



NATIONAL MINORITY AND THE RULE OF LAW: THE CASE OF TATARS AND TATAR LANGUAGE IN CONTEMPORARY RUSSIA

Elmira Lyapina¹

E-mail: elmiralyapina@gmail.com

Received 2 November 2019; accepted 11 December 2019

DOI: <http://dx.doi.org/10.13165/j.icj.2019.12.006>

Abstract. In July 2017, during a meeting of the Council on Interethnic Relations, in the framework of the Strategy of Russia's national policy the Russian president declared that children should not be forced to study indigenous languages in the national republics of Russia. In November of the same year, the Republic of Tatarstan's Parliament abolished compulsory study of Tatar language in schools, contrary to the Constitution of Russia and its Federal legislation providing equal legal statuses to Russian and Tatar languages in the Republic of Tatarstan. Tatars, being a Turkic nation with Islamic views, are the second largest ethnic population in Russia, where the dominant vector of national identity is orthodox and Slavic. Recently, the issue of Tatar identity and Tatar language is under pressure from political discourse which prevails over the legal order, and which may lead to a decrease in the level of multiculturalism in the country. The author concludes that the Rule of Law is at risk since the rights of minorities to an education in their native language, which are guaranteed not only by international treaties but also by the Constitution and Federal law of Russia, are being disregarded or opted out of by the new Law on Education in Russia.

Keywords: minority rights, constitutional rights, Russia, tatars

Introduction

Ages of building human civilization have brought about a better understanding of the need for rule of law. The rule of law guarantees a human being the right to self-determination without a fear of being punished. Language plays a huge role in self-identity, and also brings about a better understanding of each other. Depriving a person of the ability to use their language is a violation of their individual rights, but also of fundamental principles such as freedom, dignity, equality and non-discrimination, and self-determination, and may also lead to an interconnected violation of their human rights. However, protecting the right of a minority within a state shows a high level of development on the part of the state, demonstrating the multicultural and multilingual structure of the society whilst also engendering more loyalty from the minority language speaker towards the state.

This is why developed countries are showing respect to the rule of law and undertaking several measures by not just protecting their national minorities, but also granting them equal access to the different levels of social, political, legal, economical, and cultural areas of society.

Russia is often considered to be a developing country with a transitional justice system rather than a developed one, but in order to make a proper judgement it is necessary to have a look at its legal system from the perspective of the national minority's rights.

¹ PhD acquired at the Faculty of Law at Charles University in Prague (2017).

According to the Constitution of the Russian Federation (hereinafter referred to also as RF or Russia), 1993, the following subjects are a part of the Federation: national republics, kray, oblast, cities of federal importance (Moscow and St. Petersburg), Jewish Autonomous region, and the autonomous okrug. Additionally, the RF Constitution establishes the equality of subjects between themselves and in their relationships with the federal state. However, despite the declared equality of federal entities, the Republics of the Russian Federation have special legal statuses.

The specifics of these legal statuses include their own institution of presidency, their own constitution and legislation, and even in some republics their own citizenship. In addition to that, Republics are authorized to determine their national languages which the public, local, and state authorities of the Republics should use along with the state language – Russian.² In such a way, for example, along with the Russian language in the Republic of Tatarstan the Tatar language is used (according to Article 8 of the Constitution of the Republic of Tatarstan).

However, the Tatar language, which was used and taught in the schools of the Republic of Tatarstan has, after the Russian Presidential initiative of 2017, started to lose its significance and role. Thus, at the end of November 2017, the prosecutor of the Republic of Tatarstan spoke on reducing the hours of Tatar language tuition in schools from 20 hours per week to two hours per week, moreover adding the requirement of written consent from parents.

This article analyses whether the existing legislation and regulatory projects implemented and adopted by the federal government of the Russian Federation, directed at regulating the level of use of minority languages in the Russian Federation especially on the level of national republics, is consistent with the rights of these minorities which are given by international law and guaranteed by the Constitution of Russia.

This paper is structured into three main sections. The first section will provide an overview of the legal framework on minority rights provided by international law. The second will discuss the legal framework of the Russian Federation regarding the minority rights on studying in their native language, and it will discuss the main points involving the reasons for support of minorities' right and use of their national language.

The third section will concentrate on the impact of the contemporary normative basis implemented on use of national languages by minorities, with a focus on the Tatar minority. A key issue will be the importance of minority rights in Russia within the formation of a homogenous federation of Russia.

With the aim of providing an objective review, the political side of this issue is excluded.

1. The international legal framework for minority rights

The subject of a national minority is not a new thing, as in all countries there is the majority ethnic society and the minority, or often several minor societies. Not only the states but also the international community, in order to balance their democratic power over their citizens, have attempted to regulate the national minorities and their rights.

The Universal Declaration of Human Rights (1948) sets principles of freedom and equality in dignity and rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Declaration however does not provide a detailed determination neither of the term nationality, nor of the term national minority.

² In accordance with an article 68, part 2, of the Constitution of the Russian Federation, a Federal Law №126-FL (1998), on the Languages of the Peoples of the RF, in particular part IV, article 15

Although the rights of a national minority are generally a subject of international human rights, the recognition of the language rights of minorities is a relatively new phenomenon in the laws of the Council of Europe, as the main provisions in this area were formulated in the 1990s. The Council of Europe, acting in the spirit of the universal conventions regarding human rights, has developed several treaties. In this way, in accordance with the spirit of the Convention on the Protection of Human Rights and Fundamental Freedoms (1950), the right for a national minority to use minority languages in both public and private life was promoted, and it is considered as an inalienable right.

