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CONTEMPORARY LEGAL REGULATION OF LANGUAGE POLICY IN RUSSIA AND ITS CONSTITUENT ENTITIES

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Abstract

The history of the human civilization has repeatedly proved that an erroneous language policy, including the absence of its legal regulation, results in the disappearance of a whole host of minority languages, the loss of national or cultural identity of some nationalities, and the rejection by certain population groups of the attempts to force them into studying and using national languages, which generally destabilizes the national question and contributes to the rising tension in society. Conducting a competent language policy in the Russian Federation is of particular relevance, since the country is the clearest example of a multinational state, where imbalances in the constituent entities under certain conditions can threaten national security as a whole. Undoubtedly, the general decline in the linguistic culture in Russian society, especially in the media, stimulates scholars to find new approaches to the legal regulation of the language policy, which aim to create conditions for preserving and developing both Russia's official language and national languages of the peoples living in the territory of the country. Based on the analysis of the legal practice and the regulations on the matters connected with the use of Russia's official language and the official languages of the republics as part of the Russian Federation, the research identifies problems in the legal regulation of the contemporary state language policy, as well as provides avenues for its improvement, including through ratification of the European Charter for Regional or Minority Languages.

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1. Introduction

The concept and content of language policy are inextricably linked with the processes of nation-building as such. The Constitution of the Russian Federation (hereinafter referred to as the Constitution) stipulates the possibility of utilizing national languages in education, public and municipal administration in the republics of the Russian Federation.

The language policy during the Soviet period in the 20th century was heterogeneous and went through several stages in its formation and development. Nonetheless, in the last years of the Soviet Union the sphere of usage of national languages saw an obvious trend towards cultural degradation, including in the education sphere. A perfect example of this trend was the fact that national languages only could exist at the level of rural dwellers, in everyday life, often their use was simplified to the level of slang. At the same time, the Russian language had significant advantages in the development, including through legal recognition, introduction of new words and word combinations, including borrowings from foreign languages. These trends put national languages in the significantly lower positions than Russian. With the adoption of the Constitution, the Federal Law of June 1, 2005 no. 53-FZ “On the state language of the Russian Federation”, the Law of the Russian Federation of October 25, 1991 no. 1807-1 “On the languages of the peoples of the Russian Federation”, issues of legal regulation of the official language of the Russian Federation, as well as support and development of national languages in the Russian Federation moved to a new level. However, at present they still require further research and conceptualization.

In addition, specific attention directed to the problems of using and developing national languages is conditioned by their crucial role in the education system. We suppose that a systematic study of both the official language and a national one (at the request of a student or their legal representative) in a preschool educational institution and/or in a secondary school not only allows students to learn the national languages, but also contributes to preservation of the linguistic diversity for future generations of the Russian citizens and the world culture in general.

2. Problem Statement

The United Nations General Assembly proclaimed 2019 as the International Year of Indigenous Languages. In the Russian Federation, the state language policy is one of the foundations of the federal policy in the field of cultural and national development. The Russian Federation as a multinational state takes an active part in holding events within the Year of Languages of the Indigenous Peoples of Russia. This way, in line with the Decree of the President of the Russian Federation of October 26, 2018 no. 611 “On the establishment of the Fund for the Preservation and Study of the Native Languages of the Peoples of the Russian Federation”, the Ministry of Enlightenment of the Russian Federation and the Federal Agency for Ethnic Affairs established the Fund for the Preservation and Study of the Native Languages of the Peoples of the Russian Federation (President of the Russian Federation, 2018).

It is commonly recognized that the preservation of national languages is aimed at ensuring their existence, as well as preserving the identities, original traditions and customs of the ancestors. Despite the fact that the Constitution in Part 1 of Article 68 stipulates the special position of the Russian language as

the official language of the Russian Federation throughout its territory, other languages also are used for the purposes of communication and education. Let us provide some statistics (Russian Federation, 1993). For instance, Asinovskiy (2016) notes that “among the citizens of the Russian Federation, about 137 million people (97.9 %) speak Russian, and about 130 million (92.8 %) consider it native. Around 3 million of Russian citizens (2.1 %), living mainly in the national republics of the Russian Federation, do not speak the Russian language” (pp. 11-12). In Russia, there are 193 peoples, who speak more than 270 languages, dialects, and subdialects. In the field of education, 27 languages (including Russian) are used as a means of education and 72 languages are studied as a subject (Institute of Linguistics of the Russian Academy of Sciences, 2019). Thus, Russia possesses unique experience in preserving the ethnic, cultural, and linguistic diversity of peoples.

