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THE LANGUAGE OF THE REPUBLIC AT SCHOOL: WHO DECIDES?

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THE LANGUAGE OF THE REPUBLIC AT SCHOOL: WHO DECIDES?

After inspections by Public Prosecutor's Office in 2017, the question of lawfulness of compulsory learning of republican languages at school received widespread coverage. This article addresses the question of whether Russian republics have the right to establish a duty to learn the state language of the republic in schools. The right of republics to establish their own state language, stipulated by the provisions of the Russian Constitution, federal legislation, and the national-territorial principle of the formation of republics in Russia, presupposes the republic's ability to establish the compulsory study of its language in the state and municipal schools on its territory. Since 2007, this right has been formally blocked by the Federal State Educational Standards (FSES) approved by the Russian Ministry of Education and Science. The de facto prohibition of compulsory language learning significantly limits the republics in the full realization of the right to establish their state language.

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INTRODUCTION

In 2017 in Russia, the question of the legitimacy of the compulsory study of the languages of Russian republics in schools received widespread public attention. Until recently, this was established in the legislation of several republics.

After a speech by President Putin on July 20, 2017 at a meeting of the Council on Interethnic Relations in Yoshkar-Ola (the Republic of Mari El)³ on linguistic rights, large-scale public prosecutor's office inspections began on the territory of the republics⁴.

The position of the prosecutor's office was that, first, the content of education in Russia is regulated at the federal level and at the level of the school (and not on the level of the subject⁵ of the Russian Federation). The second argument was that everyone has the freedom to choose the language of instruction and education, and coercion to study the state language of the republic limits it⁶.

The opinion of the populations of the republics in conflict accompanying the inspections was divided: many native speakers of the republic supported the compulsory learning of their language, while non-native speakers (usually ethnic Russians) declared that their children should not be forced to learn the language of the republic⁷.

In several republics, the authorities attempted to defend the right to establish the compulsory learning of the state language of the republic, but legal arguments were used minimally in the discussion. In other republics, the ban on compulsory language learning was adopted humbly⁸. A possible consequence of the inspections may be a change in the provisions of the republican legislation relating to the compulsory study of the language of the republic.

According to a poll by the All-Russian Center for the Study of Public Opinion, 33% of Russians supported the compulsory teaching of national languages in the schools of the republics. Another 56% said that state languages of the republics should be an optional

³ 'Vladimir Putin v Yoshkar-Ole provel zasedanie Soveta po mezhnatsional'nym otnosheniyam' [Vladimir Putin in Yoshkar-Ola held a meeting of the Council on Interethnic Relations]. URL: // https://www.1tv.ru/news/2017-07-20/329185-vladimir_putin_v_yoshkar_ole_provel_zasedanie_soveta_po_mezhnatsionalnym_otnosheniyam.

⁴ 'Putin poruchil Chajke proverit' dobrovol'nost' izucheniya nacional'nyh yazykov – srok do 30 noyabrya' [Putin Instructed Chaika to Check the Voluntariness of the Study of National Languages Until November 30]. URL: // <https://www.business-gazeta.ru/news/356052>.

⁵ A subject of the Russia Federation is very approximately equivalent to a county in England or a state in the US.

⁶ 'Federalizm ostalsya tol'ko na bumage' [Federalism Remained Only on Paper]. URL: // <https://www.svoboda.org/a/28933083.html>.

⁷ 'Izuchenie nacional'nyh yazykov v Rossii – delo dobrovol'noe' [Studying of National Languages in Russia is Voluntary]. URL: // <https://www.kp.ru/daily/26755.3/3783747/>.

⁸ 'Federalizm ostalsya tol'ko na bumage' [Federalism Remained Only on Paper]. URL: // <https://www.svoboda.org/a/28933083.html>.

additional subject . 8% of respondents said that such a subject should not be in school at all, and 3% were not sure⁹.

Our study establishes whether the republics of the Russian Federation can make the study of their state language compulsory in accordance with the provisions of international law; the Russian Constitution; the principles of federalism in Russia; the provisions of the federal and regional legislation of Russia on linguistic and educational rights; by-laws; and judicial practice.

In Russia, Alpatov has studied linguistic rights extensively, especially language policy in the USSR and post-Soviet countries¹⁰, as well as the experience of Russian regions in the beginning of 2000s¹¹. These studies, however, are historical, political and linguistic, rather than legal in nature; they poorly reflect the legal aspects of language policy. Questions of language policy have been considered by several Russian lawyers¹²; however, these studies did not address issues of linguistic policy with a focus on the education system. Some works in the field of public education and anthropology are devoted to linguistic rights¹³, but they emphasize the language policy of the subject of the Russian Federation, and not its legal regulation. In recent years several papers have been published on the linguistic policy of specific regions, including their educational context¹⁴.

Other authors who have studied this issue in recent years have focused on topics related to linguistic conflicts in education in developing countries: countries of the post-Soviet space¹⁵, African countries¹⁶, India¹⁷, China¹⁸, Pakistan¹⁹. Among developed countries the discussion on

⁹ 'Press – vypusk No. 3522' [Press Release No. 3522]. URL: // <https://wciom.ru/index.php?id=236&uid=116549>.

¹⁰ Alpatov V.M. 150 yazykov i politika, 1917-2000: sociolingvisticheskie problemy SSSR i postsovetskogo prostranstva [150 Languages and Policy, 1917-2000: Sociolinguistic Problems of the USSR and the Post-Soviet Space]. M, 2000

¹¹ Alpatov V.M. Yazykovaya situaciya v regionah sovremennoj Rossii [Linguistic Situation in the Regions of Modern Russia] // Otechestvennye zapiski [Notes of the Fatherland]. 2005. No. 2. P. 23.