Besides this there are several international documents including conventions, recommendations, and guidelines, which, despite their differences, provide a recommendation to public authorities regarding the field of the rights of use of minority languages.³

The issue of minority rights is a wide ranging one, which includes the right to speak in the national language and to learn it, but also to be educated in the national language. The rights regarding use of language are provided in various provisions of international human rights law, and include the prohibition of discrimination, the right to freedom of expression, the right to privacy, the right to education, and the right of linguistic minorities to use their native language together with others members of the same group. Thus, contained within the subject of the rights of national minorities,⁴ is also the right to use their minority languages.⁵ However, in order to use a minority language a person must know it, which requires learning it and therefore being educated in it.

The right to an education is enshrined in Article 26 of the Universal Declaration of Human Rights, in Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, in Articles 28 and 29 of the Convention on the Rights of the Child, in Article 2 of the First Protocol of the European Convention for the Protection of Human Rights, and in Article 17 of the revised European Social Charter.

There are two main documents, adopted under the auspices of the Council of Europe, which play a role specifically regarding the rights of minorities and the use of their minority languages, and constitute a commitment by the Council of Europe to protecting national minorities. These are the European Charter for Regional or Minority Languages (hereinafter as ECRML or Charter) (1992) and the Framework Convention for the Protection of National Minorities (hereinafter as FCNM or Convention) (1998).

The Council of Europe, in Article 1 of the European Charter for Regional and Minority Languages, determines or recognizes languages of national minorities as minority or regional languages which are not official, and which are traditionally used in the territory of a country by the citizens of that state, as a group, which is smaller than the rest of the state population. However, dialects of official languages and the languages used by migrants are not considered to be minority or regional languages.

³As UN Declaration On The Rights Of Persons Belonging To National Or Ethnic, Religious, And Linguistic Minorities (1992), Three UNESCO Guidelines On Languages And Education, Various Recommendations Of The UN Forum On Minority Issues Regarding The Implementation Of The Declaration On The Rights Of Persons Belonging To National Or Ethnic, Religious And Linguistic Minorities, Council Of Europe Thematic Commentary No. 3 On The Framework Conventions On The Linguistic Rights Of Persons Belonging To National Minorities, Oslo Recommendations On The Rights Of National Minorities In The Field Of Language (OSCE).

⁴ According to the Framework Convention for the Protection of National Minorities (1995).

⁵ According to the European Charter for Regional or Minority Languages.

Later in the same Charter, formulated in Recommendation 1134 of the Parliamentary Assembly (1990) on the Rights of Minorities, the principle of the right of a national minority to access the appropriate type and level of public education in their mother tongue (paragraph 12 (i)) is outlined.

The Charter was opened for signatures in 1992, and entered in to force in 1998 with the ratification of only 5 states. At present it has 25 state ratifications, and 8 states which have signed it but didn't ratify, with non-ratified states including Russia and three EU member states – France, Italy and Malta. The Charter has a monitoring mechanism for evaluation of the application of this treaty by the relevant state party, and the results of this monitoring are later shared with the 47 members of the Council of Europe, aimed towards encouraging the appropriate measures as opposed to the political measures.

This Charter not only states the necessity of education being conducted in a minority language but also provides, in Article 7, the necessity of all stages of learning (of the appropriate forms and means necessary for the teaching and learning of regional or minority languages) as objectives and principles according to the policies, legislation, and practices of the state (Article 7 (1) (f)). It further stresses in the same Article, in letter (h), the need for the promotion of study and research on regional or minority languages at universities or equivalent institutions. Additionally, in Article 8, it outlines the commitment of the states to grant access to a pre-school, primary, higher, vocational or technical education, adult or continuing education, or a substantial part thereof, in regional or minority languages to those pupils who, or where appropriate whose families, so wish in a number considered sufficient. The measures envisaged include the teaching of history and culture, the manifestations of which are regional and minority languages (Article 8 (1) (g)).

The other document covering the protection of national minorities is the Framework Convention, which came into force in 1998 and was ratified by 39 States, including Russia, and several EU member-states, but excluding Andorra, France, and Monaco. Although it does not provide the definition of a national minority, it provides guidelines regarding the protection of minority rights. The Framework Convention also has a monitoring mechanism, alongside which it can call a state party to act, and additionally give recommendations. In 2009 for example, in accordance with this Convention, Russia adopted a comprehensive Concept Paper on the Sustainable Development of Numerically Small Indigenous Peoples of the North, Siberia, and Far East, and in 2013 An Action Plan on Socio-Economic and Cultural Development of Russian Roma⁶ was adopted at federal level.

Moreover, the Framework Convention has recommended that several EU states improve the situation in their educational systems for national minorities (which was successfully implemented by the addressed states) as Article 14 states that the “parties of Convention undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.” It also includes the use of topographical names in the minority language. Regarding the education of national minorities, Article 13 of the Framework Convention stresses that “the parties shall recognize that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments”, which does not, however, include any financial obligation for the state-parties.⁷

It is interesting that this Framework Convention also leaves room for the cooperation of the majority society with the national minority, as it specifically states in Article 12 that the state “shall take measures in the fields of

⁶ Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states (2014).

⁷ But at the same time not excluding it in accordance with the Explanatory report to this Article 13, para 2, point 73.

education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority”, where inter alia it shall “provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.”

