitutional Court of the Russian Federation which rules applied by the courts to be unconstitutional, as well as the establishment by the European Court of Human Rights of violations of the European Convention for the protection of human rights and fundamental freedoms in the resolution of a specific case.

1.12 In accordance with paragraph 1 of Article 398 of the CPC of the Russian Federation, foreign persons have the right to apply to the courts of the Russian Federation to protect their rights or legitimate interests. Paragraph 2 of Article 398 of the CPC of the Russian Federation provides that foreign persons enjoy procedural rights and perform procedural duties on an equal basis with Russian citizens and organizations.

1.13 Thus, the judicial system in the Russian Federation provides the specific rights of the persons participating in legal proceedings: to take part in such proceedings, attend it, appeal against judgements.

1.14 As follows from judicial acts and legal opinion of the Legal center "****", *** was represented in the courts of the Russian Federation by his representative ***. This representative was chosen by *** with his own free will, that is, *** was not limited in access to qualified legal aid and used his procedural rights at his own discretion.

1.15 The allegations of the Legal center "****" that *** was not able to know the substance of Russian legislation and could not protect his rights are refuted by following facts: access to qualified legal aid was provided to *** by his own representative ***. What is more, the clarification in the judicial acts on the order of their entry into force and appeal was made by the courts (appellate ruling of the Krasnoselsky district court of St.-Petersburg of *** in case No. *****

1.16 In the course of the proceedings in the courts of the Russian Federation *** did not take an opportunity to appeal the judgement in the court of cassation as well as in the Supreme Court of the Russian Federation in accordance with supervisory procedure. *** did not take an opportunity to protect his rights and legitimate interests in the Constitutional Court of the Russian Federation and in the European Court of Human Rights on the basis of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

1.17 Taking account of the above, the conclusions of the Legal center "****" seem unjustified, as:

1.17.1 Under Paragraph 1 of Article 67 the CPC of the Russian Federation court evaluates the evidence according to their inner conviction based on comprehensive, full, objective and direct consideration of available evidence.

1.17.2 According to Paragraph 2 of Article 67 of the CPC of the Russian Federation, no evidence has a predetermined force.

1.17.3 According to Paragraph 4 of Article 71 of the CPC of the Russian Federation, a document received from a foreign country is recognized as written evidence if its authenticity is not refuted and it is legalized in the manner prescribed by law.

1.18 Due to the fact that in the ruling of appeal instance of *** the court assessed the evidence provided by *** with reference to the specific legal provisions, explaining the basis of the application of these legal provisions, the legal opinion of the Legal center "****" in this part is fanciful and unjustified. What is more, the Annex to the legal opinion of the Legal center "****" does not contain the materials of the analyzed case, so the reasoning of the center is abstract and not based on the materials of a particular case.

1.19 Paragraph 2.8.1.9. of Legal opinion of the Legal center "****" (p. 7 of the opinion in its Russian version) contains a statement that *** was deprived of the right to present evidence in the legal proceedings. This is completely refuted by the ruling of appeal instance itself, which contains the reference to the provision of evidence by *** and such evidence were assessed by the court in accordance with the rules of civil procedure. Description in a judicial act of the assessment of the specific evidence excludes the possibility of a situation when a party was deprived of the right to present evidence in the legal proceedings.

2. Possibility of recognition of foreign judgments in the Russian Federation

2.1. The Supreme Court of the Russian Federation in the Decree on Application by the Courts of General Jurisdiction of Generally Recognized Principles and Norms of International Law and International Treaties of the Russian Federation of 10 October 2003, stated that the universally recognized principles of international law should be understood as the fundamental peremptory norms of international law accepted and recognized by the international community of States in general, deviation from which is unacceptable. The Supreme Court reaffirmed the Russian Federation's commitment to the legal provisions of the 1969 Vienna Convention on the Law of Treaties, in particular, article 53 of the Convention.

2.2. Undoubtedly, one of the universally recognized principles of international law is the principle of cooperation among States, as enunciated in the Charter of the United Nations (Article 1, para. 3). The Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (adopted by the UN General Assembly Resolution 2625 (XXV) of October 24, 1970), listing the generally recognized principles of international law, including the duty of States to cooperate with one another. The fact that the Charter of the UN and the aforementioned Declaration establish the obligation for States to cooperate in the various spheres of international relations, irrespective of the differences in their political, economic and social systems, exclude the possibility to ignore of legal systems to ignore each other in order to maintain international peace and security and to

promote international economic stability and progress, the general welfare of nations and international cooperation in different spheres, in particular, law.