¹² Benediktov N.A., Berdashkevich A.P. O pravovyh osnovah gosudarstvennoj yazykovoj politiki [About Legal Bases of the State Linguistic Policy] // Mir russkogo slova [The World of Russian Word]. 2003. No. 2. P. 9-19; Zaharov A., Kudryavcev V. Problemy yazykovoj politiki i 'asimmetrichnaya federaciya' [Problems of Linguistic Policy and 'Asymmetric Federation'] // Asimmetrichnost' Federacii [Asymmetry of Federation]. 1997. P. 77-97; Ermoshin G.T. Gosudarstvenno-pravovye aspekty yazykovykh otnoshenij [Public and Legal Aspects of Linguistic Relations] // Rossijskaya yusticiya [Russian Justice]. 1998. No. 3. P. 19-21.

¹³ Artemenko O.I. Gosudarstvennyj i yazyki narodov Rossii v sovremennoj shkole [State and Other Languages of the Peoples of Russia in the Modern School] // Nauka i shkola [Science and School]. 2015. No. 1.

¹⁴ Nikiforova E.P., Borisova L.P. Yazykovaya obrazovatel'naya politika v respublike Saha (Yakutiya) [Linguistic Education Policy in the Republic of Sakha (Yakutia)] // Sovremennye issledovaniya social'nyh problem [Modern Research of Social Problems]. 2015. No. 24; Gusejnova A.V. Osobennosti razvitiya yazykovogo zakonodatel'stva Respubliki Hakasiya [Features of the Development of the Linguistic Legislation of the Republic of Khakassia] // Mir nauki, kul'tury, obrazovaniya [World of Science, Culture and Education]. 2015. No. 5. P. 322-324.

¹⁵ Kurovskaya Yu.G. Yazykovaya politika v stranah postsovetskogo prostranstva: sravnitel'no-sopostavitel'nyj analiz [Linguistic Policy in the Countries of the Post-Soviet Space: Comparative Analysis] // Vestnik Buryatskogo gosudarstvennogo universiteta [Bulletin of the Buryat State University]. 2015. No. 1.

¹⁶ Heugh K. Language policy and education in Southern Africa // Encyclopedia of language and education. Springer US, 2008. P. 355-367; Bloor T., Tamrat W. Issues in Ethiopian language policy and education // Journal of Multilingual and Multicultural Development. 1996. V. 17. No. 5. P. 321-338.

¹⁷ Khubchandani L. Language policy and education in the Indian subcontinent // Encyclopedia of language and education. – Springer US, 2008. P. 369-381.

¹⁸ Feng A., Sunuodula M. Analysing language education policy for China's minority groups in its entirety // International Journal of Bilingual Education and Bilingualism. 2009. V. 12. No. 6. P. 685-704.

¹⁹ Adeney K. Federalism and ethnic conflict regulation in India and Pakistan. Springer, 2016.

linguistic rights is taking place in Belgium²⁰, where the official languages are Dutch, French and German.

During this study, the legal framework of the issue was analyzed:

- the provisions of the Russian Constitution governing the distribution of powers between federal and regional authorities, and linguistic and educational human rights;
- federal legislation concerning the state language of Russia, the state languages of the republics, the languages of the peoples of Russia, the rights of the republics, the realization of linguistic rights in education, the formation of the content of education, and the financing of education;
- by-laws which establish educational standards and requirements for textbooks;
- the legislation of the 22 Russian republics regulating linguistic rights in education and the powers of the republics in this field;
- the judicial practice of Supreme and Republican courts on linguistic rights in education.

THE LEGAL REGULATION OF LINGUISTIC RIGHTS IN RUSSIA

In order to say whether republics can establish compulsory state language, it is necessary to determine how linguistic rights are generally regulated in Russia. Currently, legal regulation exists in relation to the state language of Russia, the languages of the peoples of the Russian Federation, the state languages of the republics, and foreign languages. This article will not specifically address the issue of the regulation of foreign languages, but the main provisions of the linguistic policy that concern them will be mentioned.

International law relating to linguistic rights shows that these norms are weakly applicable in this case. This is because they relate to personal human rights or the rights of ethnic communities, rather than the rights of the subjects of the federation on lawmaking in the framework of linguistic policy. Thus, the International Covenant on Civil and Political Rights (adopted by the UN General Assembly in 1966, entered into force in 1976, Russia (USSR) – participant since 1973) contains a prohibition of discrimination based on language (Article 26), and an indication of the right of persons belonging to linguistic minorities to use their native language (Article 27). The Convention on the Rights of the Child (adopted by the UN General Assembly in 1989, entered into force in 1990, Russia – participant since 1990) also affirms the right to use the mother tongue for a child belonging to a linguistic minority (Article 30).

²⁰ *Kuźelewska E.* Language border and linguistic legislation in Belgium // *Michigan State International Law Review. Forum Conveniens.* 2015. V. 3. No. 1. P. 1-12.

The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on the Protection of Human Rights, signed in 1950, entered into force in 1953, Russia – participant since 1998) establishes the right of parents ‘to ensure such education and such training, in conformity with their own religious and philosophical convictions’ (Article 2, Additional Protocol 1).

Special provisions for the language of education are included in the European Charter for Regional or Minority Languages of the Council of Europe (adopted by the Council of Europe in Strasbourg in 1992), the Oslo Recommendations on the Linguistic Rights of National Minorities (OSCE, 1998), The Hague Rights Recommendation on the Rights of Minorities to Education (OSCE, 1998). The Oslo and Hague recommendations do not contain special regulation regarding the rights of the subjects of the federation. The European Charter for Regional or Minority Languages partially touches on the regulation of regional policies on languages, in particular in Article 8, it indicates the responsibility to ensure the teaching of regional languages within the territory where such languages are used. However, the Charter and Recommendations are not mandatory, and the ambiguous wording used in them makes their use highly variable²¹.