The legal acts outlined above, directed specifically at the regulation of national minorities, are currently exist in a spirit of recommendation, and thus leave room for a state to determine minority rights in accordance with their legal and political system, but in accordance with the fundamental human rights stipulated in the main Conventions.

At the same time, there is a tendency to set a minimum level of minority rights on an international level, as there is serious disagreement between several states on this issue.

Although it is stressed in the Recommendation 1134 of Parliamentary Assembly (1990) on the Rights of Minorities that the revival of minority languages and culture should be a manifestation of the richness and vitality of European civilization, each state, even in the European Union, has its own respective approach to this matter.

For example, France has not signed the Framework Convention for the Protection of National Minorities, but has signed but has not ratified the Charter. France does not recognize minorities as such, but grants the same rights to all French citizens. As a result, unlike many other European countries, France does not grant collective rights to the native speakers of regional or minority languages or on the basis of a different origin, culture, or religion of minority groups.

In some European countries, such as the Balkan states which became independent a relatively short time ago, national state borders have been altered, and political change has led to the creation of new minorities. Due to the lack of consensus on the definition of a national minority, not all minority groups are granted adequate minority and language rights.

Some countries have established autonomous communities in which minorities are granted the right to use their languages in public institutions, particularly in schools, in addition to the official language of the state, as with the Spanish Autonomous Communities. In Finland, schools shall organize training or a course in Swedish when at least 18 pupils apply for it in their mother tongue (Encyclopedia of Diversity in Education, 2012).

In Austria, different forms of minority education are also offered to the relevant minorities. However there are some exclusions, as among the six officially recognized minority groups in Austria Slovenian, Hungarian, and Croatian minority groups have the right to publicly funded bilingual primary and secondary schools, whereas in the Czech, Slovak, and Roma communities there is only the right to establish private minority education or to teach their other language subject in common public schools (Luciak, 2012).

Disputes can be frequent in regions where minorities are heavily represented, especially when governments and majority members consider the status of the official language to be at risk. Slovakia is an example of this in the areas primarily populated by the Hungarian minority, and the Roma community among various European countries faces this issue frequently.

It can be assumed that discussions on language rights, language policy, and the preservation of minority identity will continue. While some regional and minority groups have received a high level of protection, other groups such as the Roma, who face a lower social status, often face discrimination and exclusion. In addition, there are still cases where children are punished for talking about their minority language at school, although with the help

of legislation the situation is changing (case *D.H. and Others v. the Czech Republic* (No. 57325/00), 2007, European Court of Human Rights).

There are few cases of violation of national minority rights which reach to the European Court of Human Rights (the Court) and the approach of the Court may be seen as not consistent at all.

As mentioned above, the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) does not include the right to the use of minority language in its list of rights and freedoms, except for the rights of immediate notification in a language that a person understands, and the right to receive information in an appropriate language in accordance with Article 5 paragraph 2, and Article 6 paragraph 3.

It is worthwhile mentioning one of the first cases regarding language rights in the context of education, *Belgian Linguistic case* (No. 2) (1968). The case is notable because the Court outlined that Protocol 1, Article 2 (the right to education) of the Convention does not establish the language in which education is required in order for the right to education to be respected (para 3 of the case). Additionally, the right of parents to provide an education that is consistent with their religious and philosophical beliefs, which is guaranteed by the second sentence of Protocol 1, Article 2, equally does not take into account language preferences (para 6). Consequently, the Court ruled out the right to choose a language for education (para 11), adding that the right to education will be protected by each of the participating States for any person within its jurisdiction without discrimination on the basis of, for example, language. Guaranteeing the right to receive an education in a language of their choice to every person within the jurisdiction of a state will lead to absurd results, since each person will be able to demand the use of any language in any state participants.

However, in a later interstate case *Cyprus v. Turkey*, No 25781/94, and in the case of *İrfan Temel and Others v. Turkey*, No. 36458/02, (2009), the Court found a violation of Protocol 1, Article 2 by Turkey due to its incapacity to provide education for the national minority representatives in their own languages.

2. The legal framework of the Russian Federation for minority rights

Although Russia is a multinational country, with more than 190 different peoples being citizens in its territory (including as part of small indigenous nations), Russia itself is generally regarded as a Slavic country, with a Slavic majority, within a titular nation – i.e. Russians.

Russians amount to 80.9%, or 111.0 million, of the 137.2 million respondents. They indicated their nationality in the all-Russian population census of 2010.⁸ The representatives of other nationalities amounted to 19.1%, or 26.2 million people, and the number of people who did not indicate their nationality amounted to 5.6 million people (or 3.9% of the 142.9 million inhabitants of the country as a whole). The role of assimilation should also be mentioned, as some national minorities are reluctant to share their origin but count themselves as Russians. It is also necessary to stress the indigenous people, national minorities, who often disappear⁹ in censuses of this nature.

Besides the Slavic peoples, the biggest minorities in Russia are Turkic people, Finno-Ugric, and “indigenous people of the North, Siberia and Far East” (which includes 46 different nations). Although the Russian Federation

⁸ Next one will be in 2020, on 2010 viz https://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.htm

⁹ See the UNESCO Atlas of the World's Language in Danger. Retrieved 1 November 2019, from <http://www.unesco.org/culture/languages-atlas>.

is proclaimed as a secular state, the major religion is Orthodox Christianity, which is followed by Islam,¹⁰ Judaism, Buddhism, and paganism in several nations.