2.3. The Russian Federation and the Kingdom of Netherlands are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950. Article 6 Part 1 of the Convention states that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

2.4. The European Court of Human Rights interprets the provisions of this article not only as ensuring the right to a fair trial but also as the right to have a judgment enforced. The scope of Art. 6 was discussed by the Court in *Hornsby v. Greece*. The Court held that "execution of a judgment given by any court must therefore be regarded as an integral part of the «trial» for the purposes of Article 6" and stated that the right to fair trial is considered by the ECHR to cover all stages of legal proceedings and includes the stage of the execution of judgements, in particular, foreign ones.

2.5. In the judicial practice of the Supreme Court of the Russian Federation there is an existing legal position adopted in the ruling No.5-G02-64 of June 7, 2002, stating explicitly that an application for recognizing and enforcing a foreign judgment may be granted by a competent Russian court without the existence of an appropriate international agreement.

2.6. This practice of recognition in Russia of judgements of foreign state courts in the absence of an international treaty includes, for example, the ruling of the Arbitration court of Moscow of 12.12.2017 on case № A40-186882/17-141-1724, by which the judgement of the High Court of the British Virgin Islands was enforced. In accordance with this ruling, a very significant amount of money was ordered to pay by an obliged person to a foreign counterparty.

2.7. It follows from the above that the practice of courts to recognize foreign judgments for the Russian Federation and the Kingdom of the Netherlands is based both on the international treaties, and the national laws giving priority to international treaties. Such broad-based international treaties, which aim at ensuring the best possible living conditions for children include:

- The UN Charter, which affirms the duty of States to cooperate;

- European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the Convention on the Rights of the Child which establishes mandatory rules for access to justice, including the enforcement of judgements of foreign States;

- The 1959 UN Declaration of the Rights of the Child which establishes the principles of ensuring a happy childhood for children, including the right to adequate food, housing, entertainment and health care, material security (Principle no. 6), the best interests of the child should be a guiding principle for those responsible for his education and training; this responsibility is the first job of his parents.

3. Fair use of rights

As *** explained the circumstances of this case, in the course of the legal proceedings in the Netherlands and further work of bailiffs aimed to ensure the maintenance interests of minor child *** ***, born on ***, it turned out that:

3.1 *** has established and now supports several companies in the UK and the Netherlands.

3.1.1 In particular, company registration in the UK costs from 1000 to 5000 £ (excluding the contribution of the authorized capital), the maintenance of a company costs from 1500 to 3000 £ per year (excluding taxes) and includes the office expenses and accounting services.

3.1.2 Aforementioned expenses could only be incurred by *** at his personal expense. These expenses were incurred by him personally or on his behalf by third parties. Thus, the statements of *** regarding the lack of funds to maintain his minor child have no basis in reality and aimed to mislead the court regarding his actual income.

3.1.3 Actions aimed at the organization of legal entities made by ***, advertisement of his capabilities and competencies in the international network of LinkedIn are objectively aimed to recover income. It is completely clear that *** is active in the international legal field. These actions made by *** refute his statement that he does not work. As the practice of bailiffs of the Kingdom of the Netherlands concerning *** has shown, the absence of funds in some certain bank accounts does not mean the lack of money in another bank accounts. This is also evidenced by the existence of mortgage relations for an apartment in Amsterdam, the question of the sources of origin and repayment of which is still open.

3.1.4 In *** made the uncompensated alienation of his property in Russia (two apartments in St.-Petersburg) in favor of his mother. These actions were made to hide the assets which were used as one of the sources to support his minor child *** ***, born on ***.

3.1.5 By making an alienation of his property without regard to maintenance interests of his minor child, *** made intentional unfair actions. Direct sale of the aforementioned apartments in the free market was supposed to make a profit, part of which can be used for maintenance and treatment of his minor child, which has problems of medical character.

3.1.6 The intentional actions of *** aimed at the alienation of property on the uncompensated basis in the presence of maintenance obligations should not violate the rights and legitimate interests of the minor child *** ***, born on ***. In this way, the statement of *** on the lack of funds for payment of child support is unfair, as the payment of maintenance should not be dependent on the acts of disposal of property.