THE STATE LANGUAGE OF THE RUSSIAN FEDERATION

The Constitution of the Russian Federation establishes that the Russian language is the state language of Russia throughout its territory (Part 1, Article 68 of the Constitution of the Russian Federation). This means that it is used in the activities of government bodies, state procedures, legal proceedings, the media, etc.²²

Russian citizens have rights related to the state language, in particular: to receive education in Russian in state and municipal educational institutions, to receive information in Russian in government agencies and the media (Article 5 of Federal Law of June 1, 2005 No. 53-FZ ‘On the State Language of the Russian Federation’). In practice, this means that in whatever subject of the Russian Federation a citizen lives, he should be given the opportunity to study in Russian.

In some areas, the use of the state language is mandatory, for example, in the activities of federal government bodies, during elections, in legal proceedings. In other spheres, along with the Russian language, the official languages of the republics of the Russian Federation can be used (for example, in advertising or the media, or in cases provided for by federal law)²³.

²¹ Skutnabb-Kangas T., Phillipson R. Linguistic human rights, past and present in Skutnabb-Kangas & Robert // Linguistic human rights: overcoming linguistic discrimination. 1994. P. 71-110.

²² Article 3 of the Federal Law of June 1, 2005 No. 53-FZ ‘On the State Language of the Russian Federation’.

²³ Part 1.1 of Article 3 of the Federal Law of June 1, 2005 No. 53-FZ ‘On the State Language of the Russian Federation’

Education does not belong to the spheres in which the usage of Russian language is mandatory²⁴. This means that it can be obtained in other languages.

THE LANGUAGES OF PEOPLES

The Russian Constitution in Part 2 of Article 26 establishes that ‘everyone has the right to use their native language, to freely choose the language of communication, upbringing, education and creativity’. The Constitution contains a prohibition of discrimination on the basis of language (Part 2, Article 19), and a guarantee to all the peoples of Russia of the preservation of their native language, and the creation of conditions for its study and development (Part 3, Article 68). Although the term ‘mother tongue’ is used by the Constitution and some other acts, most of acts define the languages spoken by representatives of the peoples of the Russian Federation through the term ‘the languages of the peoples of the Russian Federation’. A separate law – the Law of the Russian Federation of October 25, 1991 No. 1807-1 ‘On Languages of the Peoples of the Russian Federation’ is devoted to their regulation. The law establishes the equality of the languages of the peoples of the Russian Federation (Part 1, Article 2), the possibility of their use in official spheres in a certain territory in the area of compact residence (Part 4, Article 3).

According to the 2010 All-Russian Population Census of 2010, representatives of more than 160 nationalities live in Russia²⁵. Languages of the peoples of Russia belong to 14 language families: there are about 180 languages and dialects.

The languages of the peoples of Russia are in a different position. Some are used extensively; others are dying out or are used exclusively into the domestic sphere²⁶.

This is confirmed by the results of the study ‘Languages on the internet’, conducted at HSE University. The scientists concluded that 96 languages are actively used on the internet on various sites, including social networks²⁷.

Tools for the preservation of linguistic diversity in Russia include the National Cultural Autonomies (NCAs). Their status is regulated by Federal Law of June 17, 1996 No. 74-FZ ‘On National and Cultural Autonomy’. NCA is a public organization of Russian citizens who are national minorities in a certain territory²⁸. The legislator lists the aims of NCA activities,

²⁴ Article 3 of the Federal Law of June 1, 2005 No. 53-FZ ‘On the State Language of the Russian Federation’.

²⁵ ‘Vserossijskaya perepis’ naseleniya 2010’ [All-Russian Population Census 2010]. URL: // http://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.html.

²⁶ *Alpatov V.M.* Yazykovaya politika v Rossii i mire [Linguistic Policy in Russia and in the World] // *Yazykovaya politika i yazykovye konflikty v sovremennom mire*. 2014. P. 11-24.

²⁷ *Orekhov B., Krylova I., Popov I., Stepanova E., Zaydelman L.* Russian Minority Languages on the Web: Descriptive Statistics. Computational Linguistics and Intellectual Technologies. In Proceedings of the Annual International Conference ‘Dialogue’. M.: RSUH, 2016. P. 498-508.

²⁸ For a detailed definition, see Article 1 of the Federal Law of June 17, 1996 No. 74-FZ ‘On National and Cultural Autonomy’.

including ‘the development of language, education, national culture’ (Article 1). The law uses the terms ‘ethnic community’ and ‘national minority’, but their definitions are absent. It is difficult to assess whether this legislative uncertainty prevents citizens from creating NCAs (there are more than 20 of them), but it is obvious that not all ethnic communities have created them.

STATE LANGUAGES OF THE REPUBLICS

Some of the languages of the peoples of Russia have the status of state languages of the Russian republics.

There are 85 subjects in the Russian Federation: 22 republics, 9 territories, 46 regions, 3 cities of federal significance, 1 autonomous region and 4 autonomous regions. Russia is an asymmetric federation where some subjects, namely republics, have special status.

According to the Russian Constitution, the most significant difference between republics and other subjects is the existence of the right to establish their own state language, which in some cases can be used on a par with Russian. For example, the language of the republic can be used by public authorities, local government bodies, state institutions of the republics (Part 32, Article 68 of the Russian Constitution). Usually, this means that some of the documents by the authorities of the republic are duplicated in the language of the republic, signs are made bilingual, for example, in state institutions. In several republics, the websites of the republican authorities have versions in Russian and in the language of the republic (Bashkortostan, Buryatia, Tatarstan, etc.). To date, 21 out of the 22 republics have established a their state language. The only republic to not exercise this right is the Republic of Karelia. In some republics several state languages have been established (five in Karachay-Cherkessia, two in Kabardino-Balkaria, the Republic of Crimea, and Mordovia). In the Republic of Dagestan ‘the languages of the peoples of Dagestan’ are established as state languages²⁹, but specific list of languages is not established (there are 13 languages with a writing system³⁰).