Of more than forty Turkic nations that live in various countries around the world, counting their sovereign states among Turkey, Azerbaijan, Kazakhstan, Kyrgyzstan, Uzbekistan, Turkmenistan and others, around twenty of them are living in Russia. These are comprised of more than 10 million people. Eleven of the Turkic nations within the Russian Federation have their sovereign national republic with the name of the nation, as Tatarstan, Bashkortostan, Chuvash Republic, Altai, Tuva, Republic of Khakassia, of Karachayevo-Cherkessia, Kabardino-Balkaria, and the northern nation of Sakha is majority in Republic of Yakutia. It should be stressed that living in these republics are not only the representatives of the Turkic nations, but also other national representatives of the Russian Federation. The remainder of the Turkic peoples are scattered throughout Russia along European and Asian borders and regions,¹¹ including the Caucasus. Thus, the significance of the native language of so-called¹² minorities is non-discussable.

Russia has joined the European Charter for Regional or Minority Languages (1992), and has taken on certain obligations but has not ratified the Charter. The difficulties in ratifying the Charter are, for Russia, related to the need for a broad public debate on the issue of financial support, as not only the federal budget but also the budgets of the Russian Federation and local authorities should be involved in accordance with the Charter.

Provision relating directly to the use of native language is enshrined in the Russian Constitution (1993) (para 2 of Article 19, para 2 of Article 26, para 2 of Article 29, Article 68). The Russian language is the national language of the Russian Federation and its territory in accordance with Article 68 of the Constitution. Additionally, in accordance with Federal Law № 53-FL (2005) On the State Language of the Russian Federation, the status of the Russian language as an official language of the State of the Russian Federation makes it mandatory to use Russian language in certain areas. These areas include: law, official institutions, federal state authorities, state authorities of RF subjects, other state authorities, local governments, organizations of all forms of ownership and Russian citizens, foreigners, stateless persons, and public associations.

The RF has several laws on use of the native languages. Thus, in Article 26 (2) of the Constitution of the RF: “Everyone has the right to use his native language, to freely choose the language of communication, child upbringing, education, and art.” The special social value of education, training and work in the native language of minorities is also an expression of their constitutional rights and freedoms in accordance with the Constitution, namely Articles 2, 38, and 44 (Chapters 1-3, Article 43, Chapter 1, Article 44 of the Constitution).

Moreover, Article 14 of Federal law № 273-FL (2012) on Education in the RF enshrines the right of citizens of the RF to receive basic general education in their own language: “the RF guarantees the right to education in the state language of the RF, as well as the choice of the language of the upbringing and education in the scope of the opportunities provided by the educational system.” Further, Article 6 provides the guarantee of the state to assist the representatives of peoples of the Russian Federation residing outside the territory in receiving basic general education in their native language.

¹⁰ According to the statistics of People Census 2010, the Muslim population is of 16.4 million in year 2010.

¹¹ Such as Dolgan, Shor, Tofalars, Chulyms, Nagaybaks, Kumyk, Nogai, Azerbaijani (Turks Derbent) of Dagestan, the Crimean Tatars, the Meschet Turks, the Karaites, and others.

¹² As it has been mentioned, Tatars are the second largest population in the RF, and they are living not only in the territory of the Republic of Tatarstan, but all around Russia.

Also, Article 8 of Federal Law №74-FL on National and Cultural Autonomy states the guarantee of the RF for the social, economic, and legal protection of the native (mother-tongue) languages in the territory of the RF.

The phrase “mother-tongue” is used by lawmakers to denote one of the national and cultural rights of the indigenous peoples of the Russian Federation, which has “safeguards” in Federal Law № 82-FL (1999, as amended in 2008) on the Guarantee of the Rights of Indigenous Peoples of the Russian Federation. It guarantees the right of persons belonging to small nations to receive and distribute information in their native language, and to create mass media.

Pursuant to Article 15 (4) of the Federal Law №1807-1 FL (1991) on the Language of the Nations of the Citizens of the Russian Federation, a representative of the national minority has the right to contact the authorities, organizations, enterprises, and institutions in the Russian Federation with proposals, requests, and complaints in the state language of the Russian Federation and in their native language. However, as stated in paragraph 5 of this Article, in the absence of a response to such proposals, statements, and complaints, the language of treatment that shall be used is the state Russian language. The Law on the Languages of the Nations of the Russian Federation provides that students in educational and vocational training institutions and state-accredited educational institutions (with the exception of pre-school educational institutions which are regulated by the State Educational Standards (Article 10), and with reference to the normative legal acts of subjects of the Russian Federation in the field of education) cannot restrict citizens' rights related to learning and teaching in and of the Russian language.

Considering the abovementioned, it is clear that in the Russian Federation there is a solid system regarding the rights of national minorities to speak, learn, educate, and be educated in their native language.

Currently, in the realization of their right to receive basic general education in their native language, there are problems associated with the fact that the socialization of children in cities is usually in the Russian language. The need to use the native, declining language is hindered by a reluctance to learn the mother-tongue, highlighting the issue that changing national language changes national identity. The lack of modern native language textbooks, teaching staff, native language teachers, and insufficient funding also affect this. However, federal legislation on the right of citizens to freely choose the language of instruction is generally in line with the international obligations of the Russian Federation, and creates an appropriate legal framework for the exercise of this right.