3.1.7 The information from the public register on the one of the aforementioned apartments shows that mother of ***, the person in whose favor the property has been alienated on the uncompensated basis, in 2011 sold the apartment and received income that would be received by ***, if the apartment were sold by him on the reimbursable basis.

3.1.8 The actions of *** aimed at the alienation of assets in the presence of a valid judgement, by which the maintenance obligations were imposed on him, inflicted harm to his minor child *** in the amount of ¼ of the funds lost by the child. These funds could be spent on the support of the child and provision of his substantial needs, both material and creative.

3.1.9 The actions of *** aimed at the commitment of the aforementioned deals with property actually led to the deprivation of his minor child of the property, on which he had the rights due to the court's judgement. Such actions should be undoubtedly considered as made in bad faith. In this way, the statements of *** should be critically assessed by the court. Such assessment was made by the court of the first instance of Amsterdam, which awarded the claimant with 550 euros per month.

3.1.10. The actions of *** aimed at the alienation of these assets to his relative (mother) with further sale of these assets in the free market led to the income-generation by ***. The amount of the income is equal to the amount of savings for maintenance payments. These actions are aimed to circumvent the law regarding the fulfillment of the maintenance obligations established by the judicial decision, such circumvention was made by the creation of the nominal owner to the property in the person of his mother, while actual beneficiary was *** himself.

3.1.11. The nominal owner to a property (mother of ***), who actually acted as a trustee in relation to a property of ***, received the income for the alienation of this property. This income should be qualified as income of ***, who acted as a beneficiary in these circumstances and actually hid this income to avoid his maintenance obligations. In this way, the conclusion of the court of Amsterdam on confirmation of the maintenance obligation in the amount of *** euros per month is more than reasonable.

3.1.12 Due to the clearly unfair actions of *** aimed at the alienation of property on the uncompensated basis in the presence of maintenance obligations, the court should consider sending a request to the competent authorities of the Kingdom of the Netherlands in accordance with a Multinational Competent Authority Agreement on Automatic Exchange of Financial Account information (CRS MCAA, 2014), to which the Russian Federation and the Kingdom of the Netherlands are parties.¹ Such request can help to discover the assets of *** and to prevent negative consequences for his minor child *** ***, born on ***, due to the evasion of *** from the fulfillment of his maintenance obligations.

3.1.13. The information on the possibility of obtaining information on accounts of individuals in different States can be received through different administrative mechanisms, using of which has

¹ <https://www.oecd.org/tax/exchange-of-tax-information/MCAA-Signatories.pdf>

justified legitimate purpose – to ensure respect for the rights of minor child ***, born in ***. Information on the way of operating of international treaties in this regard can be obtained with the help of this web-site of international organization: <https://www.oecd.org/tax/transparency/technical-assistance/aeoi/whatisthemultilateralcompetentauthorityagreement.htm>

4. Priority of interests of the child and actual provision of the child

4.1 A minimum wage in the amount of 11 280,00 rubles is established in the Russian Federation since January 1, 2019. This amount is established by the Federal Law "On the minimum wage" of 19.06.2000 №82-FZ and is subject to annual indexing.

4.2. Due to the fact that in the legal proceedings in the court of first instance of Saint-Petersburg ***, through his representative, K.A. Sokolov, requested to set a maintenance obligation in an amount equal to 3,464 minimum wages, in August 2019 this amount would be 11 280 rubles x 3,464 = 39 073,92 rubles. In the accordance with the official exchange rate of the Central Bank of the Russian Federation on 23.08.2019 39 073,92 rubles are equivalent to 536,4997 Euro (1 Euro = 72,8312 rubles).

4.3 In accordance with the draft law on the website of the State Duma of the Russian Federation <https://regulation.gov.ru/projects#npa=37510>, a minimum wage in the Russian Federation will be increased up to 12 130 rubles, which makes the amount of monthly maintenance obligation of 550 euros corresponding to the trends of financial indicators of the labor market in the Russian Federation.

4.4. It should be noted that the legislation of the Russian Federation does not limit the liability of parents towards their children only to the costs a minimum wage, because an amount of minimum wage is connected only with minimal nutrition expenses. The needs of a particular child may be related to both the child's personal development and health, which may require additional expenditures in which parents must participate on an equal basis. The priority of the interests of the child is established by the UN Convention "On the Rights of the Child" of 1989, the UN Declaration "On the Rights of the Child" of 1959. Such priority is fully consistent with Paragraph 2 of Article 38 of the Constitution of the Russian Federation, which establishes that care for children and their education is an equal right and duty of both parents.