²⁹ Article 11 of the Constitution of the Republic of Dagestan of July 10, 2003.

³⁰ ‘Respublika Dagestan (Dagestan)’ [The Republic of Dagestan (Dagestan)]. URL: // https://ru.wikipedia.org/wiki/%D0%94%D0%B0%D0%B3%D0%B5%D1%81%D1%82%D0%B0%D0%BD#cite_note-6.

THE LEGAL REGULATION OF EDUCATIONAL RIGHTS RELATED TO THE LANGUAGE OF EDUCATION AND THE COMPULSORY STUDY OF THE STATE LANGUAGES OF THE REPUBLICS

In order to determine whether a republic can establish the compulsory study of its state language, it is necessary to determine:

1. What educational rights related to the language of instruction and the language of education exist in Russian legislation. This will allow us to answer the question as to whether these rights are violated if a republic establishing the compulsory study of its state language.

2. How is the content of education regulated? This will determine whether the republic has the right to interfere in the content of education, establishing compulsory language study, which will be a part of the educational program.

3. What rights do the republics have, as subjects of the Russian Federation, in terms of establishing compulsory language study from the point of view of federal legislation, and also how do republics reflect them in their republican legislation.

4. What kinds of conflicts arise around the compulsory study of the language of the republic. This issue is considered through an analysis of judicial practice.

THE RIGHT TO CHOOSE THE LANGUAGE OF INSTRUCTION

The central human right in the field of linguistic rights in education is the right to choose the language of instruction. At the highest level this right is established by the Constitution in Part 2 of Article 26.

This right is concretized in the linguistic and educational legislation. In the linguistic legislation it is fixed in Part 1 of Article 9 of the Law of the Russian Federation of October 25, 1991 No. 1807-1 'On the Languages of the Peoples of the Russian Federation'. In the same law, it is reinforced by the obligations on the part of the state to assist in the organization of receiving education in the native language (Part 2, Article 9) and to provide the conditions for teaching and studying the languages of the peoples of the Russian Federation in accordance with the legislation on education (Part 1, Article 10). In Article 10 of Federal Law of June 17, 1996 No. 74-FZ 'On National and Cultural Autonomy', the right to receive basic general education in the national (native) language and the right to choose the language of education and training is specified as referring to citizens 'belonging to certain ethnic communities'. However, the legislation restricts this right, establishing that it can be realized 'within the limits of the

opportunities provided by the education system in accordance with the legislation of the Russian Federation and the legislation of the subjects of the Russian Federation’.

The law ‘On the languages of the peoples of the Russian Federation’, on the question of the right to choose the language of instruction, refers to the educational legislation. In Russia, educational relations are regulated by a single law – Federal Law of December 29, 2012 No. 273-FZ ‘On Education in the Russian Federation’ (hereinafter referred to as the Law on Education).

Article 14 of the Law on Education indicates that Russia guarantees education in the state language of Russia and the choice of the language of instruction and upbringing. However, the text of the article on the choice of the language of instruction contains the same reservation mentioned above: ‘within the limits of the opportunities provided by the education system’. Thus, ‘the choice of the language of instruction and education’ is a right, in the sense that the receipt of education not in the Russian language is not prohibited³¹, however, the state does not guarantee the receipt of such education. How are the ‘limits of opportunities provided by the education system’ are defined is not specified by the legislator.

Such wording of Article 14 is understandable: the possibilities of the education system are limited (it is necessary to have teachers of the language, textbooks, the corresponding educational program, etc.), and the number of ethnic communities to which students can be attributed is quite large. As noted, there are about 180 languages in Russia³², and the existence of an ethnic community is presumed for speakers of each language.

The language or languages of education are determined by the local by-laws of the educational organization (Part 6, Article 14 of the Law on Education). Education can be obtained in a foreign language (Part 5, Article 14 of the Law on Education).

THE LANGUAGE OF STUDY

The language that is studied in the educational organization is established by the educational program. The program is approved by the educational organization independently; it is a part of its autonomy (Article 28 of the Law on Education).

Language, like any other subject, is part of an educational program that is developed and implemented by the educational organization independently in accordance with the Federal State Educational Standards (FSES).

³¹ This follows from the Constitution of the Russian Federation (Article 43 of the Constitution of the Russian Federation on the right to education does not impose restrictions on the language of education in the exercise of this right).

³² ‘Vserossijskaya perepis’ naseleniya 2010’ [All-Russian Population Census 2010]. URL: // http://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.html.

The right to learn a language is legally provided only with respect to the study of languages from among the languages of the peoples of the Russian Federation (Part 4, Article 14 of the Law on Education). The study of the state language and the state languages of the republics is not fixed as a right of citizens either in the Law on Education or in the federal language legislation.

The Law on Education separately indicates that teaching and learning the official languages of the Russian republics of can be introduced on the territory of the republic in accordance with their legislation (Part 3, Article 14 of the Law on Education). Who can introduce such teaching and learning and whether it is mandatory or not, is not established by the legislator.

The only restriction established by the legislator concerns the fact that teaching and learning the state languages of the republics should not be carried out at the expense of teaching and learning the state language of the Russian Federation (Part 3, Article 14 of the Law on Education) (a similar norm is not provided for teaching and studying of the native language).

Thus, the Law on Education (the only law that directly regulates educational relations) lacks norms that prevent the republic from establishing compulsory teaching and learning of its state language. A significant obstacle to the implementation of such a duty by the school is FSES.

THE CONTENT OF EDUCATION: FEDERAL STATE EDUCATIONAL STANDARDS

The freedom of an educational organization to determine the content of education is limited by the requirements of FSES.