In the report *Protecting the Rights of Minorities and Indigenous Peoples in the Russian Federation* (Prina, 2014), it is noted that, although there is indeed implementation of the federal laws in Russia regarding the mother tongue and national minorities, there is a lack of numbers and transparency from officials as how it is applied and implemented in reality.¹³

3. The challenges in contemporary Russia for the Tatar minority

Tatars are the second largest population in Russia, and the largest Turkic community in the territory of RF. This is composed of Tatars living in the territory of the Republic of Tatarstan (36%), Volga Tatars (Tatars in the Volga-river region), Siberian Tatars, Astrakhan Tatars, Crimean Tatars, and other smaller groups of Tatars. Tatars are the largest Turkic nation in Russia, and there are around 6 million living in the territory of Russia. The specific

¹³ The closing of schools and a decrease in the hours in native languages of national minorities, as Sokolova, V. (2011). *Serye Kardinaly Obrazovaniya [The Eminences Grises of Education]*. Sovershenno Sekretno. See also Musina, R. (2011). *Iazyki v sisteme obrazovaniia Respubliki Tatarstan: po materialam mosotsiologicheskogo issledovaniia [Languages in the System of Education of the Republic of Tatarstan: Following the Data of an Ethnosociological Research]*. Tatar Book Publishing House.

historical relations between Tatars and the majority nation in Russia should be mentioned, since the Turkic people in this territory were in different times referred to as Tatars.

It is necessary to stress the specific connection between the Tatars across Russia and several Tatar diasporas outside of Russia and the Republic of Tatarstan, as this can embody the will and position the whole Tatar nation. Thus, given the special position of the Republic of Tatarstan, it is appropriate to look at the administrative structure and its features given by the law.

According to the Constitution of the Russian Federation 1993, the following entities are part of the Federation:

- 1) the national Republic (21)
- 2) oblast (9)
- 3) kray (46)
- 4) Moscow and St. Petersburg - cities of federal importance
- 5) Jewish Autonomous Region
- 6) Autonomous Districts (okrug) (4)

Article 5 (paragraphs 1-4) of the Constitution of the Russian Federation provides the equality of subjects between themselves and in relations with federal authorities of state power.

Despite the declared equality of the subjects of the Federation, the Republics of the Russian Federation have a particular legal status, the specificity of which is as follows:

1. In accordance with Article 5 (2) of the Constitution the Republics are recognized by their own constitutions and legislation, as opposed to other federation entities. Such provision is enshrined in the Constitution and other documents of the Republics. For example, Article 1 of the Constitution of the Republic of Tatarstan stipulates that it is a sovereign democratic part of the Russian Federation. (Constitution of the Republic of Tatarstan).

2. The Republics of the Federation have their own constitution and legislation, while other regions of the Russian Federation have their own statute and legislation (Article 5 (2), Article 66 of the Constitution). Although the Constitutional Court of the Russian Federation on 1 February 1996, in the case of the reviewing of the constitutionality of certain provisions of the Charter of the Chita Region, referred to the equivalence of constitutions and statutes of the subjects of the Federation, their legal nature is different. In particular, the adoption of the statute of Federation entities is the exclusive competence of the legislative body of the relevant entity of the Russian Federation, while the Constitution of the Republic must be adopted by referendum, legislative authority, or otherwise.

3. The Republics are entitled to determine their national languages, which are used by the public authorities, local self-government, and state authorities of the Republics, together with the national language of the Russian Federation (Article 68, Part 2). Thus, together with Russian, the state languages are introduced in the republics Tatarstan - Tatar language (Art. 8 of the Constitution of the Republic of Tatarstan).

4. Citizenship has been introduced in many Republics, including as a function of a President of the Republic. The presidential government was established in the following Republics: Adygeja, Bashkortostan, Buryatia, Ingushetia, Kabardino-Balkan Republic, Kalmykia, Mari El, Mordovia, Sakha (Yakutia), North Ossetia, Tatarstan, Tuva, Chechnya and Chuvashia. However, the institution of the presidency has been kept only in the Republic of Tatarstan.

It should be mentioned that, among 21 republics, the Republic of Tatarstan was in a stronger position. First of all, after the changes in 2010, it was the only republic which kept the institution of presidency of the Republic.¹⁴ Further, in 1992, the Republics of Tatarstan and Chechnya became two republics that refused to sign an agreement on the federal structure of the country, and in 1994 a treaty was signed between the president of RF Boris Yeltsin and president of Republic of Tatarstan Mintimer Shaimiev defining the subjects of competence and the mutual delegation of powers. Under this agreement, Kazan has the exclusive right to: dispose of land and resources; create a system of state authorities, manage its own budget, administer its own citizenship; and even shape its international policy.

Since the beginning of the 2000s, active and regular disputes have been going on between Tatarstan and the Russian federal center about the extent of independence, including the role of the Tatar language. In 2002, the State Duma and the Constitutional Court actually banned the translation of the Tatar language into Latin script.¹⁵ In 2003, a law was passed requiring all agreements between Moscow and regions to be reaffirmed by federal laws. Since that time the Republic of Tatarstan began to lose its symbolic rights. For example, the provisions on which the President of the Republic should be bilingual and the existence of a separate “citizenship of the Republic of Tatarstan” have been recognized as unconstitutional.

The Republic of Tatarstan has been always trying to keep its specific status in regards to the use of the native language. A constitutional complaint in order to obtain permission from the Russian Federation to determine the basis of its graphic language, including the use of it in the constitutional law of the Republic of Tatarstan (Constitutional Court decision of 16 November 2004 N 16-P) provides a good example of this.