Only in 12 out of the 22 republics that form part of the Russian Federation, people of other nationalities exceed the Russian population (republics of the North Caucasus (excluding Adygea), Tuva, Yakutia, Bashkiria, Tatarstan, Chuvashia). Moreover, regardless of the increasing population of the dominant nationality, the number of people who speak the language of the dominant nationality does not go up in these republics. The increase is observed only in Chechnya, Tuva, and Karachay-Cherkessia (Oding, Yushkov, & Savulkin, 2019).

Irrespective of the number of the speakers, all languages of Russia are the treasure of the multinational state. At the same time, 63 languages are assigned the status of the languages of the indigenous peoples of Russia; only 29 are referred to as larger languages (taking 50,000 speakers as a conditional threshold), while small languages with tens of thousands of speakers are in the overwhelming minority (Language and society, 2016). An even more alarming situation is noticed, when the number of native speakers is estimated at hundreds, if not tens of people, and their number is constantly decreasing.

We should note that at the international level certain fundamental aspects of cultural and linguistic development are enshrined in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Framework Convention for the Protection of National Minorities (is ratified by the Russian Federation), the Indigenous and Tribal Peoples Convention, and the European Charter for Regional or Minority Languages (hereinafter referred to as the Charter) (United Nations General Assembly, 1992; Council of Europe, 1995; The International Labour Organization, 1989; Council of Europe, 1992).

Strogalschikova (2013) points to that

the Charter is the only legally binding international document in the field of the protection of minority languages (if the state joins it). It contains a list of such languages, spheres and levels of their application. This way, in the education sphere, it records whether a given language is the language of education or is taught as a subject; in the media sphere, whether newspapers are published in it, and radio and television are broadcast; as well as whether a minority language is used in by government bodies, etc. (p. 190)

It is noteworthy that in the Russian Federation not all of the listed regulations have been ratified and are in force. For example, the mentioned Charter, being an important document in the field of

language policy internationally, was signed by the Russian Federation in 2001, but has not been ratified yet in the established manner (President of the Russian Federation, 2001). Bitkeeva (2014) names the factors hindering the ratification of the Charter in Russia. Those are: “inferiority of Russia’s social communications system; the status of languages (official language, national languages of the republics, minority languages, etc.); the number of peoples and nature of their settlement; uneven social and cultural development of Russian territories; undesirability of moving the topic of language to political field in regions with significant conflict potential; substantial financial costs that may follow the ratification” (pp. 80-88).

Nationally, within the space of the Russian Federation, the fundamental principles of the regulation of cultural and language policies are provided by the Constitution. The Part 2 of Article 26 establishes everyone’s right “to use his native language, freely choose the language of communication, upbringing, education and creative work”; Part 3 of Article 68 contains a guarantee that “the Russian Federation shall guarantee to all of its peoples the right to preserve their native language and to create conditions for its study and development” (Russian Federation, 1993).

The constitutional principles are incorporated in the federal and regional statutory regulations. More specifically, the Law of the Russian Federation “On the languages of the peoples of the Russian Federation” (1991) provides the right for the constituent entities of the Russian Federation to adopt laws and other regulations regarding the protection of citizens’ rights to freely choose the language of communication, upbringing, education and creative work. The Federal Law “On national-cultural autonomy” (Russian Federation, 1996) provides guarantees for the preservation and development of the national languages for ethnic groups of the Russian citizens. In the education sphere, they can set up private educational organizations and scientific organizations, have a right to receive basic general education in the national (native) language and to choose the language of education and training within the opportunities provided by the education system.

The preservation of national languages needs native speakers of these languages. In this regard, native speakers preserve and develop national languages primarily through the education system. It is through education that the right of citizens to choose the language of education and training is exercised. In particular, Articles 11, 14 of the Federal Law “On education in the Russian Federation” (2012) enshrines “the right of citizens of the Russian Federation to receive preschool, primary general and basic general education in their native language from among the languages of the peoples of the Russian Federation, as well as the right to study their native language from among the languages of the peoples of the Russian Federation, including the Russian language as a native language, within the opportunities provided by the education system. In addition, federal state educational standards (hereinafter referred to as FSES) of preschool, primary general and basic general education provide the opportunity to receive education in native languages from among the languages of the peoples of the Russian Federation, to study the national languages of the republics of the Russian Federation, and native languages from among the languages of the peoples of the Russian Federation, including Russian as a native language”.

The regional legal regulation of the language policy does not feature a systematic and unified approach. The Russian language and the languages of indigenous peoples are enshrined as the official languages in the constitutions of the republics, with the exception of the Republic of Dagestan, and the

laws on languages. The exception is the Republic of Karelia, which has Russian as the only official language. Despite this, Karelian, Finnish and Vepsian languages enjoy state support. For instance, the Order of the Government of the Russian Federation (2012) “On approval of the Program of fundamental scientific research in the state academies of sciences for 2013–2020” provided a basis for the approval of the research topics concerning the study of the wedding folklore of the Karelians, the publication of the folklore heritage of the ethnic group of the Pomeranian coast of the White Sea; and the comprehension of trends in the development of the Karelian literature in the 20th century in the Russian, Karelian, Vepsian, and Finnish languages.