4.5 The court of the first instance of Amsterdam, Netherlands recognized the established practice of paying maintenance in the amount of *** euros per month as appropriate to the relations of the parties and the interests of the child, based on the preservation of the previous level of his financial security. This judgement, in particular, takes into account the initial request of *** on the amount of maintenance made in the court of St. Petersburg, which corresponds to his expectations at the time of the proceedings.

In this regard, an appeal before the court of appeal made by *** should be considered as an abuse of procedural rights. The court of the first instance has enshrined, in the accordance with principles of international law *mutatis mutandis*, the prevailing standards in the relations of the parties regarding maintenance relations. These standards were set by *** himself during legal proceedings in Russia.

4.6 In the legal opinion of the Legal center "****" the rights and legitimate interests of the child to receive maintenance from a parent are ignored and not analyzed. Such conclusion is contradicting to the provisions of aforementioned international treaties such as UN Convention "On the Rights of the Child," and the UN Declaration "On the Rights of the Child", while by virtue of Paragraph 4 of Article 15 of the Constitution of the Russian Federation generally recognized principles and norms of international law, international treaties of the Russian Federation are a integral part of its legal system. In accordance with this provision of Russian Constitution, if an international treaty establishes rules other than those provided for by law, the rules of the international treaty shall apply.

4.7 Paragraph 3.7.18 of the legal opinion of the Legal center "****" (page 16 of Russian version) contains an untrue statement. This statement alleges, with reference to the Decree of the Government of the Russian Federation dated 18.07.1996 No. 841, that payments in the Netherlands from unemployment benefits could not be regarded as unemployment benefit for the purposes of Russian law, which is not true, as:

4.7.1 Subparagraph a) of Pparagraph 2 of the "List of wages and other earnings from which the alimony on minor children is paid", approved by Decree of the Government of the Russian Federation dated 18.07.1996 No. 841, determines that maintenance costs are made, in particular, from disability and unemployment benefits only by a court decision and court orders for alimony or by a notarized agreement on maintenance payment.

4.7.2. Due to the fact that a maintenance obligation is established by a court's judgment, there is no legal reason to believe that under Russian law this source of income is forbidden to use for the maintenance purposes, because Russian law does not share unemployment benefits by the source of their formation, establishing the only condition to use it– existence of the court's judgement. Different ways of formation of the unemployment fund (public or private) do not change the nature of the income received in case of loss of work and wages.

4.7.3 The sub-paragraph o) of paragraph 2 of the "List of wages and other earnings from which the maintenance on minor children is paid", approved by Decree of the Government of the Russian Federation dated 18.07.1996 No. 841, it is determined that maintenance is paid from the incomes received under civil contracts.

4.7.4. In the determination of the legal nature of certain payments from which maintenance is paid in accordance with the " List of wages and other earnings from which the maintenance on minor

children is paid", approved by Decree of the Government of the Russian Federation dated 18.07.1996 No. 841, it should be noted that maintenance is paid from the benefits received as a compensation of harm to health (Subparagraph 'm' of Paragraph 2), from compensation to the citizens affected by radiation or man-made disasters (Subparagraph 'n' of Paragraph 2), from the amounts of financial help (with an exception for lump sum), from any source connected with extraordinary circumstances (Subparagraph 'l' of Paragraph 2) despite the fact that downsizing, dismissal, unemployment are certainly extraordinary circumstances to every individual regardless of his status in society, income or other circumstances.

4.7.5. According to the List, the compensatory nature of certain payments is not a basis for excluding these payments from the number of payments that are taken into account for the performance of maintenance obligations, inasmuch as insurance payments are made to compensate the losses from income in the form of wages, lost earnings, and purpose of insurance is to replace this lost earnings, in this way, it is not an actual income of the person.

4.7.6. In accordance with the Paragraph 2 Part 1 of Article 7 of the Federal law of 16.07.1999 No. 165-FZ "On the framework of compulsory social insurance", one of the types of social insurance risk is the loss by the insured of earnings (payments, remuneration in favor of the insured person) or other income in the connection with the occurrence of an insured event.