The right of Republics within the Russian Federation to create and keep their own state languages and their use in relations and contexts of a publicly commanding nature, together with the state (Russian) language, is recognized by the Constitution (Art. 2, Art. 68) and the historical and national functions caused by the constitutional status of these entities. Indeed, each nation of Russia shall preserve their native language, and to create the conditions for their study and development is also guaranteed by RF Constitution, considering the special demands on the state language of the Republic compared to other languages that do not have public status. The legal establishment of the graphic foundation of the state language alphabet should be subject to sovereign state will and corresponding national interests.

Since the early 1990s, the Tatar language has been one of the main symbols of the special status of Tatarstan. The Constitution of the republic, adopted in 1992, secured the status of the state language of Tatar along with Russian. The regional law on languages made the study of the Tatar language in secondary schools compulsory for representatives of all nationalities. The document stipulated that the Russian and Tatar languages are studied in equal volumes.

¹⁴ It has had just two presidents – Mintimer Shaimiev, and nowadays Rustam Minnihanov.

¹⁵ The Tatar language initially had Arabic characters until the beginning of the twentieth century, when it changed to Latin, and then in 1920s the characters were changed to Cyrillic letters. Since the beginning of the 2000s, several Turkic states have changed the characters back to Latin (as Azerbaijan, or Uzbekistan, Kazakhstan), but Tatarstan have received a ban on this from the Russian government and the Constitutional court.

Moreover, in 2004 the Constitutional Court of the Russian Federation ruled that the study in equal volumes of Tatar and Russian as the state languages of the Republic of Tatarstan in educational institutions and institutions of primary and secondary vocational education does not contradict the Constitution of the Russian Federation.¹⁶

In March 2017 the United Nations Special Rapporteur on Minority Issues published a Practical Guide to Compliance on the Linguistic Rights of National Minorities, where it reported positively on Russian implementation of legislation in respect to national minorities.

In July 2017, during a meeting of the Council on Interethnic Relations dedicated to the implementation at the regional and municipal levels of the strategy of the national policy of Russia for the period until 2025, the President of the Russian Federation Vladimir Putin declared the inadmissibility of compulsory learning of indigenous languages by Russian children in national republics. In November of that year, the parliament of the sovereign republic of Tatarstan abolished the compulsory study of the Tatar language in schools.

A month later, the RF president instructed the Prosecutor General and the Rosobrnadzor (Russian Education Monitoring Body) to check how the rights of citizens to voluntarily study in their native languages and the state language is respected in the regions. An inspection was conducted which revealed nearly 4,000 violations of the law, where in several schools the Russian language was not taught in the volumes provided for by federal educational standards.

However, education of the native language was not fully abolished but was instead decreased to up to 2 hours per week, and only for pupils from the first to the ninth grades of elementary school with the possibility of choosing native language as a voluntary subject for state exams.

It should be stressed that the discussion regarding the native language education of national minorities in Russia is considered on the level of the national republic, as the (public) education in native language of national minorities in the other regions of Russia is absent. Russian President Vladimir Putin emphasized that the study of national languages is a voluntary right.¹⁷ It is an interesting quote, especially in regard to the fundamental rights given by international law and the Constitution of the Russian Federation, for example Article 29 (2) which states that “Propaganda or inciting social, racial, national, or religious hatred and strife is impermissible. The propaganda of social, racial, national, religious, or linguistic supremacy is forbidden”.

After the law came into force in Tatarstan prosecutorial checks started, followed by a decrease in the amount of hours of Tatar language and Tatar literature. Moreover, this reflected on employees in the educational field, causing around three hundred teachers to be released from their jobs. This culminated in uncertainty in society, thus the citizens, who were national minorities, felt threatened due to violations of their fundamental rights regarding the use of language.

¹⁶ Decision of the Constitutional Court of the Russian Federation of 16 November 2004, available on <https://rg.ru/2004/11/23/tatar-yazyk-dok.html>

¹⁷ According to him, “forcing a person to learn a language that is not native to him is as unacceptable as reducing the level and time of teaching Russian.” Putin also called the Russian language “the natural spiritual framework of our entire multinational country.” More in Russian <https://www.bbc.com/russian/news-41904574>, <https://www.novayagazeta.ru/articles/2017/11/29/74733-solntse-russkogo-mira>

This reduction was subsequently followed by several protests in different forms from local activists.^{18,19} Besides these protests legal actions were taken, including one complaint which was filed to the European Court of Human Rights by the director of the Kazan school Shmakov, who refused at the request of the authorities to reduce the hours of the Tatar language, and for which he was fined. He referred to several articles of the European Convention on Human Rights: Protocol 1 Article 2 (right to education), Article 6 (right to a fair trial), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination). In 2017 he tried unsuccessfully through a Supreme court in both instances to abolish federal state educational standards. The Supreme court, however, dismissed the lawsuit, ruling that state standards “do not impede” the teaching of the Tatar language in schools. He mentioned that the attribution of the state Tatar language or any other language to the field of alternative, elective, optional, native ones is a status infringement (discrimination) of such a language and subject (subject area) in the educational process of educational institutions. He also noted that this can lead to national divisions according to the principle of nationality, which is unacceptable from the point of view of the constitutional foundations of any multinational state (Meshcheryakov, 2019; Antonov, 2019; Antonov, 2017; Mustafina, 2018).