The legal basis for the existence of such standards is provided for in Part 5 of Article 43 of the Russian Constitution, however, the Constitution only indicates the fact of their existence, and does not establish what should be standardized. The functional purpose of FSES is defined by the Law on Education. FSES are mandatory requirements for the content and order of education, established at the federal level (official definition: ‘a set of mandatory requirements for education of a certain level and (or) to the profession, specialty and training area approved by the federal executive body entrusted with the development of state policy and the normative and legal regulation in the sphere of education’ (Paragraph 6, Part 1, Article 2 of the Law on Education). FSES include requirements for the structure of the program, conditions for its realization (staff, finance, etc.), the results of education, and timeframes. FSES establish the ratio between the compulsory part of the program and the part ‘formed by the participants in

educational relations'. This means that some subjects, for example, 'Russian language' and 'biology', must be present in the established volume in any school program, and the volume of the other parts, for example 'local lore' or any other subject, is set by the school independently at its own discretion. For example, 'Russian language' and (or) 'mother tongue' and two foreign languages are compulsory subjects for pupils of the 10th and 11th grade of the school³³. The obligatory study of the state language of the republic is not provided for by FSES. This means that for an educational organization to teach the state language of the republic, it must be included in the program at the initiative of that educational organization.

FSES are in many respects a framework document, which leaves the school a large space for the independent development of its program. However, FSES are not only taken into account during the development of the educational program, they are also the basis for assessing the quality of education.

Although the Constitution and the Law on Education refer to FSES, they are approved by by-laws – orders of the Ministry of Education and Science³⁴ (according to the procedure approved by the Government³⁵).

The language of education is regulated, on the one hand, by federal legislation, including the regulation of educational programs (through FSES), and on the other hand, by the educational organizations themselves within their activities, since they develop and implement the educational programs.

In this context, at the current time, a Russian republic does not have a formal legal way to make the republic's state language compulsory for study in republican schools. The republic may offer to finance additional education programs or promote the importance of studying the language of the republic in schools, but it does not have the ability to force schools to include the republic's language in the program or make it compulsory for schoolchildren to study it.

This was not always the case. The previous Law on Education (Law of the Russian Federation of July 10, 1992 No. 3266-1 'On Education') enshrined the right of the educational authorities of the constituent subjects of the Russian Federation to establish national-regional components of state standards. All acts adopted in accordance with this law³⁶, establishing the requirements for the content of education, contained the so-called, 'regional component' (or

³³ Order of the Ministry of Education and Science of the Russian Federation of May 17, 2012 No. 413 'On Approval of the Federal State Educational Standard of Secondary General Education'.

³⁴ For example, Order of the Ministry of Education and Science of the Russian Federation of May 17, 2012 No. 413 'On Approval of the Federal State Educational Standard of Secondary General Education'.

³⁵ Decree of the Government of the Russian Federation of August 5, 2013 No. 661 'On Approval of the Rules for the Development, Approval of Federal State Educational Standards and Making Amendments to Them'.

³⁶ Order of the Ministry of Education and Science of the Russian Federation of June 7, 1993 No. 237 'On the Approval of the Base Curriculum of Educational Institutions of the Russian Federation', Order of the Ministry of Education and Science of the Russian Federation of March 5, 2004 No. 1089 'On the Approval of the Federal Component of State Educational Standards for primary general, general basic and general secondary (complete) education'.

‘national-regional components’). This part of the requirements for the content of educational programs was established at the level of the subject of the Russian Federation. It usually included such subjects as language, literature and the history of the republic.

The second, federal, component operated independently from the regional by an educational institution.

With the adoption of the Federal Law of December 1, 2007 No. 309-FZ ‘On Amendments to Certain Legislative Acts of the Russian Federation Regarding Changes in the Concept and Structure of the State Educational Standard’, the structure of FSES was changed, excluding, in particular, the division of the component standard. After that, the current Law on Education was adopted, which finally consolidated standard development exclusively at the federal level.

At first glance, it may seem that since republics cannot independently establish standards, compulsory learning of state languages is impossible. However, the norms of the law do not prohibit the Ministry of Education and Science from introducing into FSES special subject areas (for example, ‘the ‘state language of the republic’) for the republics of the Russian Federation. Moreover, a reservation can be made in FSES that these items are mandatory, if the republic’s legislation on education establishes the compulsory study of the state language of the republic.

THE LEGAL REGULATION OF LINGUISTIC RIGHTS AT THE LEVEL OF THE REPUBLIC

With regards to the laws of the republics, the provision on the compulsory study of the republic’s state language is currently present in several of them. ‘The regional component of FSES’, guaranteed the existence of the subject ‘the language of the republic’ in the educational program of the republic’s schools. After the abolition of the regional component of FSES, the norm lost its legal force at the federal level. The special right of the republics to establish their state language is conditioned by the national-territorial principle of the formation of republics in Russia³⁷. The right of the republics to establish their own state language implies that this language is used by the population of the republic and has a special status different from that of the other languages of the peoples of the Russian Federation. The state status of the language should give the public authority specific powers over it: not only considering the publication of documents in the republic’s state language, but also in the selection of public servants who speak the language, as well as in its support and development. The state character of the language

³⁷ *Ivanov V.N.* Rossijskij federalizm: chto dal’she? [Russian Federalism: What is Next?] // Sociologicheskie issledovaniya [Sociological Research]. 1998. No. 1. P. 81-86.

implies that the language powers of the republic extend to all residents of the territory of the republic, and not only to certain ethnic communities (as happens with the languages of the peoples of Russia).

In the event that the state language is not supported by the education system (within the framework of which language learning will occur) the possibility of its full-scale use in the territory of the republic is called into question. The prohibition of compulsory language learning significantly limits the republic in the full realization of its right to establish the state language of the republic.