4.7.7 According to the Article 3 of the Federal law of 24.07.1998 No. 125-FZ "On compulsory social insurance of industrial accidents and professional diseases" insurance coverage is insurance compensation for damage caused as a result of an insured event to the life and health of the insured, in the form of monetary amounts paid or compensated by the insurer to the insured or persons entitled to it in accordance with this Federal law.

4.7.8 By the Article 8 of the Federal law of 24.07.1998 No. 125-FZ it is established that the insurance coverage is carried out, in particular, in the form of insurance payments, which include monthly insurance payments to the insured.

4.7.9. Thus, incomes from various funds aimed at the compensation of lost earnings do not contradict the labor legislation of the Russian Federation and are subject to accounting with regard to the performance of maintenance obligations.

Findings:

1. The occurrence of a maintenance obligation in one country does not preclude the performance of this duty in another country. In this case, the Russian court ruled in favor of the minor child, whose rights and legitimate interests are not reduced depending on the departure of one of the parents to another country.

2. The jurisdiction to take measures to guarantee the interests of the child, in accordance with general principles of international law, has the State where an obliged person. It is the duty of States to cooperate to ensure the urgent interests of minor children whose lives and health are directly dependent on the receipt of maintenance payments from their parents.

3. The judgement of a foreign court may be recognized in another State on the basis of internal legislation, international treaties of general effect (the UN Charter, the UN Convention "On the Rights of the Child", the Declaration "On the Rights of the Child", as well as on the basis of international comity due to mutual respect by States for each other's sovereignty, including taking this principle into account *mutatis mutandis* if the interests of the child require this.

4. The interests of the child in maintenance relations prevail over the interests of other persons, regardless of the place of residence of an obliged person, by virtue of the UN Convention "On the Rights of the Child", the Declaration "On the Rights of the Child".

5. The source of the insurance fund for compensation of loss of earnings in case of unemployment does not change the legal nature of the unemployment benefit as a compensation mechanism for replacing current wages with special incomes based on the mechanism provided by law. The different mechanisms of unemployment insurance in different countries cannot negatively affect the child's maintenance interests as the basic legal realities of family relations, the priority of which follows from the fundamental international treaties, in particular, the UN Convention "On the Rights of the Child", to which both the Russian Federation and the Kingdom of the Netherlands are parties.

6. The unfair dealing of the parent which made an uncompensated alienation of his property despite the presence of unfulfilled maintenance obligations should be taken into account in the determination of the actual solvency of the person who actually hid his property and thereby caused an intentional and deliberate harm to the child, limiting the financial possibilities of the child to maintain health and development.

7. The court's assessment of the evidence presented by a party to the case as inadmissible is the prerogative of the court and cannot be considered as a refusal to the party to the case of the right to present evidence. During the assessment of the evidence in legal proceedings, procedural rights of the party in terms of recognition of evidence inadmissible cannot be considered violated when such recognition was made with reference to law.

8. Expenses that a person makes for the opening and maintenance of companies in foreign countries clearly shows the presence of income of the person which make such actions. In this way, statement of such a person's on the lack of income as a basis for refusing to pay maintenance can be only considered as an attempt to deceive the court, contempt of court with appropriate procedural and substantive consequences.

9. The refusal to appeal the judgements of first and second instanton of Saint-Petersburg made by *** by his representative *** shows the absence of legal interest of *** in the review of these judgments. What is more, *** did not take an opportunity to appeal the judgements in the court of cassation as well as in the Supreme Court of the Russian Federation in accordance with supervisory procedure. Thus, there is no legal ground for the statements of the Legal center "****" about the obstacles in the recognition of the judgment of the Russian court in the Kingdom of the Netherlands.

Special note:

1. The legal opinion of the Legal center "****" does not have the following facts:
 - by order of what person it is made;
 - in what way did the Legal center "****" become aware of the facts relating to the family secret protected by law;
 - to what extent the Legal center "****" is acquainted with the materials of the case and on what basis.

2. If this legal opinion is made as an *amicus curiae* (friend of the court), the fact of particular concern is the coincidence of the surnames of the lender under the Loan agreement (Annex to appeal No. 12) "****." and the person that signed the legal opinion of the Legal center "****" – "****".

3. If it is the same person or these persons are close relatives (father and son), then there may be a conflict of interest, the assessment of which is the prerogative of the court, in particular, regarding the lender's knowledge of the Dutch language, the dates of transfer of funds and other circumstances of the conclusion of this agreement, including the place and time.

Advocate

Andrey Evgenievich Zuev

26 Aug 2019