The limitation of use of the native language in the first level of education can lead to the loss of the language, especially in the cosmopolitan community where there is a high level of assimilation. Language is considered as an important part of self-identification, which could therefore be lost with the language.

The rights of linguistic minorities are basic human rights and must be respected. This requirement also applies to the proper use of minority languages. Education deals with minority linguistic law, which seems to be key and fundamental to maintaining linguistic diversity. A language that is not taught will eventually disappear. The advantages of receiving education in the mother tongue are currently reasonably well substantiated scientifically, using data from studies of minority children living in various parts of the world (Dutcher & Tucker, 1997; UNESCO, 2008).

Also noteworthy is the willful change of the rights of national minorities, which are ostensibly enshrined in constitutional and federal laws. This also brings a threat to the fundamental rights of, and represents insecurity in, the constitutional guarantees of the legal state.

At the same time, with the baggage of such federal laws, guaranteeing the protection of the use of minorities and minority languages, what with the new political trends and amendments to the law on education, may seem as a burden for the legislative system since there is a lack of implementation of the Rule of Law.

That would not require such attention if the RF would be in a state of transitional justice and if it lacked a consensus on the definition of national minority, as in the Balkan countries (for example, Romany speakers in Croatia). However, since the 1990s, when the RF accepted several laws on the sustainable situation among the minority citizens, it now seems to start the period of transition by changing the laws on the use of minority languages and denying the Rule of Law in its territory.

Conclusions

There is a need to protect the national minority’s rights and their minority languages, and the unique cultural heritage that it represents. If this is not successfully accomplished then these languages will be threatened with

¹⁸Including the non-peaceful ones, as with the self-immolation of the Udmurt scientist Albert Razin, who tried to draw attention to the problems faced by his ethnic group and language. More details at BUSINESS Online (2019), also in Finnish Kronvall, K. (2019)

¹⁹ Khisamova, R.

extinction,²⁰ and national minorities will be deprived of a key element of their identity. Therefore, measures are needed to expand the opportunities for younger generations to learn their native language at school. Language policies should protect minority rights, ensure diversity, and help ease tensions.

The exercise of language rights improves the quality of information interaction and the provision of public services. The use of the minority language as the main language in the process of information interaction and in the provision of services leads to a more effective and efficient society. According to the United Nations Rapporteur on National Minority issues (2017), since information interaction is a two-way process, authorities should not seek to impose on the entire population the use of only one official language in all situations.

The importance of the protection of national minorities and their use of language is further reinforced by the importance of supporting multiculturalism and multinationalism inside a country. If this support is not provided, neglecting the right to self-determination and the preservation of national minority rights may lead to the radicalization of the national consciousness, and therefore increase the risk of the ethnic conflicts.

Countries all over the world are following the recommendations given by the international community through several international treaties. There are two main treaties, adopted under the auspices of the Council of Europe, which cover the rights of minorities and the use of minority languages, and constitute the commitment of the Council of Europe to protecting national minorities. These two treaties are the European Charter for Regional or Minority Languages, and the Framework Convention for the Protection of National Minorities, and both of them proceed in a spirit of recommendation. State parties are following the minimal basis given by them, and are implementing the recommendations given within the appropriate authorities.

This Article aimed to discuss the current situation regarding the right of national minorities to use their mother tongue within education in the Russian Federation, and the challenges for the Rule of Law stemming from the Constitution and international legal acts.

In the first section, international legal acts on national minority rights and the right to use minority languages to educate and to receive education was examined. The second part of the paper focused on the legislation of the Russian Federation on this topic. The third section discussed the position of Republic of Tatarstan, which embodies the Tatar minority in Russia. Analysis was conducted regarding the importance of minority rights for the multicultural state, and the role of law in the Russian Federation.

It was concluded that, despite the fact that in the Russian Federation there are a solid basis of guarantees and laws on a national minorities and their use of native languages, the implementation of these laws is not at a sufficient level. This creates the risk of returning back to the path of transitional justice by not providing the opportunity for the rule of law to protect established human rights.

Bibliography

- Antonov, K. (24 October 2017). *Tatar language brought to court. A school from Tatarstan challenged the educational standards of the Ministry of Education and Science*. Kommersant. Available at <https://www.kommersant.ru/doc/3448613>
- Antonov, K. (16 July 2019). *European Court will learn Tatar. The director of the Kazan school complained about a voluntary study of the state language of the republic*. Kommersant, 123. Available at <https://www.kommersant.ru/doc/4032639>
- Banks, J. A. (Ed.). (2012). *Encyclopedia of diversity in education. Volume 1. Multicultural education*. SAGE Publishing.
- BBC News (8 November 2017). *Minnihanov: uroki tatarskogo jazyka ostanutsja objazatel'nymi*. <https://www.bbc.com/russian/news-41904574>.
- Beiter, K. (2005). *The protection of the right to education by international law*. Martinus Nijhoff Publishers.