In addition, financial obligations to ensure education (including the payment for language learning in the school) are part of the budgets of subjects of Russia, and not the federal budget. This follows from Article 8 of the Law on Education, which establishes the powers of the subjects of the Russian Federation in the field of education. At the level of general education, the development and implementation of regional programs in education (including taking into account the ethno-cultural characteristics of the entity), the creation of educational organizations, the provision of a general and free pre-school, primary general, basic general, and secondary general education in municipal educational organizations and state educational organizations, the organization of providing educational institutions with textbooks and teaching materials, etc. All the main expenses of an educational organization are paid from the budget of the subject of the Russian Federation – from the salaries of teachers to the purchase of textbooks (part of the costs lie with the municipality: building maintenance and transport). In the event that the budget of the subject is not enough, it receives a subsidy from the federal budget. Thus, having the opportunity to finance the study of the state language of the republic and the right to determine the compulsory nature of its study, the republic cannot actually introduce such a program into the school curriculum because of the requirements of FSES.

THE LEGISLATION OF THE REPUBLICS ON LANGUAGE STUDY

Prior to the prosecutor's inspections in 2017 in 8 of the 22 republics, the legislation established the compulsory study of the state language of the republic in one form or another. In 2017, two republics changed their legislation on education. These republics were Kalmykia and Karachay-Cherkessia.

In the Republic of Kalmykia, the study of the language of the republic was compulsory for all students in all educational organizations, where instruction was conducted in Russian³⁸.

³⁸ Part 2, Article 3 of the Law of the Republic of Kalmykia of December 15, 2014 No. 94-V-Z 'On Education in the Republic of Kalmykia'.

After the adoption of the amendments to the Law of the Republic of Kalmykia ‘On Education in the Republic of Kalmykia’³⁹ the requirement to study the state language of the republic was abolished. Now the law says that the language of the republic is taught and studied in the framework of FSES.

In the Karachay-Cherkess Republic, state languages were introduced as compulsory subjects from the first class in general education organizations for native speakers (regardless of whether the school is public or private and the availability of state accreditation)⁴⁰.

In the new edition of the Law of the Karachay-Cherkessia Republic of December 6, 2013 No. 72-RZ ‘On Certain Issues in the Field of Education in the Territory of the Karachay-Cherkessia Republic’, the term ‘native speakers’ was excluded, now language learning is mandatory for all⁴¹. However, the article contains the following reservations:

- the choice of one of the parents’ languages, if they have different nationalities (there are five state languages in the Karachay-Cherkess Republic);
- the choice to study or not to study the state language of the republic in high school (10th and 11th grade);
- language learning should not be to the detriment of the hours of other subjects;
- compliance with FSES.

In conditions when there is no special subject area in FSES concerning the state languages of the republic, it seems difficult to realize the responsibility to study languages in accordance with it. On the other hand, the legislator has not provided for a duty to teach the languages of the republics.

The remaining six republics have not yet made amendments to their legislation. At the moment the regulations are as follows.

In the Republic of Tatarstan, the Tatar and Russian languages are studied in equal amounts in state and municipal schools. An interpretation of the norms of the law shows the study of both languages is compulsory⁴².

In the Republic of North Ossetia-Alania, the study of the Republic’s language is compulsory for all students in state and municipal schools and kindergartens. In addition the

³⁹ Law of the Republic of Kalmykia of November 21, 2017 No. 266-V-3 ‘Concerning the Introduction of an Amendment to Article 3 of the Law of the Republic of Kalmykia ‘On Education in the Republic of Kalmykia’.

⁴⁰ Part 6, Article 5 Law of the Karachay-Cherkessia Republic of December 6, 2013 No. 72-RZ ‘On Certain Issues in the Field of Education in the Territory of the Karachay-Cherkessia Republic’.

⁴¹ The term ‘native speaker’ in the Law of the Karachay-Cherkess Republic appeared after the decision of the Supreme Court of the Karachay-Cherkess Republic of February 10, 2009 ‘On the recognition of paragraph 6 of Article 7 of the Law of the Republic of Karachay-Cherkessia of January 6, 1998 No. 376-XXII ‘On Education’.

⁴² Parts 2 and 3, Article 8 Law of the Republic of Tatarstan of July 22, 2013 No. 68-ZRT ‘On Education’, Article 9 of the Law of the Republic of Tatarstan of July 8, 1992 No. 1560-XII ‘On the State Languages of the Republic of Tatarstan and Other Languages in the Republic of Tatarstan’.

history, culture, literature and folklore of the Ossetian people are compulsory⁴³. In principle, language education in kindergartens is not provided by FSES.

In the Chechen Republic, the Chechen language is studied in equal amounts with the Russian language in all state and municipal schools⁴⁴.

In the Republic of Adygea in all schools (including private schools), where instruction is conducted in Russian, the state language of the republic is a compulsory subject from grade 1 to grade 11⁴⁵.

In the Republic of Komi, the language of the republic is compulsory in all schools that have state accreditation (including private schools)⁴⁶.

In the Republic of Dagestan, the language of the republic is a compulsory subject in state and municipal educational organizations with the Russian language of instruction⁴⁷.

In some republics the norms regulating instruction in the state language of the republic are not specifically formulated. For example, from Article 10 of the Law of the Republic of Ingushetia of August 16, 1996 No. 12-RZ ‘On the state languages of the Republic of Ingushetia’ or Part 2 of Article 6 Law of the Republic of Bashkortostan of July 1, 2013 No. 696-z ‘On Education in the Republic of Bashkortostan’ is ambiguous as to whether the study of the state language of the republic is mandatory. Considering the protests in Bashkortostan after the prosecutor’s inspections in 2017, it can be concluded that, in practice, language learning was compulsory⁴⁸.