The analysis of the legislation of the constituent entities of the Russian Federation also reveals a number of contradictions to federal legislation, which is a higher level in terms of the legal force. For example, national languages’ learning and teaching can be both of an optional nature, when citizens are given the choice of languages of education (Part 1 of Article 14 of the Law of the Udmurt Republic “On state languages of the Udmurt Republic and other languages of the peoples of the Udmurt Republic”), and imperative, when the law provides for the obligation to study the national language on a par with the Russian language (Law of the Republic of Kalmykia “On the state languages of the Republic of Kalmykia and other languages in the Republic of Kalmykia”, Law of the Republic of Tatarstan “On the state languages of the Republic of Tatarstan and other languages in the Republic of Tatarstan”) (Udmurt Republic, 2001; Republic of Kalmykia, 2014; Republic of Tatarstan, 1992).

3. Research Questions

The paper focuses on the issue of the state language policy in the context of the regulation of the matters associated with the study of the Russian language as the official language of the Russian Federation and the official languages of the republics that are part of the Russian Federation.

4. Purpose of the Study

The paper aims to explore the legal regulation of the official language of the Russian Federation and the official languages of the republics within the territory of the Russian Federation. It considers the specifics of implementing the state language policy and the problematic aspects of applying legal norms in the constituent entities of the Russian Federation. The other objective is to analyze legal collisions in the practice of using national languages in the constituent entities of the Russian Federation.

5. Research Methods

To reach the stated objectives, general scientific methods are used, including scientific analysis, synthesis, deduction and induction, abstraction, and a structural functional method. In line with the research question, special methods are chosen, including formal legal, formal logical, system, statistical methods and others.

6. Findings

Particular attention should be paid to duality in the regulation of the matters associated with the learning of national languages. The question of balance in studying the Russian language as the official language of the country and the official languages of the republics that form part of the Russian Federation has many times become the subject of litigation.

For instance, in the Decree of the Constitutional Court of the Russian Federation of November 16, 2004 no. 16-P, the supreme body of constitutional control in the Russian Federation recognized that the provisions according to which the Tatar and Russian languages as the official languages of the Republic of Tatarstan are studied in equal volumes in educational institutions and primary and secondary vocational education institutions, do not contradict the Constitution, since in their constitutional and legal sense, the study of the Tatar language should be carried out in accordance with established laws on FSES and not hinder passing the final certification, issuing an educational certificate about obtaining basic general education and education of a higher level. To substantiate its position, the Constitutional Court of the Russian relied on the provisions of Article 68 of the Constitution, which were further reflected in the provisions of Article 6 of the Law of the Russian Federation “On languages of the peoples of the Russian Federation”, Article 10 of the Law of the Russian Federation “On education” at the federal level, and in the provisions of Article 10 of the Law of the Republic of Tatarstan “On languages of the peoples of the Republic of Tatarstan”, Clause 2 of Article 6 of the Law of the Republic of Tatarstan “On education” at the regional level (Constitutional Court of the Russian Federation, 2004).

Based on this, it follows that “the right to choose an educational institution with one or another language of bringing up and educating children belongs to parents or persons who substitute them in accordance with the legislation of the Russian Federation” (Clause 3 of Article 9); “the language (languages) in which education is delivered in an educational institution is determined by the founder (founders) of the educational institution and (or) the charter of the educational institution in accordance with the legislation of the Russian Federation and the legislation of the constituent entities of the Russian Federation” (Clause 4 of Article 9) (Russian Federation, 1991).

The previous Law of the Russian Federation “On education” contained analogous provisions. The Law specified that “constituent entities of the Russian Federation, in accordance with their status and competence, are entitled to adopt laws and other regulations on education that do not contradict federal laws in the field of education” (Clause 3 of Article 3) (Russian Federation, 1992). This means that laws and other regulations of the constituent entities on education cannot restrict the rights of citizens in the field of education, enshrined in the Constitution and federal legislation, including the rights associated with learning and teaching the Russian language as a federal official language throughout the country’s territory and on the basis of established FSES.