²⁰ UNESCO Atlas of the World's Language in Danger

- Benedikter, T. (2006). *Minorities in Europe. Legal instruments of minority protection in Europe – An overview*. <http://www.gfbv.it/3dossier/eu-min/autonomy-eu.html>
- Chouinard, S. (2016). Stateless nations. In K. Cordell, S. Wolff (Eds.), *The Routledge handbook of ethnic conflict*. Routledge.
- Decision of the Constitutional Court of the Russian Federation of November 16, 2004 N 16-P. Russian Newspaper - Federal Issue No. 0 (3636). <https://rg.ru/2004/11/23/tatar-yazyk-dok.html>.
- Directorate General of Human Rights and Rule of Law Council of Europe. (2014). *Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states*. F-67075 Strasbourg Cedex, Council of Europe. https://www.coe.int/t/dg4/education/minlang/Source/Publications/HR-Practical-Impact%202014_EN.pdf
- Dutcher, N., & Tucker, G. R. (1997). *The use of first and second languages in education: A review of educational experience world*. Bank.
- Elias, S. B. (2010). Regional minorities, immigrants, and migrants: The reforming of minority language rights in Europe. *Berkeley Journal of International Law*, 28(1), 261-312.
- Explanatory Note to the Oslo Recommendations regarding the Linguistic Rights of National Minorities. (1999). *International Journal of Minority and Group Rights*, 6(3), 368-387.
- Khisamova, R. (19 November 2018). *Court in Kazan dismissed cases of Tatar activists advocating for the Tatar language*. <https://www.idelreal.org/a/29608572.html>.
- Kronvall, K. (14 Septemeber 2019). *I Ryssland finns tiotals små språk som nu förlorar mark - många kan inte avlägga examen på sitt modersmål*. Svenska.yle.fi. <https://svenska.yle.fi/artikel/2019/09/14/i-ryssland-finns-tiotals-sma-sprak-som-nu-forlorar-mark-manga-kan-inte-avlagga>
- Luciak, M. (2012). Bilingual education policy in the US; Bilingualism; Language policies and bilingual schooling in Europe; Minority schooling in Europe; Roma in Europe. In R. Janke, *Encyclopaedia of diversity in education* (pp.1511-1515). Sage Publishing.
- Meshcheryakov, V. (15 July 2019). *Pavel Shmakov complained to the ECHR of a partial ban on teaching the Tatar language in schools*. Tatarstan. <https://www.idelreal.org/a/30056097.html>
- Ministry of Culture of Republic of Tatarstan (2015). *Programme on saving the language*. Retrieved 1 November 2019, from <http://mincult.tatarstan.ru/gosudarstvennaya-programma-sohranenie.htm>
- Musina, R. (2011). *Iazyki v sisteme obrazovaniia Respubliki Tatarstan: po materialam tnosotsiologicheskogo issledovaniia [Languages in the system of education of the Republic of Tatarstan: Following the data of an ethnosociological research]*. Tatar Book Publishing House.
- Mustafina, L. (9 October 2018). *The Supreme Court of Russia began Tatar*. <https://www.idelreal.org/a/29534210.html>.
- Nigmatullin, A. (13 September 2019). *For us, this is a national tragedy, and there were few government representatives at the requiem*. Business Gazeta. <https://www.business-gazeta.ru/article/438629>.
- Novaja Gazeta. (29 November 2017). *Tatarskij jazyk poterjal status objazatel'nogo v shkolah respubliki*. <https://www.novayagazeta.ru/articles/2017/11/29/74733-solntse-russkogo-mira>.
- OSCE (2012). *High Commissioner on national minorities. Education*. www.osce.org/henm/44691.
- Parliamentary Assembly. (1990). Recommendation 1134, on the Rights of Minorities. Text adopted by the Assembly on 1 October 1990 (14th Sitting).
- Parliamentary Assembly. (1993). Recommendation 1201 on an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights. Text adopted by the Assembly on 1 February 1993 (22nd Sitting).
- Parliamentary Assembly. (1996). Recommendation 1285 on the Rights of National Minorities. Text adopted by the Assembly on 23 January 1996 (3rd Sitting).
- Prina, F. (2014). *Report protecting the rights of minorities and indigenous peoples in the Russian Federation: Challenges and ways forward, minority rights group Europe*. Minority Rights Group International.
- Relating to certain aspects of the laws on the use of languages in education in Belgium v. Belgium (Merits) (Application No 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; 2126/64), 23 July 1968, European Court of Human Rights. <https://hudoc.echr.coe.int/eng#%7B%22dmdocnumber%22:%5B%22695402%22%2C%22itemid%22:%5B%22001-57525%22%5D%7D>
- Saarikivi, I., Zamyatin, K., & Pasanen, A. (2012). *How and why to preserve the languages of the peoples of Russia?* POGA - The Language Survival Network. <https://blogs.helsinki.fi/minor-eurus/files/2012/12/kakizachem1.pdf>
- Sokolova, V. (2011). *Serye Kardinaly Obrazovaniya [The Eminences Grises of Education]*. Sovershenno Sekretn.
- UNESCO. (2008). *Improving the quality of mother tongue-based literacy and learning: Case Studies from Asia, Africa and South America, Bangkok*.
- UNESCO. *Atlas of the World's Language in Danger*. <http://www.unesco.org/culture/languages-atlas>.
- United Nations Human Rights Office of the High Commissioner. (2017). *Linguistic rights of national minorities, A practical guide to compliance; A practical guide to the United Nations special rapporteur on minority issues*. <http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx>
- Webpage of the Kremlin. (20 July 2017). Press release. <http://kremlin.ru/events/president/news/55109>.
- Yeryomina, T. I. (2014). *Pravo grazhdan RF na poluchenije osnovnogo obshchego obrazovaniya na rodnom yazike [The right of the RF citizens for obtaining the basic general education in the national language]*. Pravozaschitnik, 1.