In the legislation of the remaining 16 republics of the Russian Federation, the compulsory study of the languages of the republics and native languages is not envisaged.

JUDICIAL PRACTICE: LINGUISTIC RIGHTS IN EDUCATION

In the legislation of a number of republics, which now do not necessarily require a study of the state language, it has previously been established that their state language must be studied. However, as a result of judicial decisions, some republics dropped the requirements to learn the state language (the Republic of Altai, the Republic of Adygeya, the Republic of Sakha (Yakutia), the Republic of Tyva).

⁴³ Parts 2 and 3 of Article 8 of the Law of the Republic of North Ossetia-Alania of December 27, 2013 No. 61-RZ ‘On Education in the Republic of North Ossetia-Alania’.

⁴⁴ Parts 3 and 4 of Article 10 of the Law of the Chechen Republic of October 30, 2014 No. 37-RZ ‘On Education in the Chechen Republic’.

⁴⁵ Part 1 of Article 3 of the Law of the Republic of Adygea of December 27, 2013 No. 264 ‘On Education in the Republic of Adygea’.

⁴⁶ Part 4 of Article 1 (1) of the Law of the Republic of Komi of October 6, 2006 No. 92-RZ ‘On Education’.

⁴⁷ Part 4 of Article 10 of the Law of the Republic of Dagestan of June 16, 2014 No. 48 ‘On Education in the Republic of Dagestan’.

⁴⁸ ‘Miting v podderzhku bashkirskogo yazyka v Ufe sobral bolee 300 chelovek’ [The Meeting in Support of the Bashkir Language in Ufa Gathered More than 300 People]. URL: // <https://www.kommersant.ru/doc/3413892>.

For example, in 2001, the Supreme Court ruled against the Republic of Altai in a dispute over the compulsory study of the language of the republic. The court ruled that compulsory language learning limits citizens' rights on the grounds of nationality and language⁴⁹.

A similar issue was considered in the Supreme Court of the Republic of Adygea⁵⁰. In these decisions, courts prohibited the establishment of restrictions or privileges in the use of a particular language, especially depending on nationality, with the exception of cases provided for by the legislation of the Russian Federation.

Courts insisted that the compulsory study of the state language of the republic, even as a subject is a restriction of the right to choose the language of instruction, and such a restriction can only be provided for by federal law.

In 2012, the prosecutor of the Republic of Tuva, challenged the provision of the law of the republic which established the compulsory study of the Tuvan language in the Russian Supreme Court. The impugned norm, which prescribed the study of the Tuvan and Russian languages from preschool institutions, in the court's opinion, contradicted federal legislation and is subject to recognition as void⁵¹.

In relation to the Republic of Sakha (Yakutia) in 2015, it was decided to ban the mandatory study of the state language of the republic. The court referred to the fact that the content of education cannot be regulated at the level of the subject of the federation⁵².

However, there is judicial practice that confirmed the right of the republic to establish the compulsory study of its state language. This key decision was the Decree of the Russian Constitutional Court of November 16, 2004 No. 16-P⁵³.

The reason for the consideration of the case by the Constitutional Court was a complaint in which the constitutionality of the provision contained in the Law of the Republic of Tatarstan 'On the languages of the peoples of the Republic of Tatarstan' was disputed.

⁴⁹ Decree of the Supreme Court of the Russian Federation of September 11, 2001 No. 52-G01-7.

⁵⁰ Decision of the Supreme Court of the Republic of Adygea of December 19, 2006 No. 3-32/2006 'On the recognition of the invalid Part 5 of Article 6 of the Law of the Republic of Adygea of January 6, 2000 No. 156 'On Education'.

⁵¹ Decision of the Supreme Court of the Russian Federation of April 18, 2012 No. 92-APG12-4 'On cancellation of the decision of the Supreme Court of the Republic of Tuva from February 3, 2012 in respect of the recognition of the third paragraph of paragraph 2 of Article 7 of the Law of the Republic of Tyva of December 31, 2003 No. 462 BX-1 'On languages in the Republic of Tyva' contradicting the federal legislation'.

⁵² Supreme Court of the Russian Federation Appellate Ruling of September 23, 2015 No. 74-APG15-20 'On Leaving the Decision of the Supreme Court of the Republic of Sakha (Yakutia) of May 29, 2015 Unchanged', which approved the application for invalidation of Articles 14, 34, Part 1 of Article 29, paragraph 1 of Article 30 of the Law of the Republic of Sakha (Yakutia) of October 16, 1992 No. 1170-XII 'On languages in the Republic of Sakha (Yakutia)'.

⁵³ Decision of the Constitutional Court of the Russian Federation of November 16, 2004 No. 16-P on the case on verification of the constitutionality of the provisions of paragraph 2 of Article 10 of the Law of the Republic of Tatarstan 'On the languages of the peoples of the Republic of Tatarstan', Part 2 of Article 9 of the Law of the Republic of Tatarstan 'On State Languages of the Republic of Tatarstan and other languages in the Republic of Tatarstan', paragraph 2 of Article 6 of the Law of the Republic of Tatarstan 'On Education' and paragraph 6 of Article 3 of the Law of the Russian Federation 'On the Languages of the Peoples of the Russian Federation' in connection with the complaint of Citizen S.I. Khapugin and the requests of the State Council of the Republic of Tatarstan and the Supreme Court of the Republic of Tatarstan.

The laws of the Republic of Tatarstan establish that the Tatar and Russian languages in schools are studied in equal amounts.

As the Constitutional Court noted, within the meaning of the provisions of the Russian Constitution, the federal legislator has the right to establish the basis for the legal regulation of the languages of the peoples of Russia, including general issues of language policy relating to the status of the state languages of the republics in relation to the status of the state language of Russia. The status of the state languages of the republics within Russia which affects the status of the state language of Russia, the rights and freedoms of its citizens in the sphere of education and culture, cannot be the subject of exclusive jurisdiction of the subjects of the Russian Federation.

