



INTERNATIONAL LEGAL GUARANTEES FOR THE PROTECTION OF NATIONAL MINORITIES AND PROBLEMS IN THEIR IMPLEMENTATION

WITH SPECIAL FOCUS ON MINORITY EDUCATION

Preservation and development of cultural plurality: The Russian approach by Valery Stepanov Institute of Ethnology, Russian Academy of Sciences

It is not typical to use the notion of "national" or "ethnic minority" for the legislation of Russian Federation. Nevertheless, according to international standards Russia carries out politics of preservation and development of ethnic, language and cultural originality of distinctive entities.

For Russia, international reference points in the field of human rights and ethnic minorities are the International pact on the civil and political rights (1966), International pact on the economic, social and cultural rights (1966), UN Declaration about the rights of the persons belonging to national or ethnic, religious and language minorities (1992), Frame convention of Council of Europe on protection of national minorities (1995). These international documents aimed to formulate legal principles, which states undertake to keep for maintenance protection of ethnic minorities.

Additionally the Recommendation of Committee of the ministers of Council of Europe "Teaching languages of contiguous states in frontier regions" (2005), and CIS document "The model-based law on languages" (2004) are also of great importance for Russia.

At present there is no generally accepted legal definition of "national minority" or "ethnic minority" (as well as "cultural minority") in international documents. Not aiming at giving the irrefragable answer on the question, Russia on the international scene stands against narrow interpretation. Ratifying the Frame convention of Council of Europe on protection of national minorities, Russia in proper federal law specifies: "Russian Federation considers that at signing or ratification of the Frame convention on protection of national minorities it is unauthorized to include in the unilateral order in clauses and applications the definition of the term "national minority", which does not contains in the Frame convention"¹.

The terms "national minority" and "ethnic minority" are perceived as synonyms in Russia. The question on search of differences between national minority and local ethnic communities is not put. Though sometimes it is meant that the ethnic group is a native population, and the national minority is a newly arrived population. At the same time this constructive sense does not restricts both categories in the minority rights (for ex., both have equal rights on political suffrages). First of all the Russian legislation protects those ethnic groups, which practice aboriginal (traditional) way of life and have the officially recognized status as the native numerically small peoples. At the same time it is not the

¹ Federal Law 18.06.1998 N 84-FL "About ratification of the Frame convention on protection of national minorities".

convention to name numerically small native peoples as minority, though in the single documents both the terms are equal².

Strasbourg Summit (1997) has made a decision "to expand cooperation concerning protection of all persons belonging to national minority". The concept of "persons belonging to national minority" can be interpreted as (1) officially recognized ethnic/cultural/language/religious categories by naming in the approved list, or as (2) categories of population, which are in situation of ethnic/cultural/language/religious minority.

Russia does not consider itself as the one-ethnic state, so its legislation is applied both approaches. The first variant predominantly concerns the officially recognized numerically small native peoples, and the second variant applied to the cultural communities, which have in Russia the right to provide their cultural autonomy ("national-cultural autonomy"). The Russia's principle of granting communities the right on cultural autonomy has a resemblance with the international approaches in understanding of minority as not a small community, but as vulnerable category of population³.

The "minorities" mentioned in the bilateral agreements and treaties concluded by Russia with other states. Those minorities, whose culture and language contracting sides intends in mutual coordination to protect, are often listed. While, the bilateral documents signed with many states in CIS, it is possible to make a conclusion that the so-called titular nations of the former Soviet republics are Russia's "minorities" (i.e. ethnic Ukrainians, Kazakhs, Moldavians, Kirghiz, etc.), as well as ethnic Russians are minorities in other CIS countries.

Other European states use the list to recognize minorities (or the minorities have special rights on the certain territory). Poland's list of minorities contains several "national minorities" and not includes "ethnic" ("ethnographic") groups. The similar approach used in Austria, Germany.

With reference to conditions in Russia the notion of "protection" can be applied to the system of protection ethnic and language groups, which are not sure officially recognized as minority, but stands in vulnerable situation.

² "... Of the numerically small native peoples or other national minorities...", article 3 (" the Convention on the standards of democratic elections, suffrages and freedom in the state-participants of Commonwealth of Independent States " (07.10.2002).

³ "... Persons belonging to minority or vulnerable groups have the right to equal protection by the law and freedom to use own culture, to practice own religion and to use the native language" ("Warsaw Declaration to community of democracies" (27.06.2000)).