The Supreme Court of the Russian Federation expressed the position similar to the one of the Constitutional Court in a number of its decisions. For example, in the Decision of the Supreme Court of the Russian Federation of April 15, 2009 no. 31-G09-3 (2009), the court recognized that studying the Chuvash and Russian languages as the official languages of the Chuvash Republic does not violate everyone’s constitutional right to use their native language, to freely choose the language for communication, upbringing, education and creative work. In its other Decision of April 29, 2009 no. 20-

GO9-6 (2009), the Supreme Court of the Russian Federation indicated that the legal regulation of citizens' guarantees to receive basic general education in their native language, as well as to choose the language of education within the possibilities provided by the education system, does not contradict the federal law.

Unfortunately, the unanimity in legal practice at the federal level does not correlate with the practice of the supreme courts of some republics within the Russian Federation. They take opposite decisions, despite the above-mentioned decisions of the Constitutional Court of the Russian Federation and delineations of the Supreme Court of the Russian Federation.

For instance, in 2006, the Supreme Court of the Republic of Adygea recognized the provision given in Part 5 of Article 6 of the Law of the Republic of Adygea "On education" concerning the compulsory learning of the Adyghe language by the Adyghe students, inoperative, because it contradicts the federal law. When making the decision, the court was guided by Article 2 of the Law of the Russian Federation "On languages of the peoples of the Russian Federation", which provides guarantees of freedom to choose the language of education. Based on this, the court ruled that "the introduction of the study of the Adyghe language as a compulsory subject leads to a violation of the principles of the equality of human and civil rights guaranteed by the Constitution" (Supreme Court of the Republic of Adygea, 2006).

In 2009, a similar decision was made by the Supreme Court of the Karachay-Cherkess Republic, in which the court repealed the provisions on the compulsory study of national languages. Subsequently, this decision was quashed by the Supreme Court of the Russian Federation (Supreme Court of the Karachay-Cherkess Republic, 2009; Supreme Court of the Russian Federation, 2009).

In 2015, the Supreme Court of the Republic of Sakha (Yakutia) (2015) made an analogous decision. The court invalidated the provisions of the Law of the Republic of Sakha (Yakutia) "On languages in the Republic of Sakha (Yakutia)" regarding the obligation to study the official language Sakha in educational institutions located in the territory of the republic, as well as the provision for the issuance of official seals, stamps and letterheads of institutions and organizations without the use of the Russian language.

With regard to the studying of national languages in preschool organizations, the Decision of the Supreme Court of the Russian Federation of April 18, 2012 no. 92-APG12-4 (2012) is noteworthy. According to Part 2 of Article 7 of the Law of the Republic of Tuva "On languages in the Republic of Tuva", the study of Tuvan and Russian languages with the inclusion of elements of national rites, customs, and ethics in the education process starts in preschool institutions. The Supreme Court of the Republic of Tuva considered the issues of ensuring the functioning and development of the national languages of the republics not within the competence of the Russian Federation. Subsequently, the Supreme Court of the Russian Federation overturned this decision, since the requirements for language learning are established by the federal law (Republic of Tuva, 2010).

In 2018, Pavel Shmakov, the principal of the SOLNCE (Specialized Olympiad and Science Centre) boarding school for intellectually enthusiastic children of the Republic of Tatarstan and the Russian Federation, filed a lawsuit in the Supreme Court of the Russian Federation. He asked to invalidate certain provisions of FSES, since they do not provide for the obligatory study of the official

languages of the national republics. In the course of administrative legal proceedings, the Supreme Court dismissed the claim, because the disputed provisions of FSES “do not restrict the right of educational institutions to introduce teaching and learning of the official language of a republic of the Russian Federation when developing and approving relevant educational programs” (Supreme Court of the Russian Federation, 2018). This decision was left unchanged (Supreme Court of the Russian Federation, 2019). In July 2019, Pavel Shmakov filed a complaint to the Supreme Court of the Russian Federation again, as well as to the European Court of Human Rights. The decisions on these complaints are likely to be very important for further analysis of the legal regulation of language policy.

7. Conclusion

Having examined the regulations enacted by the constituent entities of the Russian Federation, as well as legal practice documents, we can conclude that there is no uniformity in the legal regulation of the matters related to the study of national languages, both in legislation and in law enforcement practice in the territory of the country. The provisions of the Constitution, which has the highest legal status in the territory of the country, are the guarantor of the balance between the Russian language as the country’s official language and national languages, having the status of official languages in the territories of the republics. It seems that the prompt ratification of the European Charter for Regional or Minority Languages by the Russian Federation will become an important additional legal instrument for resolving issues of legal regulation of the language policy in Russia, aimed at ensuring the preservation and development of both the official language of the Russian Federation, and the national languages of the peoples and nationalities living in the territory of the state at present and in the future. The ratification and implementation of the Charter’s provisions will allow pooling the efforts of government authorities at the federal and regional levels to protect and revive the national languages in the constituent entities of the Russian Federation.

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