The court concluded that in order to ensure the use of the Tatar language in all areas of official relations on the territory of the Republic of Tatarstan, the legislator of the Republic of Tatarstan has the right to make its study compulsory as the state language of the Republic of Tatarstan during the basic general education.

Consequently, the introduction by the laws of the Republic of Tatarstan of studying the Tatar language as a state language in general educational institutions of the Republic of Tatarstan does not in itself violate the right of everyone to freely choose the language of upbringing and education and the right to an education as stipulated in the Russian Constitution.

Some judicial practice follows this Decree (namely the requirements to amend the legislation in Chuvashia, Komi, Karachay-Cherkessia)⁵⁴.

In the Republic of Komi, the Constitutional Court of the Republic in 2011 concluded that the compulsory study of the Komi language does not contradict the Russian Constitution, federal legislation, the Constitution of the Komi Republic, and ‘that Komi language learning should be in accordance with FSES, not to impede the passage of the final certification, the issuance of a document on the receipt of a basic general education and the receipt of an education of a higher level’.

The Judicial Collegium of the Russian Supreme Court passed a decision in 2009 satisfying the cassation appeal of the supreme legislative (representative) body of state power of the Karachay-Cherkessia Republic. The decision confirmed that the approval and development

⁵⁴ Decision of the Constitutional Court of Russian Federation of January 27, 2011 No. 88-O-O on the refusal to accept for consideration the complaint of citizen D.N. Kozlov on violation of his constitutional rights by the paragraph 3 of Article 10 of the Law of Russian Federation ‘On the Languages of Peoples of the Russian Federation’, paragraph 6 of Article 6 of the Law of Russian Federation ‘On Education’ and parts 2 and 3 of Article 7.1 of the Law of the Chuvash Republic ‘On languages in the Chuvash Republic’; Decision of the Constitutional Court of the Republic of Komi of September 1, 2011 on the case on the verification of the constitutionality of clause 4 of Article 1 (1) of the Law of the Republic of Komi of October 6, 2006 No. 92-RZ ‘On Education’ by the complaint of citizen O.V. Lunyeva; Decision of the Supreme Court of the Russian Federation of April 15, 2009 No. 30-GO9-3 on the cancellation of the decision of the Supreme Court of the Karachay-Cherkess Republic of February 10, 2009 and on the refusal to recognize the inoperative clause 6 of Article 7 of the Law of the Republic of Karachay-Cherkessia of January 6, 1998 No. 376-XXII ‘On Education’.

of FSES at the federal level does not mean the abolition of the subject's authority to establish a compulsory study of the language of the republic.

In its decision of 2011, the Russian Constitutional Court indicated that the imposition of the compulsory study of the Tatar language as a state language in the schools of the republic does not in itself violate the right of everyone to freely choose the language of education and training, as stipulated in Part 2 of Article 26 of the Russian Constitution. The study of the Tatar language should be carried out in accordance with certain federal laws and the federal state educational standards. In this decision, the study of the Russian and Tatar languages in equal amounts in educational organizations in Tatarstan was recognized as constitutional in accordance with FSES. Ensuring interaction with state bodies was cited as an argument for the need to learn the language. This position confirms that, in accordance with the legislation, the establishment of the compulsory study of the language of the republic is the law of the republic, however this right is blocked at the subordinate level – there is no provision on the language of the republic in FSES.

CONCLUSION

In the answer to the question 'Can the republic establish the compulsory study of its own state language?' the norms of international law are weakly applicable, since they regulate the linguistic rights of the individual and the population groups (linguistic minorities), and not the rights of the republics as subjects of the asymmetric federation.

The special right of the republics to establish their own state language, stipulated by the Constitution, federal legislation and the national-territorial principle of the formation of republics in Russia, suggests the possibility for a republic to establish the compulsory study of its language in state and municipal schools on its territory.

Since 2007 this right has been formally blocked through by-laws approved by the Ministry of Education and Science: FSES. The standards set general requirements for educational programs, the content of education (including, mandatory subject areas), terms, and educational results. The standards do not provide for the possibility of the compulsory learning of the language of the republic.

The actual prohibition of compulsory language learning significantly limits the republics in the full realization of the right to establish the state language of the republic. The state status of the language should give the public authority powers with regards to it: not only in the publication of documents, but also in the selection of staff speaking the language, and in its maintenance and development. The status of the republic's language implies that the language

powers of the republic extend to all residents of the territory of the republic, and not only to certain ethnic communities.

Prior to the prosecutor's inspections of 2017 in 8 of the 22 republics of Russia in one form or another, the legislation established the compulsory study of the language of the republic. In 2017, two republics changed their legislation on education, one of them – Kalmykia – eliminated compulsory language learning from its law on education.

Judicial practice on this issue has been inconsistent. The position of the courts differs from 'compulsory study of the republic's language is the right of the republic' to 'compulsory language study restricts the rights of citizens on the grounds of nationality and language' or 'the duty to study the republic's language refers to the regulation of the content of education, which does not belong to the powers of the republic'.

The norms of the legislation do not prohibit the Ministry of Education and Science from introducing into FSES special subject areas such as 'the 'state language of the republic') for the republics of the Russian Federation. Moreover, a reservation can be made in FSES that these items are mandatory, if the republic's legislation on education establishes the compulsory study of the language of the republic.

Considering the long-standing debate on this issue, which does not entail a change in this standard, it can be concluded that the actual prohibition of the compulsory study of a republic's language is a political decision emanating from the federal authorities.

A promising area for further research is a comparative analysis of the situation in Russia, with practices of other countries on regulation of the linguistic rights of their regions and constituent entities.

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